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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 THURSDAY 26 MAY 2016

AT 10.14AM

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.

MR FITZPATRICK: Mr Mack, there was a page of Mr Gundar's CE transcript which was not tendered, and I wanted to do that.

THE COMMISSIONER: Oh, right. Which page was it?

MR FITZPATRICK: 387. Become Exhibit G12.

THE COMMISSIONER: Thank you. Yes, G12, page 387 of the transcript of 22 April.

10

**#EXHIBIT G12 - PAGE 387 OF THE COMPULSORY
EXAMINATION TRANSCRIPT OF SHALESH GUNDAR ON 22
APRIL 2016**

THE COMMISSIONER: Yes, who has any questions for Mr – ah, yes, Mr Mack.

20

<SHALESH GUNDAR, on former oath [10.15am]

MR MACK: Mr Gundar, my name is Mack. As I said yesterday, I've just got a couple of questions to ask you on behalf of the Registrar of the Aboriginal Land Rights Act.---Right.

You were responsible for managing the finances and accounts of Deerubbin Local Aboriginal Land Council, is that correct?---Correct.

30

And you would have visibility on the assets and liabilities of Deerubbin?
---I should have, yes.

And the income and the expenses of Deerubbin?---Yeah, should have.

And you were in a position to tell their cash flow situation?---If I remember, yes.

40 Can you recall whether or not Deerubbin had the cash flow and the cash available to pay for the development of the land that they owned?---No, they didn't.

They didn't. All right. And your evidence earlier on was that you were aware of some arrangement whereby GMSL and GLALC would pay expenses on behalf of Deerubbin, and then eventually Deerubbin would reimburse GLALC, is that correct?---That is correct, yes.

Yes. And that liability would only incur once Deerubbin had received income from the sale of land, is that correct?---Profit from the sale of land.

Yes. All right. So, did you ever see any agreement or document that stated that in those terms?---No.

Sorry?---No.

10 No. Okay. And when you authorised payment for expenses that were going to be invoiced to Deerubbin eventually, was there any discussion about those invoices?---Those invoices were all signed off by the CEO of Deerubbin before we made any payment.

And would you sit down with the CEO of Deerubbin and go through those expenses?---No, those invoices were provided to our department via his accounts office.

20 And were those expenses that you paid on behalf of Deerubbin, that were signed, would they be discussed by the finance committee?---No. No, nothing to do with Deerubbin.

Okay. And are you aware that Deerubbin incurred an expense to Waawidji for the sale of land?---I'm aware of that.

And that invoice from Waawidji, would GLALC pay that invoice? Can you recall?---I can't recall GLALC paid or not, but I know there was an invoice existing for Waawidji.

30 All right. And the expenses that Deerubbin incurred to Waawidji, was that contingent upon the sale of land at Deerubbin as well?---That's what I can recall, yes.

And if the sale of land at Deerubbin didn't eventuate, would GLALC have been responsible for the expenses that were incurred?---It wasn't my decision to ask that question.

40 All right. But the sale could not have occurred without the financial assistance – sorry, I'll withdraw that. Deerubbin could not have incurred those expenses for development of the land without the financial assistance of GLALC, is that correct?---That is correct, yes.

And by extension, Waawidji would not have been able to be reimbursed for the expenses they incurred without the sale of land by Deerubbin?---That is correct, yes.

They're my questions, Commissioner. Thank you.

THE COMMISSIONER: Yes. Does anyone else have any questions of Mr Gundar? Just - - -

MR CRAWFORD-FISH: I do, Commissioner.

THE COMMISSIONER: Yes. Sorry, Mr Crawford-Fish, just before you ask your questions I'm just wondering, Mr Gundar, during the evidence yesterday in relation to the expenses that were reimbursed to Mr Johnson - - -?---Yes.

10 - - - for various things there were regular flights to Brisbane.---Yes.

And just looking at those – that spreadsheet it seemed to me that the flights to Brisbane were occurring on roughly a bi-monthly basis, every two months or so.---Yes.

And do I understand it that those flights I think you said were somehow connected with meetings with Mr Wing, with Dixon Capital?---I (not transcribable) mention that.

20 But you – so you don't know what the flights were – what the visits to Brisbane were about?---I know, yes.

You do know?---Yes, I do, yeah.

Sorry, what were the visits to Brisbane about?---Yes. Mr Johnson had regular meetings with – there was a discussion with, with some doctors to have a link with the Gandangara's medical centre to have some specialist put in in the medical centre so Mr Johnson had regular discussion with that – those doctors.

30 These are doctors in Brisbane?---That's right. To have – to, to link with – work with Gandangara. So there was access of funding available but - - -

So there was access to funding?---That's right. There will be access to funding for – I think these doctors were specialists so Mr Johnson always had discussion meetings with them over in, in Brisbane plus, yes, he did had meetings with David Wing as well on a regular basis based on the land development.

40 Over the period of time that you were the financial officer at the GLALC were you aware that Mr Wing was spending approximately in relation to each week a couple of days in Sydney over about 40 weeks a year?---He may have. I – we had regular meetings with him as well whenever he came over in Sydney as well so - - -

So you would see him in the GLALC premises?---Not every week but regularly, once a month or every second month or whenever it was required.

Well, what I've just put to you is based on Mr Wing's evidence. Mr Wing said that over the period of time he was offering services to the GLALC he was in Sydney for a couple of days each week of, of about 40 weeks in the year.---Yeah.

Does that accord with your recollection of how often he was there?---Look, he won't be there every day, every - - -

No, I didn't suggest that. I said it was a couple of days in a week and they represented approximately about 40 weeks of the year.---The problem with - he may have meetings with Mr Johnson but not, not directly with me, you know, so - - -

All right. Yes, Mr Crawford-Fish. Sorry.

10

MR CRAWFORD-FISH: Mr Gundar, yesterday you were asked - you were taken to an email from Jennifer Hughes at Baker & McKenzie. It's at Exhibit G1, volume 20, page 29. Perhaps it could be shown. Sorry, I should have mentioned it.---What page?

Page 29 of volume 20. Do you have it there in front of you?---Yes.

20 And do you agree that Jennifer Hughes asked you the question, "Are you able to tell us what assets are in the future fund?" And you replied with an email, "Please note that the future fund is a cloud based asset centre only"? ---Yes.

Yesterday you were asked questions by both Mr Fitzpatrick and the Commissioner about what you meant by that. Do you have anything more to add? You said that you would like some time to think about it.---That's correct.

30 Do you have anything now that you would like to add to what it is you've already said about that email and your response to it?---Going back I can remember a discussion with Mr Johnson my early days with Gandangara. I had a discussion that, this is regarding Gandangara Future Fund, was that New South Wales Aboriginal Land Council recommended Gandangara to have a future fund set up so Gandangara can contain 80 per cent of the profits from the sale of land in the future fund and 20 per cent of the profit will be used for operation purpose.

Operation purposes?---Operation purpose. And when Jennifer asked me about the assets - - -

40 Jennifer being?---Jennifer Hughes.

Jennifer?---Hughes in the email.

Yes.---Yeah. At that time Gandangara Future Funds didn't had assets. It will happen in future. That's what I mean it's in the clouds. It will happen in future but not at that time. It had cash but the cash was just transferring from Gandangara LALC to - through Future Funds Limited. So there, there was no solid asset at that present time.

And that's what you meant - - -?---That's - - -

- - - by, "Please note that the future fund is a cloud based asset centre only"?---Correct, yes.

You were – yesterday you gave evidence that Tina Taylor would provide your apartment – your department with Mr Johnson's personal receipts or business related receipts.---Reimbursements.

10

And it was pointed out to you by Mr Fitzpatrick that in both the private hearing and in your affidavit that you've been taken to that you made no mention of that being the manner in which Mr Johnson's receipts were provided. Do you recall that being pointed out - - -?---Yes.

20

- - - or suggested to you? Why wasn't then any mention made in either the private – the evidence that you gave at the private hearing or in your affidavit of Tina Taylor as being someone who was involved in the passing on or the providing of receipts?---The way – what I was talking there in my affidavit and in the evidence is general overall, overall – the way the question was asked was the receipts were provided by Mr Johnson to me. Yes, it was but I didn't speak about in what manner it came to me via my department or whatever but for any reimbursement there was receipts provided. That's what I mention.

30

You gave evidence that when you were asked for underlying documentation, this is relating to either the Board or subcommittee meetings, finance subcommittee meetings, that supporting figures were shown - - -.---Yes.

- - - either by way of MYOB entries or by way of actual receipts if - - -.---Yes.

- - - if required.---Yes.

40

And again it was pointed out to you that, in the private hearing, when you were asked whether Mr Johnson or the finance subcommittee received underlying documentation supporting numbers that appeared on, for example, profit-and-loss statement, your answer was no.---That is correct.

Now, could Mr Gundar be shown – I don't know what the exhibit number is, but it's page 350 of the private hearing transcript, Commissioner.

MR HENRY: Exhibit G9.

MR CRAWFORD-FISH: Exhibit G9. Thank you. Do you have page 350 of the private hearing transcript, Mr Gundar?---Yes, yes.

And you can see I've already taken you to the question and answer that Mr Fitzpatrick referred you to, at line 27.---Yes.

“Did either Mr Johnson or the finance committee receive underlying documentation that supported the numbers that appeared on, for example, a profit-and-loss statement?” You said, no, they all got the same information. Do you see that?---Yes.

10 If you could go, then, to the previous questions, and in particular if we go to line 18.---Yes.

You're asked this. Or line 19. Well, in paragraph 34, that's a reference to your affidavit - - - ---Yes.

- - - you explain what the Board papers were, yes?---Yes.

And then you're asked, “And that's, and we discussed this earlier, that's the documents of the kind that are C5 and C6?” And you said yes.---Yes.

