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E		November 10, 2023	
D		10 novembre 2023	
Kadara Thompson			
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Court File No.

**FEDERAL COURT**

BETWEEN:

**IGOR VIKTOROVICH MAKAROV**

Applicant

and

**CANADA (MINISTER OF FOREIGN AFFAIRS) and THE ATTORNEY GENERAL OF  
CANADA**

Respondents

APPLICATION UNDER sections 18 and 18.1 of the *Federal Courts Act*, RSC 1985, c F-7.

**NOTICE OF APPLICATION**

TO THE RESPONDENTS:

A PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Applicant. The relief claimed by the Applicant appears on the following page.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the Applicant. The Applicant requests that this application be heard at Ottawa.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must file a notice of appearance in Form 305 prescribed by the *Federal Courts Rules* and serve it on the Applicant's solicitor or, if the Applicant is self-represented, on the Applicant, WITHIN 10 DAYS after being served with this notice of application.

Copies of the *Federal Courts Rules*, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

Date: \_\_\_\_\_

Issued by: \_\_\_\_\_

(Registry Officer)

**Address of local office:** Federal Court of Canada  
Registry Office  
Thomas D'Arcy McGee Building  
90 Sparks Street, Main Floor  
Ottawa, Ontario, K1A 0H9

**TO:** The Minister of Foreign Affairs  
Global Affairs Canada  
Lester B. Pearson Building  
125 Sussex Drive  
Ottawa, Ontario K1A 0G2

**AND TO:** The Attorney General of Canada  
Office of the Deputy Attorney General of Canada  
248 Wellington Street  
Ottawa, Ontario K1A 0H8

## APPLICATION

This is an application for judicial review pursuant to section 18 and 18.1 of the *Federal Courts Act*, RSC 1985, c F-7 (the “*Federal Courts Act*”) in respect of a decision made by the Honourable Minister of Foreign Affairs, the Honourable Mélanie Joly, P.C., M.P. (the “Minister”) pursuant to section 8 of the *Special Economic Measures (Russia) Regulations*, SOR/2014-58 (the “Russia Regulations”).

On April 19, 2022, Igor Viktorovich Makarov (the “Applicant”) became a “designated person” by having his name added to Part 1, Schedule 1 of the Russia Regulations (the “Sanctions List”).

On June 27, 2022, the Applicant challenged his inclusion on the Sanctions List by filing an application to be removed from the Sanctions List pursuant to section 8 of the Russia Regulations (the “Delisting Application”). The Delisting Application was subsequently supplemented by further submissions by the Applicant. Section 8 of the Russia Regulations imposes a mandatory statutory duty upon the Minister to decide within 90 days whether the Delisting Application establishes reasonable grounds to recommend to the Governor in Council that the Applicant’s name be removed from the Sanctions List.

On October 20, 2023, with a delay of approximately 13 months, the Minister rejected the Delisting Application (the “Decision”).

The Minister has erred, *inter alia*, by basing her decision on an erroneous finding of fact made in a perverse or capricious manner or without regard to the extensive evidence provided by the Applicant in the Delisting Application. The Minister also erred in law in making the Decision by relying on an improper interpretation of the Russia Regulations and the *Special Economic Measures Act* S.C. 1992, c. 17 (the “SEMA”), and by applying the wrong test both under section 2 and under section 8 of the Russia Regulations.

This Application further challenges the lawfulness of the Russia Regulations, insofar as they concern the Applicant, because the continued listing of the Applicant is *ultra vires* the *Special Economic Measures Act* S.C. 1992, c. 17 (the “SEMA”). Maintaining the Applicant on the Sanctions List does not fall within the scope of the objectives of the Russia Regulations nor Canada’s sanctions regime because the listing of the Applicant is not “in relation to a foreign state”

nor is there a link between the Applicant and the actions of Russia that are targeted by Canada's economic sanctions. The Decision does not even allege that there exists a nexus between the Applicant and the Ukraine war of aggression, and the Minister has provided no support for such a conclusion. To the contrary, the Applicant's Delisting Application demonstrates that no such nexus exists. The Minister has wrongfully ignored that evidence provided by the Applicant.

