

Court File No. T1450-15

FEDERAL COURT

BETWEEN:

RADU HOCIUNG

Appellant

- and -

MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

Respondent

This is the examination of RADU HOCIUNG, for discovery held
on consent of the parties at The Department of Justice,
130 King Street West, 34th Floor, Toronto, Ontario, on the
5th day of January, 2017.

APPEARANCES:

Radu Hociung	Self-represented
Mr. Eric Peterson	For the Respondent
Ms. Jeanette Duda	Court Reporter

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1 Toronto, Canada

2

3 --- Upon commencing on Thursday, January 5, 2017
4 at 9:57 a.m.

5 RADU HOIUNG, AFFIRMED:

6 --- EXAMINATION BY MR. PETERSON:

7 1 Q. So, Mr. Hociung, can you state your
8 full legal name for the record, for the transcript?

9 A. It's Radu Hociung.

10 2 Q. Okay.

11 A. R-A-D-U, H-O-C-I-U-N-G.

12 3 Q. And, can you give me your date of
13 birth, please, for the record?

14 A. It's December 6th, 1973.

15 4 Q. All right. And, your current address
16 in Canada?

17 A. It's 246 Southwood Drive in
18 Kitchener.

19 5 Q. All right. And, you are the
20 plaintiff in this Federal Court action?

21 A. I am.

22 6 Q. All right. So, I'm here to ask you
23 questions, primarily, today about the events at the
24 Canadian border that gave rise to your claim. I
25 understand there are some legal arguments in your
26 Statement of Claim as well, but I will not be asking
27 you about your legal argument. So, I am only going
28 to focus on what happened to you on the day in

1 question at the border.

2 So, first of all, can you tell me a bit of
3 your background, your educational background?

4 A. I attended University of Waterloo for
5 Engineering from 1994 until 2000. Before that, of
6 course, high school. I never finished the
7 university. I didn't actually graduate and earn a
8 Bachelor. And, that is my education, I think.

9 7 Q. Okay. And, I think you mentioned in
10 one of the conferences you're an engineer?

11 A. Yes.

12 8 Q. All right. But, so are you a
13 professional engineer?

14 A. I am not a professional engineer, no.

15 9 Q. Okay. Okay. So, what type of work
16 do you do? What type of engineering work do you do?

17 A. How is this relevant?

18 10 Q. It's simply -- sometimes the court
19 would like to see what professional background you
20 have when you -- what you bring to the table if you
21 don't have a lawyer with you.

22 A. But, you are here for evidence;
23 right?

24 11 Q. Right. If you don't want to answer,
25 that's fine.

26 A. I do not want to answer.

27 12 Q. All right. Let's get to the day in
28 question then. On -- first of all, this is on

1 October 21, 2014, you were coming back from the
2 United States crossing into Canada. What was the
3 purpose of your trip to the United States?

4 A. I went to the United States to
5 purchase tires for my car.

6 13 Q. All right.

7 A. That was the main purpose of my trip.

8 14 Q. All right. And, you also purchased
9 some collectible coins I understand?

10 A. I purchased some coins while on the
11 trip, yes.

12 15 Q. All right. And, were those coins
13 purchased on that same trip in the United States?

14 A. Yes.

15 16 Q. All right. How much did you pay for
16 those coins?

17 A. I paid 50 -- if my memory serves
18 correctly, \$5,700.00 U.S. dollars.

19 17 Q. All right. And, did you have a
20 receipt for that?

21 A. I do, yes.

22 18 Q. Okay. Had you gone to the United
23 States previously to buy collectible coins or was
24 that the first time you had done so?

25 A. I have been to the United States
26 before, but never bought collectible coins in the
27 United States before.

28 19 Q. Okay. Have you ever purchased

1 collectible coins from the United States elsewhere
2 and brought them into Canada, other than United
3 States?

4 A. Sorry, repeat?

5 20 Q. So, have you ever bought collectible
6 coins from the U.S. or any other country abroad, and
7 then brought it into Canada?

8 A. I don't understand the relevance.

9 21 Q. All right. Have you ever bought
10 collectible coins ---

11 A. I don't understand the relevance.

12 22 Q. My ---

13 A. I understand your question.

14 23 Q. Right. The relevance is if you have
15 declared those coins at Canada customs before or if
16 you have also maintained the position that they are
17 not -- they don't have to be declared. Was this the
18 first time when you ---

19 A. No, I understand the question.

20 24 Q. Right.

