

An Illinois Yankee in Tsar Yeltsin's Court: Justice in Russia

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Can the law enforcement system function effectively in Russia, especially when dealing with someone with good connections? Many people, including the majority of Russians, do not think it can. One of the major reasons is that during the Communist period the right official could make a simple phone call and determine the outcome of any investigation or trial. Unfortunately, decisions can still be made “in the corridor” if one knows the right people or can pay a sufficient bribe.

Because a former Russian employee had embezzled a substantial amount from the Russian branch of my firm, between the end of 1995 and the beginning of 1998 I learned first hand about some of the strengths and weaknesses of the Russian legal system.

Background

In 1990, I was invited to observe the first competitive local elections under communism in Vladimir, some 120 miles northeast of Moscow, Sister City of Bloomington and Normal, Illinois. By that time the transformation of Soviet society was so profound that it appeared irreversible. I wanted to become directly involved in this unprecedented political, economic, and social transformation. Early in 1991, I decided to organize the construction of a model American home in Vladimir. The idea came from one of my university colleagues, Rick Whitacre, who had recently returned from a trip to Vladimir. He commented that building a model home might make a positive contribution to the transition. Illinois State University industrial technology professor Ed Francis agreed to handle the technical side of the project, and we began the search for donated building materials and volunteer workers. Even though more than fifty North American companies participated, not all the materials and furnishings were provided free of charge; plus there was the cost of shipping everything to Russia and all the expenses on the Russian side.

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Thanks to financial support from my father, Russell Pope, all these expenses were covered.

The “first American Home in Russia” was dedicated on 4 July 1992. It had been built in six weeks. When one Russian was told construction would begin the middle of May and the new home would be dedicated on America’s Independence Day, he wanted to know, “July 4 of what year?” Russians had become used to construction projects taking decades to complete—if they were finished at all. The rapid construction of the *Amerikanskii dom*, as the Russians called it, was a pleasant surprise to the community, as was the superior quality of the materials and workmanship.

Tatyana Veksler helped with logistics in Vladimir. I had met her in fall 1991 and was impressed by her intelligence and her ability to get things done. However, in fall 1995 I decided not to renew her contract as the firm’s executive director for operations in Russia. This was not an easy decision. She had played a significant role in building the American Home and in getting the operation started. In addition, thanks in part to the fact that her deceased father had been an influential local official during the Communist period, she had some very useful contacts. However, it had become increasingly difficult to work with her because of her repeated failure to send me regular reports, especially financial reports, and her growing tendency to ignore my questions and my specific requests and instructions. I finally decided to sever the relationship—regardless of the difficulties this might cause.

Discovering a Crime

My decision caught Veksler by surprise. After her departure from the firm, an audit discovered false subcontracts that she had left behind in her office and had not been able to retrieve. She had used these to withdraw from the bank a substantial sum earned by our new remodeling business—136 million (old) rubles, or more than \$33,000 at the prevailing exchange rate. Veksler had converted the transferred funds to cash, which she subsequently claimed she had used entirely for the benefit of the firm. In the process, she had of course concealed this money from the tax inspectors. This was done without my knowledge and against my specific instructions to pay all taxes. At a minimum, she had put the firm at serious risk of being bankrupted by back taxes, fines, and penalties.

In discussions of what to do with this information, two Russian auditing firms recommended that we conceal what had happened. They claimed that the tax inspectors would discover that the subcontracts were fictitious only if we so informed them. Their reasoning for pretending the documents were legitimate was that if we reported the money laundering, and Veksler was not found guilty, the firm would be liable under Russian tax law for all the unpaid taxes plus huge fines and penalties. The law, of course, strongly encourages businesses not to report embezzlement!

I explained that I was working in Russia to help bring about a “civil society,” even if only in a small way, and that such a society requires respect for the law.

There was never any question as to what I would do. Before returning to the United States, I submitted an official statement to the Ministry of Internal Affairs, that is, the Russian police. This initiated a two-year odyssey that finally culminated in February 1998.