Finally, the continued inclusion of the Applicant under the Sanctions List is a breach of customary principles of international law regarding countermeasures, as codified in the *Articles on the Responsibility of States for Internationally Wrongful Acts* ("ARSIWA"), which was adopted by the United Nations' International Law Commission in 2001.

**THE APPLICANT APPLIES FOR THE FOLLOWING RELIEF:**

1. Pursuant to paragraph 18(1)(a) and subsection 18.1(3) of the *Federal Courts Act*:
  - a. An order setting aside the Decision and declaring that the Minister:
    - i. has erred by applying the wrong test to determine whether there are "reasonable grounds" to recommend that the Applicant's name be removed from the Sanctions List pursuant to section 8 of the Russia Regulations;
    - ii. has erred by applying the wrong test to determine whether the Applicant is an "associate" of a person referred to in any of the paragraphs (a) to (b) of section 2 of the Russia Regulations;
    - iii. has failed to properly consider the merits of the Delisting Application in accordance with section 8 of the Russia Regulations;
    - iv. has failed to consider all relevant evidence in determining whether there are "reasonable grounds" to recommend that the Applicant's name be removed from the Sanctions List pursuant to section 8 of the Russia Regulations;
    - v. has failed to provide sufficient reasons in her decision not to recommend that the Applicant's name be removed from the Sanctions List pursuant to section 8 of the Russia Regulations; and
    - vi. has improperly relied upon legislation in the United Kingdom instead of applying the Canadian legislation, and has improperly relied on allegations

made by the United Kingdom against the Applicant as a basis to reject the Delisting Application;

- b. An order directing that:
  - i. the Applicant's name be immediately removed from the Sanctions List;
  - ii. in the alternative, the Minister immediately recommend to the Governor in Council that the Applicant's name be removed; or
  - iii. in the further alternative, the Minister re-assess the merits of the Delisting Application, with appropriate directions from this Honourable Court;
- c. An order declaring that the Russia Regulations, insofar as they concern the Applicant, are *ultra vires* the SEMA and Canada's sanctions regime because the Applicant does not fall within the scope of the objectives of the Russia Regulations or Canada's sanctions regime, and because sanctions against him are not "in relation to a foreign state" and have no "sufficient link" with the actions targeted by the Russia Regulations, and that they, and the Decision, are therefore invalid;
- d. An order declaring that the inclusion of the Applicant on the Sanctions List, and the Minister's Decision not to recommend that he be removed from the Sanctions List, constitute a breach of the Russia Regulations because the Applicant does not meet the criteria enumerated in section 2(c) of the Russia Regulations and are therefore invalid;
- e. An order declaring that the inclusion of the Applicant on the Sanctions List, and the Minister's Decision not to recommend that he be removed from the Sanctions List, are in breach of customary principles of international law that apply to countermeasures and are therefore invalid;
- f. An order assigning a case management Judge pursuant to Rule 384 of the *Federal Courts Rules*, SOR/98-106 (the "*Federal Courts Rules*");
- g. An order requiring the Respondents to pay the Applicant's costs of this application, plus all applicable taxes; and
- h. Such other relief as counsel may request and that this Honourable Court may deem just.