20 I gather there you're being referred to Board papers.---Board papers.

And you're asked, “These one-page summaries, did the finance subcommittee get more than that?” You answered, “No, everybody, all the Board members, were emailed all the accounts way prior to the meeting.” And then you're asked the question to which I've taken you.---Yes.

And to which Mr Fitzpatrick took you yesterday.---Yes.

30 “Did either Mr Johnson or the finance subcommittee receive underlying documentation?” And you said no.---Yes.

What were you referring to in answering that question?---I meant the detailed invoices. That's what I meant.

And in what circumstances were you, in answering that question, suggesting that they were not provided?---They were not provided with the Board papers but - - -

40 With the Board papers?---Yeah, with the Board papers. The question's asked then, it was provided, the details.

It was also suggested that in your affidavit, which is Exhibit SG1, that you made no mention of underlying documents being provided or shown to the Board or finance subcommittee.---Yes.

I think that suggestion was made.---Yes.

Could Mr Gundar be shown Exhibit SG1, that is his affidavit? Oh, it's Exhibit G8, I'm sorry, Commissioner. And if you could go to paragraph 37 of your affidavit. If you could just read that to yourself.---Yes.

You agree, in that paragraph, you're talking about the finance subcommittee meetings?---Yes.

And they were replacing meetings that were previously held with just Mr Johnson?---Yes.

10

And you talk about at these subcommittee meetings, "The financial reports were scrutinised in a similar manner to what Jack and I had previously done."---Yes.

And that's something you talk about at paragraph 34 of your affidavit. ---Yes.

We might just quickly go to that. Could you go to paragraph 34?---Yes.

20 And read that.---Yeah.

And there do you agree that you talk about the providing of balance sheets, interim profit-and-loss statements, and that the papers sometimes also included an income and expense summary by entity?---That's correct, yes.

Now, if we go back to paragraph 37, you say there that if the finance subcommittee was satisfied with the financial report, they would approve the papers to be produced to the Board at the next meeting.---Correct.

30 How did the finance subcommittee go about satisfying itself with the financial reports that you provided?---They went through line by line item on the profit-and-loss and discussed it, and the balance sheet.

And that was all they did? Was there anything more to it than that?---Yeah, yeah.

In what circumstances was - - - ---If they were not satisfied with any underlined items, line item, they would require me to provide more details and clarification.

40

And what details and clarification would you provide?---From a first source of - my first source would be I had my laptop with me. I would drill down and have a look what are these transactions made up of first. And then if I can't explain that, then I will go and gather the hard copies of the documents and bring it over to them if required.

When you say hard copies of documents, can you provide examples?---The invoices or, you know, any expense-related items, yeah.

Just finally, then, could I take you to paragraph 40 of your affidavit? You outline there the scrutiny that was applied to the financial accounts of the GLALC group.---Yes.

And there you make reference, for example at point A, that draft accounts were discussed on a line-by-line basis with Jack and, from mid-2012, with the finance subcommittee.---Yes.

10 In the manner described above.---Yes.

And you outline five stages, if you like, by which the accounts were checked and scrutinised.---Yes.

Including, finally, an audit being provided to the New South Wales Aboriginal Land Council.---Yes.

20 And then if I could take you to paragraph 70 of your affidavit. You outline there, or you refer to expenses being scrutinised by the auditors Lawler Partners.---Yes.

And at the end of each financial year, you would give folders of receipts and invoices to the auditors.---That is correct, yes.

And that those documents would be kept for two years before being stored at a depot at Prestons.---That is correct, yes.

Nothing further.

30 THE COMMISSIONER: Anything arising, Mr Fitzpatrick?

MR FITZPATRICK: No, Commissioner.

THE COMMISSIONER: Yes, thank you, Mr Gundar. You can step down. Excused.

THE WITNESS EXCUSED

[10.39am]

40

MR CRAWFORD-FISH: May I be excused, Commissioner?

THE COMMISSIONER: Yes, certainly, Mr Crawford-Fish. Thank you.

MR HENRY: Commissioner, the next witness is Ms Cronan, and I call Cinderella Cronan.

THE COMMISSIONER: Yes. Mr Stewart, I take it you've advised Ms Cronan of the limits of the section 38 order?

MR STEWART: I have. She'd seek the declaration and she'd also ask to be affirmed, Commissioner.

THE COMMISSIONER: Thank you. Yes.

10 Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by this witness and all documents and things produced by this witness during the course of the witness's evidence at this public inquiry are to be regarded as having been given or produced on objection and there is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

20 **PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY THIS WITNESS AND ALL DOCUMENTS AND THINGS PRODUCED BY THIS WITNESS DURING THE COURSE OF THE WITNESS'S EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND THERE IS NO NEED FOR THE WITNESS TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED**

30 THE COMMISSIONER: Can we have the witness affirmed please.

MR HENRY: Ms Cronan, you've sworn an affidavit haven't you - - -?
---Yeah.

- - - on 9 February this year in civil proceedings between GLALC,
Mr Johnson and Waawidji?---Yeah.

10 Now, I propose to tender it. I can do it by reference to a volume in G1 or I
could do it separately.

THE COMMISSIONER: We might make it a separate exhibit I think.

MR HENRY: All right. And there's also an exhibit that goes with it that
Mr Johnson's legal representatives have asked me to tender so I might just
see if I can get that so it can all be tendered in the one.

20 THE COMMISSIONER: All right. Thank you. Yes, the affidavit of
9 February, 2016 and the attached exhibit are Exhibit G13.

**#EXHIBIT G13 - AFFIDAVIT OF CINDERELLA ANN CRONAN
SWORN ON 9 FEBRUARY 2016 & EXHIBIT CC-1 VOLUME 1 & 2**

MR HENRY: Thank you, Commissioner. Just while the exhibit – I'll hand
that up if I may. Thank you. So that's collectively Exhibit G13.

30 THE COMMISSIONER: Thank you.

MR HENRY: Yeah. And I'll ask for you, Ms Cronan, to be provided with
the affidavit – you already have a copy of your affidavit with you?---Yes,
kind of. I've got an electronic copy.

Would you prefer a hard copy or are you content to work on an electronic
copy?---I'm happy to do the electronic copy.

40 All right.---As long as my battery doesn't go flat we'll be laughing.

All right. Well, if at any stage you'd prefer a hard copy to work from please
say.---Okay. Thank you.

Because I'll be coming back to your affidavit from time to time during the
course of the questioning.---Okay.

Now, before I come to any particular part of the affidavit it's correct isn't it
that you've been a member of GLALC since about 1994?---That's correct.

And you were the Chairperson of the Board of Directors of GLALC from 2009 to 2014?---Yeah.

Now, excuse me. During part of that time you were employed weren't you by Gandangara Management Services?---Yeah.

And I'll refer to that company as GMS for convenience, you appreciate?
---Ah hmm.

10

When you say ah hmm you need to say yes for the transcript?---Yeah.
Sorry.

Excuse me. Now, what, what period were you employed with GMS?
---From about 2008 I believe through to 2012, May of 2012.

20

And what role did you have at GMS?---So when I commenced I was just doing casual two days a week land claims just trying to search the boundaries of the Land Council area for land claims and that gradually increased in the amount of time I was employed and the amount of duties that I was required to do over the period.

And by the time you finished up in 2012 - - -?---Ah hmm.

- - - what further or additional roles or responsibilities did you have?---I was responsible for the land claims section and I was also responsible for transport and at times for, for GETS. That's the Gandangara Employment & Training Service. God, I can't even think of it all right now but I was, I was by that stage just classified as a senior project officer.

30

And was that a fulltime position?---It was.

And when did you go – change over from being part-time to fulltime?---I couldn't give you a definite time frame. Probably sometime after the first 12 to 18 months perhaps.

Right. Excuse me. And did you at any time work for – I withdraw that. Were you an employee of any other entity within the Gandangara group of companies other than GMS?---No.

40

And whilst you were an employee of GMS was Mr Johnson your boss?
---Not my first line of command, no.

Right. So did you report to someone who then reported to Mr Johnson?
---Yes.

And who was the person to whom you reported?---Initially it was Alfred Sing.

Right.---And then later on down the track it was Jascenta Sabatino and then further on down the track it was Michael, Michael Smith I think his surname was.

Right. And in the course of your employment – I appreciate that you reported to someone who then reported to Mr Johnson, did you interact with Mr Johnson in the course of your day-to-day work at the – for GMS?---Only as any other junior would in that respect.

10

Did he ever give you instruction as to what to do or not in relation to your job at GMS?---That would generally come through my first line of – who I reported to.

Your direct supervisor?---Yeah.

Right. All right. Now, if you do go now please to your affidavit.
---Ah hmm.

20 At page 10 of the affidavit, paragraph 29. I want to ask you some questions about training.---Yeah.

Paragraph 29 you will see you've referred to an early initiative of Mr Johnson to retain a consultant - - -.---Ah hmm.

- - - a Mr Mero.---Ah hmm.

And you say over the page on page 11 that Mr Mero had experience with Board training of blue chip companies.---Yeah.

30

Just pausing there, as you understood things did Mr Mero have any experience in training the Board of a Local Aboriginal Land Council?---I don't know if it was with a Local Aboriginal Land Council but he had had experience in training Aboriginal people in other parts of Australia in different types of Aboriginal organisations.

I see. You then go on to say, this is at the top of page 11, "He conducted training sessions with the Board every six months usually on a retreat in Wollongong".---Yeah.

40

Now, how many training sessions with Mr Mero did you attend?---All of them.

Yes. Well, how many do you say you went to?---I couldn't tell you off the top of me head but I did go to all of them.

THE COMMISSIONER: Was it more than four, more than six, more than eight?---It would be more than four, possibly more than six or eight. I can't

remember how many there were. I just know that they were every six months, they were regular, they insisted on them and if somebody who insists on something then it goes without saying that you must attend also if you expect everybody else to.

Ms Cronan, you were Chair of the Board between 2009 and 2014.---Yeah.

So do I take it that if one looks at that five year period - - -?---Ah hmm.

