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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE MEGAN LATHAM

PUBLIC HEARING

OPERATION GREER

Reference: Operation E14/0362

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON FRIDAY 13 MAY 2016

AT 1.30PM

Any person who publishes any part of this transcript in any way and to any person contrary to a Commission direction against publication commits an offence against section 1122) of the Independent Commission Against Corruption Act 1988.

This transcript has been prepared in accordance with conventions used in the Supreme Court.

THE COMMISSIONER: Yes, sorry about that interruption. We're ready to proceed with Mr Donovan.

MR HENRY: Yes, if Mr Donovan could please - - -

THE COMMISSIONER: Yes, just come back in, Mr Donovan. Mr Donovan, you're on your former oath and you are subject to the section 38 order I made yesterday. Right? Thank you.

10

<MERVYN DONOVAN, on former oath

[1.30pm]

MR HENRY: Could Mr Donovan please be shown volume 11 of Exhibit G1? At page 131, Mr Donovan. Mr Donovan, you should have in front of you a printout of a slide of a PowerPoint presentation that's headed "CEO's Current Base Salary Package". Is that what you have?---Yes.

20 If you have a look, please, from page 131 through to page 134, you'll see four slides or copies of slides. Do you agree?---Yes.

I'm showing you these now because you may recall yesterday I asked you some questions about a meeting of the Board of GLALC in May 2010, at which employment contracts were said to be tabled in relation to Mr Johnson's employment. Do you recall that meeting?---Yes.

30 These slides, from pages 131 to 134, take a moment to look at them, if you would, with a view to answering this question, do you recall a presentation being made at the May 2010 Board meeting by reference to the slides?---I couldn't recall the slideshow presentation, but having seen the evidence that's been presented, the slides - - -

Yes.--- - - - it has jogged my memory.

Right. So, do you say now that having had the benefit of looking at these slides, you do recall there was a presentation or you don't?---Well, I do recall the figure of \$180,000 being talked about, being discussed.

40 All right. Do you recall that appearing up on an overhead projector screen or not?---I don't recall.

All right. But you recall reference to \$180,000 at the meeting?---Yes.

Do you recall who made the reference to that figure?---No.

Do you recall if Mr Johnson was present during the discussion in which \$180,000 was raised?---I remember Jack not being in the room at a certain time.

Right.---When there was discussion around the level of salary.

I see. Now, excuse me, if you have a look – and was it your understanding that the \$180,000 to which you refer was proposed as Mr Johnson’s remuneration for being CEO of GLALC?---Sorry, can you just say that again to me, please?

Yes. You said you can recall discussion about \$180,000.---Yes.

10

Do you recall if – sorry, I'll withdraw that. Was it your understanding at the meeting that the \$180,000 that was referred to was proposed as his salary or remuneration for being CEO of GLALC?---I don't recall.

Did you have any understanding as to what the \$180,000 was supposed to be payment for?---For his salary.

As CEO of GLALC?---I don't recall. It was CEO.

20

Right. Perhaps if you go to page 134, please.---Yeah.

You’ll see there’s four dot points on page 134 and the fourth of the four dot points says, “Jack remains an employee of GLALC and contract employee of GMS”. Do you see that?---Yes.

Do you recall any discussion at the meeting about Mr Johnson not merely being an employee of GLALC but also being a contract employee of GMS? ---I don’t recall that discussion.

30

Right. As far as you understood things at the meeting the \$180,000 to which reference has been made was that as you understood it proposed as Mr Johnson’s remuneration for being Chief Executive Officer of GLALC not Chief Executive Officer of GLALC plus some other amount for GMS work?---Yeah, I can’t, I can’t recall whether the 180 was actually for either, just around the CEO’s salary level.

Well did you – at the time of the meeting you obviously understood that Mr Johnson was the CEO of GLALC?---Yes.

40

Did you understand that he was the CEO of any other Gandangara group companies?---Yeah, I understood him to be CEO’s of the other entities.

Right. Did you understand that he was paid money in addition to his GLALC salary for work performed as CEO of the other entities?---Not at, not at that, not at that meeting.

Right. Is it fair to describe your understanding at the time of the meeting in this way, you understood a proposal had been put for Mr Johnson to be paid \$180,000. Correct?---Yes.

And as far as you were concerned that amount of money was to be paid to him for all work he performed on behalf of GLALC?

MS McENIERY: I object, Commissioner. I don't know if that is this witnesses evidence.

10

THE COMMISSIONER: No he's being, no he's being asked if that's his understanding.

MR HENRY: If it's not he - - -

THE COMMISSIONER: He can say one way or the other.

MR HENRY: Yes?---No, my understanding was that it was the CEO's salary.

20

THE COMMISSIONER: But when you say the CEO's salary you mean CEO of what?---Of Gandangara.

Of the Aboriginal Land Council?---Yeah, yeah.

MR HENRY: All right. You'll see on page 134 Mr Donovan, the second dot point that says, "Term of contract five years plus five year option". Can you see those words?---Yes.

30

Do you have any recollection about discussion concerning a five year option?---At that meeting?

Yes?---No, I don't, I don't recall.

But did you have any understanding at the time of the meeting that a five year option was proposed for the purposes of Mr Johnson's employment contract?---I don't recall that, sorry.

40

All right. And you'll see the reference in the third dot point to a bonus, to bonus conditions remaining unchanged. Can you see that reference?---Yes, yes.

Do you have, did you have any understanding at the time of the meeting what bonus conditions applied to Mr Johnson's employment arrangements? ---I can't, I can't recall the bonuses.

All right. Did you have an understanding at the time of the meeting that Mr Johnson had any bonus entitlements under his contractual arrangements?

---Can you, can you just repeat the question, please?

Yes. Perhaps I'll put it another way. What if any understanding did you have about Mr Johnson's remuneration package including a bonus or bonus entitlements?---Well having read the evidence now - - -

Yes?--- - - - it's come, come back to me that he's, you know, there was, there was bonuses involved in the, in the employment contracts.

10 But were you aware of that at the time of the May, 2010 Board meeting?---I don't recall.

All right. Now you may recall – I'll ask, if you can hang onto that volume please, sir, and volume 8 could be provided to you as well. So leave if you would volume 11 to hand and take back volume 8, page 245, Mr Donovan. So you should have in front of now at volume 8 page 245, the Minutes that I took you to yesterday. Is that what you have?---Yes.

20 Now if you look at motion 2 in the Minutes it reads "The Board resolves to accept the new CEO contracts as tabled". Do you recall I referred you to that yesterday?---Yes.

Now you'll see that it says "There's more than one contract that was tabled", do you see that?---Yes.

Yesterday when I was asking you about this, I asked you this question. So I'm actually reading from the transcript yesterday, just to refresh your memory about the evidence that you gave?---Yeah.

30 I asked you "Are you able to recall", and for the benefit of those with those with the transcript this is at page 303, line 25. I asked you this question. "Now are you able to recall whether any contracts were tabled in connection with motion 2?" And your answer was "Yeah. I remember having in my hand and reading a document, a contract". And then I said "All right". And you said "Yeah. So there was a contract, there was a contract tabled"?---Yes.

That was the evidence from yesterday?---Yeah, yeah.

40 I want to take that a bit further. I showed you yesterday a contract in volume 11, which is the other volume you should still have, commencing and the contract commenced at page 96?---In the other - - -

Yes. So just leave the Minutes there if you would and then get the other volume, please, and turn back to page 96. And you may recall this document I asked you to have a look at yesterday. It's an agreement between Mr Johnson and GLALC for his employment?---Yes.

Do you recall that?---Yes.

And I asked you to have a look at the document and then I asked you "Are you able to recall that document was tabled at the May 2000 Board meeting" and you said, this is at line 45, page 303 of the transcript. You said "Been that long ago I can't recall whether that specific document was tabled". Do you recall saying that?---Yes.

10 And then I said "All right. Are you able to recall whether the document that you refer to was a contract between Mr Johnson and GLALC"? And you said "Yes, yes". In other words your evidence was that you can't recall the specific document that was tabled but you do recall firstly a contract being tabled, correct?---Yes.

And you recall that the contract that was tabled was a contract between Mr Johnson and GLALC?---Yes.

20 All right. Now with that in mind, could you please turn in volume 11, to page 112. Page 112 should be the first page of another agreement but this agreement is between Waawidji and Gandangara Management Services. Is that what you have?---Yes.

All right. Now I want to ask you to have a look at that contract and I can tell you, Mr Donovan, it goes from page 112 through to page 128. And if you could have a look through that contract with a view to answering this question, please. Do you recall if this contract was tabled at the May 2010 Board meeting? So just take a moment if you would to go from 112 through to 128 with a view to answering that question?---I don't recall this, this being tabled. I can't recalled this contract at the, at the meeting.

30 All right. As I indicated earlier, your evidence yesterday was that you did recall a contract at the meeting, and it was a contract between Mr Johnson and GLALC. Do you remember?---Yes.

Now, this contract isn't between Mr Johnson and GLALC. It's between Waawidji and I'll refer to Gandangara Management Services as GMS. ---Yes.

40 Are you able to say that this contract was not tabled at the meeting?---I couldn't say.

So your position is it may, it may not have been, but you can't recall.---Yes.

All right.---I can't recall.

Do you recall at the meeting, in the course of discussion about Mr Johnson's employment arrangements, any reference to Waawidji?---I don't recall, sorry.

All right. You see, motion 2, at page 245 in volume 8, says, "The Board resolves to accept the new CEO contracts as tabled, effective as at 1 May, 2010, and authorises the chair to sign the contracts," plural. Do you see that?---Yes, yes.

And you recall yesterday you said that you voted in favour of that resolution?---Yes.

10 Did you understand at the time at which you cast your vote that you were voting in favour of more than one contract?---I couldn't recall the contract.

Yes. My understanding is your evidence is you can recall a contract.---Yes.

You can recall that there was a contract between Mr Johnson - - - ---Yes.

