

SKYLINEPUB02183
09/08/2018

SKYLINE
pp 02183-02237

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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE PETER HALL QC
CHIEF COMMISSIONER

PUBLIC HEARING

OPERATION SKYLINE

Reference: Operation E17/0549

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON THURSDAY 9 AUGUST, 2018

AT 2.00PM

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THE COMMISSIONER: All right. Dr Chen, we're resuming the public inquiry.

MR CHEN: Yes, Commissioner.

THE COMMISSIONER: We have Ms Bakis. Thank you, Ms Bakis. Ms Bakis, I'll have you just readminister the oath if you would, please.

THE COMMISSIONER: The declaration under section 38 in respect of Ms Bakis will continue to apply to today's proceedings. Yes.

MR CHEN: Thank you, Commissioner. Now, Ms Bakis, up on the screen will be a document I just want you to have a look at if you would. Now, do you see in front of you what is a driver's licence application?---Yes.

10

And if you look down the bottom you can see that it's been signed by the applicant, Daphne Diomedes, with a date of 6 December, 2013. Do you see that?---Yes.

That's the form you completed, was it not, when you attended the Tasmanian Land Transport Safety Office to secure this licence. Isn't that right?---Yes.

20

That's your handwriting that appears in the section Applicant Details, is it not?---I think so, yeah.

Well, having a look at it now, you recognise that as your writing, do you not?---It's similar, yes.

Right. Well, you're not suggesting, are you, you told somebody to complete that form in the registry, are you?---I don't remember.

30

And you can see on the first page that – I withdraw that. At the top in the top left corner you can see that it's, although it's slightly cut off, it appears to be the words, Application Type. Do you see that box on the top left-hand side?---Yes.

And you can see that a box has been ticked, namely Interstate Overseas Transfer. Do you see that?---Yes.

And that's because you indicated when you attended the registry and completed this form that you were formerly licensed in Slovenia, isn't that right, and you were applying for a Tasmanian licence?---I don't remember.

40

Well, you do remember, don't you, that you attended with what you described yesterday as a European passport. Isn't that right?---Yes.

And that was a passport that you say Mr Petroulias managed to secure from overseas.---Yes.

Isn't that right?---Yes.

And he gave that to you. Isn't that right?---Well, he had it, yes.

Well, he gave it to you, didn't he?---He gave it to me when I went to the desk to do this, yes.

Yes. Well, you knew that when you were going down there that you were proposing to secure a licence in that name, isn't that right?---I don't remember. I don't remember if, if I went down for the purpose to doing that or whether it was just a trip and this was the excuse for the trip. I actually don't remember.

10

When you say the excuse for the trip, you mean the reason for the trip?
---Yes.

You certainly knew that Mr Petroulias had this European passport because I think you described it to me yesterday as it's not easy to get, sorry, that they're easy to get.---Did I? I don't remember saying that but - - -

20

Well, you certainly knew before you decided to go to Tasmania that you were doing it with the specific purpose to secure this licence, isn't that right?---I don't remember.

Yes. Well, thinking about it now, were you there for a holiday, were you, and you just dropped into the motor registry to get a licence, Ms Bakis?---I, I don't remember if, if Mr Petroulias was going to Tasmania and I was, I may have said to him, "I've never been down there, I'd love to see it," and he may have said, "Why don't you come along?" and I went. I, I actually don't remember.

30

At all?---I don't, no.

No. You certainly remember going to the registry, though, and applying for this licence, don't you?---I do remember.

And you knew you had to complete a form, isn't that right?---Well, I didn't know, well I must have known.

40

Yes. And you know as well that you had to provide some identification, isn't that so, to enable you to secure a licence in the name of Daphne Diomedes, isn't that right?---I, did I know?

Yes.---I don't remember if I knew that.

Well, you're not just going to turn up and say, "I'm Daphne Diomedes," and they're going to present you with a licence, are they, Ms Bakis?---Well, it's Tasmania, I don't know.

Well, you do because you did it, isn't that right?---I went to the registry and got a licence, yes.

With a fake passport, isn't that right?---Yes.

And you presented that passport to the officer at the motor registry, did you not?

MS NOLAN: I object. We've been over this ground. I mean, these, these facts have all been established.

10 MR CHEN: Well, she seems resistant at the moment to accept this proposition.

MS NOLAN: No. Well, these facts have all been established and my friend is the seeker of the truth, not cross-examining over and over about issues that have been established.

THE COMMISSIONER: I propose, I'll allow the evidence on this subject to continue and we'll review it as to how far it goes if necessary.

20 MR CHEN: But you also produced, did you not, Ms Bakis, some other identification as well in addition to the fake European passport. Isn't that right?---I don't remember that.

And, well, just if you would have a look, please, at the next page, and you'll see that in the top it talks about "Applicant currently holds a driver's licence issued in another country, state or territory. Please state." Do you see that? ---Yes.

30 And you told them, didn't you, that you had a licence in Slovenia. Isn't that so?---It looks like it.

And you gave them a licence number, didn't you?---That's not my writing, but yes.

I'm not asking you that. The answer to that is yes, is it?---I, yeah, I may have given them a number, yes.

40 And it's the case, isn't it, Ms Bakis, that you also had a Slovenian driver's licence in your possession. Isn't that so?---I don't actually remember that.

And if you look down in the box on that page, Ms Bakis, you'll see that you presented an overseas passport, can I suggest, namely a Slovenian one. ---Okay.

Do you agree with that?---I think I've said that five times now, haven't I?

And if you look over to the right, you'll see that some other boxes have been marked as well, indicating that somehow you presented a Medicare card. Do you see that?---Yes.

And you presented, didn't you, a Medicare card in the name of Daphne Diomedes?---I don't know that that box is marked and I don't remember that card, but, I don't remember that.

10 Would you look down a little bit further, please, Ms Bakis, and you'll see that it's asking for some financial information, and there seems to be a mark, admittedly this one is outside of the box, a financial institute statement. Did you present a statement at that time, Ms Bakis?---No.

Have you ever seen a Daphne Diomedes Medicare card, Ms Bakis?
---No.

Don't know anything of one. Is that the position?---No.

20 Sorry, you're agreeing with me or disagreeing with me?---I don't know about a Medicare card.

Commissioner, I tender that driver licence application.

THE COMMISSIONER: Yes. Thank you. The driver's licence 6 December, 2013 be admitted, be marked Exhibit 99.

**#EXH-099 – TASMANIA DRIVER LICENCE APPLICATION IN
THE NAME OF DAPHNE REGINA DIOMEDES**

30

MR CHEN: And Ms Bakis, if you just go back to the front page of Exhibit 99, that's the name that you completed down the bottom, Daphne Diomedes. It'll just come up in a moment. And that's a signature that you appended to that document. Isn't that right?---I don't remember doing that, but yes, perhaps that's me.

40 Now, it also required you, did it not, to participate in having your photograph taken to apply to the licence. Isn't that so?---Yes.

So just have a look at this if you would, Ms Bakis. I'm sorry, can you see it on the screen now?---I can.

And that is you in the picture no doubt, is it?---It looks like me.

And that's the licence that was issued to you following this application. Isn't that so?---Presumably, yes.

And again it required you to sign a section of a form with your signature, or apparently the signature of Daphne Regina Diomedes. Isn't that right?
---Yes.

I tender that, Commissioner.

THE COMMISSIONER: Yes. The driver's licence in the name of Daphne Regina Diomedes, February, will be admitted, become Exhibit 100.

10

#EXH-100 – TASMANIA DRIVER LICENCE IN THE NAME OF DAPHNE REGINA DIOMEDES

MR CHEN: Now, is this the position, Ms Bakis, that after this licence issued to you, whether it was on the spot or in the mail, you handed it over to Mr Petroulias and know nothing further of it thereafter. Is that your evidence?---Ah, yeah.

