

THE PROVINCIAL COURT OF ALBERTA
HER MAJESTY THE QUEEN

- v -

THE SYNERGY GROUP OF CANADA and
TRUEHOPE NUTRITIONAL SUPPORT
Accused

T R I A L
(EXCERPT)

Calgary, Alberta
13th, 14th & 15th, 16th, 17th, 20th, 21st,
22nd, 23rd, 24th, 28th & 29th March, 2006
Transcript Management Services, Calgary

Pages 1010 - 1032

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1 Q MR. BUCKLEY: Now did you win an award for
2 that book?

3 A I did. In fact, I won the Grant MacEwan Literary
4 Award which is Alberta's top award for a book each
5 year.

6 Q Now you're aware that in 2003 some issues arose
7 concerning the product EMPOWERplus but before that
8 would it be fair to say you had heard about the
9 product EMPOWERplus?

10 A Part of my responsibility as Provincial Director was
11 to spend time around the province in our various
12 branches and regions and through that contact CMHA
13 has many members, many clients and -- in the
14 thousands, and I would present at community forums
15 and meetings.

16 I would meet with community representatives and
17 through those meetings I became aware of TrueHope
18 and the EMPOWERplus, largely due to the testimonials
19 of individuals, family members and individuals
20 themselves, who described huge change in their
21 behaviour. People principally who suffer bipolar
22 depression.

23 Q Now in the Court context, what people say to us
24 doesn't carry a lot of weight, but what about in
25 your context, in the mental health context, when
26 somebody is telling you about something that might
27 be working? Is that important in that context?

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1 A Absolutely. I think there's an increasing movement
2 throughout the mental health system to place great
3 credence in the views of the consumer as they're
4 currently known, or the client, or the patient,
5 where historically I think we were far more
6 paternalistic. I believe the physician knew all. I
7 think currently the approach really is to listen to
8 the individual and the family in terms of their own
9 experience.

10 Q Okay. Now, but you also have had some change to
11 observe people with mental health conditions before
12 they started the EMPOWERplus and then after.

13 A I knew a number of members of our association very
14 well. Some have served on directors -- as directors
15 of regional boards and I knew their families, and I

16 was acquainted with a number of individuals who, I
17 observed their children, in particular, or their
18 spouses who exhibited very difficult bipolar
19 depressive behaviours, manic phases, spending money,
20 acting out, striking family members and so on and
21 following the use of the EMPowerplus I also observed
22 these individuals with huge, huge change in their
23 behaviour. Calm, looking for jobs, a return to
24 school, and I did personally observe a number of
25 people.

26 Q Okay. And this is before, really, 2003 --

27 A That's correct.

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1 Q -- comes along. Okay. So you had personally
2 witnesses that, at least for some people, this
3 seemed to be an effective treatment?

4 A Yeah. In fairness to other individuals who suffered
5 schizophrenia, that reported far less --

6 Q Right.

7 A -- active --

8 Q Okay.

9 A -- change.

10 Q Now in 2003, the Canadian Mental Health Association
11 became aware of a problem. Can you tell us about
12 that?

13 A I indicated earlier that one of the responsibilities
14 of our provincial office was to advocate on behalf,
15 largely systemically, but also on behalf of
16 individuals, we began to receive calls from our
17 regional organizations expressing concerns from
18 their own clients, and we received direct calls and
19 emails from individuals, saying that there was a
20 problem with accessing the product provided by
21 TrueHope.

22 They indicted that there were -- there was
23 great angst, frankly, because these families had
24 experienced years and years of serious problems,
25 attempts at resolving those problems through
26 conventional psychiatry, none of which had been
27 successful and the EMPowerplus was making the

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1 difference and they were concerned both about the
2 inability to access the product and they also
3 expressed concern about the fear, in the future they

4 could not access the product.

5 Q What types of things would be said on the phone

6 because --

7 A You know, essentially, as I've just reported, people

8 would say, My family member has had years and years

9 of horrible experience with bipolar depression,

10 since beginning on this product life has changed

11 entirely for both he or she and the entire family,

12 and if they're off this product we're going to

13 return to a life of hell.