- - - and GLALC.---Yeah.

20 You can't recall whether the contract between Waawidji and GMS, to which I've taken you, was at the meeting. Correct?---Yes, that's correct.

You do recall voting in favour of the resolution, though?---Yeah, I voted in favour of it.

Yes?---Yeah.

And the resolution in its terms refers to more than one contract.---Yes.

30 And so my question is, at the time at which you voted in favour of the resolution, did you understand that you were voting for more than one contract?---I probably did. I probably did understand.

If that's right, if you did, you understood, obviously, from your previous evidence, that one of the contracts you were voting in favour of was a contract as between Mr Johnson and GLALC.---Yeah.

Correct?---Yeah.

40 Who did you understand any other contract that you were voting in favour of was between?---Well, I can't recall the other contract.

All right. And I gather you can't recall whether you understood that you were voting in favour of a contract to which Waawidji was a party?---I don't recall that, sorry.

All right. Did you understand when voting in favour of the resolution that only Mr Johnson would be paid money by GLALC or any of the GLALC-

related companies? Or did you understand that Waawidji may also be paid money?---Can you just repeat that again for me, please?

Yes. Did you understand at the time of the meeting that under these contracts only Mr Johnson would be paid money by GLALC or GLALC's other subsidiary companies or did you understand that Waawidji as well as Mr Johnson may be paid some money?---Just, sorry, I've, I've lost my train of thought. Can you try again?

10 Yes, the question is in substance so far as these contracts are referred to in motion 2 presumably you understood that on one side of the contracts there was Mr Johnson and his interests. Correct?---Yes, yes.

On the other side of the contracts the counterparty was GLALC or GLALC and other GLALC related entities?---Yep.

You understood that?---Yes.

20 Now – and the contracts being employment related contracts involved the payment of monies from the GLALC side of the equation - - -?---Yes.

- - - to the Johnson side of the equation?---Yes.

And my question there is did you understand at the time of the meeting that on the Johnson side of the ledger only Mr Johnson would be paid money under the contracts or did you understand that Mr Johnson and Waawidji would be paid money out of these contracts?---Well I understood it was Jack Johnson that was in receipt of the, would receive the salary.

30 So as far as the \$180,000 goes - - -?---Yep.

- - - to your mind it was Mr Johnson and Mr Johnson alone?---Yes.

All right. In view of that if you have please volume 11 again. Is that volume 11 there Mr Donovan?---Oh, sorry I was (Not Transcribable)

40 MR HENRY: If you turn back to page 96 please. This is the first page again of the Mr Johnson/GLALC contract. I'm only taking you to that page to give you some context. If you then go please to page 108 you'll see Schedule 1 to that contract. So this is Schedule 1 to the contract that's between Mr Johnson and GLALC. Do you appreciate?---(No Audible Reply).

So do you have the Schedule 1 sir?---Yes, yes I do.

All right. If you part 7 of Schedule 1 it says, "Annual remuneration 80,000. Can you see that?---Yes.

And then there's the superannuation of 7,200 and a total of 87,200?---Yes.

All right. Keep that in mind if you would, please and turn to page 112. So this is the front page again of the Waawidji/GMS contract?---Yes.

Schedule 1 to that contract is at page 124. If you could please turn to that page. Yes.

10 And at page 124 you'll see part 7 annual remuneration salary of 100,000. Do you see that?---Yes.

And then there's a superannuation total of 9,000, making a combined total of 109,000. Do you see that?---yes.

Now what I want to suggest to you Mr Donovan is the salary identified in each of the schedule 1's and the part 7 of these two contracts total \$180,000?---Yes.

20 And that obviously excludes the super?---Yes.

And that \$180,000 I suggest is the \$180,000 that was the subject of discussion at the May 2010 Board meeting?---Yes.

Clearly under these contracts only 80 of the \$100,000 is to be paid to Mr Johnson. Do you agree?---Yes.

30 Now when you voted at the May 2010 Board meeting, was it explained to you that of the \$180,000, Mr Johnson would receive 80,000 and Waawidji would receive 100,000?---I don't, I don't recall, I don't recall an explanation.

All right. I understand though from your evidence and tell me if this is a fair way of putting it?---Yeah.

40 That whilst you don't recall the conversation, at the time of the meeting it was your understanding that the \$180,000 was to be paid to Mr Johnson and not some part thereof, the remainder being paid to Waawidji. That was your understanding?---No, no. My understanding was that the money was paid to Mr Johnson.

Yes. The full - - -

THE COMMISSIONER: All of it, all of it, the 180,000?---Yes.

Yes.

MR HENRY: Yes, all right. You were obviously a director of GMS at the time of this contract that commences at page 112. And if it assists, the

contract, sir, it's undated. So when it was signed is, is not apparent from the document. But it has what's called a commencement or effective date of 1 May, 2010. You get that from page 124, if that assists?---Yes.

So the Board meeting itself is on 2 or 3 May, 2010?---Yes.

The commencement date of the contract is 1 May, 2010?---Yes.

10 It would appear from the papers that the document is signed after 1 May, 2010 because the Board resolution which postdates 1 May, 2010, includes authorisation for the Chair to sign the contracts, do you appreciate?---Yes.

So the probabilities are it was signed after 1 May, 2010?---Yes.

But nonetheless, in May 2010 and at all times following then, you were a director of GMS, weren't you?---Yes.

20 Now at the May 2010 Board meeting did you understand that when you voted for resolution in motion 2 that you were voting for GMS of which you were a director to enter into a contract?---No.

That wasn't explained to you?---I don't recall.

But it certainly wasn't your understanding that you were acting on behalf of GMS as a director and committing to a contract?---Sorry, can you just say that again, please?

Yes. You don't recall a discussion?---Yeah.

30 But at the meeting you were under – you had no – I'll withdraw that. You understood that you were not acting as a director of GMS committing it to a contract by voting in favour of motion 2?---Yes.

You agree with me?---Yes.

Are you able to proffer any explanation as to why two contracts rather than one were entered into for the purposes of Mr Johnson remuneration?---Well having, having read through the evidence now and having a look at the contracts - - -

40 Yes?--- - - - my sort of logic, my rationale is, is that, is, is apportioning the amounts across from Gandangara and GMS.

THE COMMISSIONER: Well that might be what you have gleaned from the papers now?---Now, yes.

But we're trying to ascertain what you believed at the time?---Yeah. I couldn't - - -

No. All right?---Thanks.

MR HENRY: All right, thank you. All right. That is what I want to ask you at this stage about the 2010 contracts. I'll move now to the next set of contracts which were entered into in connection with Mr Johnson's employment in December 2012?---Yes.

10 And I'll ask you to be provided with volume 10 at page 121, please. And please if volume 11 could remain with Mr Donovan. But for the moment volume 10, page 121. Now, Mr Donovan, these are Minutes of a Board meeting of 10 December, 2012?---Yes.

Now, I note that you're an apology at that meeting.---Yes.

So presumably that means you weren't present.---Yes.

That's a fair assumption?---Yes.

20 Now, notwithstanding that, you'll see over the page, at page 122, a motion for. Can you see that at the top of page 122?---Yes.

And it says, "The Board resolves the contract between GMS and Waawidji Proprietary Limited be terminated by mutual consent retrospectively on 30 June, 2012."---Yes.

"And immediately replaced by contracts commencing 1 July, 2012, between Waawidji and three other entities." Do you see that?---Yes.

30 Now, as I say, I understand it appears that you weren't present at the meeting. But do you recall being informed about this resolution?---No.

Do you recall ever being informed that the contract between GMS and Waawidji was replaced with three other contracts?---No.

The contract between GMS and Waawidji that's referred to in motion 4 is the contract to which I've taken you. Do you understand that?---Sorry?

40 The contract between Waawidji and GMS, which is referred to in motion 4, is the contract to which I've taken you in 2010. Do you understand that? ---Yes. Yes.

All right. And you'll see in motion 4 it says that that contract was terminated retrospectively on 30 June, 2012. Can you see that?---Yes.

Did anyone ever explain to you why that contract was terminated retrospectively?---No.

All right. Now, the three contracts that replaced that contract were contracts between Waawidji and Marumali, GHS and GTS. Can you see that?---Yes.

Now, you were a director of each of Marumali, GHS and GTS at the time, weren't you, in December 2012?---Yes.

Do you recall anyone telling you that Waawidji had entered into contracts with Marumali, GHS or GTS?---No.

10 And you don't recall being provided with – or I should put it neutrally. Do you recall being provided with any documentation prior to 10 December, 2012, when the Board meeting occurred, in relation to Mr Johnson's employment arrangements?---I don't recall any, no.

All right. Is the first time that you have learned that – I'll withdraw that, that Waawidji entered into contract with Marumali, GHS and GTS shortly prior to this hearing commencing?---Yes.

20 All right. You otherwise didn't know about that?---Yes, that's correct.

Again, I appreciate you weren't at the meeting, but are you aware of any possible explanation for why Waawidji entered into contracts with Marumali, GHS, or GTS?---No.

Are you aware of any services that Waawidji provide to any of those entities?---Sorry?

30 Are you aware of any services that were provided by Waawidji to Marumali, GHS or GTS from December 2012?---No.

Are you aware of any services that Waawidji provided to GMS at any time?---No.

All right. You can hand back then volume 10 please Mr Donovan?---Thank you.

40 And I'll ask you to be shown volume 1 at page 258, please. Now volume 1 at page 258 has a diagram that you've probably seen on the screens whilst you've been sitting in this room. Is that right?---Yes.

Do you recall in January, 2014 an attempt to restructure the GLALC group of companies?---Sorry, do I recall?

In January, 2014 an attempt to restructure the Gandangara group of companies?---There was, there was a series of motions - -

Yes?--- - - - that I was asked to come along and sign.

Yes. I'll come to the resolutions. I'll, I'll show them to you in a moment to assist your recollection?---Yeah.