20 And aside from potentially coming across information revealing the name of Daphne Diomedes, perhaps recently, you know nothing more of what happened to that licence or the identity, is that the position?---That's right.

[REDACTED]

[REDACTED]

[REDACTED]

Well, this licence was taken out when? I can't see the date. Can - - -?---It's '13.

MR CHEN: December '13, Commissioner.

THE COMMISSIONER: That's right. December '13. Of?

MR CHEN: Sorry, December 2013.

THE COMMISSIONER: Which year?

MR CHEN: 2013.

10 THE COMMISSIONER: Oh, 2013.

[REDACTED]

All right.

10 MR CHEN: Commissioner, could I simply restate for the record that the evidence in connection with the handing of the licence to Mr Petroulias is suppressed?

THE COMMISSIONER: Well, it is at present. I will be revisiting that ruling towards the end of today's proceedings.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] That evidence is suppressed under section 112 of the Act.

40 **SUPPRESSION ORDER UNDER SECTION 112 OF THE ICAC ACT
RELATING TO EARLIER EVIDENCE**

MR CHEN: Ms Bakis, but anyway you took it in your own hands to go and get this driver's licence, isn't that right?---No.

Well, you went down to Tasmania to get it, didn't you? That's clear.---I didn't, I didn't, say that.

Ms Bakis, I'm putting a proposition to you. I'm not suggesting you did or you didn't say it. Would you answer my question?---The answer to your question is no.

Well, Ms Bakis, as I understood, part of what you were saying yesterday is you thought that securing this driver's licence would aid you in providing you with some protection from any perceived threats that you might have had, isn't that right?---Yes.

10

And how is it that just changing your name but not where you live, where you work, would actually achieve that?---You might recall, Mr Chen, that I said yesterday that as soon as I got back home I realised I'd done a very stupid thing and - - -

So you – I'm sorry, you keep going.---And I didn't want to know anything about it.

20

So you accept, do you, that changing or securing a driver's licence in a false name would not have any effect in protecting you from these perceived threats that you have?---No, that's not what I said. I said - - -

I appreciate that's not what you said, Ms Bakis. I'm putting the effect of what your evidence is to you.

MS NOLAN: Well, I object.

THE WITNESS: Sorry - - -

30

MS NOLAN: And the witness was attempting to correct the proposition that my friend was putting, and he's interrupted. May she please continue.

MR CHEN: No, I did not do that.

40

THE COMMISSIONER: I think I'll deal with it in this way and ask a question myself. I thought your evidence yesterday was that at some point soon after you received this Tasmanian licence, whether it would be through the mail or whether you had obtained it while you were in Tasmania or by some other means, but however it came into your possession that you then handed it over to Mr Petroulias, is that right?---Yes.

And I take it was that the last time that you saw it?---Yes.

Well, how getting a fake licence to Mr Petroulias would go to protect you if he maintained possession and he could use it but you couldn't or didn't? ---Okay. Okay. I'll repeat it again. As soon as I did this silly thing, I knew it was silly and I didn't want anything else, I didn't, I didn't pursue that line,

that line. I just thought that, you know, I, it was silly. It was, it was a complicated way of protecting myself, so I didn't pursue it. So - - -

Yes.---Sorry.

That's all right. You keep going.---I've finished.

10 But you say it was silly but on your evidence it was a deliberate and premeditated course of action involving yourself, dealing with important documents or instruments, namely a passport and a licence. It's more than being silly about it. You deliberately, on your own evidence, set about doing that. I'll just ask why, again, what was the real reason for you obtaining it and doing those things to get it? It's more than silly is what I'm putting. On the face of it anyway it might be said to be involving very serious illegal conduct. How can you explain why you would do or undertake such conduct and just simply characterise it as silly?---Okay. I feel like nothing's been listened to so I'll start again.

20 Well, I'm providing you with another opportunity to fully explain yourself if there's anything else - - -?---Well, I, I, I feel like - - -

- - - you can, if you can't - - -?---I feel like you're trying to trap me. I've already answered these questions so - - -

All right. Well, there's nothing else you want to add by way of explanation?---I didn't say, I didn't say that it wasn't dishonest or illegal, I never said that, all I said was it was silly on my part.

30 All right. But there's nothing else you want to add to explain your conduct? ---No.

All right.---I've explained it. It, it, it is very uncharacteristic and I shouldn't have done it.

Okay.

40 MR CHEN: Now, Ms Bakis, I think you accepted yesterday that you, at least until late 2015, owned and drove a Mercedes car. Is that right? ---The ML300, yeah, I don't know when I got rid of it, but yes, I did, but I don't remember when I got rid of it.

Well, the evidence seems to be, at least from Mr Green, that you got rid of it in late 2015, certainly after these Gows and Sunshine transactions occurred, if that assists you in terms of timing.---Well, yeah, I would have transferred it to that company that purchased it perhaps around that time. I don't remember.

And you acquired that vehicle, did you not, in around 2012?---December '12.

And that was your car to drive - - -?---Yeah.

- - - I take it?---Yes.

And you did drive it, didn't you?---Yes.

10 Now, Ms Bakis, you from time to time have had infringement notices, haven't you?---Um, ah, they're often not mine. Well, sorry, the car gets them, yes, but often I'm not the one who's been driving. Okay. Yes, the car, yes, I have received infringement notices in my name in relation to that car, yes.

Right.---I wasn't the sole driver of that car.

I'm not asking you about the car, Ms Bakis, I'm just - - -?---Okay.

20 You've given a long answer. I've just asked you about whether you have had infringement notices.---Generally in any, at any point in my life, yes.

And you've also had them in relation to periods of time when you owned this car. Isn't that right?---Oh, probably.

And you in fact had one, didn't you, in October of 2014, a speeding ticket which occurred in or around Parramatta Road, Haberfield, or Sloane Street. Does that accord with your recollection, Ms Bakis?---I have absolutely no idea. That could be right. It sounds like the sort of place I drive through
30 regularly.

And you received a penalty notice, can I suggest, shortly after that time for the driving offence, which was exceeding the speed limit of less than 10 kilometres an hour. Does that accord with your recollection, Ms Bakis?
---I don't know if it was me or Mr Petroulias.

Right. But you say it was only either him or you. Is that right?---Ah, it was one of us, yeah.

40 You certainly remember, do you, getting an infringement notice around that time, Ms Bakis?---I said I don't remember.

In any event, I think you said on Monday that you have resided in the address at Burwood that I took you to since at least 2005. Is that right?
---Yes.

And that's the address on your driver's licence, well, your official New South Wales driver's licence. Is that right?---Yes.

And would you just have a look, please, at volume 60, page 4. Perhaps I'll tender that folder or electronically I'll tender it if I can, Commissioner. Just have a look at that penalty notice, Ms Bakis, and you can see some of the details there that show where that offence was. You see that?---Yeah. I did have another car at this time and Mr Petroulias drove this car most of the time, so I'm guessing this is his. Most of these are his.

10 When you say "most of these" what are you talking about?---He used to drive the car more than I did.

What was the other car you drove?---A Nissan Pulsar I think.

And was that registered in your name?---Yes. I'm sure I still had it at this point.

And do you know when it was that you acquired that Nissan Pulsar?---1999.

20 All right. And what was the registration number of the car?---V-V-R-

Do you remember getting the infringement notice that I've shown you on the screen, Ms Bakis?---No.

You would say, do you, that that's not you then, that offence? That's Mr Petroulias, is it?---Yeah. If I saw anything like this, I usually handed it straight to him and said, "This is another one of yours."

30 You wouldn't read it and look at it to determine whether it was you at all?
---I might scan it.

So you'd open it, look at it, but you'd hand it over to him, would you?
---Yeah. Because nine times out of 10 it would be him.