21 A. I'm thinking about whether -- how I
22 should answer it.

23 25 Q. Okay.

24 A. The answer is no.

25 26 Q. You had never previously ---

26 A. I have never purchased coins outside
27 of the United States and brought -- outside of
28 Canada and brought them into Canada without

11

1 reporting them.

2 27 Q. Okay. Had you ever declared
3 collectible coins in the past at the Canadian
4 border?

5 A. Had I or have I, or had I ---

6 28 Q. Had I.

7 A. --- after that time?

8 29 Q. Had you at that time previously ever
9 declared to Canadian customs that you had purchased
10 collectible coins?

11 A. No, I have not.

12 30 Q. Okay. Are you in the business of
13 collecting coins? Are you ---

14 A. I am not, no.

15 31 Q. No. Is it ---

16 A. However, I'm a collector of coins
17 like everybody else.

18 32 Q. Okay. So, had you previously
19 purchased U.S. collectible coins in Canada or is the
20 first time ---

21 A. That is not relevant, I believe.

22 33 Q. Was this the first time you had ever
23 purchased U.S. collectible coins?

24 A. U.S. minted?

25 34 Q. Yes.

26 A. I am not sure.

27 35 Q. Okay. All right. So, then, tell me
28 -- well, let's move on to October 21, 2014. Tell me

1 in your own words what took place when you
2 approached the Canadian border. You approached in
3 your car, and you were in a line-up, and then what
4 happened?

5 A. So, at first, of course, there's a --
6 the primary check window where I stopped. The
7 officer there asked me -- I believe he asked me what
8 -- I don't remember the words exactly. I believe
9 the extent of his answer -- of his questions was
10 whether I was bringing goods into Canada, whether I
11 had purchased goods to bring into Canada.

12 36 Q. Right.

13 A. I told him about the tires that I had
14 bought. On the day it happened, I had a little bit
15 of a migraine, and I had bought some Advil and some
16 water, and that is all. That is all the goods that
17 I told him about.

18 37 Q. All right.

19 A. He never asked me about whether I
20 brought currency, about how much currency or
21 financial instruments I have.

22 38 Q. He never asked you if you were in
23 possession of currency over \$10,000.00?

24 A. He did not.

25 39 Q. He did not?

26 A. I believe he did not.

27 40 Q. Okay. All right. And, was it your
28 understand at that time that the collectible coins

1 in your possession did not have to be declared?

2 A. Absolutely.

3 41 Q. And, what was the basis of your
4 understanding? Was it anything that you read at the
5 customs border crossing or ---

6 A. No, I had researched the topic well
7 ahead of time, and these coins are minted by the
8 United States Mint according to the United States
9 code, and I forget the number. I believe it's 31.
10 It deals with the money and the currency of the
11 United States. So, they are minted at the United
12 States Mint by the United States Treasury according
13 to this law. And, in the law, they are clearly
14 stated to be a legal tender.

15 The mint itself on the site, the mint that
16 produces them, U.S. Mint, states clearly that they
17 are legal tender and, to me, that was enough to know
18 that this is currency that apply -- and, therefore,
19 currency regulations apply to it.

20 42 Q. So, they would be legal tender at
21 their face value or at their ---

22 A. Correct.

23 43 Q. --- commercial value?

24 A. Legal tender by definition is based
25 on the denomination.

26 44 Q. All right.

27 A. Not on any other value, but their
28 denomination, which is \$50.00 for the gold coins in

1 this case, and I believe \$1.00 for the silver coins.

2 45 Q. But, you paid \$5,700.00 for ---

3 A. That is correct.

4 46 Q. So, the commercial value far exceeded
5 the face value?

6 A. There is no such thing as a
7 commercial value. This is currency just like --
8 it's just currency. You can obtain currency at any
9 other value. The value that you obtain currency at
10 does not have to relate to the value of the
11 currency. The value of the currency is the
12 denomination ---

13 47 Q. Right.

14 A. --- and that is given by law.

15 48 Q. But, you did not pay the face value
16 of those coins.

17 A. I did not.

18 49 Q. Okay. So, if it's not the commercial
19 value, you paid, then, the retail value or...?

20 A. There's no such thing as retail.

21 Again, these are -- I believe it's not called the
22 retail value.

23 50 Q. What would it be called then? The
24 purchase price?