At this stage I'm just looking at the, at a broader level if I can put it that way?---Yes.

You see on page 258 there's an original structure?---Yes.

10 Now I suggest that that was the structure that existed prior to the circulating resolutions to which you've just referred?---Yes.

Would you agree with that?---Yes.

And then subject to something to which I'll come, the new structure depicted on page 258 depicted the structure that was intended to be achieved by the circulating resolutions. Do you agree with that?---Yes.

20 The qualification to which I just referred is you'll see under the words New Structure there's a bubble or balloon that says Members. Do you see that?
---Yes.

Were you aware at the time of the circulating resolutions or shortly thereafter that the only member of Gandangara Services Limited and Gandangara Health Limited was Ms Cronan?---Can, can you just ask me that again, please?

Yes. You'll see on the diagram under the heading New Structure all of the members are said to be members of Gandangara Health Limited and Gandangara Services Limited. Can you see that?---Yes.

30 And what I'm putting to you is that at about the time of the circulating resolutions or shortly thereafter as a matter of fact the only person who was a member of Gandangara Health Limited and Gandangara Services Limited was Ms Cronan. Were you aware of that?---I don't recall, I'm sorry.

40 All right. Now again I'll bring you to the circulating resolutions in a moment. But what was your understanding as to why there should be a change from the original structure to the new structure?---My understanding was that there was, there was some urgency around the Health Service in setting up, in getting our Aboriginal medical service set up. And, and under only the existing structure that wasn't, wasn't possible for, for whatever reasons.

Was that service under the original structure conducted through Gandangara Health Services Limited?---Sorry, what - - -

I'll ask the question again?---Sorry, that's mine.

There seemed to be a - - -?---Echo.

- - - a comment or something. The question was, you mentioned health services not, not being provided, there was a difficulty in providing health services under the original structure, I gather?---There was a, as I, as I understood there was some difficulty in establish Aboriginal, their health service, Aboriginal health service.

Right?---And to get that wrong it couldn't, it couldn't be done under the existing structure.

10

I see. And my question to you was, was the, sorry, I'll withdraw that. But you understood did you, that by establishing the new structure that impediment would be overcome so that an Aboriginal health service could be provided under the new structure that wasn't possible under the old structure. Is that - - -?---Well that was my understanding, yeah.

All right. And who told you that?---I, I don't, I don't recall.

20

Well perhaps I should ask you, do you recall where you obtained that understanding from?---Well it was probably, probably from Jack.

Right. So as you understood things that was why there was a change required from one structure to the other?---Yes.

And was that the only reason?---That's, that's all I can recall.

30

All right. If you go back in volume to page 257. You'll see there a heading "The Boards of GLALC service delivery entities have changed the group structure without the consultation or approval of GLALC members or the administrator", can you see that heading?---Yes.

And then there's a diagram which is headed "GLALC Group administrators proposed corporate structure", can you see the diagram?---Yes.

And you've probably heard me ask questions of other witnesses about that diagram and referring to it as the hub and spoke model?---Yes.

40

Do you recall being informed about a proposed 'hub and spoke model' that the administrator was proposing in late 2013 early 2014?---I, I can't recall, but I remember seeing, I remember seeing this, seeing this document but I can't, whether it was from reading the stuff over the, over the weekend, I, I couldn't, couldn't be certain.

All right. So you don't have an independent recollection of seeing this diagram back in 2013 early 2014?---No.

Do you have any recollection of the administrator proposing an alternative model, corporate structure model before the restructure to which I've asked

you about occurred?---I don't, I don't recall whether this was put to us before.

If you have a look at the page 257?---Yes.

It says under the heading Background on the right-hand side of the page?---Yes.

10 "As noted in prior reports, the administrator had conducted legal and tax reviews and drafted the documentation required from over the Board to put the proposed hub and spoke corporate structure in place, diagram opposite. The administrator believed that the hub and spoke model would provide GLALC members with a level of control over the entities of the group and that the structure was less likely to cause breaches of the ALRA, which you understand is an acronym for the Aboriginal Land Rights Act. The administrator intended to place this matter before the new Board and implement these changes at the earliest opportunity in 2014. However on 21 January, 2014, the administrator was provided with a copy of
20 correspondence sent to the Minister from the Board of two new entities, GSL and GHIL. The letter advised the Minister that on 15 January, 2014 the Boards of the existing Corporations Act are limited service delivery entities they'd met and decided to make changes to the corporate structure. The administrator was not informed of this meeting or the intended change. The administrator had requested a Board meeting however the CEO of GLALC advised the administrator that the Board was unable to meet until late January or early February, 2014. A meeting has now been called for 24 February, 2014". Now I know I've read all that to you. Does that assist you in recollecting the sequence of events prior to the circulating resolutions that attempted to put in place the new structure in January, 2014?---No.

30 So you don't recall the administrator attempting to put forward an alternative? Don't recall that?---No.

And do you recall – all right, I'll withdraw that. I'll ask you, then, please, to be shown the circular resolutions. They're in volume 5 at page 131. So, Mr Donovan, you should have in front of you now the first of the circulating resolutions. It has, at the top of the page, "GLALC Development Services Limited, circulating resolution of directors pursuant to the constitution of the company." Is that what you have?---Yes.

40 And your signature appears, does it not, on that page, about two-thirds of the way down, underneath and above a date, 15 January, 2014?---Yes.

And the same applies, does it not, in respect of each of pages 132 through to page 138? Just take a moment to have a look at those pages, please.---Yes.

Now, do you recall where you were when you signed these documents?---I think I went into the Land Council to sign these.

And when you were there, were the other people whose signatures appear on the documents also present?---I don't recall.

All right. This didn't occur at a Board meeting in the ordinary sense, did it? ---No.

And is this the only occasion upon which you can recall being asked to sign a circulating resolution?---Yes. It's the only occasion I can recall.

10

Right. You said you think you were at the office, the GLALC office, when you signed.---Yes.

Can you recall what prompted you to go there?---I think I was called.

Right. And do you recall who called you?---I can't recall.

Do you recall the substance of what you were told?---I don't recall, sorry.

20

All right. So you turn up at the office, presumably.---Yeah.

Now, are you provided with any explanation as to why you were there?---I think the thing that I mentioned earlier about the urgency to have to restructure, in terms of establishing our medical service.

Was there anything in particular, though, in January 2014, that made whatever impediment that you're referring to, concerning the health service, urgent?---Sorry, could you - - -

30

Well, my understand is that you can recall the purpose of these resolutions was to put in place the new structure, correct?---Yeah.

And your understanding was that the reason for the new structure was to do with getting the health service up and running, correct?---Yes.

What was the urgency, if any, about that in January 2014?---I don't recall, sorry.

40

Can you think of any reason why these resolutions, the circular resolutions, could not have waited to be put to the next Board meeting?---Sorry, can you say that again to me, please?

Yes. Can you think of any reason why these circulating resolutions could not have waited to be put at the next Board meeting?---I can't think of any reason.

You've probably heard it put either by me or the Commissioner or perhaps both, to various witnesses, that the purpose of these circulating resolutions

being signed at the time at which they were was in order to put in place the new structure before the administrator had an opportunity to put in place the hub-and-spoke model.---Ah hmm.

Have you – does that ring a bell?---Yes. That wasn't, that wasn't my understanding.

All right. Your understanding was confined to the health services issue?
---Pretty much from, from what I can recall.

10

All right. Now in relation to these circular resolutions who provided the documents to you to sign?---I'm not entirely sure, but I think it might have been Jack.

Did he provide them as a bundle and ask you to sign the lot of them or – d you recall how it worked?---I don't recall.

All right.

20 THE COMMISSIONER: Mr Donovan, can I ask you wasn't, wasn't the, the Gandangara Health Services Limited already offering some kind of health service at around this time?---Yeah, that's correct. We, we had already established by then the, a thing call 1-1-4, which is a surgery of doctors to support Aboriginal people in the area.

So, so that service was operating satisfactorily as far as you knew?---Yes.

30 So, so did you ever, did you ever understand why there was some problem with the operation of those services that require this new structure? What was it about the operation of the service that required improvement or change or - - -?---From memory it was, it was about establishing a new Aboriginal medical service but not under the, apparently they couldn't do it under the existing structure. And it was around getting, you know, the status, the status of a new, a new AMS and the, yeah, I can't recall anything else.

So sorry, was this, was this a medical service different and independent from the one that was already operating?---No, I understood it to be, that it would have been part of it.

40

Part of it?---Yes.

MR HENRY: I may be able to assist you if perhaps you were shown volume 6 at page 202. Now Mr Donovan, at page 202 of volume 6 there's a letter on the Gandangara letterhead to the Minister for Aboriginal Affairs and at page 205, sorry page 204 it's said to be from the Directors of Gandangara Services Limited and Gandangara Health Limited and then

yours is one of the signatures is it not on page 205?---Yes, that's my signature.

All right. If you go back to page 202, please. At the start of the letter you'll see it says, "We are writing to you as a courtesy to advise you of a restructure of the Gandangara Corporate Entities that are regulated by the Corporations Act"?---Yes.

10 "As you know there has been much debate about these corporate entities and how they can best serve the interests of the Aboriginal people". And then in the next paragraph it refers to health services. It says "One of the concerns we identified with the previous corporate structure was that the peak bodies responsible for administering Federal funding for Aboriginal Community Controlled Health Organisations viewed that control by the Land Council through the corporate structure did not fit the definition of community controlled. As a result our successful 114 health service was ineligible for membership of the ACCHO structure, ineligible for Federal funding and also ineligible for other service enhancements all of which are designed to enhance health services to Aboriginal people". Now again I've
20 read that to you, does that assist you in recalling what you were referring to a moment ago in connection with this restructure?---That, that seems to be, seems to be it, yep.

So just explain in your own words, if you would, what the concern you had was.---My concern?