Well, if you have a look, please, at volume 60, page 1, you'll see that in fact this infringement notice somehow manages to become an infringement notice for a person called Daphne Regina Diomedes, do you see that?---I do.

40 And that's the same name that's on your Tasmanian driver's licence, isn't that right?---That's right.

And are you able to explain how it is that that name has now appeared on the penalty notice that was originally issued in your name?---I have no idea. I don't even know how to do that.

Well, you would know, wouldn't you, that when there is an offence detected by camera that you are entitled to state or identify who the driver of a car is.---Yes.

Well, you would know that, surely. You don't need to hesitate about it. It's obvious, isn't it?---It's not something I've done.

Well, you've received penalty notices yourself, I think you've accepted, over your lifetime, haven't you, Ms Bakis?---Yes.

And some of them have been, I take it, infringement notices where a camera has detected the offence?---Yes.

10 And you get a penalty notice to work out whether you were driving or somebody else was driving, isn't that right?---Yes.

And you're familiar with that process, surely.---Yes.

So you would accept that somehow this particular speeding infringement notice has somehow managed to enter into the name of Daphne Regina Diomedes?---Yeah.

20 And did this identity that you created in Tasmania, did she also have an address in Rose Bay, New South Wales?---I've got no idea about this. I, I, this is the first I've seen this.

But on the face of it, it's just false, isn't it?---Well, it would be, yes.

But you know nothing of it, is that the position?---That is my position.

Did you have any involvement in paying this infringement notice, Ms Bakis, at all?---I don't know. '14, I might have. I don't know.

30 What would be the position then, if - - -?---I don't know is the position.

You'd accept, though, that to nominate Daphne Regina Diomedes at Rose Bay for an offence in your car would be quite wrong, wouldn't it, Ms Bakis?---Yep.

It would be - - -?---It's another silly thing, yes.

40 Well, it's a bit more than being silly. It'd be an offence, wouldn't it, Ms Bakis?---Yes, it would be, yeah.

And a serious matter, would it not?---Yes.

And you wouldn't have anything to do with it, I take it?---No.

Well, just have a look if you would please, at page 5. Just have a look at page 9, I apologise. Hopefully this works. You can see an email here, Ms Bakis, that is sent to daphne.diomedes@accountant.com. Do you see that?---I do.

And obviously that seems, does it not, to be just a fake address or email address?---Yes.

And you can see that in fact you've made contact with them, do you see that?---Have I?

Well, it says, "Hi Despina".---All right.

10 So, you spoke, didn't you, to the Office of State Revenue about this very fine, didn't you, Ms Bakis?---I did not.

You're certain of that, are you?---I'm pretty certain.

All right.---Very certain.

Well, Ms Bakis, can I just show you, please, page 11 and you can see here that this is a statutory declaration apparently made by you. Do you see that?---I do.

20

Now, you can see first up in the first section it identifies you in typed script, can you not?---Yes.

On the first three lines?---Yes.

And you can see the handwriting there of, "Diomedes, Daphne of [REDACTED] Sandy Bay." Do you see that?---I do.

30 Is that your handwriting, Ms Bakis?---No.

Not at all?---No.

Are you sure of that?---A hundred per cent.

Whose handwriting is that?---It looks like Mr Petroulias'.

All right. And you're certain, though it's not yours, are you?---A hundred per cent.

40 And you can see it's the address that was on the Tasmanian licence, though, can't you?---Yes.

And if you go a bit further down you can see that somebody has made a statutory declaration. Do you see in the box?---I do.

And it has a signature of the declarant. Do you see that?---Yes.

Is that your signature?---No.

You can see as well, Ms Bakis, I take it, by looking to the next line that apparently it's been witnessed by a legal practitioner, Rosita Luk. Do you see that?---I do.

And that's the person you mentioned is evidence yesterday, isn't that right?
---That's right.

10 And she was a former partner of – business partner, that is – of yours in your legal practice, isn't that so?---Yes.

And do you recognise her signature down the bottom?---Oh, I really don't know what her signature is.

Is any of that your handwriting in that box, Ms Bakis?---No.

But what you say in any event is, well, that's just a false declaration?---Well, I don't know Rosita signed that. I don't know her signature.

Well, we can certainly say this much, that Daphne Diomedes of [REDACTED] Sandy Bay wasn't driving the car, can't we?---No, that's right.

Yes. And so, if Daphne Diomedes of Sandy Bay, Tasmania is a fiction, the whole thing is a fiction, isn't that right?---That's right.

There's no other explanation, is there?---That's right.

It's a false statutory declaration.---That's right.

30 And you know nothing of it?---I know nothing of that.

Know nothing of the transfer of this offence from your name into her name, is that right?---That's right.

Haven't spoken to the Office of State Revenue at all, I take it, to discuss this?---I never call them.

40 Well, Ms Bakis, have a look at, if you would, the next page, page 7. And do you see you received, can I suggest – sorry. Just bear with us a moment, Ms Bakis. You can see there there's a letter addressed to you on 14 November, 2014 regarding the statutory declaration.--- Yes.

MS NOLAN: I object. I mean, of course she's going to receive this because she's the relevant registered owner of the vehicle which attracted the penalty, and just logically it would be sent to her with respect to a statutory declaration. Nothing can be inferred from this. This is an unfair line of questioning.

THE COMMISSIONER: What do you say?

MR CHEN: Well, Commissioner, the sequence that I've taken the witness through shows other steps around it. I haven't put as a proposition the statutory declaration is, as I'm putting now, a separate proposition as to what else might flow from other material.

10 THE COMMISSIONER: Yes, Ms Nolan. I think it's been established that there is some falsity about this licence and I think counsel is entitled to take it towards the end point as to what happened. The question is legitimate. I'll allow it.

MR CHEN: So, Ms Bakis, this is what you received, isn't it, from the Office of State Revenue in relation to that very infringement notice, isn't that right?---Well, it looks like it was sent to me but I don't remember seeing this.

20 And of course it makes it clear, does it not, that a statutory declaration had been prepared in relation to an offence that had been detected on a vehicle registered in your name.

MS NOLAN: I object. The same objection but a different one. Of course she is, she's handed it to the person whom she thought was responsible, is her evidence, and the natural course is that a statutory declaration will follow. Nothing can be inferred from this. This line of questioning is unfair.

THE COMMISSIONER: What do you say?

30 THE WITNESS: Can I, can I explain something?

THE COMMISSIONER: Just a moment.

MR CHEN: I'm just simply putting a proposition that she's received it and she's received a traffic infringement notice, and I have not explored yet what has happened or what consequences flowed from that.

40 MS NOLAN: Commissioner, it's just inflammatory because this is the natural course of events. When a person is not driving a vehicle and they hand it to someone else, then it is intended that it is going to be transferred into the person said to be responsible for the ticket.

THE COMMISSIONER: That's right. That's the process, yes.

MS NOLAN: That's the process so nothing can be inferred from this. And my friend's line of questioning, because of the falsity that the Commission has recognised properly, and I'm not cavilling with that, what I'm cavilling with is nothing can be inferred from this. It's inflammatory and it's unfair.

THE COMMISSIONER: Yes, but this process is not a normal one.

MS NOLAN: This process is normal. It's entirely normal.

THE COMMISSIONER: Just let me finish talking. This process is the normal one. That is to say - - -

MS NOLAN: Pardon me. I misheard you.

10

THE COMMISSIONER: - - - that ownership of the car to - - -

MS NOLAN: No, I misheard you, sorry.