Veksler's Defense

In trying to explain to the authorities what she had done with the money, Veksler initially claimed that she had "given a great deal of it" to me, but that I had "refused to sign any documents" acknowledging receipt of the money. Later, she claimed she had "found three receipts" that I had supposedly signed for a total of 20 million rubles, or something over \$5,000. These "receipts" were clearly forged.

During a search of her apartment in early 1996, the authorities found U.S. dollars worth 44 million rubles. At that time, Veksler claimed that this was money that had been owed to her by the firm, and that she was saving it to purchase an apartment for her daughter. Her explanation for the 44 million rubles and her claim that she had given me 20 million rubles were not her only failures to tell the truth "under oath." But despite the growing number of lies, she was never charged with perjury. While her failure to stick to the truth clearly undermined her credibility, at least with those who were inclined to be objective, the Russian legal system does not yet treat perjury as severely as does the U.S. system—where a lie came close to bringing down the president. In Russia, the accused seems to have *carte blanche* to search for any explanation that might appear to clear them—and they are not held accountable under the law for earlier conflicting statements, no matter how clear it might be that they are lying.

According to a Russian friend working in law enforcement, one reason for this leniency is that the courts understand that during the investigatory phase the Russian police and the investigators from the Prosecutor's Office sometimes apply considerable pressure on the accused to make incriminating statements. Therefore, the courts tend to allow the defendant considerable latitude to change his or her story. In this case, however, Veksler was treated with a great deal of consideration during the investigation. In addition, many of her lies came out during the trial itself—but she was never formally sanctioned for the radical alterations in her version of the facts.

The Initial Investigation

In early 1996, the local militia conducted a preliminary investigation based on the information and documents we provided. They quickly determined that there was sufficient evidence that a crime had been committed to warrant turning the case over to the local branch of the State Prosecutor's Office. A young investigator was assigned to the case, and in February he requested my "urgent presence" in Vladimir for interrogation. I met with the investigator separately and together with Veksler. In addition to the investigator and me, our Russian attorney, Valentina Spiridonova, was always present, along with a good friend, Alexei Altonen, who assisted with interpretation when needed. Both Mrs. Veksler and I were questioned at length.

The evidence that a crime had been committed was overwhelming—at least from a Western perspective. There were the false subcontracts with the accused's signature. She never denied that she had laundered the money. However, she claimed that she had “only done what the system had forced her to do,” and, as noted above, ultimately she claimed she had used “all of the funds for the benefit of the firm,” that is, she claimed to have not taken any of the money for her personal use. This was in conflict with her initial statement to the police that she was saving money for an apartment for her daughter.

To support her claims, Mrs. Veksler had to resort to things such as the clearly forged “receipts” for the 20 million rubles she insisted she had given me in 1995. In addition, she claimed that she had to make several payments to young “mafia thugs” from Moscow, something that would not have been necessary if she had not needed to conceal her money laundering. We have never had any other problems with the so-called mafia in Vladimir.

In February 1996, the investigator's questions seemed to focus more on what I had allegedly promised to pay the accused, including a 5 percent bonus mentioned in an unsigned document, than on the crime itself. The fact that she had repeatedly violated her side of her contract did not seem to carry much weight. Obviously, her greatest violation was concealing a large share of the firm's income from me. Most important, the initial investigation ignored the fact that a serious crime had been committed.

In August 1996, the investigator turned in a report recommending that the charges against Veksler be dropped, on the grounds that she had used most of the money for the benefit of the firm or had given it to me. The investigator accepted the receipts for the 20 million rubles as authentic despite clear evidence that they were forged and despite the fact that this was the type of question that the court was supposed to decide. It was obvious that illegal “persuasion” (through contacts, bribes, or a combination of the two) had been brought to bear on the young investigator. There was no basis in fact or law for dismissing the charges. But that is what most Russians had expected would happen because it was the way they assumed the system worked.

Challenging the Dismissal of the Charges

In an apparent effort to keep us from appealing the dropping of charges within the time allowed, we were not officially informed of the investigator's decision, and our attorney found out about it only by chance. This was a clear breach of Russian law. Along with the decision itself, it demonstrated just how influential Veksler's connections could be.