10 - - - that there were 10 such sessions with Mr Mero?---No. No, because we didn't have it for the whole entire time.

All right. When was it that it started?---I can't remember the exact year.

He was retained according to your affidavit in around 2007 or 2008.---I could be wrong in that date. I don't remember exactly when.

So it's something less than 10 but more than 6 times that you attended training?---Yeah.

20

MR HENRY: You have provided in your affidavit, at paragraph 29, a reference to a copy of some presentation materials that you have retained from a retreat with Mr Mero in 2011. Can you see the reference to that? ---Yeah.

I'm happy to take you to that document if it assists you, but my question for you is, and tell me if you need access to the document to answer the question, did you receive any instruction from Mr Mero about the Aboriginal Land Rights Act in the course of the training sessions you
30 attended that he conducted?---There was some discussions in relation to the Aboriginal Land Rights Act, but that was not the sole purpose of the retreat. It was about learning governance generally, as well as the Aboriginal Land Rights Act and the Corporations Act, given that most of our activities were becoming more so involved in our entities, which would then encompass the Corporations Act.

All right. Well, perhaps, given that, I'll ask you to be provided with volume 1 of the exhibit to your affidavit.---Ah hmm. What's volume 1?

40 At page 58.

THE COMMISSIONER: No, it's this one.

MR HENRY: You'll see at page 58 – oh, I'm sorry. Do you have the – pardon me for a moment. We can provide you with a copy, Commissioner. Sorry, I thought the witness - - -

THE COMMISSIONER: It's all right. Go on. Go on.

MR HENRY: - - - was using the electronic one. So you should have in front of you, Ms Cronan, at page 58, a document styled "Board Development Program".---Yeah.

And this is the document to which you refer in paragraph 29 of your affidavit.---Yeah.

10 Have a look through it, if you will, and I'm asking you to consider this question as you look through the document, does it refer to the Aboriginal Land Rights Act?---Not this particular one.

No. Well, it refers to, I suggest, many considerations relevant to corporate governance of companies governed by the Corporations Act. Do you agree?---Yeah.

But it doesn't address the Aboriginal Land Rights Act. Do you agree with that?---Yeah.

20 And is it not the case that Mr Mero's training sessions did not address the Aboriginal Land Rights Act?---He did on occasion, and we did have round-the-table discussions.

All right. Well, what do you say was the instruction that you received from Mr Mero about the Aboriginal Land Rights Act?---I don't understand the question.

30 Well, what did he tell you about the Aboriginal Land Rights Act?---Well, there wasn't a lot that he really needed to tell us in that regard. It was more about explaining how to meet reporting requirements and stuff like that.

Well, I'll provide you with an extract of the Aboriginal Land Rights Act. ---Yeah.

It's section 78B and section 152. I'll deal with each section.---Yeah.

Now, are you familiar with section 78B of the Aboriginal Land Rights Act, Ms Cronan?---Not intimately, but, yes.

40 Do you recall if Mr Mero told you anything about that at the Wollongong sessions?---No.

You say you don't recall or he didn't?---He didn't.

Right. Now, do you agree with this proposition, that at least by May 2010 you understood that if Waawidji received a benefit from GLALC, Mr Johnson could no longer remain the CEO of GLALC?---Yeah.

Do you agree that in substance that's what you understood section 78B to say, among other things?---Yeah.

Are you aware – I'll withdraw that. How did you come to know that? That is, how did you come to know by May 2010 that if Waawidji received a benefit from GLALC, Mr Johnson could no longer remain the CEO of GLALC?---Why is May 2010 a significant date, in so much as my understanding of 78?

10 I'm asking you – well, when did you learn that if Waawidji received a benefit from GLALC, Mr Johnson could not remain the CEO of GLALC? ---I don't know when I specifically knew that, but I knew it before May 2010.

All right. Do you recall how you learned that fact?---Obviously one of the workshops probably that I attended. I have been involved with Land Rights Act for quite some years. So I don't know when I became aware of it, but I know I was aware of it.

20 All right. When you refer to workshops, I assume you're referring to workshops other than those conducted by Mero.---Yeah.

What workshops were they?---Various workshops over the years.

Yes.---Various workshops that we had done ourselves, as a Land Council, over the years with our members and stuff.

Well, you refer in paragraph 29 in your affidavit to required training from NSWALC.---Yeah.

30 Is that the training to which you're referring at which you learned?---Once upon a time, NSWALC training used to be decent.

All right.---Once upon a time. That's a long time ago now.

And when did you attend training by NSWALC?---Various intervals over the years.

40 Right.---Because as I said to you, that I have been involved with the Land Council for quite some time.

Yes.---And at different times over the years, over the many years, there's been different workshops, both at Gandangara itself and external. Yeah, and I've always attended as much as possible so I could get more familiar with the Act itself.

And did this occur prior to Mr Mero's training?---Yeah.

You mentioned some training conducted by NSWALC off site. Was that at Glebe?---Is that in the affidavit that you're quoting that from?

No, you just said a moment ago that you attended some training off site.
---Okay. So, but there wasn't just NSWALC that did training as well. There was also the Registrar's office. Once upon a time, the Registrar's office used to go around to the Land Councils and do, and they weren't just for board members or for office bearers in those days, they were for the whole of the membership. The whole membership could turn up and have a day or even a week of, you know, workshops on different aspects of the Land Rights Act and how that affected members and what members' rights were and what the obligations were and all the rest of it, all the normal things that you would normally do at a workshop.

And did that occur before or after you became the chairperson of the Board?---Before.

Right. So, is it the position that prior to becoming a director of the Board you were aware that if Waawidji received a benefit from GLALC, Mr Johnson could not be the CEO of GLALC?---Yeah.

I see. Do you recall that being discussed amongst directors at any Board meeting?---Not that I can recall right now.

All right. Do you recall ever discussing it with another director?---I'm not a hundred per cent certain.

All right. If I could ask you, then, please, to return to the printout that I've given you.---Yeah.

And go to the last page. It's the third page. See section 152?---Yeah.

Were you aware of this section of the Act whilst you were a director of GLALC?---Yeah.

So you were aware at all times, whilst you were a director of GLALC, that the only purposes for which money could be paid from GLALC's bank account are those referred to at subsection 3? Is that right?---Yeah.

Do you recall that ever being the subject of discussion at a Board meeting? ---No.

Do you recall ever discussing it with another Board member? Sorry?---Not that I can think of.

All right. Do you recall it being a subject of any instruction at a training workshop you attended?---Yeah. Some years ago.

Yes. Do you recall where that was, that training session?---Not a hundred per cent. I'm guessing it's probably up the coast somewhere, but I'm not a hundred per cent certain.

When you say up the coast, Wollongong's obviously down the coast. Did you attend training sessions somewhere other than Wollongong, whilst you were a director of GLALC, up north?---Yeah. Some years ago. It wasn't while I was a director. It was while I was an office bearer.

10 I see. So was that prior to becoming a director?---I just said to you it was when I was an office bearer.

Yeah, I'm trying to understand from you when it was.---So it would have been some years ago, before the amendments came in 2007, where they created boards, so - - -

I see. All right. And who conducted that training?---I believe it was the Registrar's office.

20 All right. You can hand back that statutory extract.---Thank you.

Returning to your affidavit.---Ah hmm.

You'll see at paragraph 28 you refer to Board packs. Do you see that? ---Ah hmm. Yeah.

And you say in paragraph 28, in the third sentence, "The Board members were usually given about half an hour to review Board papers in advance of the meetings."---Ah hmm.

30 "The Board papers, also known as the Board packs, would usually include an agenda and copies of documents to be tabled and discussed at the meetings."---Yeah.

Now, I rather understand from that that you say Board papers weren't provided to you in advance of you turning up to GLALC's offices for any given meeting?---Yeah.

40 Is that right?---That's correct.

They were contained in folders, about which there's been evidence, I assume?---Yeah.

All right. Now, in relation to the contents of the Board packs, you say they would usually include an agenda and copies of documents to be tabled and discussed at the meetings.---Yeah.

You may have heard evidence given in this hearing, where directors have indicated that ordinarily there was the agenda and the minutes, or draft minutes, from the preceding meeting in the Board papers.---Ah hmm.

And presumably you agree that those documents were included?---Yeah.

But in relation to other documents, was it ordinarily the case that there would be copies of PowerPoint presentations for the upcoming meeting to be included in the Board papers?---Yes.

10

And you say copies of documents to be tabled were included in the Board papers. Is that right?---Yes, yeah.

So, for example, if I show you a copy of the Board minutes of the May 2010 meeting.---Yeah.

So I'll ask you to be provided with volume 8 at page 245.---Thank you. Yeah.

20

You'll see from motions 3 through to motion 11, each of those motions refers to a report.---Yes.

And unless I've miscounted, there's nine, nine reports. You see that? ---Yeah.

Do you say that the Board papers for this meeting would have included nine reports?---Not all of them may have been in writing. But the majority would be, yes.

30

Right. And I rather gather too, from your affidavit, that the papers were usually made available to you about half an hour before the meeting?--- Yes.

Well, do you say that the papers were given – I'll withdraw that. The papers were made available to the directors in sufficient time for them to have read the papers prior to the commencement of the meeting?---Say again.

Yes. You say in your affidavit the Board members were usually given about half an hour to review the Board papers in advance of the meetings. ---Yeah.

40

That's what you say in your affidavit.---Yeah.

And my question for you is, was that a sufficient amount of time for the Board members to read the Board papers prior to the commencement of a meeting?---Yes, if they applied themselves it would be, yeah.

I see. So you yourself never had any difficulty in reading the Board papers that were provided to you, prior to the commencement of a meeting, upon

arrival at the offices of GLALC?---No. And if I did, on the occasion that I may have - - -

Yes?--- - - - I would certainly have spoken up and voiced that concern and held the meeting up until I had.

Well, did anyone ever do that?---I'm sure at some stage someone would have.