20

THE COMMISSIONER: No, please, I'm trying to explain the way I see it. The process is the normal one whereby the Office of State Revenue charges, in effect, the person who owns the vehicle with the fine, but there's the provision allowed for that person to provide information to demonstrate that he or she was not the driver. In this case she's been taken to a statutory declaration which is dealing with this matter. She hasn't accepted that the signature on it was hers, although that may come to be shown to have been the case. It's open at least to conclude that it was her signature. That's not an emphatic, ultimate determination. And if you therefore trace this matter as against the normal process, starting with a false name and address, and let it got through to a statutory declaration, which we've seen, what's unfair about that? We're dealing with, in other words, a very atypical application of the process involving falsehood.

30

MS NOLAN: No. What can be gleaned from what you've said to me is that it ought have raised alarm bells. Now, that's - - -

THE COMMISSIONER: I don't think I used that phrase.

MS NOLAN: No. No, no. What can be gleaned and what I glean from it, it ought to have raised alarm bells, right? Now, it's not clear whether or not this letter relates to the relevant one. My friend has not linked the two. There is a number there. I don't have a record of it. I can't say for certain that it is the appropriate one.

40

THE COMMISSIONER: Well, we can readily check that.

MS NOLAN: That can be checked. But what needs to be put to this witness is, you received this, this should have raised alarm bells on your evidence.

MR CHEN: Well, if you'd stop objecting I will. I mean that's the - - -

MS NOLAN: No, get to the point rather than these inflammatory questions from which nothing can be inferred.

THE COMMISSIONER: Well, I think he's got to take it through the steps, you can't just jump to the end and put the proposition without laying the basis for it.

MS NOLAN: Well, then - - -

10 THE COMMISSIONER: I'm going to allow this. Ms Bakis, we've gone through the various steps and reached the point here where she's initially charged with the liability to pay the fine, this document discharges that liability if it ever was there, it says you need take no further action. Whether or not the fine actually got paid I'm not clear in my own mind about but I want it followed right through so that I fully understand the story, and if it was paid, who was it paid by, et cetera. Anyway, yes, you continue.

MR CHEN: You see, Ms Bakis, can I suggest that you received this letter.
20 ---I didn't receive the letter.

Right. Well, I'm suggesting you did receive it.---Well - - -

And what it said, Ms Bakis, clearly is that a statutory declaration from you had been received. Isn't that right, Ms Bakis?---That's what the letter says, yes.

And can I suggest to you, Ms Bakis, that not only did you receive it, you recognised fully that somebody else had sworn a statutory declaration in
30 your name and submitted it to the Office of State Revenue.---That's completely false.

So you did have a long opportunity, Ms Bakis, during the course of these objections to have a think about this. Is your position now that you deny emphatically receiving this letter. Is that your evidence?---Look, it was probably sent to my home address. At this point I was working outside of home most of the time and I'm pretty sure any mail that came from the Office of State Revenue was opened by Mr Petroulias because it invariably was something relating to him because he was always speeding. So my
40 point is, sure, the letter got posted to me at home but I don't ever remember seeing this letter.

Now, Ms Bakis, would you have a look, please, at volume 60, page 15, and you'll see there is another traffic infringement notice issued to you. Do you see that?---Yes.

Do you remember receiving this traffic infringement notice, Ms Bakis?
---I don't know.

Well, do you remember receiving an infringement notice for an offence which occurred on 31 March, 2015?---I don't remember this because I don't normally drive down there.

When you say down there, what do you mean, in Strathfield?---Centenary Drive, Strathfield. I don't, it's unusual for me to be down in that part of the world.

10 Well, it's only a couple of suburbs away from where you live, isn't it?---It's five minutes away.

You're not denying that this is your infringement notice, are you, Ms Bakis?
---No. I'm sure it was sent to me.

And there's no doubt you received it, is there?---I don't remember seeing this but that doesn't mean it wasn't sent.

20 And, Ms Bakis, again do you know, did you pay for this infringement notice?---I don't know.

Well, at this stage as I understood it Mr Petroulias is not earning any income. That's right, isn't it?---Yes. Oh, I don't know, I often handed my card over to him so he could pay stuff. I don't know. I might have paid for it inadvertently, yeah.

Well, he had no income, isn't that right, at this time?---That's right.

30 And so - - -?---I'm not sure if he was on a pension but I think that stopped by then.

And he was living with you at this stage as well, wasn't he?---May '15 he would have been, yes.

And he was living with you in October 2014 as well, wasn't he?---Yeah.

40 Well, Ms Bakis, have a look if you would please at page 38, if you would, and you can see, Ms Bakis, that again Daphne Diomedes has somehow managed to enter into this statutory declaration, isn't that right?---Yes.

And is that your handwriting in the box with, "Diomedes, Daphne Regina," Ms Bakis?---No.

Are you sure of that?---A hundred per cent.

Whose handwriting is it?---Looks like Mr Petroulias' but I couldn't be sure.

Who else would be a possible suspect that could fill this in of a traffic infringement notice sent to you?---Who knows? I don't know.

Alleged malicious damage. Have a look, if you would, at the declaration. You'll see that again somebody has declared that Ms Diomedes is driving this car and has signed it. Do you see the signature on the first line in the box?---I do.

10 Is that your signature?---No.

Are you sure of that?---Yes.

THE COMMISSIONER: How can you be sure?---It's not my signature. It's not, I don't, I don't write with a slant like that. I don't sign it like that.

MR CHEN: And you can - - -?---Someone's tried to make it look like mine but it's not.

20 And you can see, can't you, that again apparently this statutory declaration has been witnessed by the legal practitioner, Rosita Luk. Do you see that? ---I do.

And again, are you able to say if that's her signature or not?---I don't know her signature so I couldn't tell.

Again, this is simply a false statutory declaration, isn't it?---Probably.

30 Well, there's no doubt, is there, Ms Bakis. I mean we know Daphne Diomedes of [REDACTED] at Sandy Bay is a fiction.---Yes.

So, what else could it be?---I don't know.

THE COMMISSIONER: What do you mean you don't know?---I - - -

You'd have to agree with that proposition, wouldn't you?---I, well, I do, but - - -

40 MR CHEN: And you know nothing of this, Ms Bakis, is that position? ---No, I don't. I wouldn't do this, I wouldn't do that.

THE COMMISSIONER: Do you know that, did you know that somebody else was doing it on your behalf?---No, no.

MR CHEN: You see, it would be wrong to know about such a thing and not act on it, would you agree, Ms Bakis?---Oh, yeah. If you saw that, you'd go to the police for sure.

Well - - -

THE COMMISSIONER: Do you understand what counsel was then referring to?---No idea. I - - -

Just perhaps have the question - - -?---I don't know which one of these misdemeanours he's referring to.

So there's no misunderstanding.

10 MR CHEN: Well, I'll put it - - -

THE COMMISSIONER: If you saw such a thing, you'd just better make - - -

MR CHEN: If you were aware that somebody was preparing a statutory declaration apparently in your name, you would bring that to the attention of the authorities, surely, wouldn't you?---Yes, I would.

20 Yes. Because it's plainly serious and dishonest conduct, isn't that right?
---It's dishonest, yes.

It's serious, isn't it? Because it's involving a fake person taking the blame, as it were, for a traffic offence.---Yes.

30 Well, there's no doubt about it, is there, Ms Bakis, in your mind? That is - - -
-?---When you ask me whether things are serious, I'm not sure whether you're asking me whether, whether that's a definition in the Crimes Act and I, and I just don't know if that's defined as serious and I don't know if - but yes, serious, yes it is serious if you're using everyday language, yes.

THE COMMISSIONER: Just so that I can understand this. The last document, could we have that back on the screen, 60, 38.---I did say it was serious, Commissioner. I'm not suggesting it's not. Just so we don't repeat ourselves.

Can you scroll down a bit. You say Rosita Luk, she worked with you, did she - - -?---She - - -

40 - - - in your legal practice or your accounting practice or tax office?---No.
Legal practice. She, she and I set up Knightsbridge North Lawyers together in 2011, 2011 I think.

Right.---So I do know Rosita.