14 Or alternatively, they may die because frankly

15 bipolar depression is frequently a fatal disease.

16 Q And this is important. If people communicate to the

17 mental health association that there was a suicide

18 risk --

19 A Yes.

20 Q -- or a death risk.

21 A Well not only was there communication that there was

22 such a concern but I received two calls from family

23 members who indicated that there were in fact

24 deaths. In one occasion --

25 Q Okay. And I'm going to stop you there.

26 A Okay.

27 Q We'll get there later but --

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1 A Okay.

2 Q -- I'm talking about -- because at some point you

3 guys took some action, as an organization.

4 A Yes.

5 Q And so I'm just trying to get at why you guys

6 would've taken some action.

7 MR. BROWN: Sir, before my friend moves on

8 with those questions, again, I think it's necessary

9 to make it clear that these are -- information that

10 he is going to discuss, as I understand it, about

11 phone calls and information he received is clearly

12 going in only for the narrative purpose and not for

13 the truth of those statements.

14 MR. BUCKLEY: Oh, and that's a given so --

15 THE COURT: Well it is not a given, Mr.

16 Buckley.

17 MR. BUCKLEY: Okay.

18 THE COURT: While I agree with Mr. Brown

19 that it should be -- we will have to continue to put

20 it on the record if you continue to present evidence

21 that is hearsay evidence we are going to have to
22 continue to place the caution on --
23 MR. BUCKLEY: Yes.
24 THE COURT: -- and a notation on the
25 record that it is not for the truth of the contents
26 but purely for the sake of the narrative.
27 MR. BUCKLEY: Mm-hm.

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1 THE COURT: And if you wish to put that
2 evidence directly before the Court then put it in as
3 direct evidence.
4 MR. BUCKLEY: Right. Right. Which I am
5 endeavouring to do in this trial but for this
6 witness it's, you know, if he's talking about calls
7 that were placed and I'm not calling those people,
8 obviously I'm not putting it in for the truth of the
9 contents.
10 But it is very important for the Court to
11 understand how this organization got involved in and
12 why. So my friend and I have been on the same page
13 as far as what's hearsay and what isn't.
14 THE COURT: That is fine. Just stay on
15 the same page with me that whenever you get to
16 hearsay there is going to be a notation placed on
17 the record that is --
18 MR. BUCKLEY: Okay.
19 THE COURT: -- not going in for the truth
20 of it's contents but purely for the narrative.
21 MR. BUCKLEY: Yes. And that's fair enough.
22 MR. BROWN: Thank you, sir.
23 THE COURT: And you were just getting very
24 close to going into that there. He was about to
25 refer to two phone calls or two discussions of
26 conversations he had with people with regards to
27 suicide.

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1 MR. BUCKLEY: Mm-hm.
2 THE COURT: If you want to put that
3 evidence in, put it in directly.
4 MR. BUCKLEY: Well, and actually because
5 when we get to that point, because I'm trying to go
6 chronologically with this witness, when we get to
7 that point, actually those calls that he received
8 and fielded are important for kind of why his

9 organization turned up in the heat in trying to
10 create a political solution.
11 So unless I call family members because I can't
12 call people that aren't around anymore, it's not for
13 the truth, but it is important, you know, for the
14 Court to understand because this organization got
15 very excited at some point in trying to broker a
16 political solution and you know it would be
17 sterilized if we don't put that in for the narrative
18 purposes. Why this witness believed it was so
19 important to be getting involved. If this was a
20 jury trial I'd be very concerned about prejudice but
21 because this is a judge alone trial I'm not -- I
22 don't hold that concern so. But I don't want to shy
23 away from that evidence.
24 THE COURT: Well perhaps it is in the way
25 you asked the questions.
26 MR. BUCKLEY: Yes.
27 THE COURT: What information did you