## **THE GROUNDS FOR THE APPLICATION ARE:**

### **Background**

1. On April 19, 2022, the Minister announced amendments to the Russia Regulations to add fourteen (14) individuals who the Canadian Government considered to be “close associates of the Russian regime, including Russian oligarchs and their family members, who were sanctioned for their complicity in Russia’s unjustifiable invasion of Ukraine”. The Applicant was one of those fourteen individuals, and his name was added to the Sanctions List as Item no. 734. No details were provided regarding the basis for listing the Applicant, including the “reasonable grounds to believe” relied upon, and the specific allegations of association with individuals listed under paragraphs 2 (a) to (b) of the Russia Regulations, thereby depriving the Applicant from an opportunity to know the case to be met in the Delisting Application, despite multiple requests to that effect;
2. On June 27, 2022, the Applicant filed a Delisting Application pursuant to section 8 of the Russia Regulations on the basis that he is not a “close associate of the Russian regime”, he is not a “Russian oligarch”, and is not “complicit in Russia’s unjustifiable invasion of Ukraine”;
3. The Delisting Application was very detailed and included objective and credible evidence that established reasonable grounds for the Minister to recommend to the Governor in Council that the Applicant be removed from the Sanctions List;
4. The Delisting Application requested that, should the contents of the application not fully address Canada’s basis for the Applicant’s listing (which remained unknown to the Applicant), that Canada provide a copy of all information, documents and evidence relied upon to recommend his listing under section 2 of the Russia Regulations and that the Applicant be given an opportunity to respond to that information;
5. Under section 8 of the Russia Regulations, the Minister is statutorily required to decide within ninety (90) days whether there are reasonable grounds to recommend to the Governor in Council that the Applicant’s name be removed from the Sanctions List. The Minister failed to make such a decision within that mandatory statutory time period;

6. On August 15, 2022, the Applicant sent correspondence to Global Affairs Canada outlining the inappropriate harm that was being caused to him as a result of the sanctions;
7. On August 31, 2022, the Applicant sent additional correspondence to Global Affairs Canada addressing a Global News Article from August 17, 2022, which was premised upon a series of false allegations and other inaccuracies;
8. On November 7, 2022, the Applicant sent further correspondence to Global Affairs Canada addressing a recent example of disinformation circulating online and requesting that the Minister make a decision on the Delisting Application by November 21, 2022, as the Minister failed to make a decision within the 90-day prescribed time limit in violation of subsections 8(3) and (4) of the Russia Regulations;
9. On November 14, 2022, the Sanctions Policy and Operations Coordination Division of Global Affairs Canada sent correspondence requesting additional information. The Applicant responded to this request in further correspondence sent to Global Affairs Canada dated December 9, 2022;
10. In the correspondence outlined above, the Applicant reiterated his offer to provide further information or evidence upon request, and also offered to meet personally to answer any questions the Minister or the Minister's staff may have;
11. On April 19, 2023, the Applicant filed a Notice of Application for Judicial Review with this Honourable Court. That Judicial Review was given Court File No. T-846-23 (the "Original Judicial Review"). The nature of the relief sought in that Judicial Review was *mandamus* to address the Minister's failure to issue a Decision in accordance with the 90 day timeline imposed by the Russia Regulations;
12. On May 23, 2023, the Sanctions Policy and Operations Coordination Division of Global Affairs Canada sent correspondence that identified certain open-source information relied upon by the Minister and requested additional information from the Applicant. The Applicant responded to this request in further correspondence sent to Global Affairs Canada dated May 31, 2023;

13. On June 8, 2023, the Applicant provided the Sanctions Policy and Operations Coordination Division of Global Affairs Canada with his Certificate of Cancellation of Citizenship that was issued on June 5, 2023. The Applicant confirmed that he was no longer a national of Russia and, more importantly, that this further demonstrated his strong views on the Ukraine conflict. The Applicant further reiterated that, on the basis of this additional information and the Delisting Application as a whole, he had met the test for his name to be removed from the Sanctions List;
14. On August 4, 2023, the Governor in Council, on the recommendation of the Minister, issued the *Regulations Amending the Special Economic Measures (Russia) Regulations*, SOR/2023-174 removing the Applicant's name as Item 734 of the Sanctions List because he is no longer a Russian national;
15. Either concurrently with that recommendation or immediately back-to-back, the Russia Regulations were amended through the *Regulations Amending the Special Economic Measures (Russia) Regulations*, SOR/2023-175 to include former nationals in the definition of "designated person", and the Applicant was relisted as Item 1315 of the Sanctions List through a third set of amendments to the Russia Regulations under the *Regulations Amending the Special Economic Measures (Russia) Regulations*, SOR/2023-176;
16. Correspondence was sent to the Applicant by the Minister on August 4, 2023 to inform the Applicant of his delisting and immediate relisting and inviting the Applicant to file a new delisting application should he wish to have his name removed from the Russia Regulations. The correspondence did not describe any new basis to list the Applicant in accordance with section 2 of the Russia Regulations and does not address the evidence filed as part of the Delisting Application. The only change that occurred from the Minister's actions of August 4, 2023 is the administrative change of being moved from Item 734 to Item 1315 of the Sanctions List;
17. On August 8, 2023, the Applicant filed a second application for delisting (the "Second Delisting Application"). The filing of the Second Delisting Application was done on a without prejudice basis to the Original Judicial Review. The Second Delisting Application re-submitted all of the submissions made as part of the first Delisting Application on the basis that these submissions continue to apply whether the Applicant is listed as Item 734 or