Yes. Sorry, I should put it another way. Having the benefit of reviewing that paragraph in this letter that you've signed, in your own words, what did you understand the purpose of the restructure was?---So, the way that I'm
30 reading this is that under the existing structure we weren't able to get federal funding.

My read of that letter, and correct me if I'm wrong, is that the problem, according to the letter, was that federal funding wasn't available because the health service that was provided under the then existing structure, or the old structure if I can put it that way, was a health service not provided through the Land Council but through the then existing corporate structure. Is that right?---Yeah, that seems – can you just say that again, please?

40 Yes. Yes. I'm trying to understand what the issue was. My read of this information is that the reason that federal funding was unavailable to GLALC for the provision of the health services was because the provision of the health services was through a corporate structure, not through GLALC. Is that right?

THE COMMISSIONER: If you look at the second paragraph - - -
---They're saying that we didn't fit the definition of community controlled because we came under the Land Council.

THE COMMISSIONER: I think it didn't fit the definition of community controlled because it was in a corporate structure, not controlled by the community members.---Yes.

And so, as a result, the health service, which was operating through that Gandangara Health Services Limited, was ineligible for the funding.
---Yeah.

10 Right.

MR HENRY: That's my read of it as well.

THE COMMISSIONER: Mmm.

MR HENRY: What I'm coming to is how did the new structure address that problem?---I'm not sure.

20 Well, was this letter signed after a meeting of the Board?---I don't recall.

Well, obviously you've signed the letter.---Yes, yeah.

And presumably, before you signed the letter, you took time to read it and understand its contents, yes?---I don't recall the letter. I've obviously seen it, because I've signed it. If that makes sense.

30 Do you recall anyone at any time explaining to you how the new structure addressed the problem explained in paragraph 2 of the letter?---Could you, could you repeat that for me, please?

Yes. Paragraph 2 of the letter explains a problem, correct?---Yes.

And the new structure I rather understand was intended to overcome the problem, correct?---Yes.

And without being critical you can't explain how the new structure overcame the problem?---No.

40 You can't?---Well it moved, it moved the, the, it moved more Marumali Health Services out from under Gandangara Management Services from, from memory, from having a look at the diagram.

Yes. Well, if the diagram assists you we can put it back up. Perhaps if, on the screen at least, volume 1, page 258 gets put back up. If you have a look at the new structure, I appreciate that the text of Gandangara Health Limited is difficult to read?---Yes.

It's the middle of the three balloons below the members balloon?---Yes.

And under the new structure there's Marumali is underneath Gandangara Health Services Limited, which itself is underneath Gandangara Health Limited, one of the new entities?---Yes.

Now all three of those companies are taken out of indirect control of GLALC, do you agree?---It appears, it appears that way from, from revisiting the diagram.

10 They are however, placed under the members?---Yes.

Does that assist you in trying to recall how it was that the new structure overcame the problem referred to in paragraph 2 of the letter of 21 January, 2014 in the second paragraph?---Well, community, community control.

Yes?---Is your suggestion that, I'm asking, I'm trying to understand it. That because the members are said to be members of Gandangara Health Limited that that would overcome the problem in the second paragraph of the letter? ---Yes.

20

And that assumed didn't – that all of the members of GLALC were represented as the members of Gandangara Health Limited?---Sorry, but all the members of?

GLALC constituted the members of Gandangara Health Limited?---Yes.

Do you recall any discussion with the administrator about whether or not the hub and spoke model would overcome the problem you've identified in relation to the provision of health services?---I don't recall, sorry.

30

All right. You can hand volume 6 back, thank you Mr Donovan. And I'll ask you to be provided with volume 10, please, page 118. I'm just reminded Commissioner, I'm content obviously to keep going, but if Mr Donovan needs a break at any time - - -

THE COMMISSIONER: Yes, yes. Mr Donovan if you want a break just let me know?---No, I'm happy to proceed.

All right?---Thank you.

40

MR HENRY: Now Mr Donovan, volume 10, page 118 is a set of minutes of a Board meeting of 30 October, 2012. Is that what you're looking at? ---Yes.

Now again you're identified as an apology, so presumably you weren't present at the meeting?---Yes.

Do you nonetheless recall being told about a letter in connection with payments made to Mr Johnson and the auditors at the time?---No.

All right. I'll show you the letter just to see if that assists you. It's in volume 20 at page 250. You may have seen this also in the course of the last few days?---Yes.

Prior to this hearing do you recall seeing this letter?---No.

10 All right?---Well I was shown it, shown it at an interview.

Yes. Oh for the purposes of the - - -?---For the purposes of being here, yeah.

I see. Well perhaps if I can show you Exhibit G3. Just hang on to the letter if you would and I'll ask Exhibit G3 to be provided to you. Now Exhibit G3, you don't need to hang on to the folder at the same time, if that's inconvenient you can just?---No, it's okay. Thanks.

20 All right. Exhibit G3 is an email from Mr Johnson to Mr Hickey. Now you understand don't you that Mr Hickey was the auditor at the time of GLALC?---Yes.

And you knew that at the time?---Yes.
You're copied on this email together with other members of the Board. Do you agree?---Yes.

30 And this email is dated 25 September, 2012 about a month before the letter of 29 October, 2012. Do you agree?---Yes.

Right. Now do you – and sorry, attached to the email is a draft letter dated 20 September, 2012. Now take a moment if you would please to read the letter?---The draft letter?

Yes, sorry, the draft letter of 20 September, 2012.---Yeah.

You've reviewed those attachments to the email?---Yes.

40 Now, do you recall receiving this draft letter?---No.

Do you recall reading it?---No.

Do you recall, there's about a month, as I say, between the email attaching this draft letter to members of the Board and the letter of 29 October, 2012. ---Yes.

Do you recall discussing, at any time during that period, the letter or the draft letter with any members of the Board?---No.

With Mr Johnson?---No.

You'll see that the draft letter and the letter itself have a table on the first page of each of them. Do you agree?---Yes, yes.

And the table is the same on each. Do you agree?---Yes. Yes, I agree.

10 In the table, it refers to reimbursement of expenses totalling \$357,386. Do you see that?---Yes.

And that is said to be, in the letter, payments made between Gandangara and Mark Johnson in the year ending 30 June, 2012. Do you see that?---Yes.

Now, I appreciate you weren't at the meeting at which the resolution was passed to sign a representation letter. But were you aware, in 2012, that Mr Johnson was reimbursed expenses of \$357,386?---No.

20 Were you made aware of that any time later?---Only having been shown the document on interview and reading what I've read over the weekend.

So only in very recent times?---Yes.

And were you ever asked to agree to Mr Johnson being paid expenses in excess of \$350,000 for the year ended 30 June, 2012?---I don't recall, but I could've been asked.

30 At that time that was a significant amount of money was it not for him to be reimbursed for expenses?---Yes.

Does it surprise you that he was reimbursed expenses of that amount for one year?---Yeah. It's, it's a large figure.

If you have a look at the next column, the bonus?---Yes.

\$316,738, do you see that?---Yes.

40 Were you aware in 2012 that Mr Johnson was paid, well Waawidji in fact was paid a bonus of that amount for the year ended 30 June, 2011?---No.

No one ever told you that?---No.

And you never agreed to that?---No.

And you'll see on the letter, page 251, so the second page of the letter?---Of the draft letter?

No, no, sorry, the letter itself?---Okay.

So I'm talking about volume 20, page 251. You'll see it says "In regards to the bonus", now just pausing there. That's the bonus to which I've just referred you, the 316-odd thousand?---Yes.

10 It says "In regards to the bonus that was paid to you this year we confirm that this relates to performance to 30 June, 2011 which is in accordance with his employment contracts with GLALC". Now just pausing there. My understanding of your evidence is that you did not understand – I'll withdraw that. You were unaware of the contractual terms by reference to which Mr Johnson's bonus was calculated?---Can, can you just repeat that for me, please?

Yes. My understanding is that at all times whilst you were a director of GLALC you were unaware of the contractual terms by reference to which Mr Johnson's bonus was calculated?---During the course of this, this week it's jogged my memory.

20 Yes?---But like the contracts.

Yes?---And I can recall a figure around, well a percentage of three per cent.

Right. So you can understand you've read some papers this week?---Yes, lots, lots of papers.

But taking your mind back to the period in 2012 at the date of this letter. You were unaware weren't you of the contractual terms by reference to which Mr Johnson, his bonus was calculated?---Yes.

30 Now you'll see it says underneath that first paragraph on page 251. "The bonus was based on three per cent of the surplus generated in Gandangara funds as follows", and then there's two dot points. Do you see those?---Yes.

Are you aware that the bonus – I'll withdraw that. Is that the reference to the three per cent that you've just made reference to?---Sorry, the three - - -

You said a moment ago you referred to three per cent in the context of the bonus?---Yes.

40 Is that what you're referring to?---Yes, three per cent as a bonus.

Yes. Three per cent they referred to in this letter?---Well - - -

All right. There's a three per cent referred to in the contractual terms. My understanding is you were unaware of what they say, is that right?---That's right.

But you have seen this letter, it states three per cent on page 251?---No.

No. I'm sorry?---I haven't seen, I haven't seen this letter.

Oh, I see. I rather understood that you'd seen this letter. That is the letter of 29 October, 2012 over the course of the last few days when I've asking people questions about it. Is that wrong?---Oh, sorry, yes, yes, I've seen this letter over the course of the last two days, yes.

10 Yes. And you see on the letter on page 251 it says, "The bonus was paid on 3 percent of the surplus generated et cetera?---Yes.

Is that where you've got your reference to 3 percent from?---I was having, having read through the, the contracts.

I see. All right. Nonetheless you see in this letter it says in bold "Statement by the Chief Executive Officer and Directors". Can you see that?---Yes.

20 And then it says, "We confirm the completeness and accuracy of the information provided regarding the payments to Mark Johnson during the year ended 30 June, 2012?---Yes.