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1 receive?
2 MR. BUCKLEY: Yes.
3 THE COURT: Go ahead.
4 MR. BUCKLEY: Thank you, Your Honour.
5 Q MR. BUCKLEY: So, Mr. LaJeunesse, I'm trying
6 to just, at this point, focus you before you best
7 took any action.
8 A Right.
9 Q And you'd indicated that you were receiving some
10 calls and I was trying to focus you as to, before
11 you took action, were there some people basically,
12 at least saying that there was a suicide risk?
13 A Yes. Family members were calling or individuals
14 were calling and saying that this product was vital
15 to their life.
16 Q Now at this point you've been working since, I think
17 it is 1965, with people with mental health problems.
18 When people tell you that their life might be on the
19 line, do you take that seriously, based on your
20 experience?
21 A You always need to take that seriously, even if
22 people don't intend to kill themselves, the
23 declaration that they might do so is always a risk.
24 Always a risk. Because if they don't receive the
25 help they may take the next step.

26 Q Now, so you guys were getting these calls. What
27 does your organization do?

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1 A Well, as I indicated, at the provincial level, one
2 of my major responsibilities was to ensure that
3 people receive appropriate and adequate service for
4 whatever their difficulties are.

5 Part of that is re-design an overall system,
6 part of that is representing individuals around
7 specific problems. For example, we've advocated on
8 behalf of people who have indicated they've been
9 held in hospital against their will and
10 inappropriately. We found solicitors to represent
11 them so there's a range of work that we've done with
12 individuals who are unhappy about the treatment they
13 receive or alternatively are fearful that the
14 treatment they receive will or may contribute to a
15 worsened illness or in fact death.

16 Q Okay. Now in this case, what did your organization
17 decide to do?

18 A Our approach was really three fold. First we wanted
19 to try to work with our political contacts because
20 we felt the quiet way of resolving the problems
21 might work well for us and a number of our
22 organizational members, including myself, had built
23 a strong relationship with the federal Minister of
24 Health at the time, and so thought we might be able
25 to use that particular connection to do three
26 things.

27 One, to accelerate the, what appeared to be,

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1 stalled efforts to do additional research to test
2 this product at the University of Calgary.
3 The second was to try to broker improved
4 communication between the Department of Health and
5 the people at the EMPower -- at TrueHope, because we
6 were beginning to receive information that that was
7 not going very well.

8 And most importantly we wanted to ensure that
9 the individuals who had expressed concern about
10 being unable to access their product would continue
11 to be able to access that product.

12 Q Now at this point, so before you guys take any
13 steps, had you even been in contact with anyone at

14 TrueHope or Synergy Group?

15 A No, we had not.

16 Q Okay. So you'd never ever spoken to or met Tony

17 Stephan?

18 A Well we did following our decision but in fact our

19 research prior to making the decision to move ahead

20 was largely based on the complaints of families and

21 clients who wanted to access the product.

22 History, in terms of what we knew about the

23 product, contacts with Bonnie Kaplan at the

24 university and internet searches but no, I had not

25 met either of those principals prior to the decision

26 to take action.

27 Q Okay. Now your organization doesn't go and endorse

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1 products.

2 A No.

3 Q Is that part of the reason why then -- because you

4 guys make a decision and you have no connection at

5 all with the Synergy Group or TrueHope?

6 A You know the credence I guess, and the basic

7 information behind the decision is that individuals

8 and family members are expressing a concern that

9 they are not able to receive service.

10 Q Okay. So you guys decide to take a low key approach

11 and kind of work the political contacts.

12 A Correct.

13 Q So tell us what you did.

14 A Contacted Anne McLellan directly. Discussed the

15 issues. She referred me to her executive assistant

16 of the day and she and I met and looked at what

17 individuals within the Department of Health were

18 principally responsible, what issues could be

19 resolved by whom, and then I began working with

20 other department officials.

21 Q Okay. Who was the assistant at Anne McLellan's that

22 you worked with?

23 A Rosemary Tremblay.

24 Q Okay. So you met with Rosemary Tremblay and

25 basically came up with a strategy to try to solve

26 this?

27 A Yes.

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1 Q Okay. Now was part of that strategy, a strategy to

2 get the product across the border if there was a
3 problem?