Our attorney moved quickly to submit a written appeal, and she asked me to get assistance from the U.S. embassy in Moscow, especially in fending off the tax police, who were threatening to start confiscating the firm's property in payment for the back taxes (plus fines and penalties) on the embezzled money. (They could not legally move against us while the case was under investigation, but when the charges were dropped, we expected the worst.)

I immediately sent a fax to the embassy with an update on our activities and

a request for whatever assistance could be provided. Ambassador Thomas Pickering informed me by fax that, during a visit to Vladimir, he had discussed our situation with Mayor Igor Shamov and had been assured that the matter would be looked into. The catch, however, was that the mayor had asked for a written request for assistance from the embassy.

For some reason, the first letter from the ambassador apparently did not reach Vladimir, and I received repeated requests from our attorney to make sure that a letter was sent as had been promised. After sending a number of faxes to the embassy with no response, I asked Senator Paul Simon's office to intervene. Senator Simon's legislative assistant for international relations, Tom Lynch, arranged for a fax to be sent to Moscow. Within twenty-four hours I had a reply, and a second letter was sent to Vladimir.

Richard Steffens, a commercial attaché in Moscow, then took over our case. Initially, he was very helpful and brought our situation to the attention of the Gore-Chernomyrdin Commission. But one morning I received a call from Moscow. I had obviously passed along one too many requests from our attorney for letters to various Russian officials. Mr. Steffens informed me that he was not going to do any more on our behalf.

This decision was made despite the fact that I was a U.S. citizen trying to work within the law in a foreign country. I would have been breaking both U.S. and Russian law had I done what I was initially advised to do, that is, had I covered up the embezzlement. But once the crime had been reported, we were in special jeopardy, particularly because of the illogical Russian tax laws and the role that connections still play in the Russian legal system—and some assistance was necessary. It was essential for the authorities in Vladimir to understand that what they did would not go unnoticed in Moscow.

After submitting the request for a review of the decision to drop the charges, Valentina Spiridonova prepared a detailed argument pointing out that neither the facts nor the law supported ending the investigation. This was presented to both the local Prosecutor's Office and to the Federal Prosecutor's Office in Moscow. The federal office sent a brief note to the oblast (regional) prosecutor in Vladimir instructing them to review the case.

The review was assigned to an oblast deputy prosecutor known for his integrity. Despite significant pressure from the accused's contacts, the review proceeded, and the final report thoroughly refuted the arguments that had been presented in support of dismissing the charges.

Threats

The attempted intimidation of the deputy prosecutor was not Veksler's only effort to obstruct justice. Two young men approached our attorney on the street. They suggested that she and her family would be much less likely to have an accident involving, for example, a reckless driver, if she quit representing the American Home. An effort was also made to damage her reputation at the law firm where she worked. None of the efforts to force her off our case were successful. Spiridonova worked tirelessly and professionally on our behalf.

Although the authorities seemed to take note of Veksler's efforts to obstruct the judicial process, and those attempts undoubtedly worked against the interests of the accused at the trial, the Prosecutor's Office did not take any overt action. It was as if attempted intimidation was simply an expected part of the process, part of the informal "rules of the game."

The Second Investigation

In October 1996, the case was ordered reopened by the oblast Prosecutor's Office, and a new investigator was assigned who was much more aggressive in pursuing the criminal charges. It was clear that the new investigator had not been bought off by the accused, and he reacted to her "explanations" and documents with skepticism. She, in turn, responded to him with growing hostility. At one point, in front of witnesses, she threatened to "expose" him. The threats simply increased the investigator's determination to pursue her prosecution.

As noted above, the main thrust of Veksler's defense throughout the investigation was her claim that she had used all of the money "for the benefit of the firm." The new investigator required her to document this. The list she presented included some expenses for some people whose trips to Russia I had arranged. There was one instance involving a few hundred dollars that I initially disputed. However, in the course of the interrogation I remembered that what she had claimed was basically accurate, and I said so. After she and her attorney had left the investigator's office at the end of a long day, it was made clear to me that when she had no documents it was best for me to dispute her claims. In that way the total amount that could be claimed she had stolen would be increased, and her ultimate sentence would be harsher. I replied quite sincerely that "the truth was the truth"—even when it assisted her. At that our attorney responded, "I don't think the walls of this room have ever heard such an honest man."