So she was working for you at this time, this is May 2015?---No, no.

She was not?---We stopped working together early 2012.

Okay. And so her name's on the statutory declaration as the declarant.
---Yes.

And you say, and as to the signature on the document, do you recognise that?---That is not my – her signature?

Yes.---That, I don't, I don't - - -

10 Does it appear to be her signature?---I don't, I can't recall what her signature looks like.

Well - - -?---Off the top of my head it doesn't look like hers but I couldn't be sure.

This particular declaration, if it wasn't her making it, the only other alternative is it's somebody has, without her knowledge, put her up as the person - - -?---Yes.

20 - - - who was in a position to make this declaration and that she swore it on 3 May.---Yes.

You're not able to say which is the most likely situation, that she actually did fill this out and sign it, or she at least signed it - - -?---I would be - - -

- - - or alternatively somebody has faked it and put it in, dobbing her in, as it were?---I would be surprised if she had signed this.

Right.---She's, she's quite - - -

30 Why do you say that?--- - - - vigilant about this sort of thing, if I can say.

Well, if that's right, and I'm not challenging you on that at this stage, then the other alternative comes up, somebody without her knowledge has used her name and put her forward as the person who was responsible.---Well, that can be the only other answer, yes.

Did you ever have a discussion with Mr Petroulias about using her name?
---Never, never.

40 And did he ever tell you that he was going to do that?---Never. I would never have allowed him to do that.

It just seems this is a rather unusual situation where a false name, Diomedes, Daphne Diomedes et cetera, which we know to be a false name, false person, in the same transaction as it were, we've got another person who, a person who actually is Rosita Luk, but on one view of it she had no knowledge whatsoever about any of these matters which would enable her to make a statutory declaration. That's right, isn't it?---That's right.

Have you any other explanation as to how that stat dec could have come into existence?---(No Audible Reply)

Was there somebody else involved or - - -?---It must have been Mr Petroulias, that's the only thing I can think of, but that's not my signature. I, I wouldn't do this. I, I wouldn't put Rosita into this sort of situation. I wouldn't do that.

10 Okay. Yes.---It's not my signature, I'll say it again.

No, yes, I heard you say that.---That's not my handwriting. I just - - -

Did you know whether Mr Petroulias ever engaged in this sort of conduct before?---No, no. All I know is there were a lot of, a lot of speeding tickets, I used to give them to him and he'd sort them out because he just liked to speed.

Okay.

20

MR CHEN: Well, surely you'd have a look to see whether it's you or him before you just hand them over?---He'd hand them back the other way if they were mine.

Right. I see. And these were all infringement notices that were sent to this address in Burwood. Isn't that right?---That's right.

30 And is that where his New South Wales driver's licence address was as well, Ms Bakis, is it?---I don't know if he had a New South Wales driver's licence.

So the only infringement notices that were coming to the address in Burwood were your own, or at least relating to vehicles that were registered in your name.---Correct.

Anyway, you say, do you, Ms Bakis, that you know nothing of this statutory declaration or indeed the infringement notice itself? Is that the position?

40 ---Look, I may have seen the original infringement notice. I'm not denying that. I may have seen them. But if I did see them before Mr Petroulias got to the mailbox, I usually just flipped them his way. I, I - - -

Without opening, you mean? Is that - really?---Yeah, without, often, yeah, often, yeah. I still do that. What's the point of wasting 30 seconds opening an envelope when you know it's not yours?

Well, it's got your name on it. That's not a bad starting point, Ms Bakis, is it?---No, no, if it came from OSR it was always, wasn't it, it's always a penalty notice. It's never good news.

Well, you see, you spoke to the Office of State Revenue or made contact with them, didn't you, about this matter?---Did I?

I'm asking you.---I don't believe I did.

And because wasn't it the case that an issue was raised about the statutory declaration needed to be accurate and complete? Isn't that right?---I honestly don't remember this.

10

And they in fact sent a copy of the statutory declaration back to you for you to address, isn't that right?---I don't remember this at all.

Just have a look at this letter, if you would, please, Ms Bakis. So it's volume 60, page 24. See, that's a letter which you can see, Ms Bakis, is dated 13 May, 2015 and is addressed to you at your address?---Yes. Yes.

And you can see, Ms Bakis, that it's referring to the contact you made regarding that penalty notice.

20

MS NOLAN: I object. I mean, it refers to the statutory declaration not being complete. I mean, the contact must necessarily be inferred to be the statutory declaration having been sent. Nothing comes from this. It's inflammatory and unfair.

THE COMMISSIONER: Ms Nolan, it's neither of those things. Yes, I'll allow it.

30 MR CHEN: Could you answer that, Ms Bakis?---Well, I never contacted the OSR. That would be a waste of time.

Why would it be a waste of time?---Have you ever tried to call them? I, I honestly do not remember contacting the OSR about this matter.

Well, you're not denying it, though, are you?---I am denying it.

You are, are you?---Well, I wouldn't do this.

40 So somebody else on the face of this letter has made the contact, is that what you're suggesting?---"I am writing to you about your contact with us." Well, presumably the contact was sending the original fraudulent statutory declaration, I imagine. That doesn't mean someone's had to call them or meet them.

And you deny, do you, receiving this letter back, do you?---Well, I don't remember seeing this at all.

Well, Ms Bakis, it's plain, isn't it, that this letter is indicating that in relation to an offence that is directed to you it's been the subject of a statutory declaration, isn't that right?---Yes.

And what you say is, well, you didn't complete one.---That's right.

10 And you're unable to provide any other explanation as to where this letter's gone or what was done with it? Is that the position, Ms Bakis?---Look, I have a redirection from his address to a PO box, and at this point in time Mr Petroulias would have been getting all the mail. Some of his mail went to that PO box. Now, if he picked up mail for me that I never saw, that wouldn't surprise me.

What's the post office box?---PO [REDACTED] Enfield, 2136. I'm pretty sure at this time I had a redirection on. But even if I didn't, he would have, he would have been home during the day to pick up the mail anyway.

20 What, so he just opens all your mail, does he, and pays all the fines, does he?---Oh, well OSR stuff, yes. We had an understanding about that.

And how's he paying for it, Ms Bakis?---I have no idea.

Well, we know he's not working. Is it on your credit cards or somebody else's?---He's potentially using my cards, yeah.

Well, Ms Bakis, do you remember as well being the subject of a further traffic infringement notice in October of 2015 involving a red light camera in Neutral Bay?---I don't but - - -

30 Well, you know where Neutral Bay is, don't you?---Vaguely. Yes, I do.

And can I suggest to you that you were still the registered owner of the Mercedes vehicle, C-J-D-[REDACTED] - -?---October - - -

- - - at that stage?---October, '15?

Yes.---I assume I was, yes.

40 And you were driving, weren't you, when your car was photographed going through a red light, can I suggest?---Oh, maybe.

And you were sent, can I suggest, a traffic infringement notice for that as well, Ms Bakis, weren't you?---I suggest, well, I'm sure that's where you're going, so I assume there is one.

Well, I'm putting to you, you received one?---I don't remember, Mr Chen. I, I, honestly, there have been that many of them, I don't remember them all.

Well, as I understood your evidence, you don't open any of them. Mr Petroulias does it all.---Exactly. So, why are you asking me again?

Well, I need to, Ms Bakis. So - - -?---Okay. So, I don't remember this one in Neutral Bay.

You're not denying it, you just don't remember it, is that your position?---I, I don't remember, I don't remember this one, no.

10 Well, just have a look if you would, at the statutory declaration, Ms Bakis, in relation to this offence. It's volume 60, page 42. You can see again, it's directed to you?---Yes.

And you can see that somebody has completed Daphne Diomedes' details in the second box?---Yes.

Is that your handwriting, Ms Bakis?---No, no.