4 A That was a huge part of it. That was principally
5 the access problem. And the commitment from the
6 minister's executive assistant and later from the
7 Minister, because I had a second meeting with her,
8 was that the product ordered by individuals would be
9 unimpeded over the border.

10 And I was given a contact person within the
11 Department of Health who I could work with. In fact
12 we received specific reports of product being
13 impeded.

14 Q Okay. So this Rosemary Tremblay and then later Anne
15 McLellan herself, is telling you that basically it
16 would be unimpeded?

17 A Correct.

18 Q Okay. Now, so then what would happen if people
19 phoned your organization and said, Our product's
20 been stopped.

21 A I would contact the representative from the
22 Department of Health and she would ask me where,
23 that is, what location, or the name of the
24 individuals and of course I received Release of
25 Information prior to that, and said that she would
26 deal with it, and in each case referred to her, she
27 in fact did so.

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1 I later wrote the Minister commending her
2 action. And the families reported that in fact they
3 did receive product.

4 Q Okay. So basically you had been given a contact
5 person to phone to get product released.

6 A Correct.

7 Q Okay. And who was that person?

8 A I'm going to have to refer to a name if that's okay.

9 Q Well first we have to go through that. So what is
10 it you want to refer to there?

11 A I just don't recall the name of that individual
12 right at this point.

13 Q Well I understand that but you have a document
14 there.

15 A Oh --

16 Q Just trying to --

17 A -- just some personal notes that --

18 Q Okay. When did you make those notes?

19 A Yesterday.
20 Q And what did you use to make the notes?
21 A Some from memory, some from earlier files.
22 Q Okay.
23 MR. BROWN: Sir, I note that he's actually
24 opening it already.
25 Q Yes. Don't look at --
26 A I'm sorry.
27 Q It's okay.

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1 A I'm sorry.
2 Q So, you have some files?
3 A I have some personal files, yes.
4 Q Okay. And --
5 A I earlier indicated I maintained files throughout my
6 career as part of the approach to writing a book.
7 Q Okay. So what files would you have referred to get
8 this name of this person?
9 A Simply just personal notes that I would maintain in
10 a diary of contacts.
11 Q Okay. So this is a handwritten diary?
12 A Yes.
13 Q So it's kind of a daytimer thing?
14 A Yes.
15 Q And when you make notes in that daytimer are they
16 made on the day that they happened?
17 A That's correct.
18 Q Okay.
19 MR. BROWN: Sir, I'm not going to object
20 to having him look at these notes. As I've said on
21 a couple of occasions yesterday, I'm interested in
22 the best possible evidence.
23 The name -- the fact that he has to look at the
24 notes for the name I don't find any great
25 consequence, sir, and so.
26 THE COURT: All right. I am satisfied
27 that those notes were made -- the original notes

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1 were made in close proximity in time to when the
2 events occurred and in those circumstances he can
3 refer to those notes to refresh his memory as to the
4 name of the person who was his contact with Health
5 Canada where stoppages occurred.
6 Go ahead.

7 MR. BROWN: Thank you, sir.
8 A Heather Watson was the name.
9 Q MR. BUCKLEY: Okay. So, and just so I'm
10 clear, so this contact name was given to you by
11 Rosemary Tremblay, as the person to phone to get
12 shipments cleared.
13 A Correct.
14 Q Okay. So every time a shipment was -- you were told
15 the shipment was stopped, you would phone this
16 Heather Watson.
17 A That's correct.
18 Q And if I understand your evidence, in each case that
19 you phoned, the shipment was released.
20 A That's correct.
21 Q Are you aware of any time that your organization had
22 a shipment where you tried to get it released and it
23 -- you were unsuccessful?
24 A No, I'm not aware.
25 Q Okay. So if you made the call it got through, to
26 your knowledge?
27 A That's correct. Now not all families reported back

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1 although I would say the vast majority did. Those
2 who didn't report back, I made assumptions that they
3 received their product.
4 Q Okay. Fair enough. Now and again the press would
5 call you about what was happening with this product.
6 A That's correct.
7 Q And you made some comments to the press. Would it
8 be fair to say that some of them were very serious
9 allegations?
10 A Yes. I made comments to the press that some very
11 ill people with potentially fatal diseases required
12 to access this product and failure to do so could
13 result in a return of the illness, re14
hospitalization and in some cases possibly death.
15 Q Okay. Would you make -- do you make comments like
16 that lightly to the press?
17 A Absolutely not.
18 Q Okay. So --
19 A I'm not a sensationalist.
20 Q Okay. So -- and you didn't seek out the press?
21 A No, I did not. They approached us.
22 Q So why would you, in this instance, make such strong
23 comments?