Unfortunately, after seventy-four years of communism, when many party leaders were among society's most dishonest members, the truth has lost much of its moral force. Russians still have a saying: "An honest person is a fool." They tend to expect everyone to "say what they have to say" to protect their interests. However, Alexei Altonen, who as noted above, participated in all of the interrogations involving me and who also helped during the trial, made it clear that he appreciated my honesty. He said that it was one of the major reasons he was willing to work for our firm Serendipity as director of the American Home—despite all the threats the accused was making. While dishonesty is a major social problem, it has been my experience that there are more Russians who appreciate the truth than many observers, both Russian and foreign, might believe.

Charges Filed

On 21 February 1997, the Vladimir Prosecutor's Office filed preliminary charges against Mrs. Tatyana Veksler. She was accused of grand theft and forging documents, but not of tax evasion because that was the responsibility of the tax police. The maximum sentences were ten years for grand theft (later increased to fifteen years) and five years for forgery. This must have come as a very rude shock to

Veksler. Her “friends” had reportedly promised her that she would not be formally charged.

On 7 May 1997, extended criminal charges were filed against her. In the Russian system, formal charges are filed only after a thorough investigation, as opposed to the U.S. system where charges are filed as soon as sufficient evidence has been gathered to indicate that a crime was probably committed.

In another indication of the influence of her friends, Veksler was allowed to remain free after being charged, without posting any bail. When told she had to post 10 million rubles or go to jail, she replied that she did not have the money—and nothing was done.

Attempted Blackmail

On 14 July 1997, I was handed an unsigned note as I was leaving for the Moscow airport to return to the United States. The note threatened a series of actions, including sending letters to my family and others if I did not drop the charges by 18 July. Exactly what incriminating information would be contained in these letters was not specified and I could think of no truthful accusations that would harm me. My concern was that Veksler's lies and distortions might have a negative impact; they certainly would have been upsetting to my family. I immediately turned the information over to our attorney. When I returned to Vladimir in August, I discussed the blackmail attempt with the authorities; however, we did not press formal charges because we did not want a new investigation to delay the legal process any further.

When we turned the original note over to the court at the beginning of the trial, the accused acknowledged she had written it. I had had the note checked for fingerprints in the United States by a friend, chief of the Illinois State University police, Ronald Swan. Mrs. Veksler knew that this had been done, and it may have played a role in her admitting that she had sent the note.

As with her perjury, the Russian reaction to the attempted blackmail, along with the rest of Veksler's threats, was quite different than would be the case in the West. I pointed out on several occasions that in the United States obstruction of justice is a much more serious crime than embezzlement. This is not yet the case in Russia, where the law enforcement system and the courts have not earned the same degree of respect as in the West, and therefore, attempts to interfere with the legal process are not yet treated as a serious crime. As a result, the blackmail effort by itself did not ensure a criminal conviction.

Scheduling the Trial

Following the preliminary charges in February, Veksler was formally charged with two felony crimes in May 1997. In principle, the trial should have been held within a couple of months. However, it was delayed, and we could not find out when it was going to be scheduled. Undoubtedly, Veksler's supporters were doing their best either to derail the process completely or to control which judge was appointed to hear the case. Valentina Spiridonova informed me that she was very concerned about whether or not an honest, independent judge would be assigned to the trial.

Under the communist system, judges were considered to be little more than puppets. It was assumed that they did exactly what they were told by higher authorities. In fact, the system was referred to as “telephone justice,” since a phone call from the right person, usually the local party leader, could determine the outcome of any trial, not only the political cases. Although progress has been made in upgrading the professionalism and independence of the courts, influence can still play a major role.