20 Are you sure of that?---Absolutely.

Whose handwriting is it?---It's the same handwriting as before, it looks like Mr Petroulias'.

THE COMMISSIONER: No, but whose writing is it?---I just said it looks like Mr Petroulias'.

30 MR CHEN: And you can see that at the bottom that apparently you are swearing this statutory declaration identifying Daphne Diomedes as the driver. Do you see that?---Yes, I do.

Do you see the signature in the box, Ms Bakis?---Yeah.

Is that your signature?---No, it's a bad attempt at my signature.

Are you saying it's not your signature?---No, it's not my signature.

Is the handwriting or any of the handwriting in that box yours?---No.

40 And do you recognise the signature as Rosita Luk's signature or you don't know?---Well, it looks different to the one I saw before, so I would suggest it's not.

Now, Ms Bakis, do you have a, or are you – I'll withdraw that. Do you have a disability parking sticker on your car?---No.

Have you ever had one on your car or any of your cars?---I have. Sometimes Mr Petroulias gives them to me.

What do you mean by that?---He, he comes across these disability parking stickers and says, "Here, use this."

And you use them, do you?---Occasionally.

Well, you're not entitled to a disabled parking sticker, are you?---No.

10 And where is Mr Petroulias sourcing these – just so we're clear, these are these stickers that people with genuine disabilities are entitled to apply for, affix to the windscreen of their car and park in designated areas for them, is that right?---Yes.

And he has procured them somehow and given them to you, is that right?
---I'm not sure where he gets them.

Well, in any event he's provided them to you, is that right?---Yeah, once or twice, yeah.

20 And you've used them, haven't you?---I, I have used it once or twice, yeah.

Even though you have no entitlement to use one?---That's right.

And these are described, are they, as something like Australian mobility parking stickers or something to that effect?---I believe so.

And you can attach them to your windscreen of your car, can't you?---Yes.

And that's what you've done?---Yes.

30 Why would you be doing that, Ms Bakis, if you're not entitled to a disability parking sticker? Why would you be using one when you have no entitlement to one?---It, I remember the one or two times I've used it, it was to get to park down at Burwood for free for a few hours. And you don't park in a disabled spot. You just park in any spot and it's just cheaper.

So these stickers that you use, they're not actually, they're actually like a card or something similar to that you affix to your window, aren't they?
---That's right.

40 And did these disabled parking stickers that you applied to your car have your name on them?---No.

What was the name on them, if any, Ms Bakis?---I don't know.

What did it say, these stickers?---I don't know. I've never looked at them.

So where else have you used it other than to try and get some cheap parking at Burwood, Ms Bakis?---I don't know.

Well, how has the conversation come about, Ms Bakis, that somehow Mr Petroulias has managed to provide to you a disabled sticker for use on your car? How has that come about?---I had a conversation with him years ago where he came across someone who had two of them, and they gave him one of them because he was driving around for a while or something like that, and I think he probably kept it.

10 Now, what about how did it come – we'll come back to that in a moment, Ms Bakis – but how did it come that you became the recipient of this disabled parking sticker that you weren't entitled to?---He just gave it to me.

He just put it in your hand one day without any conversation, is that how it happened? Or is there something more than that?---Okay. It was probably like this. “See you. I'm going, I'm going to the city for a few hours. Bye.” And he, and he'd say, “Oh, here, why don't you take this sticker and don't pay for parking.”

20 Right.---And I knew he had it because - - -

You did know? What - - -?---I just, I just said that because he, he'd been with someone for a while who had it – this is my recollection – and he'd kept it.

Who is that person?---I don't know.

30 Well, when did this conversation happen that this person had a spare disabled parking sticker that he thought he'd give to Mr Petroulias?---I really don't know.

Well, is it last year, the year before? What's the position?---I have no idea.

How many times have you used it, Ms Bakis?---Seriously, two or three times at, at most.

Well, it's the wrong thing to do, obviously, isn't it, Ms Bakis?---Well, yes, it's legally wrong.

40 See, you were actually given a fine, weren't you, for parking in a disabled person's parking space without authority last year, isn't that right? ---Possibly.

And you were parking in a Burwood Council car park when you received that ticket. Isn't that right?---Right.

Are you agreeing with me?---Well, I'm letting you talk so I can just try and remember where the car park was.

What about Wynne Avenue Car Park?---Wynne Avenue. Yeah, okay, yeah.

You remember getting that fine, don't you?---Yes.

And you were using one of these disabled parking stickers and you were in fact parking in a disabled spot, weren't you, Ms Bakis?---I don't recall that but I may have, I may have been in a hurry, yeah.

10 THE COMMISSIONER: I thought you said earlier you did remember receiving a fine, was that your evidence?---Which fine, which one of them?

Well, the last one you're taken to now. You said you were given a pass last year, that you parked in the Burwood car park and you queried which one. ---This one's coming back to me.

And then you said, "I remember the fine." That's my notes, but - - -?---This one's coming back to me because I think it was a parking officer that stuck a ticket on the car.

20 MR CHEN: You remember it, don't you, Ms Bakis?---I do now, yes.

All right. And you were parking in a disabled spot, weren't you?---I think I was.

Yes. And you had in your car, when you weren't entitled to it, this mobility parking scheme sticker attached to it. Isn't that so?---Well, it wouldn't have been if I got booked.

30 Let me decide whether the zone is a disabled spot. There's no doubt in your mind this was you who parked the car. Isn't that right, Ms Bakis?

MS NOLAN: Well, I have to object, because the witness has said she accepts she received a fine by someone placing it on her windscreen. I mean can we take it to the fine? I mean this woman lives in Burwood. You know, it's commonplace that people are regularly fined and we need to pinpoint it, we need to take her to the fine, for it to be fair. You can't, I mean, I've received hundreds of fines. I can't tell you on what day I've received them and when. I mean, it's not a memory test, take her to the fine, please.

40

MR CHEN: No, I - - -

THE COMMISSIONER: No, no. The question was if she remembers that she was in the car. That's a very relevant fact.

MS NOLAN: Yes, but I - - -

THE COMMISSIONER: What's wrong with that question?

MS NOLAN: Because I've parked in places before that are disabled many times.

THE COMMISSIONER: No, but we're not investigating your - - -

MS NOLAN: No, I know that, but the thing is, just take her to the fine. Accidentally, whatever, was it a day that you did it on purpose, did you – just take her to the fine.

10

MR CHEN: I'm not asking those questions and my learned friend should make proper objections and not interrupt.

THE COMMISSIONER: I think that - - -

MS NOLAN: Well, no, it is a proper objection. I'm asking that the question be put fairly and that you take her to the fine.

20

THE COMMISSIONER: Ms Nolan, you don't normally, counsel doesn't normally rule on their own objections as to whether they're proper objections.

MS NOLAN: No.

30

THE COMMISSIONER: The same applies here as it does in any other court. The tribunal makes the decision, rightly or wrongly, about whether the question is permissible or not. In this case, this is the first time it's been put to this witness that she was in this vehicle on this day in Wynne Avenue last year. He's entitled to put that, it's highly relevant. I allow it.

MS NOLAN: I don't have a date as to when it was put. If I've missed it, but I don't understand - - -

MR CHEN: It's in August of 2017.

THE COMMISSIONER: It's said to be last year, and that's not long ago. Yes, I allow the question.

40

MR CHEN: Well, you've heard all of that Ms Bakis, for your benefit, so what's the answer to my question?---So it was a year ago. It was likely to be me, yes.

There's no doubt, Ms Bakis, it was you. Isn't that right?---I said it was likely to be me.

Well, why do you - - -

THE COMMISSIONER: Why do you qualify it? It's only last year.---Well
- - -

You don't get a parking policeman coming up every day of the year and
slapping a fine on you.---Oh, you'd be surprised. I had one two weeks ago.