24 A Because I was very fearful. We were receiving an
25 increasing number of calls. When we began looking
26 at the issue, there were approximately 20.
27 Ultimately over a 100, from individuals who were

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1 expressing severe concerns about their health and
2 their ability to, frankly, survive.

3 Q Okay. So you just thought it was a crisis so you
4 had to make dramatic comments.

5 A A very serious issue.

6 Q Now you were in the process of having product
7 released but you do get some reports. And now we're
8 at that point. I'll try to phrase my questions at
9 --

10 MR. BUCKLEY: First of all, Your Honour,
11 I'll put on the record I'm going to elicit some
12 things that were said to this very witness, not for
13 the truth of their comments, but that for the fact
14 that they were said, so that I can go through and
15 then ask the witness what he did in response to
16 those.

17 THE COURT: Go ahead.

18 Q MR. BUCKLEY: So, Mr. LaJeunesse, you
19 received some calls that alarmed you greatly, and I
20 want you to describe those for us.

21 A Well the calls were to the effect that either a fear
22 about being unable to get the product would result
23 in a return of the illness. Received those from
24 family members and individuals.

25 Several expressing concern that if they had to
26 return to their state of bipolar depression prior to
27 taking this product that they no longer wanted to

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1 live. Life was not worthwhile.

2 And received concerns about individuals that
3 said they could no longer obtain the product and
4 were off the product and a family member was getting
5 ill again.

6 Q Okay. But then you also received some calls about
7 deaths.

8 A Yes.

9 Q And can you tell us about those.

10 A Two family members called. In one instance a mother
11 who indicated that her daughter had been off the

12 product for a week and a half, was beginning to
13 exhibit severe depressive symptoms and had suicided
14 by taking a large of quantity of medication that she
15 had been on previously. I was invited to the
16 funeral of that family.

17 The second call came from a father who
18 indicated that his son had suicided as a result of
19 not wanting to return to the state of illness that
20 he had been prior to taking this product.

21 Q How did you react to that?

22 A Obviously, upset. Offended that a system, I guess,
23 would be such that a product that should be
24 available would be denied to people that have
25 obviously found it to be of value.

26 I expressed sympathy and discussed the death
27 issues with the family and well I was more motivate

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1 than ever to try to find a resolution to the
2 problem.

3 Q Okay. So what steps did you take then to try and
4 resolve the problem?

5 A Well, essentially additional meetings with Rosemary
6 Tremblay to try to ensure that first of all the
7 discussions between Health Canada and TrueHope
8 people -- some resolution could be found and we
9 offered to broker meetings between the parties.

10 And a strong push for the -- what appeared to
11 be, bureaucratic stoppage of research at the
12 University of Calgary, could in fact be accelerated
13 and that that could move ahead.

14 Hoping that the evidence provided in that
15 research would either assist Health Canada in
16 approving the product for future use.

17 Q Okay. Were you also working on the access issue?

18 A We were. But by and large we assumed that the
19 access issue was resolved because the number of
20 complaints we received there were small and they
21 were resolved by the contact with Health Canada.

22 Q Okay. And you've been very clear that in every case
23 when you've called it was released.

24 A Yes.

25 Q Now my friend provided me this morning some letters.

26 I'm just going to show you what appears to be a
27 October 7th, 2005 letter, or 2003 letter, to Anne

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1 McLellan, from yourself.