25 A. I'm not sure ---

26 51 Q. Okay. Fair enough.

27 A. --- what that -- what the number is
28 called.

1 52 Q. All right. So, at the primary line
2 of inspection, did you -- do you have any complaint
3 with what happened between you and the officer? Are
4 you taking issue with that particular officer in
5 this action?

6 A. I will not answer that at this time.
7 I may -- when I amend the Statement of Claim, there
8 may be additional claims.

9 53 Q. Okay. And then what happened next?
10 You weren't free to leave. That wasn't the end of
11 that.

12 A. Well, next, I had to go and pay the
13 taxes, import taxes for my tires ---

14 54 Q. Right.

15 A. --- and the other two items that I
16 brought. So, I went inside the customs office,
17 declared it to the officer what I had brought, which
18 was the tires and the other two items, and he
19 directed me to the cashier window, I paid the taxes
20 for the goods ---

21 55 Q. Right.

22 A. --- for the three items, and then he
23 said I was free to go, so I left ---

24 56 Q. Okay.

25 A. --- the customs office.

26 57 Q. Right, right. And then what happened
27 after that?

28 A. And then after that, on the way to my

1 car -- at this point, I didn't know that I was to be
2 secondarily inspected, so on the way to my car,
3 another officer, which is Officer Debski, came out
4 of his office with, I would say, a confrontational
5 greeting. He greeted me with a greeting, "What do
6 we have here?" Those were his exact words. I
7 remember them because they struck me as very odd.

8 I was, of course, a little taken aback,
9 not knowing if I'm in the back alley somewhere or at
10 the government building. I showed him my paper, my
11 paperwork, and I believe he asked me whether he can
12 look at my car. He asked me if the car -- if the
13 tires are mounted. I, of course, answered, "Yes,
14 they're mounted on." I think he had a very cursory
15 look at the tires, and I don't recall if he asked
16 for permission to search the car or not, but I
17 didn't oppose it anyway. So, he went on to search
18 my car.

19 58 Q. All right. And, that's when he found
20 the collectible coins; correct?

21 A. No.

22 59 Q. No. Okay.

23 A. That's when he found the receipt,
24 which I believe was on the front -- either on the
25 front seat of the car or -- on the passenger front
26 seat or in the glove compartment.

27 60 Q. Okay. And then ---

28 A. And then ---

1 61 Q. Yes, what happened next?

2 A. And then when he came out, he
3 confronted me. He asked me whether I reported
4 everything, whether I want to change my story, and
5 then I said, "No, I have nothing further to report."
6 So, he showed me the receipt and said, "What's
7 this?" And, I told him, "This is currency that I
8 purchased and I do not have to report it."

9 62 Q. Okay.

10 A. And, I'm not reporting it.

11 63 Q. Okay. And then what happened next?
12 They searched the vehicle and found the coins?

13 A. No, the coins were in my pocket.

14 So ---

15 64 Q. Oh.

16 A. --- all he did is he asked me, "Where
17 are the coins," because at this point he only had
18 the receipt from the car. So, I, of course, had the
19 coins in my pocket, as I keep all money. I don't
20 keep money around the car. And, I showed him, I
21 gave him the coins. He took them, fondled them
22 quite a bit I would say -- I might say. I think he
23 was quite inexperienced with coins like this. Maybe
24 he was happy to have them in his hand, I don't know.

25 And then he proceeded to explain a few
26 times that they are goods, goods, goods. And, of
27 course, I told him that they are stated on the Mint
28 website and the U.S. law that they are currency and

1 legal tender.

2 65 Q. Okay.

3 A. After which he -- he was very
4 confrontational. He was -- he took the stance --
5 his stance was also very confrontational. He made
6 me aware immediately that he was wearing -- or
7 carrying a gun. Like, his gun was, of course, in
8 his holster. He never drew his gun ---

9 66 Q. Right.

10 A. --- but he was facing me in such a
11 way that he was -- it seemed to me, I'm not
12 experienced with guns, but I was left with a feeling
13 that he's ready to pull it.

14 67 Q. Right.

15 A. And, he also said that this is a very
16 serious offence, and proceeded to explain that it is
17 an arrestable offence. He mentioned that at least
18 twice while outside ---

19 68 Q. Right.