10 Well, can you recall anyone ever doing that?---Not right at this moment, I can't.

Yeah. All right. I'll ask you, then, to refer to paragraph 31 of your affidavit.---Yeah.

You say there from 2007 until 2012 - - - ---Yeah.

20 - - - the financial documents, which included the management accounts for discussion at each Board meeting, were usually sent to the Board members several days in advance of the meeting. Do you see that?---Yeah.

Could you assist me, in relation to Board packs, you said that the documents in the Board packs were not made available until persons turned up for the meeting at the offices of GLALC on the night of the meeting, correct? ---Yeah.

But in paragraph 31 you appear to say that financial documents were provided to Board members several days in advance of the meeting.---Yeah.

30 Do you say that the financial documents didn't form part of a Board pack? ---Not all the time, no, and they were initially sent out once upon a time to all the Board members beforehand until one particular Board person actually allowed a family member to have access which betrayed the confidentiality of the Board in any case and so therefore it was, it was a bit more limited after, after that occasion.

When did that happen?---That happened by a Board member some time ago.

40 Yes. Well, you're referring in paragraph 31 to quite a lengthy period, from 2007 until 2012, did it happen in that period?---It would have happened, yeah, early part, yeah.

In the early part of that period?---Yeah.

So once that happened did the practice of sending financial documents to Board members prior to the meeting stop?---It – yeah, it did for a bit and then soon after there was the finance committee that was formed.

Well, the finance subcommittee as I understand it didn't commence until 2012. That's right isn't it?---That would be a bit later on down the track, yes.

So is this the position, that at some time shortly after 2007 the practice of sending Board – I withdraw that – financial documents to Board members in advance of a meeting ceased and then – is that correct firstly?---You're a bit too far forward – too far that way. Probably closer to 2008/9.

10 All right. So in 2008 or 2009 the practice of sending financial documents to Board members prior to a Board meeting ceased. Is that right?---Yeah.

And then in – at some time during 2012 the finance subcommittee was created. Correct?---Ah hmm.

Is that right?---Yes.

And from that point on the same position applied generally in respect of Board members, that is, they weren't provided with financial documents
20 before Board meetings. Is that right?---I'm sorry, I'm going to have to get you to repeat it. I'm sorry.

Yes.---I just missed the tail bit.

From the point at which the finance subcommittee was created - - -?---
Ah hmm.

- - - the general position with respect to financial documents and Board
30 members continued, that is, they weren't provided with financial documents in advance of Board meetings?---Not prior to the day, no.

Yes. Now, I want to ask you – excuse me – about what documents you're referring to when you refer to financial documents in this paragraph so I'll ask you to be provided with volume 7 at page 3.---Do I need this other one again?

I'm sorry?---Do I need this other one?

40 THE COMMISSIONER: No, it's a different volume.---Okay.

MR HENRY: It's a different volume. You should – yes.---Sorry. Yeah.

So you should have in front of you now a balance sheet for GLALC as at 31 October, 2013. Is that what you're looking at?---Yeah.

Now, I appreciate this document is a document as of 31 October, 2013. ---Yeah.

So it's outside of the date range you refer to in paragraph 31 of your affidavit.---Yeah.

Nonetheless, I'm just trying to understand what it is exactly that you're referring to when you refer to financial documents which you've said included the management accounts. So I'm putting this to you by way of illustration or example. Do you understand?---Yeah.

10 All right. If you have a look at the first two pages, pages 3 and 4.---Yeah.

There's a balance sheet of GLALC.---Yeah.

Now, is that an example of a financial document that was provided to you at a Board meeting or the type of document that was provided to you in terms of the detail on it?---It's one of the types of documents that we would receive.

20 All right. You will see then the next document, pages – page 5 is a balance sheet of GMS.---Yeah.

Do you see that?---Yeah.

And I won't take you through all of them but what follows are balance sheets of the various companies with in the Gandangara group.---Yeah.

If you flick through to page 13 at which there's a consolidated balance sheet. Can you see that?---Yeah.

30 Now, are those balance sheets from 3 to 13 documents which included the information that you were provided with in the financial documents you refer to at paragraph 31?---Yeah, but they were not the only ones.

All right. Well, if you go on then to page 14 you will see profit and loss statements.---Ah hmm.

The first one is a GLALC profit and loss statement and then similarly there's profit and loss statements for other companies within the Gandangara group.---Yeah.

40 And they go through to page 30 and then there's a consolidated profit and loss statement at page 32. Do you see that?---Yeah.

Now, are they examples of further financial documents that you were ordinarily provided with at a Board meeting?---Yeah, but again not, not the only documents.

All right. What about page 34, there's an income and expense summary by entity.---Yeah.

And then page 36 a consolidated Gandangara group cash at bank. Is that another example?---Yeah.

All right. Then at page 37 you will see some accounting ratios.---Yeah.

From pages 37-41.---Yeah.

Were you provided with that information?---Yeah.

10

All right. Do you say you were provided with any further information - - -? ---Yeah.

- - - ordinarily?---Yeah.

And what was that?---There would be scales, scales and visuals, visuals where you can see the, you know, the pie charts and all that sort of stuff.

I see. Diagrammatic - - -?---Yeah.

20

- - - depictions of - - -?---Yeah.

- - - for example, expenses and income?---Yeah.

All right. Now – and do you say that that information was provided to you for every Board meeting?---Yes.

And you say that that information was included in the Board papers that were made available to you upon arrival in the folders?---Yeah.

30

And that was in addition to other reports - - -?---Yeah.

- - - that were going to be the subject of consideration at the meeting? ---Yeah.

And do you say that half an hour was a sufficient time for you to review that material prior to the commencement of the meeting?---Yeah. As I said, if they applied themselves they would have been able to do it. Failing that, they could have arrived earlier.

40

You will see in the material that I've taken you to that the expense items referred to - - -?---On which page?

Well, one can take an example. For example, at page 14.---Ah hmm.

There's a list of expenses identified on page 14. Do you see that?---Yeah.

And you will see that the expense items are grouped into categories, if I can call it that. Do you see that?---Yeah.

Now, do you agree with this, that the categories don't enable the reader to identify what if any expenses identified there have been incurred by GLALC for the benefit of firstly, Mr Johnson. Do you agree with that?
---Yeah.

And secondly, Waawidji. Do you agree with that?---Yeah.

10

And is this the position, that the Board was not given information at Board meetings whilst you were a director of GLALC that enabled it to identify the expenses incurred by GLALC for the benefit of Mr Johnson. Do you agree with that?---Yeah.

Or Waawidji. Do you agree with that?---Yeah.

All right. Now, whilst I have you in volume 7, you'll note at volume 7, page 4 - - -

20

THE COMMISSIONER: Sorry, Mr Henry. Are these documents coming up on the screen? Because I'm not seeing them.

MR HENRY: Oh, I'm sorry. I'm sorry. I didn't realise that.

THE COMMISSIONER: No, that's all right. Volume 7?

MR HENRY: Volume 7, page 3.---So is volume 7 the one that says volume 2 and has a big number 7 on it?

30

I suspect that's right. It should have on it – when you say volume 2, does it have immediately above that “GLALC Balance Sheet as of 31 October, 2013”?---Well, it says volume 2 there and then it has a big number 7 down the bottom.

That's correct.---Yeah?

Yes.---So that's volume 7?

40

Yes, it is. Thank you.---Okay.

So, it's Exhibit G1, volume 7, page 3. This is the balance sheet of GLALC as of 31 October, 2013. Is that what you have there, Ms Cronan?---Page 3, yeah.

All right. If you go to the second page, you'll see on page 4 - - - ---Ah hmm.

- - - about a third the way or a quarter of the way from the top, there's a heading in bold "Loans to LALCs". Can you see that?---Yeah.

And then underneath it there's a loan to Deerubbin LALC - - - ---Yeah.

- - - of \$422,973. Do you see that?---Yeah.

With that in mind, could I ask you, please, to turn to page 14?---Yeah.

10 Page 14 is a profit-and-loss statement for GLALC to October 2013. Is that what you're looking at?---Yeah.

Right. And do you see under the expense items there's no – sorry, I'll withdraw that. Actually, no, I'll withdraw that. I don't need to take her to it. Sorry. You can hand back volume 7. Now, if you have your affidavit, I'll ask you to turn to paragraph 20, which is on page 8 of the affidavit. You refer at paragraph 20, in the fourth sentence, to "Jack also discussed the importance of declaring any pecuniary interests which the Board members may have."---Yeah.

20

Now, this is by reference, to put it in context, to a meeting of 8 October, 2007. You can see that from the first sentence of paragraph 20.---Yeah.

And you say there that he, as in Mr Johnson, displayed a slide with a written declaration of his pecuniary interest in Waawidji.---Ah hmm.

He gave a similar presentation to the Board annually, usually on the first Board meeting after the annual general meeting of the members.---Ah hmm.

30 You say you don't have a copy of the presentation given by him on 8 October, 2007. You say, however, a copy of a similar presentation, made on 12 October, 2009, is at pages 110 to 117.---Ah hmm.

And I'll ask for you to be provided with that.---I think I've already got it.

So this is pages 110 to 117 - - - ---Ah hmm.

- - - of volume 1 - - - ---Yeah.

40 - - - of the exhibit to your affidavit.---Yeah.

Now, you'll see, if you go back to page 109, there's an agenda for the meeting.---Yeah.

See the agenda? And then page 110, there's a number of slides. I rather gather these are copies of slides that were the subject of a PowerPoint presentation at the meeting. Is that right?---Yeah.

And this is a presentation that Mr Johnson made. Correct?---Yeah.

And you say that this form of presentation was made by him more or less each year?---Yeah. On an election, because an election only happens every second year.

Oh, okay. I'm sorry.---But every year - - -

10 Yes?--- - - - at that same time of year, Jack would make his declaration and we would also revisit his – oh, my God, I can't think of it.