So we're talking about an event that's more like a one-off than a regular
thing. We're talking about one particular car park, we're talking about it
happening last year, you've accepted you got a fine.---Did I?

10

Well, I thought you did.---No.

Well, perhaps you didn't.---I don't accept that.

All right.

MR CHEN: Well, you're now not accepting that you got a fine. Is - - -

20 THE COMMISSIONER: We'll soon get to that anyway. On consideration
- - -

MR CHEN: Are you withdrawing your evidence Ms Bakis?---Did I say that
I did?

You most certainly did. So are you now trying to change your evidence. Is
that the position?---It's like a, it's just tricks, isn't it?

It's not, Ms Bakis.---Well, it is.

30 I'm going through a series of propositions that you - - -?---Well,
Mr Petroulias drove that, those cars a lot as well so I could say yes when in
fact it was an occasion when he was driving so I can't categorically say a
hundred per cent. Maybe I am revising my answer because I've got to be
careful here.

You're changing your evidence, Ms Bakis, because you know, don't you,
that you were in fact the driver of this car on this day with this disabled
sticker in the window.---I really don't know.

40 MS NOLAN: Well, there's no day. It's August 2017. I don't have a date.
I object. This is not a fair question.

THE COMMISSIONER: I'll allow the question. Now, you said in
evidence in addition which does carry the admission that you were the
driver. My note is, "I was parked in a disability lot" or it was put to you and
you adopted that so you must have had a recollection of doing that. Now,
unless you've revised that evidence. That's my note of it. Does that
coincide with your junior's note?

MR CHEN: It was. I had a clear - - -

THE COMMISSIONER: That's my recollection.

MR CHEN: And I was simply moving the propositions forward inch by inch but it seems to be qualified every time we do it.---Yeah, because you're not getting to the point so - - -

10 I'm grateful, Ms Bakis, for your assistance so - - -?---Well, the more questions you ask the more times it, more time it gives me to reflect on the fact that I could be owning up to driving the car and getting a fine for a time that maybe I wasn't driving the car.

THE COMMISSIONER: Now, let's just - - -?---And I did get a lot of fines so I - - -

- - - revisit this just so I'm sure my note of your evidence is correct. We'll have the transcript anyway shortly but my understanding was you indicated
20 that you went to the Wynne Avenue car park, you confirmed that it was that car park, and that you, my note is, indicated that you parked in a disability lot whatever day it was last year. It's suggested it was in August. Do you want to change that evidence?---Okay. Yes.

All right. So - - -?---It might have been me, it might not have been me.

Your evidence now is you don't recall having parked in a disability lot last year at the Wynne Avenue car park. Is that how I should take it?---Yes.

30 MR CHEN: And who were the other possibilities, only Mr Petroulias. Is that right, Ms Bakis?---That's right.

Now, the white BMW X1 is the car that I think you said yesterday was registered in the name of Able Consulting Pty Limited?---I said I thought it was, yeah.

And that was the car that was given to you to use by Mr Petroulias?---It's one of the two cars on the street that I am permitted to use.

40 And the other car is this BMW X5 that Mr Petroulias uses but sometimes you do?---Yes.

But your evidence yesterday was it was only you two that drove them. Isn't that right?---Yes.

You see, when can I suggest this ticket was received by you, you wrote on 22 August, 2017 to the Office of State Revenue about it, didn't you?---I might have.

So when you said earlier in your evidence that you'd never made contact with them because there's essentially no point, in fact you did, can I suggest, Ms Bakis, write to them on 22 August, 2017. Isn't that right?---I might have.

Well, have a look, Ms Bakis, if you would, at volume 60, page 68 and you can see there that that's a letter from your firm Knightsbridge North Lawyers signed by you, can you not?---Yes.

10

And you can see that you're saying that you act for Able Consulting – I apologise if that's come off. Is that on the screen in front of you, Ms Bakis?---It is, yes.

So it says you act for Able Consulting Pty Limited and you identify in fact the driver as being Mr Richard John Green. How has that come about, Ms Bakis, that Mr Green has been nominated as being the driver of the car at this time?---I don't know.

20

Well, that's your signature, is it not, on this letter, Ms Bakis, isn't it?---It looks like it, yeah.

Well, there's no doubt about it, Ms Bakis, it is your signature, isn't it? ---Looks like it.

It is your signature, I'm suggesting, Ms Bakis.---You can do amazing things with Photoshop.

30

THE COMMISSIONER: Ms Bakis, this is not quite 12 months ago.

---Yeah, well - - -

This a letter on the letterhead of Knightsbridge North Lawyers and it's certainly, I've come to recognise your signature myself by now, it appears to be your signature. Why would you not believe therefore that it's a copy of the letter you in fact signed and sent?---Okay.

MR CHEN: You do accept it is, do you?---It probably is my signature.

40

Yes. And it's your signature attached to a letter that you sent?---I don't remember sending this but that doesn't mean I didn't. I wouldn't write, "Dear Sirs/Madams," that's not, that's not my writing but – I hate that word, but - - -

THE COMMISSIONER: This is not a question of your seeing it, it's a question of creating a document as the author of the document that's being put to you.---Which I - - -

You are the author?---Well - - -

It's more likely than not to be the case, isn't it?---Yes.

All right.

MR CHEN: And what is clear as well, Ms Bakis, is it not, is that it's completely false when it suggests that Richard John Green was the driver, isn't that right?

10

MS NOLAN: Well, I object. I don't remember any of this being put to Mr Green so I don't understand how Counsel Assisting - - -

THE COMMISSIONER: What's your objection?

MS NOLAN: I don't remember any of this being put to Mr Green. I don't understand how Counsel Assisting is in a position to put this to the witness.

THE COMMISSIONER: It didn't have to be, Ms Nolan.

20

MR CHEN: Well, I can put it - - -

THE COMMISSIONER: There's nothing wrong with the question. It didn't have to be put to Mr Green.

MR CHEN: I can simply put it on the basis that she's given evidence, as my learned friend perhaps has not appreciated, that the only two drivers of these cars are her and Mr Petroulias.

30 THE COMMISSIONER: That's right. Well, that's an additional factor.

MR CHEN: Yes.

THE COMMISSIONER: All right, in any event, I think Ms Bakis has accepted that.

MR CHEN: Have you accepted that, Ms - - -

40 THE COMMISSIONER: She was the author or, I think you accepted you most likely were the author of the letter?---Yeah. It's coming back to me.

Well, that's, do you accept, was your letter that you wrote?---Yeah. And I'm trying to, I'm trying to work out why I nominated Richard and that, there must have been a trade-off because, because – no, and when I say that, he, his girlfriend was driving my car years ago and I got a penalty for that.

I see, so this is like a swap, is it?---Yeah. And it might have just been - - -

But why would you tell the Office of State Revenue that Mr Richard Green is entitled to a disability payment?---Perhaps he is.

Pardon?---Perhaps he is.

Well, do you know whether he – did you know when you wrote those letters whether he had a disability permit?---Well, I must have, I must have known. Perhaps it was his permit.

10 And if he didn't, then it would just be obviously an incorrect statement to represent that he had one?---Yes, but I - - -

Did you check with him before you wrote that letter that he had a permit? ---I must have, I must have checked the permit.

But do you remember if you did take the time and trouble to check with him?---I probably did.

20 Probably. But you don't remember whether you did?---I don't, I really don't. I'm, barely, I barely remember this.

MR CHEN: You're just making this up, Ms Bakis, aren't you, as you go? ---I'm not making it up.

Quite often after your barrister objects, isn't that right?---Excuse me, oh that's just rubbish.

30 MS NOLAN: Oh, I object. I mean that's just a ridiculously inflammatory. My friend can't do this. He cannot do this.

THE WITNESS: It's just ridiculous.