Item 1315 of the Sanctions List. The Second Delisting Application was submitted to ensure that there is no doubt to the statutory obligation imposed upon the Minister pursuant to section 8 of the Russia Regulations, and to ensure that all of the previous submissions remain applicable to the Applicant's relisting as Item 1315;

18. Since filing the initial Delisting Application on June 27, 2022, the Applicant has repeatedly offered to provide any information required by Canada, and to also make himself personally available to be interviewed. The only questions posed to the Applicant were in the correspondence received from Global Affairs Canada on November 14, 2022 and May 23, 2023;
19. On August 16, 2023, Canada issued a RIAS for each of the three amendments issued on August 4, 2023;
20. The RIAS that addressed the relisting of the Applicant as Item 1315 to the Sanctions List makes the following allegation: "Russian billionaire Igor Viktorovich Makarov, founder and president of private energy company ARETI International Group, benefited from close associations with top government officials while brokering non-transparent Russian-Turkmen energy deals. This helped generate significant revenues that the Kremlin has relied on to lay the groundwork for its aggressions in the near abroad, including Ukraine". Further it provides the following rationale for the relisting of the Applicant: "Igor Viktorovich Makarov has been added to Schedule 1 of the Regulations because he is a person who has amassed enormous wealth from close associations with top Russian officials, as an associate of individuals that are currently listed under the Regulations. He has brokered opaque energy deals that helped generate significant revenues that the Kremlin has relied on to lay the groundwork for its aggressions in the near abroad, including Ukraine. This individual was listed under the Regulations in the past";
21. Canada had asked two sets of questions to the Applicant relating to Canada's concerns, none of which related to the allegations set out in the RIAS. The allegations in the RIAS were unspecific, claiming that the Applicant is an associate of individuals that are currently listed under the Regulations but fails to indicate the identity of those alleged "close associates";

22. Further, the allegations referred to “non-transparent Russian-Turkmen energy deals” and to “opaque energy deals” that allegedly helped generate significant revenues for the Kremlin, but provides no information on what those “deals” are. These allegations are unsubstantiated speculation based on no objective or credible evidence. These allegations are entirely new, were previously undisclosed, and come approximately 13 months after the initial filing of the Delisting Application. This also comes after Canada has been provided with objective, credible and compelling evidence that the Applicant’s group of companies and assets in Russia were forcibly sold to Rosneft in 2013, that is 10 years ago;
23. The Applicant could not know the identity of the individuals to whom Canada alleges he is an associate, and he does not and cannot know what information Canada could be relying upon to mistakenly believe he has brokered “opaque Russian-Turkmen energy deals”;
24. Despite having issued two sets of questions to the Applicant, which were answered by the Applicant in detail, and the Applicant repeatedly offering full transparency into his business operations, Canada elected to relist the Applicant without providing the Applicant any opportunity to address these serious accusations. To date, Canada has not provided the Applicant with any evidence to support these allegations;
25. On October 20, 2023, with a delay of approximately 13 months and shortly before the hearing of the Original Judicial Review set on November 21, 2023, the Minister issued the Decision. The basis for the Minister’s Decision not to make a recommendation to the Governor in Council to remove the Applicant from the Sanctions List were as follows:
  - a. The Minister did not believe that there are reasonable grounds to conclude that the Applicant is no longer an associate of senior officials of the Government of Russia, including Mr. Sergei Chemezov and Mr. Alexei Miller. The basis for this conclusion appears to be the fact that there exist newspaper articles stating that the Applicant was associated with Mr. Chemezov and Mr. Miller through the sponsorship of a professional cycling team between 2009 and 2019. The Applicant’s involvement with cycling, generally, and absence of involvement with Mr. Chemezov and Mr. Miller during the period of 2009-2019 was expressly addressed by the Applicant in his written submission of May 31, 2023. The Minister ignored all of the evidence provided by the Applicant with respect to this issue;