I was scheduled to return to Vladimir the end of December. After I had purchased my tickets, I was informed that the trial date had finally been set. It was to start on 12 January, the Monday after I was supposed to return home. I was asked to add at least an extra week to my trip—but to keep it a secret. We assumed that our e-mail was being intercepted and that any information of value was being conveyed to Veksler. In this instance, we assumed that if she found out I was not going to return to the United States as planned on 10 January, she would do everything in her power to further delay the trial.

The Trial

On the morning of 12 January 1998, we arrived at the court for the Lenin District, city of Vladimir. The first day I was not sure what to expect. When the judge, in a traditional black robe, and the “people’s assessors” entered the courtroom, we were asked by the secretary to stand. The judge then asked the prosecuting attorney to read the charges. The fact that she stumbled over the pronunciation of my firm’s name suggested that she was not very familiar with the specifics of the case. When the charges had been read, the judge asked if it would be necessary for them to be translated for me. I had received a copy in advance and informed her honor that I fully understood them. Thanks in part to all the documents and interrogations involved in this case, my command of Russian had improved over the previous two years.

In significant contrast to American criminal trial procedure, the judge invited the accused to make an opening statement. Mrs. Veksler read prepared comments. Her only significant addition to what she had said during the interrogations was a claim that I had somehow “forced” her to initiate the laundering of the money when I asked her to cover the expenses of two tourists who visited Russia with our assistance in fall 1994. Her argument was that she had “no other way to pay their expenses” except by laundering the money.

What in fact had happened was that I had asked Mrs. Veksler if it would be possible to cover the cost of their trip—about \$2,000—out of my share of the firm’s profits. I needed income to cover expenses in the United States and at that time it was still difficult to make bank transfers. Therefore, as I explained to the court the next day, after I had had the opportunity to check the records, I had proposed using rubles to cover these expenses, so that I could keep the dollars in the United States. I had instructed Mrs. Veksler by e-mail in August 1994 to let me know if this would be a problem. The couple did not arrive in Russia until October. She had plenty of time to inform me that this could not be done legally—if that were the case—and I would have simply sent the nec-

essary money with the couple. Also, I pointed out to the court that Veksler had started laundering the money in July 1994, before the tourist issue had even come up.

When Veksler finished her opening statement, the judge asked the prosecutor if she had any questions. The young attorney started to stumble immediately, confirming her lack of preparation. The judge, without any hesitation, broke in and began questioning Mrs. Veksler herself. (In the prosecutor's defense, the young attorneys assigned to this duty are seriously overworked and badly underpaid.)

In Russian courts, the judges regularly play the primary role, and her honor quickly proved to be a no-nonsense interrogator. Whenever Veksler fell short of answering a question, or provided an unsatisfactory response, the judge made her displeasure abundantly clear. For example, when asked by the judge why she had not immediately turned over all property belonging to the firm when she was dismissed, her response was, "But I had just been fired." The judge replied, "All the more reason you should have immediately turned everything over." Veksler responded, "But you don't know how it made me feel to be fired." The judge: "Your feelings were not important." Veksler: "You would understand my feelings if you were fired." Judge: "I do my job well and do not expect to ever be fired." It was clear that Mrs. Veksler had not answered the question to her honor's satisfaction.

After the judge had finished her interrogation, she asked the two people's assessors if they had any questions. Until this time, I was not sure if the two women were carefully following the proceedings. However, they fully understood what was going on. (In theory, the people's assessors can outvote the judge when arriving at a verdict. But especially during the Soviet period, this almost never happened, particularly in those cases where the judge had received his or her "instructions" by phone.) During the course of the trial, the two assessors did not ask many questions, but what they did ask was frequently significant. And it was clear that, along with the judge, they had difficulty accepting Veksler's key arguments and claims.

One advantage of the Russian "panel" system over our jury system is that the judge and people's assessors are, in general, harder to sway with emotional arguments and the other ruses attorneys sometimes get away with in our system. On the other hand, it is potentially easier to "put in the fix" in the Russian system, because only two out of three people need to be influenced. This substantially enhances the potential for corruption.

After her questions and those of the two assessors, the judge turned to Veksler's attorney. He proceeded to try to lead her through a summary of her version of events, including her excuses for what she had done. She did not follow his lead very effectively on several occasions, and he had to rephrase his comments to draw her out. I was surprised that they were not much more thoroughly prepared for this exchange.