"We confirm that the transactions above have occurred in accordance of the employments contracts between Mark Johnson, Waawidji and Gandangara. Do you see that?---Yes.

Now you never agreed to this letter being signed on your behalf did you? ---No.

30 All right. And am I to understand from your evidence that this letter was never discussed with you by anyone?---No.

All right. Just bear with me. You can hand back that volume, thank you, Mr Donovan. And I'll ask you to be shown volume 9 please. Volume 9 at page 50?---Sorry, the page - - -

Sorry, page 50. You'll see that's a Board meeting – I'll withdraw that. Minutes of a Board meeting of 18 April, 2011?---Yes.

40 And you were present at the meeting?---Yes.

I'll ask you to turn please to page 52 and you'll see motion 8 at the top of page 52. Can you see that?---Yes.

It says, "The Board resolves that an appropriate resolution be put to the members in line with relevant legal advice that funds be transferred from GLALC to GFF". Do you see that?---Yes.

Now do you recall being shown any written legal advice in connection with the transfer of funds from GLALC to GFF?---I don't recall any legal advice.

Right. Do you recall being told about any legal advice concerning the transfer of funds from GLALC to GFF?---Sorry, could you just say that again for me, please?

Yes. I'm asking questions about legal advice - - -?---Yes.

10 - - - concerning the transfer of funds from GLALC to GFF. And you've said you don't recall seeing any written advice. Correct?---That's correct.

Are you able to say that you didn't receive any?---I don't recall.

All right. My next question is, were you told orally any legal advice that GLALC received in connection with the transfer of funds from GLALC to GFF?---I don't, I can't remember.

20 All right. Well let me ask if any of this assists in refreshing your memory. Were you told that GLALC could not donate funds to GFF?---No, that doesn't, that doesn't sound familiar.

GLALC was not entitled to just gift GFF?---No.

GLALC could lend money to GFF?---No.

All right. Well, let me ask you, then, to turn, please, to page 111 of volume 9. And you should have there, Minutes of a Board meeting of 11 July, 2011. Is that what you have?---Yes.

30 Now, you're not present at this meeting.---No.

But if you go over to page 114, you'll see a resolution under motion 17. ---Yes.

Now, I appreciate you weren't present at the meeting, but were you present at the subsequent members' meeting on 27 July, 2011, which made reference to this same Board resolution?---Sorry, can you just repeat the question for me?

40 Perhaps I should take it a step at a time. If you could just take a moment to read motion 17 on page 114.---Yes.

All right. You've read that motion 17?---Yes.

Now, as I say, I appreciate you weren't at the meeting, but you became aware of that resolution, didn't you, sometime after the meeting?---Yes.

If it assists you - - - ---Yes, I think I did.

Well, if it assists you, at page 129, if you go forward to page 129, Mr Donovan, there's a set of minutes of an ordinary meeting of GLALC of 27 July, 2011. Do you have that?---Yes.

And you'll see on page 132 there's a motion "GLALC Future Fund".---Yes.

In which the members, in substance, resolve to adopt the Board resolution, which you've just read.---Yes.

10

Now, do you recall being present at the members' meeting?---I can't recall.

All right.---Whether I was there or not.

All right. If you go forward in the bundle, please.---Yes.

To page 183. You should have then minutes of a Board meeting of GLALC of 10 October, 2011.---Yes.

20

Now, you're said to be in attendance at the meeting.---Yes.

And then I'll show you, if you would, page 184, where it says, "Delegations", motion 4.---Yes.

It says, "In accordance with section 72 ALRA, the Board reaffirms the following delegations for the remaining 12 months or until completion or until reviewed by the Board." Do you see that?---Yes.

30

And then go over the page, please, Mr Donovan, to paragraph 21. It reads, "In line with both Board and members' resolutions, the CEO is authorised to ensure that all surplus funds are lent to Gandangara Future Fund Limited in line with the resolutions." Do you see that?---Yes.

Now it may be that you were aware of the motion 17 to which I took you of the Board meeting of 11 July, 2011, earlier, but at the very least I suggest that you were aware of it by 10 October, 2011 at the time of this delegation. Would you accept that?---Yes.

40

Doing the best you can, would you say that you were aware of it prior to this meeting of the October, 2011?---I aware of the resolution?

Yes?---I can't, I can't recall. I mean had, had I been at the, the 7 July meeting I probably – but I can't, I can't remember, I'm sorry.

No, don't be sorry, I understand. If I could ask you to go back to the terms of the resolution on page 114, please?---Yeah.

Now you'll see that the resolution provides the Board resolves that all funds surplus to the operating means of GLALC shall be loaned to GFF on a commercial loan basis secured by a charge registered with ASIC. And then there are certain other conditions attached, do you agree?---Yes.

10 Now as you understood things in at least by October, 2011, when you were aware of this resolution what was your understanding as to why GLALC would loan money to GFF?---GFF was our, was our Futures Fund. And so it was my, my understanding that, that moneys going into GFF would then be used to, to support the other entities in, in conducting their, their business.

Yes. Are you able to explain why it was necessary for funds to go from GLALC to GFF in order to achieve that outcome?---Sorry, can you say that again, please, sorry?

20 Yes. Are you able to explain why as you understood things it was necessary for funds to go from GLALC to GFF to achieve the outcome you've just described?---No. I don't know.

And in addition, what motion 17 on page 114 refers to is loan, that is a loan of money?---Yes.

Why would GLALC as you understood things lend money to GFF?---I'm not, I'm not entirely sure.

All right. You recall with the delegation at page 185, if you go back to that I'm sorry, page 185?---Yes. Yes.

30 There's there a delegation to Mr Johnson to ensure that all surplus funds are lent to GFF in line with the Board and members resolutions, do you see that?---Yes.

Now were you ever informed whether Mr Johnson authorised loans from GLALC to GFF?---Was I ever informed? Sorry, can you say that again, sorry. I'm - - -

40 That's all right. Were you ever informed that Mr Johnson authorised loans from GLALC to GFF?---No.

Were you ever informed of money being transferred from GLALC to GFF?---No.

Were you ever informed what sums of money were loaned or transferred by GLALC to GFF?---No.

At any Board meeting at which you attended, did any director ask of Mr Johnson whether he had authorised money to be lent by GLALC to GFF?--- I don't recall, sorry.

I rather understand from your answers that you don't recall any instance at a Board meeting at which the transfer of funds from GLALC to GFF was notified to the Board?---No, that's correct.

10 All right. I'll ask you, then, to be shown volume 20, please, at page 16. You should have in front of you there, Mr Donovan, a letter dated 31 August, 2012, from the Office of the Registrar of the Aboriginal Land Rights Act to GLALC.---Yes.

And you'll see at paragraph 2 it says, "Enclosed is a compliance direction to GLALC."---Yes.

And then attached to the letter, or enclosed with the letter, from pages 17 through to page 20, is the compliance direction. Do you have that?---Yes.

20 Now, do you recall being informed about the compliance direction whilst you were a member of the Board of GLALC?---All I can recall in terms of the compliance stuff was that right towards the very end we'd put together a very large submission around compliance issues that Gandangara had sent off to the Minister.

Yes, now, was that in relation to the transfer of funds from GLALC to GFF? ---I think it was.

30 All right. You'll see that the compliance direction is dated 31 August, 2012. Do you see that?---Yes, yes.

And you'll see, at pages 19 and 20, under a heading on page 19 "Directions to Gandangara LALC" - - - ---Yes.

- - - that GLALC is directed to do or not do various things. Do you see that?---Yes.

40 Are you aware that subsequent to the issue of the compliance direction, Mr Johnson authorised transfers of funds from GLALC to GFF?---Sorry, can you say that again, please?

Are you aware that after the issue of the compliance direction, Mr Johnson authorised the transfer of funds from GLALC to GFF?---I'm not aware.

You weren't told that at any Board meeting subsequent to the issue of the compliance direction?---No.

All right. Was the Board informed about whether the compliance direction was being complied with after it was issued?---Well, I think the document that we put together for the Minister was part of that, resolving the compliance issues, from memory.

All right. Bear with me a minute. Just pardon me for one minute, sir.
---Sure.

10 Could you turn forward please in volume 20 to page 272? You should have a document in front of you headed "Ministerial Brief"?---Yes.

Now I'm taking you to this to see whether this is what you are referring to when you've referred to a document being sent to the Minister. Perhaps just if you would read that page on 272 and let me know whether this is what you were referring to, please. Does that assist you Mr Donovan or not?---
Yes, yes sort of. It sort of assists me, but - - -

20 Well actually, sorry, perhaps I just, I cut you off, sorry?---Sorry, I was just getting back to that document that I referred to, there was quite a large, large document, about 100 pages from - - -

Oh 100 pages?--- - - - from memory, yeah.

I see?---It wasn't, it wasn't this, this is the Ministerial Briefing.

Yes. All right. I gather you haven't then page 272 before?---No. Only through, only through reading the stuff on the weekend.

30 I see. All right. All right. Well you can put that to on side then. Now what volume is that? Do you have volume 20? Oh no, sorry, I meant to give you volume 22. So perhaps if you hand back volume 20 and I'll ask for you to be provided with volume 22?---Thank you.

At page 90. You should have in front of you, Mr Donovan, a letter on a Waawidji letterhead dated 8 December, 2009 to a Mr Kevin Cavanagh, the CEO of DLALC, Deerubbin Local Aboriginal Land Council. Is that what you have?---Yes.

40 And that letter goes from pages 90 to 93. And I want you please to have a look at that letter with a view to answering this question. Have you seen that letter before?---I haven't, I haven't seen this letter before.

Right. Do you recall being asked to agree to Waawidji assisting DLALC at any time when you were on the Board of GLALC?---No, I don't recall.

All right. Thank you. You can return that volume.

THE COMMISSIONER: Mr Donovan, were you aware that there were services being provided to Deerubbin Land Council?---Yes.