- b. The Minister also references the fact that in June 2015, which is almost seven years before Russia’s invasion of Ukraine, the Applicant in his capacity as President of the Russian Cycling Federation, took part in a meeting of the Council for the Development of Physical Culture and Sport in Russia. That meeting was chaired by President Vladimir Putin. The Minister’s reliance on attendance at a meeting in 2015 to discuss cycling to conclude that the Applicant is an “associate” of the current Russian regime demonstrates that the Minister has not applied the legally correct test to establish an “associate” relationship, and also confirms that the Minister does not assess whether any nexus exists between the Applicant and the Ukraine conflict. The fact that the Minister must rely upon events that took place between 2009-2019, related only to the sport of cycling, and involved only one meeting where the Applicant was in the same room as President Putin together with some 40 other people, demonstrates that no such nexus exists;
- c. The Minister stated that the act of renouncing citizenship was not sufficient to demonstrate a genuine effort by the Applicant to distance himself from the regime, and also noted that the Applicant has not issued any public statements denouncing the war in Ukraine or President Putin’s regime. The Russia Regulations do not contain any requirement to make such public statements. This is another irrelevant consideration that the Minister has relied upon in the Decision;
- d. The Minister references publications on March 17 and August 17, 2023, by the United Kingdom indicating that the Applicant has been, and may continue to be involved in, obtaining a benefit from or supporting the Government of Russia by owning or controlling, or working as a director or equivalent of one or more entities, which have been carrying on business in a sector of strategic significance to the Government of Russia, namely the Russian energy sector. The legislation of the United Kingdom is different than the Canadian legislation, and to the extent that the Minister relied upon allegations by the United Kingdom, this is another error of law. Moreover, had the Minister disclosed such concerns in a timely manner, and had the Applicant understood that this was part of the case to meet, he would have addressed these incorrect statements; and

- e. In any event, the Minister has ignored the United Kingdom’s findings made in the second administrative review, concluded on 17 August 2023. This included a factual determination that the Applicant is not a member of the “cabal of oligarchs and selected elites” that President Putin relies upon in order to fund his war. The United Kingdom’s allegation against the Applicant is now limited to the Applicant being a “high net-worth” individual that has been carrying on business in sectors of strategic significance to the Government of Russia. This ground is not a basis for listing an individual on the Canadian Sanctions List pursuant to the Russia Regulations, and in any event, is premised on the incorrect allegation that the Applicant is carrying on business in Russia.

### **The Applicant**

26. The Applicant is a successful self-made businessman, philanthropist, and a former professional cyclist. He was born and raised in Turkmenistan, and later moved to Russia as an immigrant. He is a citizen of Cyprus, Turkmenistan, and Moldova;
27. On April 1, 2022, weeks prior to being sanctioned by Canada, the Applicant submitted an application to the Russian government to renounce his Russian citizenship and, through that process, has physically surrendered his Russian passport. On June 5, 2023, the Applicant’s Certificate of Cancellation of Citizenship was issued by the Russian government. The Applicant is no longer a Russian national;
28. The Applicant is the President of ARETI International Group (“ARETI”). ARETI operates in fuel and energy sectors outside of Russia;
29. The Applicant previously owned ITERA Oil and Gas. While owned by the Applicant, ITERA operated in the Russian oil and gas sector. In 2013, however, the Applicant sold ITERA to Rosneft. Since 2013, the Applicant has had no ownership in, or control of, ITERA;
30. The Applicant:
  - a. is not a close associate of the Russian regime nor involved in political matters in Russia;
  - b. has no influence, control or power over Russian politics and is not a Russian oligarch;