Veksler created additional problems for herself during the questioning. She sometimes changed her story in the course of a few hours. For example, during questioning concerning her failure to send me regular financial reports, she ini-

tially claimed that she had in fact prepared monthly reports and that it was the secretary's fault if I had not received them. When the judge refused to accept that argument, pointing out that as executive director it was her responsibility to make sure the reports were sent, Veksler changed her story, claiming that because a new bookkeeper had been hired there had not been time to send reports for several months.

In addition to the accused having to answer questions from the judge, the two people's assessors, the prosecutor, and our attorney, under the Russian system I was allowed to question her as well as all of the witnesses. Veksler, of course, had the same right to question me and the witnesses. The Russian system assumes that it is easier to get at the truth by having the parties involved directly confront one another, during both the investigation and the trial. I was also allowed to make regular statements, as was Mrs. Veksler.

My first extended opportunity to tell my side of the story came on the second day of the trial. I emphasized the fact that my instructions to Mrs. Veksler had been to keep me fully informed of her actions—and to pay all necessary taxes. I informed the court that she had increasingly taken to not reporting to me for extended periods, not answering my questions, and not doing specific things I asked her to do. In other words, she was trying to act as if the business were hers, not mine. In fact, I informed the court that when she was in the United States in fall 1995, Veksler actually told people that it was her business.

I further informed the court that to the extent that she acknowledged my existence at all, behind my back Veksler had been telling people that I was a "poor businessman" and that I did not understand and was incapable of understanding Russian realities. I pointed out that if Veksler did not respect my abilities, the appropriate thing for her to have done was to leave the firm. When she was asked by both the judge and the people's assessors why she had not done this, her reply was that the American Home was "her child," and she could not bear to abandon it.

In contrast, it is my theory that Veksler stayed with the firm because her plan was to take the entire remodeling operation away from Serendipity—once she had exhausted the firm's resources for developing the business. In support of my theory was the fact that she had secretly registered two private firms in her name, one in December 1994 and one in December 1995. In this connection, Veksler was assuming that the workers—who were, of course, more important to the business than the tools—would go with her when she left Serendipity. However, when I let her go at the end of 1995, I met with all of the workers and informed them that they were free to work for her. Not one of them left Serendipity. Among other things, they did not like the way Veksler treated them. It was the foreman, Andrei Koretsky, whose professional knowledge the workers respected, not Veksler. With regard to the lies Veksler was prone to tell, we learned from one of our clients that shortly after she was let go she had told him that all of the workers had left Serendipity and were working for her new business. As noted, this was exactly the opposite of the truth.

Before the trial began on Wednesday, a TV crew showed up. They wanted to

get some footage for use with a report that they were planning. Veksler was understandably upset at the prospect, and she threatened to expose the reporter's alleged "personal interest" in the case (meaning, presumably, that he had known me since my first visit to Vladimir in 1990) and to take other unspecified action if anything appeared about the case on the local news. At each threat, the reporter smiled and replied, "Please do." When the judge and people's assessors arrived, Veksler and her attorney immediately made clear their opposition to any videotaping of the proceedings. The judge then asked the rest of us for our views. I responded that I felt a free press played an important role in a democracy, but that the decision belonged to her honor. Our attorney had no objection, and the prosecuting attorney replied that the decision belonged to the judge. The judge allowed the taping.

Despite efforts by Veksler's friends to block the broadcast, a brief report aired before the trial ended, and a longer report after the verdict was handed down, both without any censorship. The final report noted the involvement of "contacts" in the case and suggested that they had played a role in the initial decision by the local Prosecutor's Office to drop the charges in 1996. The report indicated that at the Federal Prosecutor's Office in Moscow they had laughed at the absurdity of the local decision. Finally, the report drew attention to all the difficulties involved in the case and then added, "And we are all mystified as to why they [foreigners] are not hastening to us with their investments?"