Delegation?---Delegations, yeah, that's it. Sorry. Thank you.

That's all right. If you go to page 113.---Yeah.

You'll see a slide headed "Pecuniary Interests" and it asks three questions. ---Yeah.

20 And then over the page, at 114, there's a definition of pecuniary interest. ---Yeah.

It's an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person or another person with whom the person is associated.---Yeah.

And then section 183 is the subject of a slide at page 114, at the base of the page.---Yeah.

30 Identifies persons who have pecuniary interests. And then over the page, at 115, you can have a look, please, at subsection 1, or subparagraph 1 in the top slide, which is "Disclosure and Presence in Meetings". It says, "An officer or member of staff, an Aboriginal Land Councillor or a councillor who has a pecuniary interest in any matter with which the council" - - - ---Must leave the room.

Sorry?---Must leave the room.

I'm sorry?---Must leave the room. I was finishing it for you.

40 THE COMMISSIONER: Well, they must disclose the nature of the interest to the meeting.---Yeah.

MR HENRY: And the critical words, for present purposes, are those ones that the Commissioner's just drawn attention to, "Must disclose the nature of the interest." Do you see that?---Yeah.

Now, if I could ask you, please, to turn over the page.---Yeah.

Page 116. Mr Johnson's declaration of pecuniary interest - - - ---Yeah.

- - - is there stated.---Yeah.

Now, it says that he's a sole director of Waawidji. Do you see that?---Yeah.

Then it says, at the third dot point, "In compliance with the ALRA" - - -
---Yeah.

10 - - - "Waawidji does not act as a consultant to the GLALC."---Yeah.

Can you see that?---Yes, I can.

Now, what, as you understand it, is the nature of the pecuniary interest that Mr Johnson discloses by that declaration?---That he's the director of Waawidji.

20 Yes. He may be a director of any number of companies. But what is the nature of the pecuniary interest disclosed by that declaration?---I'm not sure where you're leading.

THE COMMISSIONER: Well, Ms Cronan, bearing in mind that the pecuniary interest, "pecuniary" refers to - - - ---Financial gain.

- - - a monetary interest.---Yeah.

Right? It has to be a pecuniary interest in a matter with which the council is concerned.---Yeah.

30 So it's not a pecuniary interest that exists independently of what business the council is conducting. It has to be a pecuniary interest in a matter with which the council is concerned. So the question is, by making that declaration, what pecuniary interest, in a matter with which the council was concerned, was Mr Johnson declaring?---I think you'll find that it was a precautionary measure.

In what way was it precautionary?---In the event that one should arise. So that everybody knew where he stood.

40 MR HENRY: I'll show you a section of the Aboriginal Land Rights Act, Ms Cronan.---Ah hmm. Yeah. Is it in here or is it something separate?

No, it's a different one. I'll provide you with it.---Okay.

Section 52D.

THE COMMISSIONER: Just while that's coming, so your position is that at the relevant time he made all these declarations - - - ---Yeah.

- - - he had no relevant pecuniary interest but he was just making the declaration on a precautionary basis?---That's my understanding.

MR HENRY: And that's your understanding in respect of each of the pecuniary interests he declared over time, is that right?---No.

10 No?---No, because in respect of not so much the Land Rights Act but with the corporations that we had. Sorry, I'm trying to get the words right. Then it would be a pecuniary interest because he was CEO of those corporations. But that's not relevant to the Aboriginal Land Rights Act, because those corporations weren't under the Land Rights Act.

I'm sorry. What does him being CEO of companies other than GLALC have to do with Waawidji?---Because through him being the CEO of those other companies, he was getting paid through his company Waawidji.

If you have a look at section 52D.---Yeah.

20 Have you got it back now?---Yeah.

It says, "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." Do you see that?---Yeah.

Now, were you aware of this section whilst you were a director of GLALC?---Yeah.

30 Wasn't the purpose of the declaration made by Mr Johnson an attempt to address section 52D?---Yes.

And did he say that at Board meetings before he made the declaration?---I can't remember if he exactly said it that way. But, yeah, it was to satisfy the Land Rights Act.

Yes. Is that a convenient time, Commissioner?

40 THE COMMISSIONER: Yes, it might be. Thank you. We'll take the morning tea adjournment and resume in 20 minutes. Thank you.

SHORT ADJOURNMENT

[11.32am]

MR HENRY: Ms Cronan, before the break I was asking you about a declaration of pecuniary interest - - -?---Ah hmm.

- - - made by Mr Johnson on page 116 of volume 1 of the exhibit to your affidavit do you recall?---Yeah.

Do you still have that available to you?---What page was it again?

Page 116.---Yeah.

And if it assists you - - -?---Ah hmm.

10

- - - this is a declaration made in the 12 October, 2009 Board meeting do you recall?---Yeah.

Now, at this time Mr Johnson's first employment contract was on foot with GLALC?---Yeah.

I'll ask you to be provided with volume 11 at page 72.---Yeah. Yeah.

20

So you should have in front of you there an agreement between Mr Johnson and GLALC.---Yeah.

And if you go to page 84.---8-4 did you say?

Yes, 8-4. You will see there the schedule, schedule 1 to the contract. ---Yeah.

It's got a commencement date of 26 February, 2007 and a nominal expiry date of 31 May, 2010. Is that what you see?---Yeah.

30

And then you will see beneath that in part 6 annual remuneration. ---Ah hmm.

There's a salary component of \$61,900.---Ah hmm.

There's three categories of reimbursement of expenses.---Ah hmm.

Now, you can take it from me those three numbers add up to \$48,100.--- Ah hmm.

40

And that gives a total of \$110,000.---Ah hmm.

Now, I'm taking you to that because that was the remuneration package - - - ?---Yeah.

- - - that was - excuse me - relevant at the time of the 12 October, 2009 Board meeting.---Yeah.

And I accept that it may in fact by the 2009 Board meeting have been a remuneration package slightly in excess of \$110,000 because of increments to that remuneration package between February, 2007 and October, 2009?
---Yeah.

Now – excuse me. If you go forward in the same volume to page 48.
---Yeah.

10 You will see there a summary of payments made to Waawidji by GLALC.
---Ah hmm.

And if you look – and this is for the year ended 30 June, 2009. You will see there's a total at the bottom of the page in the second column from the left of 243-odd thousand dollars.---Ah hmm.

Do you see that?---Yeah.

20 And I don't know if this will assist you but there's a breakdown of how one comes to each of these transactions extracted from pages 49 through to 53. I take you to page 48 simply because it's a summary.---Yeah.

It's convenient.---Yeah.

Now – so during the financial year preceding the declaration of pecuniary interest at the 12 October, 2009 Board meeting - - -?---Ah hmm.

- - - it appears that Mr Johnson's company Waawidji was paid by GLALC in excess of \$240,000. Do you see that?---Yeah.

30 Now, my question for you is this, when Mr Johnson made his declaration of pecuniary interest at the October, 2009 Board meeting did he disclose to the Board that Waawidji had been paid in the preceding financial year hundreds of thousands of dollars by GLALC?---I don't think so.

All right. Were you aware at the meeting that GLALC had paid Waawidji hundreds of thousands of dollars in the preceding financial year?---I don't think so. I can't remember to be quite honest.

40 Well, as you've seen, the provision in the contract for itemised reimbursement expenses totals \$48,100.---Yeah.

There is also a provision in the contract for Mr Johnson through Waawidji to claim additional expenses.---Ah hmm.

Were you aware of that at the time of the meeting?---You do realise that I didn't negotiate this contract.

Yes, I'm not suggesting that you did.---Okay.

But were you aware of the terms of the contract at the time of the October, 2009 Board meeting?---I don't know for certain.

All right. But nonetheless, Mr Johnson didn't disclose, as you recall – excuse me – that Waawidji had been paid hundreds of thousands of dollars in the preceding financial year at the time of making his declaration. Is that right?---Rephrase.

10 Yes. At the time of the declaration in October, 2009 Mr Johnson didn't declare or disclose the fact that his company Waawidji had received hundreds of thousands of dollars in the preceding financial year from GLALC. Is that right?---I don't think so.

All right. Did he disclose that Waawidji had received any money at all from GLALC?---At that particular moment, no, because he was just making the declaration.

20 Yes. The reason I'm asking you this is because the declaration of itself says nothing about Waawidji receiving payments from GLALC does it?---No.

Now - - ?---But it does declare an interest.

I'm sorry?---But it does declare an interest.

What interest do you say it declares?---Well, it declares the fact that he is the director of Waawidji.

30 Of a company?---Yeah.

Yes, it goes no further.---Yeah, that's what I said. It just declares the interest, that's it.

40 I rather understand from your evidence before the break that you consider this declaration to be prophylactic in the sense that there was nothing Mr Johnson was required to declare at the time of the meeting but it was made in case something arose down the track. Is that right?---I suggested that we, that it would be raised as a precaution regardless of whether or not it was required and we were - - -

THE COMMISSIONER: No, no, no.--- - - - talking about further - - -

Ms Cronan, just stop there for a moment because I think it's important that we clarify this issue. Your evidence before the morning tea adjournment was that you understood – your understanding was that the declarations of this pecuniary interest by Mr Johnson was undertaken by him as a precautionary measure.---Ah hmm.

Is that still your evidence?---It is.

Right.---It is because before morning tea we were also suggested that it was something that happened in future as well from 2009 forward.

MR HENRY: All right. If you could go forward please in the volume 1 of the exhibit to your affidavit to page 145.---So I'm on the other one now? Yeah.

10 Yes.---1-4-5 did you say?

Yes. Actually I'm sorry, start with 143. It'll give you some context.---143.

So 143 you should see the front page of the minutes of a meeting of 15 November, 2010.---Yeah.

Now, by this point in time you recall that Mr Johnson's initial employment contract had ended?---Ah hmm.

20 You need to say yes or no I'm sorry.---Yes. Sorry.

And there were two contracts that had replaced the first contract, do you recall?---Yes.