- c. does not provide any financial sponsorship to the Russian regime, including to President Putin, his entourage or structures associated with them;
  - d. is not complicit and is not involved in any way with Russian political activities, politicians, or decisions, including relating to Russia's invasion of Ukraine;
  - e. has not resided in Russia for years and only sporadically travelled to Russia to visit his elderly mother who continues to reside in Russia;
  - f. has received a letter of commendation from the Israeli Ambassador to Ukraine for the Applicant's efforts in successfully supporting joint efforts of the Israeli and Ukrainian governments to affect the safe evacuation of Ukrainian Jewish people and other citizens to secure places within Ukraine and abroad, as well as for providing critical medical and other humanitarian assistance; and
  - g. has been personally hosting and caring for at his personal residence Ukrainian refugees who fled their home country as a result of the Russian invasion;
31. The detailed information supplied in the Delisting Application establishes reasonable grounds for the Minister to recommend to the Governor in Council that his name be removed from the Sanctions List.

**The Hearing of this Application Should be Expedited**

32. Pursuant to Rule 8(1) of the *Federal Courts Rules*, it is respectfully submitted that it would be appropriate to expedite the hearing of this Application as this matter is urgent and has already been unreasonably and unacceptably delayed by the Minister's failure to make a decision within the statutorily prescribed time period, which results in significant ongoing harm being caused to the Applicant;
33. The sanctions imposed on the Applicant have been harmful to himself personally, his business activities, and Ukrainian citizens and refugees caught up in the conflict who require assistance and support that he is trying to provide;
34. The Applicant is suffering substantial financial harm along with personal and business stigmatization stemming from being incorrectly and unjustly smeared as a supporter of the Russian regime and its invasion of Ukraine by Canada;

35. The sanctions negatively constrain the Applicant's ability to carry on business in Canada and abroad, in a context where he could provide a significant alternative source of supply to decrease global reliance on Russian gas; and
36. The Applicant's ability to continue providing emergency financial assistance to Ukrainian refugees, which he began to carry out before being sanctioned, is also being blocked and/or unnecessarily delayed because of the Canadian sanctions.

**The Minister Failed to Provide Disclosure necessary for the Applicant to Know the Case to Meet**

37. The Minister has failed to observe principles of natural justice and/or procedural fairness by failing to provide the Applicant with the reasons for his initial listing and subsequent relisting on the Sanctions List under the Russia Regulations. Despite multiple requests for disclosure, the Minister has deprived the Applicant the fundamental right of knowing the case to be met in order to be removed from the Sanctions List.

**The Minister Erred in Law, Made an Erroneous Findings of Fact, or Otherwise Acted Contrary to Law**

38. The Minister has erred in law, made erroneous findings of fact, or otherwise acted contrary to law in recommending that the Applicant be added to the Sanctions List and in failing to recommend that the Applicant's name be removed from the Sanctions List because:
  - a. The decisions underlying both the initial decision to include the Applicant on the Sanctions List, and the Decision not to remove him from the Sanctions List are not authorized by the SEMA or Canada's sanctions regime and are therefore *ultra vires* because:
    - i. There is no link or sufficient nexus between the initial and continuing inclusion of the Applicant to the Sanctions List, on the one hand, and the objectives of the SEMA and Canada's sanctions regime, on the other; and
    - ii. The initial and continuing inclusion of the Applicant is not proportional to the objectives sought;