20 A. --- that this was an arrest -- that
21 -- I don't believe -- I don't know if he used the
22 word "smuggling". I don't think he specifically
23 said what the offence was; however, he did say it's
24 an arrestable offence. He made it very clear that
25 he could have arrested me right then and there.

26 69 Q. Okay. And, but -- so what happened
27 next? At that point, did the conversation stop and
28 he let you go or...?

1 A. No, at that point, he went inside to
2 check with his supervisor or to do paperwork. He
3 ordered me to go to the -- inside the customs office
4 again and wait on the bench.

5 70 Q. Okay.

6 A. It was an order. He was yelling, at
7 this point, at me. I went inside, I waited for him,
8 it might have been maybe 15 minutes that I waited
9 for him. I think he came back one more time to ask
10 some questions about the coins. This was, of
11 course, about -- this was more than two years
12 ago ---

13 71 Q. Right.

14 A. --- and keeping in mind that I didn't
15 come to Canada to meet with you, so I didn't review
16 any of my papers, I didn't bring any of my notes.
17 I'm just recollecting memory that's two years old at
18 this point.

19 I believe my recollection is that he came
20 out one more time, at which point I -- that's when,
21 I believe, he told me that he would have to seize
22 them, and that's when I asked him what he would do
23 with them, what would happen with them, and
24 that's, I believe, at the point, he said that they
25 would be destroyed -- that I have to pay to get them
26 back. He wouldn't tell me how much, he hadn't
27 decided yet, but I asked him, "Who's going to
28 decide?"

1 72 Q. Right.

2 A. And, he responded that he would be
3 deciding. And, I asked him, "What happens if I
4 don't pay?" Of course, I knew that I don't owe a
5 penny since this do not have to be recorded --
6 reported, so I did not have -- I did not expect I
7 would have to pay anything to get my coins.

8 He said that if I do not pay his terms,
9 that the coins would be destroyed after either 30
10 days or 90 days. I don't recall the number he said,
11 but he gave a specific number like that, a multiple
12 of 30, and he said they would be destroyed if I
13 don't pay after that time.

14 73 Q. Okay.

15 A. After that, he went back into his
16 office to do more of paperwork or what he had to do.
17 Finally, when he came out, he cleared with the -- he
18 explained that he cleared with his supervisor that
19 he would not be arresting me, that it is not, in
20 fact, an arrestable offence as he had claimed
21 earlier, but he would have to continue with his
22 seizure paperwork.

23 74 Q. Okay. And then he gave you the
24 seizure paperwork?

25 A. And then he gave me the seizure
26 paperwork. I asked him a few questions when he
27 asked me the seizure paperwork, which he admitted
28 from his narrative report.

1 75 Q. Okay.

2 A. One specific question that I asked
3 him, since I knew that these coins would be
4 currency, I asked him -- and I knew there would be a
5 limit according to the *Proceeds of Crime and*
6 *Terrorist Financing Act*, there would be a limit up
7 to which -- under which they don't have to be --
8 currency does not have to be recorded, that is the
9 \$10,000.00 limit.

10 So, then, I asked him, what if somebody
11 were to come through the border with a suitcase of
12 gold coins like these that he thinks are goods?
13 Like, how would they have to be reported? And, he
14 said, "As long as they pay the tax, as long as they
15 report and pay the taxes, or the tax, then there's
16 no problem. They're free to go. You can bring any
17 amount," he said.

18 76 Q. Right.

19 A. Part of the paperwork that he gave me
20 was not just a seizure report and the -- not just
21 the seizure receipt and the terms, but also he gave
22 me a printout of a tax demand. I believe he showed
23 a tax rate of \$13.00 and he had quoted \$5,000.00
24 worth of gold coins.

25 77 Q. Right.

26 A. And, he decided 13 percent would be
27 the tax I would be assessed, and had I reported them
28 according to the currency -- excuse me, to the

1 Customs Act, that is the tax I would have been -- I
2 would have had to pay in order to sail through
3 without further questions.

4 78 Q. Okay. So, then ---

5 A. And then I left.

6 79 Q. Then you left? Okay.

7 A. I believe I returned one more to ask
8 whether -- this is just recollection. I believe I
9 returned one more to ask whether he would, or
10 whether the CBSA would ship me the coins when the
11 matter is finally sorted out, and I believe he
12 replied that they don't do -- that they don't ship,
13 that I would have to return in person to pick them
14 up.