2 Have you seen that letter before?

3 A Yes. I wrote this letter.

4 Q Okay. Now why were you writing this letter?

5 A By early October, again, we -- I wanted to reinforce
6 the informal discussion I'd had with the Minister
7 through a more formal letter, because the research
8 on the EMPowerplus, in terms of the double blind
9 site at the University of Calgary appeared to be
10 continually bogged down and I wanted to ask the
11 Minister to meet with myself and Doctor Bonnie
12 Kaplan, which I understand she agreed to do but we
13 never able to find the available time and the
14 problems between TrueHope and Health Canada, in
15 terms of the conflict, continued, appeared to
16 continue and again, I wanted to reinforce that we
17 were prepared to broker something and wanted her
18 involvement in that as well.

19 And I wanted, like I say, a broader assurance
20 that the importation of the product from the US
21 would continue unimpeded rather than just dealing
22 piecemeal with individual complaints.

23 Q Okay. Now did you -- you didn't receive a reply to
24 this right away by letter. Would that be fair to
25 say?

26 A Not immediately. I think it was about a month
27 later.

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1 Q Okay. But did you meet with Anne McLellan after
2 writing this letter?

3 A I did. I saw her at a social event.

4 Q Okay. And I just -- if you could describe for us,
5 because you actually knew Anne McLellan.

6 A Yes.

7 Q Did you feel that you kind of had an inside track
8 with --

9 A I felt I had a very positive relationship with the
10 Minister. I had a great deal of confidence in her
11 ability.

12 Q Okay.

13 A Great deal of respect for her and I felt that that
14 was reciprocal.

15 Q And you would run into her in the social setting?

16 A Yes.

17 Q Okay. So when you told us --

18 A Social or political.

19 Q I'm sorry. When you told us that you had an earlier

20 meeting with her, was that at her office or was that

21 at just an event?

22 A That was at a political event.

23 Q Okay. And then your second meeting about this,

24 after you wrote this letter, was that at a political

25 event?

26 A It was at a social.

27 Q Okay. What happened at that second meeting?

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1 A I had an opportunity for a private discussion with

2 her. I indicated that I appreciated the involvement

3 of her staff. I complimented Heather Watson in

4 terms of her ability to assist around resolving

5 individual complaints. I indicated the problems

6 persisted and we still needed to move ahead on the

7 three points I indicated earlier.

8 She asked again that I meet again with Rosemary

9 Tremblay and I believe she asked me to put it in

10 writing this time as well, but I'm not sure about

11 that.

12 Q So what happened after that?

13 A I was -- I received -- very little happened at that

14 time. We attempted to set up a meeting with Doctor

15 Bonnie Kaplan on several occasions and each time the

16 Minister's venue changed or something got in the

17 way, a Cabinet meeting or what have you and so that

18 never did occur.

19 I then received a letter from the Minister

20 thanking me for my earlier letter and my concerns,

21 acknowledging, as I recall, that she understood

22 them, and referring her -- referring me to her

23 assistant Deputy Minister, Diane Gorman, I believe

24 was the individual.

25 Q Okay. I'm just -- I'm going to hand you a letter

26 and I'm just wondering if this is the letter you're

27 referring to?

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1 It's a letter that's stamp dated November 21st,

2 2000, to you by Anne McLellan.

3 A Yes. That's the letter I'm referring to.

4 Q Okay. So you received this November letter, which

5 is telling you to basically seek out Diane Gorman?

6 A Correct.

7 Q Okay. So what did you do then?

8 A I attempted to phone Diane Gorman on several

9 occasions. I received calls back from her

10 assistants and we were, again, never able to put

11 together a meeting in spite of my offers to come to

12 Ottawa anytime.

13 I felt like I was being delayed.

14 Q Were you able to ever actually speak with Ms.

15 Gorman?

16 A No, I was not.

17 Q So you're saying that you were communicating, you

18 were willing to go to Ottawa to meet. That was not

19 to Diane Gorman herself?

20 A No, that was to her assistants.

21 Q Okay. And how long were you trying to set up a

22 meeting with Diane Gorman?

23 A Probably about a month.

24 Q And in that period of time you weren't even able to

25 speak to her on the phone.

26 A I was not.

27 Q Okay. Now politically something was happening in