And they were operative by 15 November, 2010, do you recall that?---Yes.

And one of those contracts was between Mr Johnson and GLALC. Correct?---Yeah.

30 And the other contract was between Waawidji and GMS. Correct?---Yes.

If you turn over to page 145, Ms Cronan, you will see motion 8 at the top of the page.---Yeah.

And it has a declaration in either the same or very similar terms to the declaration to which I have taken you in October, 2009. Do you agree? ---Yeah.

40 Now, it was your understanding wasn't it at the time of this declaration that under the 2010 contracts to which I've referred - - -?---Yeah.

- - - Waawidji was not entitled to any payments from GLALC. Correct? ---So we're talking about the new contract not the old one?

There were two what you've just referred to I think as new contracts. ---Yeah, 2010 contracts.

Yes.--- Yeah.

I'm referring to those contracts.---Yeah.

If was your understanding wasn't it in November, 2010 that under those contracts Waawidji was not entitled to receive any payments from GLALC?---Yes.

10 All right. You see the declaration. It says, "The Board notes the declaration that Mark Jack Johnson, CEO, holds the position of director of Waawidji and that Waawidji does not hold any role with the GLALC as a consultant." Do you see that?---Yeah.

Why as you understood it was Mr Johnson making this declaration in November, 2010 in circumstances where as you also understood it Waawidji was not entitled to any payments whatsoever from GLALC?---Isn't that saying the same thing?

20 THE COMMISSIONER: I think what's being pointed out is that if the contractual arrangement precluded Mr Johnson – sorry, I'll withdraw that. If the contractual arrangement in 2001 precluded Waawidji receiving any payment from GLALC then the need to make the declaration didn't exist. That's what's being suggested to you.---Okay.

MR HENRY: Do you agree with that?---Possibly. It may not have existed but, yeah, I don't know. I'm a little confused by it all, actually, the way you've just proposed it.

30 Well, let me ask you this. Were you aware during – I'll withdraw that. Were you aware after the commencement of the 2010 contracts - - - ---Ah hhm.

- - - which was May 2010 - - - ---Yeah.

- - - that Waawidji continued to receive payments from GLALC?---I was aware that the second contract required Waawidji to be receiving payments on behalf of Jack, yeah.

40 THE COMMISSIONER: Sorry, that wasn't the question. The question was, after May 2010, were you aware that Waawidji continued to receive payments from GLALC? Were you aware of that?---Okay. Yes. I get what you're saying. No. No, I wasn't aware of that.

MR HENRY: Did anyone ask Mr Johnson at this November 2010 meeting why he was making the declaration, given there was no contractual relationship between Waawidji and GLALC at that point in time?---No, I don't think so.

Did anyone ask whether or not Waawidji was receiving any payments from GLALC at that point in time?---Ask again, sorry.

Did anyone ask at the meeting whether Waawidji was receiving any payments from GLALC at that point in time?---I don't recall.

Did Mr Johnson disclose the fact that Waawidji continued to receive payments from GLALC after May 2010?---I don't recall.

10 All right. You can hand that volume back, Ms Cronan.---The volume not the affidavit?

No, if you hang onto the affidavit, please. And I'll ask you, have you still got volume 8?---No. I've only got the affidavit and stuff.

All right. If you can hang onto the affidavit. You don't need the exhibit to the affidavit, but the affidavit and volume 8 at page 245, please.---Yeah. 245.

20 Yeah.---Affidavit. Which number?

You can just have the affidavit handy, but you don't need to go to it specifically at the moment.---Okay.

I'll come to it in a moment.---Okay.

At volume 8, page 245, these are the minutes of the 3 May, 2010 Board meeting.---Ah hmm.

30 Now, you'll see at the top of the page, there's a handwritten 3.---Yeah.

The meeting occurred on 3 May, didn't it?---Yes.

Which was the Monday.---Yes.

To the extent that there's reference in the papers to a meeting having occurred on 2 May, that's an error. It was 3 May.---Yeah, because we never met on a Sunday.

40 Yes. All right. Now, this is the meeting at which there was a resolution passed to accept – I'll withdraw that. Motion 2 reads, "The Board resolves to accept the new contracts as tabled, effective as at 1 May, 2010." Do you see that?---Yeah.

This is the meeting with which we're currently concerned.---Yeah.

Could I ask you to be shown, please, volume 11 at page 130. So you should now have in front of you an email from Mr Johnson to yourself of 3 May at 3.52 in the afternoon.---Yeah.

So this email comes to you on the afternoon of the Board meeting. Do you agree?---Yeah.

And you'll see, attached to the email, a number of pages.---Ah hmm.

10 And pages 131 through to 134.---Yeah.

A copy of slides for a slide presentation, correct?---Yeah.

Now, am I correct in understanding that Mr Johnson prepared the slides?
---Yeah.

But I rather understand that you discussed them with him? Prior to the meeting, I'm talking about.---Yeah.

20 All right. And what was that discussion?---In relation to the PowerPoint or in relation to the contents of the information in the PowerPoint?

Actually, sorry, perhaps I'll go back a step. The email comes without any message attached to it.---Yeah.

There's no text in the email.---Yeah.

30 Was there any discussion between yourself and Mr Johnson prior to you receiving the email?---Yeah.

And what was that, please?---We had a discussion in his office in relation to what his expectations was of what he would hope for the Board to consider. And that was the way the figure was reached. And then I went off, and this was sometime before this particular day of the meeting. I then went off and did my own research and I had another discussion with Jack where he was like, "How are you going to present this to the Board?" sort of thing, and I asked him to do the PowerPoint. That's it.

40 Right.---And he put that together, and I did my own research.

When you said he put that together, you're talking about the PowerPoint?
---Yeah.

Slides attached to the email.---Yeah.

All right. And I rather understand your position is that, prior to the Board meeting, you had agreed in principle with Mr Johnson that he would be paid

\$180,000 for his role as CEO of GLALC, subject to Board approval. Is that right?---I had agreed to put that proposal to the Board.

Yes.---And it would be up to the Board to make a decision.

Yes. You were in favour of the proposal, weren't you?---I was after I did my research, yeah.

10 All right. I'll come to the research, 'cause that was the subject of a separate presentation, I gather.---Yes.

All right. If one has regard to the slides attached to the email, page 131 has a slide that says "CEO's current base salary package, \$148,951". Now, that amount was an amount put forward to you by Mr Johnson as representing his then current salary. Is that right?---Yeah.

And you took no steps to verify whether that was accurate for yourself?
---Yeah.

20 And then over the page, 132, there's CEO's base salary package as at 1 July 2010 of \$160,122.---Yeah.

What's that figure included for?---That's what his next increment, around that time, would have seen him receiving about that amount in any case.

Oh, I see. So is the second slide of 160-odd thousand dollars supposed to represent what he would earn – I'll withdraw that. What his remuneration package would total in the event of no increase in the contractual arrangements?---Yeah.

30 All right.---Yeah. So if we had have just stayed with the same contract and let it, you know, peter out, sort of thing, that's where it would have ended up.

I see. And then on page 133, there's a proposed salary effective 1 May, 2010 of \$180,000.---Yeah.

40 Which was a figure proposed to you by Mr Johnson, at least in the first instance. Is that right?---Yeah.

And you'll see that the date at the top of the page is 1 May, 2010.---Yeah.

You'll recall that the contract, that is the 2007 contract, provided for an expiry date of 31 May, 2010.---Yeah.

And that the email comes on 3 May, 2010.---Yeah.

Why is the 1 May, 2010 date relevant, given it involves backdating an increase in pay?---No particular relevance at all. It was up to the Board whether or not they chose to go with that date or not.

All right. If you go to the next line, page 134.---Yeah.

It's got some dot points. It says, "All other terms and conditions remain unchanged." Now, that presumably is a reference to the then existing contract which was the 2007 one. Is that right?---Yeah. Yeah.

10

Do you recall who drafted the 2010 contracts?---I believe Jack did because he already had the, the electronic copy.

So do you actually recall Mr Johnson sending you the draft contracts?
---Yeah.

All right. And how did he do that, by email?---By the – I'm pretty sure it was in that same email wasn't it.

20 It may have been. Yes, I think you're probably right. If one goes back to 130 there are a number of attachments.---Ah hmm.

And at least two of them are referred to as the CEO employment contracts.
---Yeah.

So he provided you with the drafts of the contracts?---Yeah.

30 Was there any negotiation or discussion about the terms?---No, I don't believe there was. I don't think we needed to. The only difference he was requesting was for a dollar value.

Bear with me. The only difference – I withdraw that. The only different wasn't the dollar value. For example, if you look at the second dot point.
---Ah hmm.

It says, "Term of contract five years and five year option".---Ah hmm.

Can you see that?---Yeah.

40 Do you recall a discussion about an option in relation to the new contracts in 2010?---Yeah, I do actually.

And what was said about that?---Just in relation to how long we needed to complete Heathcote Ridge which was the major project of the Land Council at the time or that we were working towards. So it was envisaged that it would take a minimum of five years.

Right. So the - - -?---And possibly as far as 10 and possibly even 15 maybe.

All right. It appears as though Mr Johnson has proposed this five year option. Would you agree with that?---Yeah.

And the five year option was an option that he was capable of exercising. Do you agree with that?---Yeah.

Why was it in GLALC's interest to grant a five year option to Mr Johnson at the end of a five year term to continue as CEO?---For continuity.

10

Yes, but why wouldn't that be secured by an option in favour of GLALC alone?---I'm not sure.

So I suggest to you it wasn't in GLALC's interest to grant a five year option exercisable by Mr Johnson. Do you agree?---Possibly.

Do you agree with that or not?---Possibly.

20

Have a look at the third dot point. It says, "Bonus conditions remain unchanged." This is on page 134. Do you see that?---Yeah.

And then the last dot point says, "Jack remains an employee of GLALC and contract employee of GMS." Do you see that?---Yeah.