15 80 Q. Okay. Do you recall what day of the
16 week was October 21st offhand?

17 A. I do not.

18 81 Q. Was it a week day or weekend?

19 A. I do not.

20 82 Q. Was the border crossing busy? Do you
21 remember?

22 A. No, it was completely not busy at
23 all.

24 83 Q. All right. Were you the only person
25 that you saw being detained in the secondary
26 inspection area?

27 A. I have no idea who else was detained.
28 There were a few people inside.

1 84 Q. All right. How long, approximately,
2 were you at the border crossing from the time you
3 pulled up for primary inspections to when you
4 ultimately pulled away again? Was it half an hour,
5 two hours, 10 hours...?

6 A. I believe -- no, I believe it was in
7 the order of two hours.

8 85 Q. Two hours. All right. So, prior to
9 pulling up and not declaring these coins, you had
10 did some research, you mentioned. Did you consult
11 with a lawyer or legal counsel?

12 A. No.

13 86 Q. All right. Did you contact my client
14 to ask for their preliminary opinion?

15 A. I did not.

16 87 Q. All right. Did you discuss whether
17 these coins would be declarable or not with anybody
18 in the coin collecting industry in Canada or the
19 U.S.?

20 A. I had read forums, internet forums of
21 other people that have imported coins from the U.S.
22 and from other countries, and I familiarized --
23 based on the forum conversations, I familiarized
24 myself with the import/export rules of currency at
25 borders ---

26 88 Q. Right.

27 A. --- at various borders. That's how I
28 learned that these coins are specifically minted by

1 the government as currency, so they can be imported
2 or exported freely within the confines, of course,
3 of the -- not the confines, but with the
4 requirements, with the reporting requirements of the
5 *Proceeds of Crime and Terrorist Financing Act.*

6 89 Q. All right.

7 A. Am I going to fast?

8 90 Q. No. Was this -- this was not your
9 first time crossing from Canada -- from the U.S.
10 into Canada by car; correct? You have crossed the
11 border previously?

12 A. I do not remember exactly, but I
13 believe so.

14 91 Q. Okay. Have you ever been detained
15 for a secondary inspection before or was this your
16 first time?

17 A. I believe I've been -- not detained,
18 but had to undergo the secondary inspection one time
19 on a trip by airplane, and I was arriving at
20 Pearson.

21 92 Q. Okay.

22 A. And, I had to open the luggage,
23 and...

24 93 Q. But, not at a land border?

25 A. I don't believe so.

26 94 Q. Okay. Was there anyone else that you
27 dealt with at the border on October 21st other than
28 Officer Debski that you are complaining about in

1 this lawsuit? Is he the only officer?

2 A. Well, I personally only dealt with
3 the reception officer that I first encountered when
4 I first went into the office, then with Officer
5 Debski and the cashier.

6 95 Q. Right.

7 A. I only interacted with three people
8 -- four people including the first response -- the
9 first line officer.

10 96 Q. Right. But, the only person that you
11 have a complaint with Officer Debski?

12 A. I don't know at this point.

13 97 Q. Okay. So, if that changes, you'll
14 let me know, but at this point in time, you're only
15 talking about Officer Debski?

16 A. If that changes, it will be in my
17 amended Statement of Claim.

18 98 Q. All right. All right. I think those
19 are all my questions. Thank you for coming.

20 A. You're welcome. May I ask what part
21 of this could not have been done in writing?

22 99 Q. The follow-up is intense. You can't
23 -- the rule states you have a right to examine
24 orally, and then if it ---

25 A. Yes ---

26 100 Q. --- doesn't pan out, then, whatever,
27 but there's no way I can judge what you're going to
28 say, and then, you know? It has to be done orally.

26

It takes the place of an examination in court, in front of a judge.

3 A. All right. You have told me a lot of
4 things I don't believe so -- but, that's fine.

5 101 Q. Okay.

6 A. That's fine. You realize ---

7 102 Q. We're done. We're done.

8

9 --- Upon adjourning at 10:21 a.m.

10

C E R T I F I C A T I O N

12

13 I, Jeanette Duda, a legal transcriber in the Province
14 of Ontario, hereby certify the foregoing pages to be
15 an accurate transcription of recordings to the best of
16 my skill and ability, and I so swear.

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20 Jeanette Duda, Legal Transcriber

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