- b. The Minister applied the wrong test to determine whether there are “reasonable grounds” to recommend that the Applicant’s name be removed from the Sanctions List pursuant to section 8 of the Russia Regulations;
- c. The Minister applied the wrong test to determine whether the Applicant is an “associate” of a person referred to in any of the paragraphs (a) to (b) of section 2 of the Russia Regulations;
- d. The Minister targeted the Applicant solely on account that he was previously a Russian national who is wealthy;
- e. The Minister failed to properly consider the merits of the Delisting Application in accordance with section 8 of the Russia Regulations;
- f. The Decision was made capriciously, perversely, and/or without regard to the evidence before the Minister, including that presented in the context of the Delisting Application;
- g. The Minister ignored and/or failed to reasonably assess all credible and objective evidence, including that provided in the Delisting Application, in determining that there are no “reasonable grounds” to recommend that the Applicant’s name be removed from the Sanctions List pursuant to section 8 of the Russia Regulations;
- h. The Minister has failed to establish, or even consider, whether there exists a sufficient nexus between the Applicant and the Ukraine conflict that justifies the imposition of sanctions against the Applicant;
- i. The Minister is improperly punishing the Applicant solely because of his Russian heritage and the fact that, many years before the Ukraine conflict, he was a successful businessman, which breaches the most fundamental tenets of the rule of law;
- j. The initial and continuing inclusion of the Applicant on the Sanctions List is a breach of customary principles of international law regarding countermeasures, as codified in the *Articles on the Responsibility of States for Internationally Wrongful Acts*, which was adopted by the United Nations’ International Law Commission in 2001;
- k. The Minister has failed to provide sufficient reasons in her Decision not to recommend that the Applicant’s name be removed from the Sanctions List pursuant to section 8 of the Russia Regulations;

- l. The Minister was improperly influenced by irrelevant considerations in making the Decision, and was therefore not an unbiased decision maker, and acted in bad faith with a closed mind; and
  - m. The Minister's decision was influenced by a series of false public reports and false allegations spread throughout online reporting sources, and by improper political pressure by the Prime Minister's Office, the Deputy Prime Minister's Office, other elected officials and third-parties lobbying the Government;
39. The Applicant further relies on the *Federal Courts Rules* and such additional grounds as counsel may identify.

**Request for Material Pursuant to Rule 317**

40. Pursuant to Rule 317 of the *Federal Courts Rules*, the Applicant requests the following material that is relevant to this Application:
- a. Copies of all documentation and communications (including but not limited to emails, texts, or other communication applications such as WhatsApp or Signal) related to:
    - i. the initial and continuing inclusion of the Applicant on the Sanctions List;
    - ii. the removal of the Applicant's name from the Sanctions List and his concurrent relisting; and
    - iii. the Minister's Decision that there are no reasonable grounds to recommend to the Governor in Council that the Applicant's name be removed from the Sanctions List;
41. Without limiting the forgoing, the material to be produced must include all documents presented to the Minister or the Minister's advisors that relate to the initial and continuing inclusion of the applicant on the Sanctions List and the Decision not to recommend that the Applicant's name be removed from the Sanctions List;
42. The Applicant respectfully submits that there is a possibility that the material requested may be stored on government issued devices (including computers, phones, and tablets) as well as on personal devices. The material is relevant to this Application, and the fact that staff of the Minister elected to communicate through personal devices does not shield that material



from being transmitted to the Applicant in accordance with Rules 317 and 318 of the *Federal Courts Rules*.

**THIS APPLICATION WILL BE SUPPORTED BY THE FOLLOWING MATERIAL:**

- a. Affidavits and attached documentary evidence, to be sworn;
- b. Documentary evidence that the Applicant used or produced in support of the Delisting Application pursuant to Rule 306 of the *Federal Courts Rules*;
- c. Documentary evidence produced pursuant to Rules 317 and 318 of the *Federal Courts Rules*; and
- d. Such further and other Affidavits and materials as counsel may advise and this Honourable Court permit.

10 November 2023



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