You were?---Yes. Yeah. It was under SASL, I think it was, Sydney Aboriginal Services Limited. There was, there were services being provided to Deerubbin to from memory from Walgett and to La Perouse.

And did you understand those services were being provided by which entity?

10 ---I'm not entirely sure, I can't remember, sorry.

You're not sure who was providing the services?---No. But I remember that we were providing the service to, to bring, to bring their organisations up to par with what Gandangara was doing to improve the outcomes for Aboriginal people.

MR HENRY: But was it your understanding, Mr Donovan, that although you didn't know perhaps which entity was providing services to DLALC?---Yes.

20

You understood it was an entity within the Gandangara group of companies?

---Yes. It was, it was Gandangara that was providing the service.

Yes. You were unaware that Waawidji may have been providing services?--I wasn't, I wasn't aware of that.

All right. Now I want to ask you about a finance subcommittee. Were you on a finance subcommittee?---No.

30

Do you know who was? And sorry, I should be specific?---So - - -

A finance subcommittee of GLALC?---Yes.

Yes. Do you know who was on it?---Cindy Cronan, John Dickson, I'm not too sure who else was on there.

All right. And what as you understood it did the finance subcommittee do?
---I think from, I think from memory their role was to bring any or to go
40 through the, go through finance, financial documents and bring any, any major issues before the, before the Board. I think that was the, was my understanding.

Do you recall the finance subcommittee or someone on behalf of that committee addressing the Board at any time?---I can't recall, I can't recall.

You can't recall?---No.

Do you know or do you have any idea of how often the finance committee or subcommittee met?---No.

Do you have any recollection of the finance subcommittee, anyone on behalf of the finance subcommittee addressing the Board in relation to expenses incurred by Mr Johnson or Waawidji?---No.

10 Do you recall anyone on behalf of the finance subcommittee addressing the Board in relation to the reimbursement of expenses incurred by Mr Johnson or Waawidji?---No.

Do you recall anyone on behalf of the finance subcommittee addressing the Board in relation to a bonus paid to Mr Johnson or Waawidji?---I can't recall that, no.

All right. I'll ask you now please to be shown volume 41 at page 14?
---Thank you. Sorry the page was?

20 Page 14?---Thank you.

Now this is a letter dated 18 February, 2014, Mr Donovan?--- Yes.

And you'll see your signature on page 15. Do you agree?---Yes, that's my signature.

30 Now take a moment if you wouldn't mind to read the letter to refresh your memory and tell me when you've done that, please. Do you recall signing this letter?---I can't remember, I can't remember signing it, but I must have signed it.

All right. Do your recall that there was a discussion prior to the letter being signed amongst at least those people whose signatures appear on page 15?
---Yes.

And you've been in this hearing room to hear evidence given by Ms Provest about that discussion?---Yes.

40 And you've been in this hearing room to hear evidence given by Ms Brown about that discussion?---Yes.

Now what's your best recollection of the discussion that occurred at this meeting, in particular concerning any disagreement that Ms Provest may have articulated in connection with the approval of Mr Johnson's expenses?---Now I can't, I can't recall the meeting entirely, but I do remember, I do remember Gloria, Ms Provest getting, getting upset. But apart from that.

Right. Do you recall Mr Tobler saying anything to Ms Provest that she subsequently became upset about?---I think it was between Rohan, Mr Tobler, and Gloria. But I can't recall what exactly was said.

All right.---But I remember Gloria, Ms Provest, getting upset.

All right. And do you recall her remaining upset at the end of the meeting or not?---I can't recall.

10 Now, you've also heard some evidence about Mr Johnson's expense claim with respect to his horse float.---Yes.

Do you recall that evidence?---Yes.

Can you recall someone at the meeting explaining that Mr Johnson had used his horse float for the purposes of transporting corpses?---I can't recall the - - -

20 All right.---I can't recall that.

Do you recall anyone at the meeting referring to Mr Johnson using his horse float for the purposes of making some sort of measurement with respect to a proposed dental unit?---No. I don't recall that.

30 Now, I notice, for the transcript, that you are smiling as I ask you that. Is that indicative of the fact that you were unaware of any proposal for a mobile dentistry unit at the time?---Look, there was a lot of talk about the different ways in which we could service and support our (not transcribable) community in terms of their health and dental needs. But I can't recall, you know, the concept of a dental unit.

All right. But you'd agree, wouldn't you, the notion that one would drive around the streets with a horse float, with a view to trying to determine whether to start up a mobile dental service, is just patently absurd, isn't it? ---I don't know whether I'd say it'd be absurd. People have different ways of doing different things to get across different concepts, so.

40 Well, I suggest we're not referring here to the dental treatment of horses, are we?---The dental - - - ?

Treatment of horses.---No.

No. And this, of course, occurs in a context in which Mr Johnson's claiming at least \$3,000 as a reimbursable expense on account of the use of his horse float. Do you understand?---Yes.

Now, was it drawn to your attention, prior to you signing this letter, that Mr Johnson was claiming at least \$3,000 on account of the use of his horse

float?---There was talk about horse floats, but I can't recall the exact figures, sorry. But, I mean, I think what expired in the end was that I was happy with whatever explanation Jack gave, and then signed the letter.

So, at this meeting, was Mr Johnson present for the entire time?---I can't recall whether he was present for the entire time.

But he was present for at least part of it?---Yes.

10 And, what, did he, in effect, provide his explanation for the claimed expenses? Is that right?---I think so. I think so, yeah.

Do you know who drafted this letter?---I have no idea.

Was it provided to you by someone for the purposes of you signing it?
---Was it provided - - - ?

To you by someone for the purposes of you signing it?---Sorry - - -

20 THE COMMISSIONER: Was the letter presented to the Board in that form for signature? It wasn't something that the Board had to go away and draft themselves?---Sorry, I don't recall whether we'd signed that on the night or, no, sorry.

MR HENRY: They're my questions for Mr Donovan, Commissioner.

30 THE COMMISSIONER: Mr Donovan, just on the question of the expenses that were the subject of this letter, did you see a schedule of payments that, that were said to be reimbursements to Mr Johnson of work related expenses? It was quite, quite a lengthy schedule of items that were being claimed?---I might be getting confused with what, what's been presented over the last, last couple of days, but I remember, I remember seeing some, some documents that were, that were highlighted.

At this meeting? On the occasion that you were discussing the expense claim?---No, I don't recall seeing - - -

40 Right?---But over the last couple of days I've seen letters being thrown up on the screen. I'm just trying to remember whether was it here that I saw them or whether it was - - -

It was beforehand?---Yeah. Yeah, sorry.

That's all right. Does anyone, yes Mr Dunne.

MR DUNNE: Mr Donovan, my name is Dunne and I represent Ms Shipley. Do you still have volume 9 with you? Do you have that now?---(No Audible Reply).

I just want to ask you some questions about the Board meetings and the recording of the minutes?---Yes.

If I could ask you to turn to page 181. And that should be the meeting, minutes sorry of the Board meeting on 5 September, 2011?---Yes.

Now you told Counsel Assisting yesterday that during Board meetings Jack would be typing on a computer - - -?---Yes.

10 - - - and words would come up on an overhead screen?---Screen, yes.

Is that correct?---Yes, that's correct.

Now if you have a look at page 181 and I take you to the top heading, "The Board" in slightly shaded heading that starts off with "Minutes of the Board Meeting" and lists the date. On the overhead projector on which Jack was typing the words was the heading at the top of the, of the letter or the minutes that was being typed? Could you see that at the time of the meeting?---No, I couldn't, I couldn't say for sure whether they were, they
20 were up there.

I see. Now this records that you were in attendance at that meeting. Is that correct?---Yes.

And if I take you to point 2, "Previous Minutes"?---Yes.

Motion 1. You see that is a motion to accept the minutes of the meeting held on 11 July, 2011?---Yes.

30 Do you recall attending this meeting apart from seeing your name listed as an attendee?---The meeting of 5 September?-

Yes?---I don't, I don't - - -

You don't have any recollection specifically?---No. I can't recall.

Because you'll see that although under motion 1- - -?---Ah hmm.

- - - there's the word "carried"?---Yes.
40

But above that word are words, "moved" and seconded"?---Yes.

- - - where they're both blank?---Yes.

And if you have a look at further through that Board minutes you'll see that there's motions 2 and 3 on the first page - - -?---Yes.

- - - which are similar. Two motions 4 on the second page?---Yes.

And all of those motions are listed as carried with no listing for who moved them or seconded them?---Yes.

And indeed under point 11 General Business, it's blank but nevertheless the words are carried are found underneath that - - -?---Yes.

10 - - - even though there's no one who's moved or seconded that motion. Do you also see where it lists the next meeting as being September, 2011. Do you see that?---Which meeting, September '11.

September '11?---Yes, there's no date there.

It says, if you see under the heading Next Meeting?---Yes.

And then you go down, it says "Next meeting – September, 2011"?---Yes.

20 Even though this was a meeting that took place on 5 September, 2011?---Yes.

Now if this was being typed up during the meeting you would've seen that no one was being listed as being moved or seconded in the various motions, wouldn't you?---Yes.

And other members would have?---Yes.

30 And I think as evidence has been given there was quite a bit of discussion at the meetings and as words were typed in there may have been a discussion about those typed, whether the words were correct or whether they should've changed?---Yes.

And so if there had been six motions carried without anyone being listed for moved or seconded someone would've commented?---Yes.

Would you agree?---Yes, I agree.

You would've commented?---Yes.

40 Yes. And indeed if you'd seen that the mistake was made of listing the next meeting for September, when in fact this one was September meeting you would've made a comment on that, wouldn't you?---Yeah. I probably would've.

Yes. So these Minutes either contain obvious errors or the template for a meeting that hasn't been completely filled in, is that correct?---I'm not, I'm not sure.

I see. And if I could just take you to page 183?---Yes.

That's the Minutes of the meeting of 10 October, 2011. You've got that?---
Yes.

And if I can just take you to page 2, sorry, page 184?---Yes.