As the trial proceeded, witnesses testified that all of the work covered by the subcontracts had in fact been done by Serendipity and not by any of the firms to which the money had been transferred. Witnesses also testified to my personal integrity, that I had tried hard to find some way to work with Mrs. Veksler, that I had in fact frequently communicated my dissatisfaction with the reports I was—and more often was not—receiving, and that no one was aware of my ever having received any large sums of money as alleged by the defendant. Because she did not face the threat of a charge of perjury, it is difficult to understand why Veksler persisted in telling easily refuted lies, especially when it should have been clear to her that this was undermining her credibility with the court.

In two instances in particular, the fact that Veksler was required to respond to questions from me seemed to work very much to our advantage. In the first case, I asked her who was the owner of the firm. She tried to avoid answering. I asked again, and again she tried to dodge the question. I kept asking, "Who is the owner?!" Finally, after about the fifth time I asked, she very softly replied, "I won't argue, you are the owner." I believe this exchange clearly brought home to the court that she had in fact tried to operate independently of me.

In the second instance, during questioning about the 136 million rubles she had taken with the help of the fictitious subcontracts, I asked if this included essentially all of the firm's profits. As before, she tried to avoid answering, replying that this amount was "not all profit." Again, I repeated the question several times. When she continued to refuse to provide a direct answer, I turned to the judge and her two associates and said, "I'm sure you understand my question." They all nodded in agreement. In this instance, I was able to make clear that she had concealed the profits from which I might have paid her a bonus—thus badly

damaging the argument that I had not treated her fairly in this regard. Put another way, how could I pay her a bonus out of the firm's profits, if she had already stolen those profits?

After more than seventy years of communist propaganda about the "exploitation of the workers by capitalists," it was important to make the point that I had not tried to take advantage of Mrs. Veksler. Under the American system of justice, the laws tend to be applied even when the results are not always "fair." In contrast, considerations of equity can be significant in the Russian situation. Such considerations were a major reason for the first investigator's decision to drop the charges in August 1996.

As noted above, it would have been to Veksler's advantage if she could have avoided saying anything during the trial. More often than not, her comments damaged her case. In contrast, her attorney said very little. He had a reputation for being one of the best—and one of the most expensive—defense attorneys in Vladimir. After the second day of the trial, when he had not tried to discredit any part of my statement to the court, it seemed to me that he had given up on mounting a serious defense. When I asked an experienced lawyer about my theory, he replied that that was one possibility. On the other hand, he suggested that Veksler's attorney was known for sometimes waiting to deliver a "knockout blow" at the last minute. In other words, we shouldn't let down our guard.

I definitely had to return to the United States on 17 January. On Friday, the 16th, I asked the judge's permission to make a final statement. I briefly summarized our position on the facts and thanked the court for its professional handling of the proceedings. I then stated that because Mrs. Veksler had shown no willingness to accept responsibility for her actions or to repay the funds she had taken, because she regularly refused to tell the truth, and had continued to make threats, I could see no foundation for requesting any special consideration from the court in deciding her punishment.

When I left Vladimir, I had the overwhelming impression that the facts would be impartially assessed and the law would be fairly applied. Barring some form of "divine intervention" from the old Marxist gods of "connections" and "telephone justice," I did not see how we could lose the case.

The end of the trial was delayed, first because our attorney was ill and then because one of the assessors was sick. I received an urgent request to return for the final arguments. Valentina Spiridonova obviously did not want to see all of our work go for nothing—in case either Veksler or her attorney managed to pull a rabbit out of a hat or something else went wrong at the last minute. The request for my presence was flattering—at least if it was intended to suggest that I might be able to deal effectively with any rabbits that might appear.

Unfortunately, I could not return, and I responded that I did not think I should have to. I was still confident that we had presented a strong case. I was also confident that Veksler had done herself a great deal of harm with her weak-to-nonexistent arguments and explanations, and especially with her transparent disregard for the truth. I did not really expect her attorney to pull any effective last-minute tricks. From the beginning of the trial he had exhibited no real intention to mount

a major defense. He appeared to be resigned to his client's conviction—as much by her own continuing mistakes, such as her attempt to blackmail me, as by any of the existing evidence.