Whose idea was that?---That was one for, for taxation purposes basically but also because Gandangara doesn't earn enough money to pay the whole salary from its coffers - - -

30

Right.--- - - - in any case. It only gets an allocation of \$130,000 a year.

Yes. So do you say there were two reasons for fourth dot point suggesting Jack becomes a contract employee of GMS firstly, a tax reason - - -?--- Ah hmm.

- - - and secondly, because GLALC had insufficient funds to pay him? ---Yeah, and because of the workload, was a lot of that was with our corporations as well. So there were more than one or two issues.

40

I see. Who do you say made this PowerPoint presentation at the meeting? ---Jack did.

All right.---After a discussion that he'd had with me.

Yes. All right.---And it was up to the Board as to what they decided to do once they consumed all that information.

Have you got your affidavit - - -?---Yeah.

--- available?---Yeah. What number?

If you could go please to paragraph 46.---46. Yeah.

Okay. 46 through to 48. If you could just read those to yourself and let me know when you've done that please.---Yeah. Yeah. Yeah.

Do you agree that in those paragraphs you provide your explanation for why
-- -?---Ah hmm.

10

--- two contracts replaced one -- -?---Ah hmm.

--- in 2010?---Yeah.

You don't in those paragraphs do you make any reference to taxation reasons. Do you agree?---No, don't see it. No.

Do you agree with that?---Yeah.

20 The only reason you advance in this affidavit as to why there should be two contracts rather than one -- -?---Yeah.

--- is the second reason that you advanced a moment ago namely, you say GLALC could not afford to pay Mr Johnson -- -?---It couldn't.

--- out of its own money. Correct?---Yeah.

30 THE COMMISSIONER: The affidavit also seems to suggest that you did the presentation. Is that right or not?---I presented it. I didn't create it.

So Mr Johnson didn't do the PowerPoint presentation, he just prepared it and you presented it?---Yes. Yes. That's why he sent it to me so I could go over it and be familiar with it before I got there.

MR HENRY: The only reason you advance for two contracts rather than one is that GMS you say – I withdraw that. If you go to paragraph 46.---46. Yeah.

40 Do you see the third sentence, "I thought that any increase to Jack's salary could only be paid by GMSL which was generating more regular income from the management service it provided to GLALC and other organisations including other LALCs." Do you see that?---Did you say that was 46?

Paragraph 46 of your affidavit.---Oh, yes, I see it.

Do you see that sentence?---Yeah.

Now, I'm going to show you a document, volume 3 at page 208.---Is this in the same folder?

No, it's not in the same volume.---Sorry, I'm getting a bit of a mishap (not transcribable)

Page 208.---Yeah.

10 You should have in front of you a company extract of GMS. Do you have that?---Yeah.

Please look at the registration date of the company. It's about a quarter of the way down the page. Do you see that?---Which one?

16 April, 2010.---Yeah.

That's the date upon which this company was registered. Do you understand?---Yeah.

20 Now, I suggest to you that's 17 days prior to the 3 May, 2010 Board meeting. Do you agree?---Yeah, I'll take your word for it.

All right. I'll next ask you to be shown volume 14 at page 223.---Was it 223?

Page 223.---Yeah, 223. Yeah.

You'll see at page 223 is a bank account statement for GMS.---Ah hmm.

30 When you say "ah hmm", do you mean yes?---Yes, I do, sorry.

And you'll see that it records that GMS's bank account was opened on 22 June, 2010.---Yeah.

Now, that's the only bank account GMS had, correct?---Possibly. I'm not a hundred per cent certain.

40 You don't suggest GMS had another bank account that was opened prior to 22 June, 2010, do you?---No, but I know GMS has been, at different times, limited or proprietary limited or whatever the case may be. So it has had minor changes along the way.

Its name has changed, you mean?---Yeah.

All right.---So therefore if its name changes, I'm guessing that its account would change as well.

That's a guess by you, is it?---Yeah.

All right. If you have a look, please, from pages 223 - - - ---Yeah.

- - - through to page 231 - - - ---Yeah.

- - - can you confirm for me that the balance of GMS's bank account between when it's opened, on 22 June, 2010 - - - ---Yeah.

- - - and 22 December, 2010 - - - ---Yeah.

10

- - - does not rise above \$160?---Are we looking at 231?

I'm asking you to look from 223 to 231, and the proposition is that between 22 June, 2010 and 22 December, 2010, the balance of the account does not rise above \$160. Do you agree with that?

MR STEWART: On the 22nd, it actually goes up.

MR HENRY: All right.

20

MR STEWART: Yeah, just - - - ---Mmm?

MR HENRY: Your representative, Mr Stewart, is saying I should confine to 21 December, 2010, because there's a deposit on 22 December, 2010. I'm content to do that.---That's what I keep looking at, and I'm thinking it's not making sense.

Do you accept this? That between when the account's opened in June 2010 and 21 December, 2010, the balance of the account does not rise above \$160?---Possibly. I don't know.

30

Well, look at it.---Yeah.

Do you agree?---Yeah.

All right. Now, go back to your affidavit, if you would, please.---Yeah.

Paragraph 46.---Yeah.

40 You say in that paragraph, in the third sentence, "I thought that any increase to Jack's salary could only be paid by GMSL, which was generating more regular income from the management services it provided to GLALC and other organisations, including other LALCs." Do you see that?---Yeah.

That statement's untrue, isn't it?---Not necessarily.

As at 3 May, 2010, the company had been in existence for 17 days, correct? ---It could be generating an income regardless.

It didn't have a bank account, did it?---It doesn't stop it generating an income.

Well, no income came until December 2010, did it?---You're saying that generating an income, the statement "generating an income" was incorrect.

10 THE COMMISSIONER: No, Ms Cronan, if you look at your affidavit, paragraph 46, you use the past tense. "I thought that any increase to Jack's salary could only be paid by GMSL, which was generating more regular income." You are making the statement of fact in relation to the generation of income by GMSL. Now, what's being put to you is that that's not correct.---It didn't just start generating an income as of December.

Is that statement in your affidavit, at paragraph 46, correct or incorrect?
---It's correct.

Why do you say it's correct?---Because it was generating an income.

20 Where is it reflected in the bank account?---It may not be reflected in the bank account. It could be outstanding monies. But it was being generated.

But this was about payment of salary. It had to come out of the GMSL account. It couldn't have come from some funds that were owing to GMSL but hadn't yet arrived into the account. This was about the continuity of the payment of Mr Johnson's salary.---So, are you suggesting that we should have the monies in the account first?

30 Well, how do you pay a salary if you don't have money in the account? Your paragraph 46 seems to be addressing what you thought was a problem, namely that the GLALC account was not sufficient to pay Mr Johnson's salary on a regular basis.---Yeah.

And by way of counteracting that problem, you thought that it could be paid through GMSL, which was generating regular income, meaning that the salary could be paid regularly from that account.---Yeah.

Is that a fair summary of paragraph 46?---I think it is.

40 Then is that not inconsistent with the state of the bank account over that period of time?---That may well be the case, that it is not consistent with the bank account. That doesn't mean that the monies weren't outstanding or in progress, if that makes any sense at all.

MR HENRY: So you draw a distinction between generating income and receipt of income, I understand. Is that right?---Yeah.

Go to paragraph 48, then, please.---In which?

Your affidavit.---Yeah. Just a moment. Just got to get through the volumes. 48 of my statement. Yeah.

You record in paragraph 38 words that you say you said to the Board at the meeting on 3 May, 2010. They're in the quote marks. Do you see that?
---Yeah.

10 It reads, "The proposal is for Jack's remuneration to be split up into two agreements, one between Jack and GLALC and the other between Waawidji and GMSL."---Yeah.

"Jack's base salary under the new agreements will be approximately \$180,000 in total."---Yeah.

20 "Comprising \$100,000 to be paid from GMSL to Waawidji, and \$80,000 to be paid directly to Jack from the council. Both agreements will contain an identical provision for a performance allowance and a results bonus."---Ah
hmm.

"But in practice there will be one performance allowance and one results bonus."---Yeah.

"These payments will be made under the GMS-Waawidji agreement, which will also be allocated any increases to Jack's overall remuneration following his performance reviews."---Yeah.

30 "Because GMSL has better cash flow than the council." Do you see that?
---Yeah.

At the time of that statement, GMSL had no cash flow. Do you agree?
---Yeah.

You never said those words, did you?---Come again.

You never said those words, did you?---I don't know what you're getting at.

40 Well, GMSL had no cash flow as at 3 May, 2010. Do you agree with that?
---It didn't have a bank account at that time, yeah.

Well, it had no cash flow.

THE COMMISSIONER: I think we need to, I think we just need to return to the nub of Mr Henry's question which is that, that statement is objectively wrong, it's objectively wrong to say that GMSL had better cash flow than the Council and on that basis Mr Henry is putting to you that you never said that at that board meeting. Do you agree with that proposition or disagree with that proposition?---I disagree with the proposition.

Right.

MR HENRY: Do you say that you told the board at the board meeting that the reason why Waawidji should have a contract with GMS was because GMS had a better cash flow than GLALC?---Yeah.

10 Do you agree that if you said that, you were deceiving the board?
---Possibly, keeping in mind also that the financial statements were at that same meeting.

What do you suggest the financial statements showed cash in the bank account of GMS?---Yeah.

There was no bank account Miss Cronan, do you understand that?---Yep.

But you maintain that you said these words at the meeting.---Yep.

20 You'll see that in the presentation, so if I could ask you now to return, keep your affidavit available please but if you turn to Volume 11 - - - ---Yep.

- - - at page 134.---134 you say.

Yes.---Yep.

And the last dot point which I've referred you previously.---Yep.

30 That says Jack remains an employee of GLALC and contract employee of GMS. Do you see that?---Yep.

Now, do you agree that that dot point says nothing about Waawidji?---True.