Page 2 of that and the delegations, and motion 4 which goes for 25
subparagraphs?---Yes.

10 Those subparagraphs and I suggest to you those subparagraphs would
already have been typed and prepared for you to examine during the
meeting and not typed - - -

THE COMMISSIONER: Sorry. I'm just trying to understand. Are you
saying that they would've already appeared on the screen?---Yes.

MR DUNNE: Yes, yes. Typed up.

THE COMMISSIONER: I see.

20

MR DUNNE: Typed up in the document and appeared on the screen as
draft proposals. Or are you suggesting or does your memory suggest that in
fact there was a blank screen it started from one and Mr Johnson then
proceeded during this meeting to type in those 25 delegations during the
meeting?---Well the motion isn't really affirmation of what was done
previously. So I suspect that what had happened was that Jack would,
wouldn't necessarily type them up but do and cut paste from previous,
previous meetings rather than, rather than type them up at that meeting.

30 Perhaps you're confused. I'm now not talking about Minutes of previous
meetings?---Yes.

I'm taking you to, sorry, Minutes of previous meetings which have been
approved?---Yes.

What I'm taking you to is a motion in the meeting of 10 October, 2011?
---Yes.

40 Which is quite detailed and quite complicated. And I'm not suggesting that
there's anything improper or incorrect in Mr Johnson already having a draft
of the delegations to put before the Board for their consideration and if
necessary alteration. What I am suggesting to you is that during Board
meetings and in particular in this Board meeting on the overhead projector
there already would be words, motions, in this case delegations already
listed for the Board's consideration. And those may be amended by Mr
Johnson as the meeting proceeded. Is that the case?---Well there was
certainly, certainly motions, certainly motions from the floor that, that Jack
would type up. The Board generally would then discuss, discuss those

motions. And then it would be put, put to – and then the motion was on the floor as it were, the directors would then say well I disagree with this and the person who had moved the motion would then be asked are you happy with that being changed and so that tended to be the process of changing the motions at a meeting.

Yes. So, I understand that. If I can just take you to this particular meeting on 10 October.---Yes.

10 And to motion 4.---Yes.

Are you saying that entire motion, that goes for over two pages, was typed from scratch, if you like, as the meeting proceeded?---No, I'm not saying that. I'm saying I don't recall.

You don't recall?---Yes.

20 But you're saying that it is possible that there was already draft words up there for the Board members to consider and change if required?---Well, sometimes Jack would just cut and paste from the previous motion and then just, sorry, reword it to reflect what the discussion was.

When you say “cut and paste from the previous motion”, you mean from the motion that's already on the screen?---Yes. If we had, you know, the (not transcribable) report, then CEO report, that sort of thing.

I see. Thank you, those are my questions.---Thank you.

30 THE COMMISSIONER: Any other questions of Mr Donovan?

MS RIDGE: Yes. Hello, Mr Donovan. My name is Ridge and I act for the Registrar of the Aboriginal Land Rights Act.---Hello.

I've just got two questions for you. The first relates to all of the companies that were part of the GLALC structure. You might recall you were taken to a diagram.---Yes.

40 The question is not about the structure, it's about whether or not at any time did you receive any monies from those companies.---No.

In the form of sitting fees or wages or - - - ?---No. No sitting fees. It was purely voluntary.

Thank you, Mr Donovan. The second question I have for you will need volume number 8. And it's on page 117. You'll see that's the meeting minutes of 22 December, 2008.---Yes.

And you'll see that you're in attendance at that meeting.---Yes, I am.

Okay. And can I take you to motion 1, please.---Yes.

Can you read that motion, please, Mr Donovan?---Motion 1 says, “The Board notes the declaration that Mark (Jack) Johnson, CEO holds the position of director of Waawidji Proprietary Limited (WPL), and that WPL does not hold any role with the Gandangara Local Aboriginal Council as a consultant.”

10 Thank you. And if I can take you to page 206 of that same volume.---Page 206?

Yes, please.---Yes.

And that’s the meeting minutes of 12 October, 2009.---Yes.

And you'll see from the minutes that you're in attendance at that meeting. ---Yes.

20 And can I take you to motion number 1 of that meeting as well, please. You'll see that that’s in similar terms to the motion that you read out earlier. ---Yes, it’s the same.

Okay. You've been asked by Counsel Assisting, Mr Henry, about a contract with Waawidji, which you were not aware was in place. Or that was your evidence that you gave earlier.---Yes.

30 Did you notice that these declarations of conflicts of interest, or potential conflicts of interest, in fact there was no conflict, had stopped being given to the Board of Gandangara?---I hadn’t noticed.

Okay.---I hadn’t noticed.

THE COMMISSIONER: Just for more abundant caution, Ms Ridge, you mean after 2009, do you?

MS RIDGE: Well, I'm not sure exactly when it stopped, because there are some gaps. But I just wondered whether, you know, it was obvious that there were a couple of these declarations in the earlier days.---Yes.

40 And that at some point presumably at least May 2010, those declarations stopped being given to the Board of Gandangara. And I’m just wondering whether you at any time reflected on the fact that those declarations were no longer being made?---No.

And, and do you understand the declaration and the terms of giving it a good practice, would you understand that from the Board training you received?---I can’t recall whether that was part of our training and - - -

But generally in terms of good corporate governance if you had a conflict of interest there was a duty to declare - - -?---You'd make, you'd make a declaration of course.

Thank you Mr Donovan?---Thank you.

MR HENRY: Sorry to interrupt.

THE COMMISSIONER: Yes, Mr Henry.

10

MR HENRY: But before Mr Docker starts, I have a follow up question that arises - - -

THE COMMISSIONER: Yes, go ahead.

MR HENRY: - - - and it may be better to deal with that now.

THE COMMISSIONER: Yes.

20 MR HENRY: Mr Donovan, that declaration that you were just taken to - - - ?---Yes.

- - - was made on a number of occasions and you've been taken to two instances over it. Do you recall?---Yes.

30 Unfortunately I don't have it printed out for you, but section 52 (D) of the Aboriginal Land Rights Act says this, "A Local Aboriginal Land Council must ensure that no part of the income or property of the Council is transferred directly or indirectly by way of dividend or bonus or otherwise by way of profit to members of the Council, Board members or any member of staff of or consultant to the Council". Now do you recall at the Board meetings at which those declarations to which you were taken were made any reference being made to that section of the Aboriginal Land Rights Act?---No, I don't recall that.

All right. Thank you?---Thank you.

THE COMMISSIONER: Yes, Mr Docker.

40 MR DOCKER: Thank you, Commissioner. Mr Donovan, my name is Sean Docker, I appear for Mr Johnson. You gave some evidence earlier today that you understood that Mr Johnson was the CEO or acted as the CEO not only of Gandangara Land Council itself but also the other entities. Do you remember that?---Yes.

And you were asked questions about Mr Johnson's salary package and the \$180,000?---Yes.

And you, well base salary of \$180,000. You initially said that that was for his work as the CEO. And then you gave a later answer to say that that was CEO of the Land Council. Did you consider that the payment of the \$180,00 was to be also for his work in relation to the other entities?---When we, when we considered the, the agreements? Was that - - -

Yes?---No. No, I couldn't, I couldn't recall, I couldn't recall. But then, but then in, in retrospect having read the, having read the, the contracts - - -

10

MR HENRY: I object to this.

THE COMMISSIONER: Yes, I mean we're talking at the time Mr Donovan. That's the trouble?---Yeah.

I mean I understood you to say that that you understood the 180,000 was for Mr Johnson's performance of the CEO role at the GLALC?---Yes.

And that's what you understood at the time?---That's, that's correct.

20

MR DOCKER; All right. And so, so was it your understanding that he wasn't to be paid at all for his work as CEO of the other entities?---Sorry, could you just repeat that, sir?

Well it's true isn't it that, that you understood at the time that Mr Johnson was acting as the CEO not just of GLALC but of the other entities?---Yes.

Was it your understanding that he was not to be paid for his work as CEO of the other entities?

30

THE COMMISSIONER: Meaning over and above what he was already getting under, under his GLALC position.

MR DOCKER: That's right. So my question is really this, is that he was paid 180,000?---Yes.

Was that to include his work for the other entities or not?---Yes, it was as part of his work in his other entities.

40

So it was for both GLALC work and the other entities work, is that right? ---Yes.

Could I ask you just again to take your mind back to the meeting in May, 2010 with the two contracts?---Yes.

All right. At that stage you were aware of Waawidji, weren't you?---Yes.

And you were aware that it was Mr Johnson's company?---Yes.

And was it a matter of any importance to you at all whether the 180,000 went to Mr Johnson personally or to his company?---Well they're both the same. Jack is Waawidji so - - -

So it wouldn't have mattered to you whether it went to Jack or the company?---No.

And just in relation to GLALC and its other entities?---Yes.

10

And again I'm taking you back to May 2010. Is it correct to say that the Board of GLALC was the same as the Board for the other entities?---Yes.

And that the Board when it was dealing with finances dealt with the money generally on a group level?---Yes.

So in terms of which particular entity the \$180,000 was to be paid from or whether it was to be split between different entities - - -?---Yes.

20

- - - was that a matter of any significance?---I don't think so. I thought it was just you know portioning out the money across a couple of entities.

So would it be fair to say that it was just an accounting exercise?---Yes.

As in an internal accounting exercise?---Yes.

Now you were asked some questions a moment ago about the meeting on 18 February, 2014 when Ms Provest became upset?---Yes.

30

Now I just wanted to ask you a couple more questions about that. Do you recall her leaving the meeting at any stage?---I don't recall. I remember being, her being upset that's, I can recall that.

Right. Can you recall her signing the letter?---No, I don't recall.

So I take it you don't recall whether or not she was upset when she signed it?---No.

40

Now in relation to GLALC Board meetings it's correct, isn't it, that each director had a folder of Board papers?---That's correct.