Especially in my absence, it seemed appropriate to ask the U.S. embassy to express its continued interest in the case. The reasoning was that it would not hurt to remind the local officials—one last time—that the verdict in this trial would not go unnoticed in Moscow. Therefore, whatever was decided would have to be explained—with reference to the facts and the law, not “connections.”

On 2 February, I sent a fax to the new U.S. ambassador to Russia, James Collins. I brought him up to date on our legal case and requested, on the advice of our attorney, that a note be sent by the embassy to the chair of the Lenin District Court requesting a copy of the final verdict. The idea was to avoid the appearance of trying to interfere in the case but at the same time make it clear that the embassy had not lost interest. I did not receive a reply until 6 February. It came from the embassy's minister-counselor for commercial affairs, John Peters. He wrote that Ambassador Collins had referred my correspondence to him and that he would get back to me “as soon as possible after we discuss internally how to best approach this matter.” I immediately replied, underlining the need for quick action. If Veksler's friends found a way to “get to” the court, a note arriving after the verdict was issued would do no good.

On Monday, 10 February, I received another fax from Peters informing me that it had been decided that it would be “inappropriate” to send a note to the chair of the court, and could I suggest another official they could contact. I replied immediately, pointing out that I had requested contacting the chair of the district court on the advice of our Russian attorney—who would presumably know best what protocol would allow. Although I should not have had to suggest that they send a note to the mayor or the oblast chief prosecutor—both of whom had been contacted earlier by the embassy—I did. The verdict was issued the next day. A note was sent to the mayor the day after that. (While the embassy can be of assistance on occasion, most of the Americans I know who are working in Russia would advise against depending on them for quick action in particular.)

The Verdict

As it turned out, there were no last-minute rabbits pulled from any hats. The court found Mrs. Veksler guilty of the “theft of an exceptionally large sum of money” (“grand theft” in U.S. legal parlance) and sentenced her to five years in a penal colony. She was taken from the courtroom under arrest. I was told that she remained unrepentant to the end and that was considered to have played a role in her relatively harsh sentence. I was also told that the case was being widely discussed in Vladimir by those interested in its outcome, and that the general feeling was that the sentence was severe but appropriate under the circumstances. The consensus was that she had brought all this on herself with her greed and dishonesty. One individual wrote to me that, “as a journalist,” he was glad that “justice had triumphed and not ‘connections.’”

In its written verdict, the court dismissed Veksler's claim that she had used all

of the money for the “benefit of the firm” and ordered her to repay the total amount she had taken—minus the 44 million rubles that had already been returned. In this connection, the court pointed out that during the initial investigation Mrs. Veksler had claimed that the 44 million rubles worth of dollars found in her apartment were hers—because she had “earned” them. The court noted that only later did she claim that she had set this money aside to purchase a vehicle for the firm. The conclusion was that she had in fact stolen the money. In other words, at least one of her efforts to change her story had finally caught up with her.

On 6 May 1998 the Oblast (regional) Court upheld the lower court’s verdict on appeal—despite considerable pressure from Veksler’s “friends.” She continued to serve her sentence while the case was on final appeal. In August 1998, the Russian Supreme Court concluded that there was no legal basis for it to review the lower courts’ decisions.

Some Final Thoughts

It appears that Veksler remained convinced to the end that she was right, and the law, the court, and everyone else was wrong. Unfortunately, seventy-four years of Communist rule went a long way toward destroying the concepts of the rule of law and justice. You did what you, with help from your connections, could get away with. However, a growing number of Russians understand that it will never be possible for them to live normally if employees are free to do things such as Veksler did without fear of the consequences.

Her conviction should send several messages, including: (a) if you do not own a business you have no right to try to control it, that is, the “labor theory of value” is no longer widely accepted; (b) no matter how good your connections might be, you can no longer be sure they can protect you from the consequences of illegal actions; (c) lying can work against you, even if the Russian legal system does not yet provide punishment for perjury; and (d) the Russian legal system can function professionally, especially when the special features of Russian culture are taken into account and dealt with effectively.