And Waawidji was put forward by Mr Johnson as a proposed contracting party, that's correct?---Yeah.

And he said that that would reduce his tax.---Yep.

Do you agree?---Yep.

40 Wasn't that the only reason why a contract between Waawidji and GMS was made?---I don't understand what you ah - - -

You say in your affidavit that the reason for the contract, sorry for there to be two contracts rather than one is because GMS has a better cash flow than the Council in May 2010, correct?---Yep.

You say nothing about the reason for the two contracts being tax related, correct?---Not in the affidavit I don't.

No.---Yeah.

And you gave careful consideration to what you put in this affidavit, didn't you?---I put a lot of things in the affidavit and I gave consideration duly to each one of them.

10 Yes. And you carefully decided to omit the fact that tax minimisation was the reason for having two contracts rather than one, correct?---I don't know that I omitted it deliberately as you're trying to make out.

Well, you had every opportunity to include it didn't you?---Yep.

And if you turn forward to page 93, sorry paragraph 93 of the affidavit. ---In the affidavit. Did you say 93?

Yes.---Does the affidavit have 93 paragraphs?

20 It's got more than that.---Okay.

If it assists, it's on page 27.---Oh yes, it does too, yep.

If you need context you can return to paragraph 91 and the heading above it, this is Jack's 2012 contract. Do you see that heading?---Yep.

You're setting out beneath that heading paragraphs 91 to 93.---Yep.

30 Your evidence concerning those contracts, subsequent contracts, do you recall?---Yep.

Paragraph 93 you refer to tax minimisation as being the reason given for the 2012 contracts. Do you agree?---Yep.

So where tax minimisation was a reason for a contract being entered into you made a reference to that in the affidavit, didn't you?---I'm sorry, you're going to have to ask me that again.

40 Where tax minimisation was a reason for a contract being entered into - - -?--Yep.
- - - in the context of Mr Johnson's employment - - -?---Yep.

MR DOCKER: I object. Commissioner, there's two parties to this contract and what's - - -

THE COMMISSIONER: Well, there's more than two parties but anyway, sorry to the contracts plural, but anyway go on.

MR DOCKER: That's quite right.

THE COMMISSIONER: Yes.

MR DOCKER: But there's two parties to each contracted.

THE COMMISSIONER: Yes.

10 MR DOCKER: And what's being put to the witness is in a broad sense a reason for entry into a contract. In my submission one party might have one reason or a number of reasons which are not necessarily the same as the others and it really needs to be put to this witness in fairness which perspective she's being asked about in terms of reasons.

THE COMMISSIONER: Well, there's a clue in paragraph 93, this was the reason given for the restructuring and I'm assuming that that means given by Mr Johnson does it, Miss Cronan?---I'm sorry.

20 Where you say, I wrote tax minimisation next to item 3.2 of the Agenda because this was the reason given for the restructuring of his remuneration. That was the reason given by Mr Johnson was it?---Yes.

Right.

MR HENRY: Do you agree with this, Miss Cronan, your evidence at paragraph 46 to 48 to the effect that the reason given for there being two contracts rather than one was a cash flow that GMS had that GLALC didn't is untrue?

30 MR DOCKER: Well I object, on the same basis. That the witness is just being asked for the reason and - - -

THE COMMISSIONER: No, she's being questioned, as I understand it, in relation to previous statements that she's made in the affidavit and the answers that she's given thus far in cross-examination being the reason that she put forward or that she assumed in relation to the need to pay a part of the remuneration through GMSL. I think that was the purport of the representation that paragraph 48 and the previous reference in paragraph - - -

40 MR DOCKER: I think it was 46 Commissioner.

THE COMMISSIONER: Well, 48 is where she's addressing the board in those terms, yes and 46 was the reference to her understanding of why Jack's salary could only be paid by GMSL. So she's only being asked about her understanding and the reasons that she advanced in those paragraphs. What's the problem with that?

MR DOCKER: Well, the problem is that it's been put to her that she hasn't been frank in her affidavit because she hasn't included all the reasons from both sides - - -

THE COMMISSIONER: Well, no, that wasn't what was put.

MR DOCKER: Well - - -

10 THE COMMISSIONER: That wasn't what was put Mr Docker.

MR DOCKER: But the breadth of question - - -

THE COMMISSIONER: The last question - - -

MR DOCKER: The breadth of the question envisages that.

THE COMMISSIONER: No it doesn't.

20 MR DOCKER: Because the question doesn't say from your perspective.

THE COMMISSIONER: Well, it can only be, I would have thought, from this witnesses perspective on the basis of what she's previously said. Anyway, go on Mr Henry, I've allowed the question.

MR HENRY: What's your answer?---What's the question again.

30 Your affidavit evidence to the effect that the reason for there being two contracts rather than one in 2010 was that GMSL has better cash flow than GLALC is untrue, correct?---No it's not incorrect.

The true reason was Mr Johnson advanced Waawidji as a contracting party with GMS to minimise his tax obligations. Isn't that right?---It is both reasons.

If you could return, please – I'll withdraw that. So you say it's both reasons. You just forgot to include one of the two reasons - - - ?---It is quite possible.

- - - in the affidavit?---It is quite possible.

40 Notwithstanding that in relation to the 2012 contracts, you recalled putting tax minimisation in as a reason. Is that right?---I'm sorry, I didn't quite catch that properly.

You say it's possible that you, what, overlooked including tax minimisation as a reason for the 2010 contracts, notwithstanding that you recalled enough to include that as a reason in respect of the 2012 contracts? Is that your evidence?---I'm sorry, Mr Henry.

All right. I'll move on.---I'm sorry. It's just really convoluted and I'm just getting lost in it.

All right. I'll ask you just to go back to volume 8, please, at page 245.---Of course it's the one right down the bottom.

You can hand back the other volumes now, other than volume 8.---Okay. Which page?

10 245.---Yeah.

So we're returning to the minutes of 3 May.---Okay. Yeah.

You'll see motion 2 says, "The Board resolves to accept the new CEO contracts as tabled." Can you see that?---Ah hmm.

Now, do you say the contracts refer to – I'll withdraw that. Do you say any contracts were tabled in respect of that motion?---I say both contracts were tabled.

20

Who did it?---I think Tina would have prepared the copies of them into the folders and stuff. But everybody had them.

THE COMMISSIONER: No, but the question was who tabled them? In other words, who on the Board indicated that the contracts - - - ?---Oh, that was me.

- - - were to be tabled?---That was me.

30 MR HENRY: Right. So you had a copy of each of the two contracts that were eventually signed? Is that right?---Yeah.

And did you, what, pull them out of a folder? How did you have them? ---Everybody already had them in their folders.

Well, how do you know that?---Because they were part of the Board pack for that meeting that night.

40 Well, they were included in your Board pack, is that right?---No, each person had to open their folder and go through the contract, through the contracts. However, I'm damn sure that they didn't go through both of them. I'm damn sure they only went through one.

THE COMMISSIONER: Ms Cronan, a minute ago you said that Tina would have put the contracts in the Board folders. Is that an assumption on your part, that that was done by Ms Johnson's assistant?---No. Everybody sat down to a mega-sized pack.

Well, I'm sorry, that doesn't help me. Is it your assumption that in those folders there were copies of the contract? Or are you saying that you saw, in each and every folder of each and every Board member, a copy of each of those contracts? Which is it?---I'm sorry. I'm just trying to recollect. I'm certain that every folder had both contracts in there.

10 And on what do you base that certainty?---On each Board member's conduct when they were asked to open those contracts and start reading them, start looking them over. They all commenced to look at them. And I can safely assume from that that if they had not had one, they would have said something.

MR HENRY: So, do you say at this meeting the directors of GLALC sat around a Board table and discussed the terms of these contracts?---The discussion was open for that sort of a discussion. I don't know that that actually happened.

20 Well, what happened as best you recall?---Well, I advised the Board that Jack's contract was up for renewal, discussed the discussion that we had had, advised them that they had copies in their folder, that they needed to peruse those. Went through the PowerPoint, the one that Jack had prepared. Then went through the research that I had provided as well, in relation to what his value was out in the open market. There was some discussion about the benefit that Jack had brought to the organisation in the time that he had been with us already, basically whether or not he was worth it. And, yeah, there was quite a bit of discussion. There was lengthy discussion.

30 Was there discussion as you recall it about the fact that there would be two contracts not one?---I'm certain that that occurred.

What do you say was said about that?---What I've already said in my affidavit is that – about the, the costliness of it and whether – who could – how we could afford that to happen, that it needed to be broken in two, the benefits to Jack in relation to the, to the tax side of it, the benefits to Gandangara in relation to splitting it between the, the two income streams I suppose is a good way to say it.

40 Sorry, what benefit do you say was to Gandangara to split income streams? ---Not to put the whole of the burden onto Gandangara Land Council as opposed to the group.

When you say the group, you're presumably referring to GMS are you? ---Yeah.

The company that didn't have a bank account?---At that time.

Yeah. Did you point that out to the Board?---We – didn't we already have this discussion. Didn't I already say no, I don't think so.

All right. You've mentioned – I withdraw that. In relation to the motion, motion 2 - - -?---Ah hmm.

- - - did you vote in favour of it?---Yes.

Right. Have a look at the other people in attendance at the meeting.---Yeah.

10 Can you recall who of those people voted in favour of it?---I seem to remember that it was unanimous.

When you say you seem to remember, do you actually recall a vote - - -? ---Yes.

- - - on the motion?---Yeah.

20 Was it by a show of hands?---Yes. It's not always by show of hands because people will grunt or groan or, you know, nod or whatever the case may be but everybody was in favour of that motion.

So you say you can actually recall that each director who was in attendance at the meeting voted in favour of that motion?---Yeah.

All right. Is that a convenient time, Commissioner?

THE COMMISSIONER: Yes. Thank you. Resume at 2 o'clock.

30 **LUNCHEON ADJOURNMENT**

[12.58 pm]