And were you able to access that folder at any time that you wanted?---Yeah. I think I could.

Just by going into the office?---Well I'd certainly ask for permission if I needed to get something out of it. I wouldn't just, wouldn't just stroll, wouldn't just stroll in. It was, was locked away, yeah, it could've been locked away in between Board meeting, I'm not sure.

But is it the case that you would've been expected to be granted permission if you'd asked for it?---Yes.

And there's no reason for you to think that you wouldn't have been given permission?---No.

Were you ever denied permission?---No.

10 Now, were you aware of a procedure, sorry, a practice among the staff whereby if staff members of the group had expenses, work expenses that needed to be paid, that they were paid initially on Mr Johnson's credit card and then reimbursed back to it?---I wasn't aware of that.

Right. Are you aware that – I'll withdraw that. Are you aware that the contracts between GLALC and Mr Johnson, and between Waawidji and GMS, from May 2010, each contained provisions for a performance review of Mr Johnson?---Having read the documents just recently, yes.

20 But were you aware of it before that?---I can't recall.

Right. Did you ever carry out a performance review of Mr Johnson's performance?---I don't think I did, no.

All right. Now, just back to the expenses letter which everyone signed. I just asked you about in passing in relation to a Ms Provest. Do you remember the letter?---Yes, yes.

30 You don't need me to show it to you? I'm not going to ask you specifically about it. Do you remember the - - - ?---I remember the letter, yes.

Yes, right. Do you recall there being a discussion in respect of – sorry, I'll withdraw that. I need to ask you something before that. Were you aware before signing that letter that Mr Johnson's personal vehicle had been used for GLALC group purposes?---Whether his vehicle was used for - - - ?

For the purposes of any of the entities - - - ---Yes.

- - - in the GLALC group?---Yes.

40 You were aware of that?---Yes.

And was there ever a discussion about him not claiming mileage for the use of his vehicle for those purposes?---Can you just say that again, please? Sorry.

That's okay. Do you recall there being a discussion about Mr Johnson not claiming for mileage on his own vehicle for use for GLALC group purposes?---I don't recall a discussion, no.

Not about that?---No.

All right. Yes, you heard – sorry, withdraw that. In relation to Board meetings, do you have any recollection whether any of them were tape-recorded?---No, they weren't tape-recorded.

10

Or sound-recorded in any way?---No.

Now, could Mr Donovan please be shown volume 19. This is the last thing I'm going to ask you about, Mr Donovan. I'm sorry. Sorry, if you just turn to page 190, hopefully you have in front of you the front page of the GLALC and controlled entities financial statements for the year ended 30 June, 2012.---Yes.

20

Now do you recall being given a copy of this document in your role as a director?---I probably was given a copy but I can't, I can't recall having received it.

I'm sorry, I didn't mean to cut you off, Mr Donovan?---Sorry. I can't, I probably was given a copy of, copy of the financial statement but I can't recall, I can't recall receiving it.

30

Right. But is it correct to say that there was a practice whereby these financial statements for GLALC and the control entities would be prepared in draft and circulated to the Board?---Yes.

And the Board would have an opportunity to consider them?---Yes.

And then the Board would be asked to approved them?---Endorse them, yes.

And then somebody would be delegated to sign them?---Yes.

On behalf of the Board?---Yes.

40

Right. And in relation to that particular practice you were involved in it in the sense that you received a copy of the draft financial statements each year?---Yes.

And you had an opportunity to look through them?---Yes. Yes, if I was at those meetings.

Yes. Well is it the case that they would be – that with the financial statements they were prepared by the auditors, weren't they?---Yes.

And wasn't the case that the auditors would be invited along to the meeting to talk to the financial statements for the Board?---I do recall the attendance of Clayton Hickey at one meeting, yeah.

Right. If I could just ask you just to turn to page 192 and you can see that you're mentioned as one of the Board members for that year?---Yes.

That's correct, isn't it?---Yes.

10 And again on page 194 you can see that it's recorded there that you attended five of the nine meetings for the year?---Yes.

And that would be right, would it?---I guess so, yes.

If you don't remember say you don't remember?---Well I can't, I can't recall whether I attended five or not. I'd need to count them.

Okay?---Sorry.

20 No, that's all right. If you could turn to page 219?---219?

Yeah, 219?---Thanks.

You can see that this is page 28 of the same document?---Okay.

Do you see that it's got under 16, 16(C) "Significant Transactions Between Group Entities"?---yes.

30 And then it refers to "Loans Receivable from Gandangara Future Fund Limited"?---Yes.

And then you skip one and go to the next one, "Loans Payable to Gandangara Future Fund Limited"?---Yes.

And then if you look at – there's a subheading Loans Receivable From and Payable to Gandangara Fund Limited about halfway down the page, you see that?---"Funds Receivable From and Payable to Gandangara Future Fund Limited", yes.

40 And you can see that under that there's an explanation about those, that loan, those loans?---Yes.

Can you just read to yourself and tell me when you've finished. With a view Mr Donovan to me asking you whether you recall seeing this explanation before?---Yeah. I don't, I don't recall seeing, remember seeing that, sorry.

That's all my questions, Commissioner.

THE COMMISSIONER: Thank you?---Thanks. Anyone else. Yes,

MS McENIERY: Yes.

THE COMMISSIONER: Yes.

MS McENIERY: At the time that you were appointed to the Board of
GLALC which was in September 2008, where were you employed?---I was
employed with the Department of Education & Training in a section called
10 the Aboriginal Education Training Directorate.

And what position did you hold there?---The position I held was team, team
leader of a TAFE team.

And were you responsible for administering a budget in that role?---Yes, I
was.

And approximately what was the amount of that annual budget?---It was
around about, around about \$6.5M.
20

Now whilst you were on the Board of GLALC, which I think your evidence
was it was from about September 2008 to March 2014, roughly?---Yes.

Was there a period when you were living outside the Sydney area?---Yeah,
there was a period when I was on secondment from, from head office in
town and worked in, worked in TAFE western based in Dubbo as the Equity
Manager.

And when did you commence that position?---I started there on 11 July,
30 2011.

And when did you finish in Dubbo?---Around about the end of, end of June,
2013, so roughly two years I think it was.

And during that period were you able to attend the Board meetings of
GLALC on a regular basis?---Not, not all the time.

So say for example if I can just take you to the 2012 year?---Yes.

40 And I might ask that the, that Mr Donovan be shown volume 10. And if
you could turn to page 107?---Yes.

You weren't in attendance at that meeting?---It doesn't, it doesn't look like
it, no.

And that would be consistent with your recollection?---Yes.

And if you could turn to page 109?---Yes.

You weren't in attendance at the meeting of 7 May, 2012?---Yes, that's correct.

And if you could turn to page 111?---Yes.

You weren't in attendance on 30 July, 2012?---No.

Following 30 July, 2012 there was a compliance notice issued by the Registrar on 30 August, 2012. You've heard evidence?---Yes.

10

The next meeting after that compliance direction on, and I'd ask you to turn to page 113?---Yes.

That was 10 September, 2012?---Yes.

So your apology at that time?---That's correct, yep.

And we've heard evidence that I think on 25 September, 2012 - - -?---Yes.

20

- - - it's G3 there was an email sent to you?---Yes.

And it contained a draft with a summary of certain amounts that were paid to Mr Johnson?---Yes.

And it was over the \$700,000 figure?---Yes.

Now was it the case that you were, you were in Dubbo at that time, September 2012?---Yes.

30

And you didn't read that email, is that correct?---That's correct.

And why was that?---I was busy with a new job, sorry.

And you weren't attending Board meetings regularly at that time?---Not on a regular basis. I tried to get to ones that I could.

If you could then turn to page 1s18 of volume 10.---Yes.

40

Again, you're an apology for that meeting.---Yes. 30 October, yeah.

And then if you can turn to page 121 of volume 10.---Yes.

You're an apology at that meeting.---Yes.

If you could then turn to volume 10, page 124.---Yes.

You're an apology at that meeting.---Yes.

And is it correct to say, with that, you continued not to attend meetings until, I think, 24 June, 2013, when you returned from Dubbo?---That's right, yeah.

And during that period, from June 2011 to June 2013, your involvement was relatively limited?---Yes.

10 Now, you were asked some questions by Counsel Assisting in relation to whether the Board was ever provided with written legal advice.---Yes.

And your evidence was that you can't recall seeing any written legal advice?---That's right.

Was it the case, though, that at some GLALC Board meetings, the Board would be provided with oral legal advice?---Yes.

20 And can you explain what form that oral legal advice took?---Well, it usually came in the form of Jack guiding us in terms of the legal advice that had been sought.

And were there occasions when – I withdraw that. Yes, I'd ask that Mr Donovan be provided with volume 9. Mr Donovan, if you could be shown page 50, which should be, hopefully, the minutes of the meeting of 18 April, 2011.---Yes.

And if you could turn to page, I think it's 52. Now, that is a motion that you moved. That's correct?---Yes.

30 Now, is it possible that where that motion says that "The Board resolves that an appropriate resolution be put to the members in line with relevant legal advice," that that was oral legal advice provided by Mr Johnson at that meeting?---Yes.

But I think your evidence was that you can't specifically recall that occurring at the time.---That's right.

Your Honour, sorry, Commissioner, that concludes the questions.

40 THE COMMISSIONER: Mr Donovan, insofar as you were provided with oral legal advice at these Board meetings, were there presentations by anyone on that subject other than Mr Johnson, that you can recall?
---Commissioner, I can't recall anybody else coming in and giving a presentation about legal guidance.

Nothing arising, Mr Henry?

MR HENRY: No, thank you.

THE COMMISSIONER: Right, thank you. And we'll adjourn till 10.00am Monday. Oh, sorry, yes. Monday morning I can't start till 11.00. I'm sorry. 11 o'clock Monday morning.

**AT 4.14PM THE MATTER WAS ADJOURNED ACCORDINGLY
[4.14pm]**