MS NOLAN: I am entitled to take objection in circumstances where questions have not been put to witnesses that have come before this Commission.

THE COMMISSIONER: Well, that's your - - -

40 MS NOLAN: I've been ruled against. That is a perfectly legitimate objection and that is an inflammatory remark that my friend should not properly make.

THE WITNESS: And I still haven't seen the parking ticket. So, you know, I, I, I'm - - -

THE COMMISSIONER: Well, we haven't got to that yet.

MR CHEN: I'll show it to you, Ms Bakis. You can have a look at it.---
Well, then how - - -

At the parking ticket. I'll show you the - - -?---We're spending an hour and
a half on parking tickets. It's a corruption inquiry. It's pretty embarrassing.

If you have a look at page 70, please.---Okay.

10 So you're looking at the parking infringement or the penalty notice, Ms
Bakis?---Yeah.

And do you want to say something about it, now that it's been drawn to
your attention?---Well, now I know it happened, yes.

THE COMMISSIONER: The registration number a find a little hard to
read. It's a white car, which one is that?

MR CHEN: Well, I'll - - -

20 THE COMMISSIONER: You'll clear it up. Okay.

MR CHEN: If you have a look at page 64, you can see that it's the BMW
X1.

THE COMMISSIONER: Okay. Does an of that information help you now
recall the incident on 21 August, '17 when you received a penalty notice?
---It might have been August.

30 Sorry, what was your comment?---Perhaps. I just don't understand any of
this. I'm not sure what - - -

MR CHEN: Well, so Ms Bakis, I think we got to the point where it may
have been Mr Green now or it might have been his girlfriend or a trade-off
and perhaps not you or perhaps not Mr Petroulias, so what's the - - -?
---That's not what I said.

Well, I - - -?---That's not what I said.

40 What is your evidence, Ms Bakis?---If, I, I'm not – what are you asking me?

I'm asking you whether you were the driver of this car on this day.---I might
have been.

And you gave some evidence that maybe it was Mr Green's girlfriend.
---No, I did not say that.

All right.---I said that happened years ago.

So we've come back to who, only possibly you or possibly Mr Petroulias. Is that right?---That's right.

So what is clear is it's not Richard John Green.---That's right.

And so this letter that has been sent to the Office of State Revenue is false when it tries to suggest that Mr Green was the driver. Correct?---That's right.

10 And so the suggestion by you that perhaps you did make some inquiries of Mr Green again would be false, would it not?---Inquiries of Mr Green as to what, whether he had a disability parking permit?

Yes.---I'm pretty sure he has.

Well - - -

20 THE COMMISSIONER: You a moment ago said you agree that the document is a false one insofar as it suggests - - -?---No.
- - - insofar as it suggests that Green was the driver, and you accepted that.
---No.

Do you want to change your evidence?---Can you go back to the letter?
Like, this is - - -

No, no. I'm just, let's stay with this and get this one cleared up.---No, I just, just, this is stupid.

30 Do we have the letter that's said to have been written by you. All right.
We'll have that back.

MR CHEN: 68, volume 60, page 68, Commissioner.

THE WITNESS: Okay. Let me read this. Yeah, that would probably be incorrect, yeah.

40 MR CHEN: Well, so it's clear, it's false inasmuch as it's referring to Mr Green. Correct?---That's right.

And it's false because you don't know whether he's entitled to a disability permit or not.---I'm pretty sure he is.

You never made that inquiry of him before you wrote this letter, did you?
---Inquiry of him about what?

About his entitlement to the disability permit shown on the dashboard of this car.---It could be that, that this is where Mr Petroulias got the permit, that Richard gave it to him.

So is it Mr Green the person who you now say gave Mr Petroulias this permit that enabled you to use driving around?---It could be, yes.

Well, is that your evidence or are you just guessing?---I'm guessing.

10 So let's come back to this letter. What I've suggested to you is, any suggestion by you that you made any determination about whether he was the person entitled to the permit shown on the dashboard was also false.
---Sorry?

Ms Bakis, let me put it to you another way. It is clear, is it not, on your evidence that Mr Green was not driving this car on that day?---No, it's not clear. He may, he may have been driving it, he may have got a ticket, it may have got to Mr Petroulias and we all had a chat and everyone agreed that Richard was driving. I honestly don't remember this much. I'm trying,
20 I'm really, really struggling to remember this.

THE COMMISSIONER: Ms Bakis, you've got me completely confused now.---Well, you're not the only one.

My note is that you agree that it might have been you and then you agreed to the proposition it would have been either you or Mr Petroulias and not from Green and you said that was correct. Now you seem to be going, retreating from that answer and saying Green could have been the driver or might have been the driver.---He might have been the driver.
30

Well, before you said it had to be either you or Mr Petroulias.---Yeah, but Richard - - -

And you excluded Mr Green.---Yeah, but, and then you reminded me about Richard, so - Richard often drove our cars. He'd be in Sydney and he'd come and borrow a car.

But I'm just going on your evidence of about five minutes ago, that's all.
---Yeah. And - - -
40

Which you accepted that it wouldn't have been Green. Now, you're putting Green in the frame. That's why I'm confused.---Well - - -

What is it, which one is it? Your first answer or the second one?---I failed the memory test.

The first one being not Green, "It was either me or Mr Petroulias," your second which you've now just related, "It could have been Green".---The

question was put to me, "It's probably either you, probably either you or Mr Petroulias, isn't that right?" And I said yes. Probably either you or Mr Petroulias, and the exception to the probably, there are a few people that occasionally drive those cars and Richard Green is one of them. Now, I'm not trying to get him into trouble or using him as an excuse but I do know that he did, he was around last year and he did drive some of those cars. Especially if they were sitting on the street while I was at work.

10 Lest you haven't grasped the point that's being suggested by this line of question, that you're trying to exculpate yourself and put Green in the driver's seat for the purposes of this fine. Do you entirely exculpate the possibility that you in fact were the driver?---I don't know. I don't, I don't, I don't - - -

MR CHEN: Well, Ms Bakis - - -?---I just don't, I just, no. I, I don't like- - -

Have you finished?---Sorry, sorry. I'm, I'm really trying to remember but I've finished trying to remember. I have to go home and look at my records.

20 All right. Well, Ms Bakis, if it was Mr Green, the appropriate things to do surely would be to nominate him as the driver in charge of the vehicle when it received the ticket, would you agree?---Well, that would be the correct thing to do, yeah.

Why, Ms Bakis, do you hesitate in responding to that for that period of time, in responding to what is a simple question about if he's the driver, you would nominate him, surely? Why do you hesitate for so long?---Because I'm just trying to remember this incident and I just can't - - -

30 I'm not asking about the incident at all. We've moved on from that, Ms Bakis. I'm asking you why, I put a simple proposition, if Mr Green was really the driver, surely you would nominate him as the person responsible to the respective authorities. Why do you hesitate in responding to that simple question?

MS NOLAN: I object. She's answered that question. She's said she's trying to remember. She obviously was thinking about the answer. That's her answer. You don't need to ask it twice.

40 THE COMMISSIONER: All right. I'll allow the question.

MR CHEN: Why did it take so long? I mean, that must follow, mustn't it?

THE COMMISSIONER: Can I just clarify. From what point in time? Is this when the notice was first received that - - -

MR CHEN: Commissioner, it's almost contemporaneous that the fine is on 21 August, the letter's on the 22nd and the letter's written on the 22nd and my

proposition was, if it was Mr Green, the simple thing to do is to nominate him.

THE COMMISSIONER: But didn't she do that in the letter?

MR CHEN: Well, Commissioner, I'm working my way towards a proposition eventually. I'll see what she says.

10 THE COMMISSIONER: All right. Let's finish this line of questioning.

THE WITNESS: Well, yeah, you, yeah, sorry.

THE COMMISSIONER: Okay.

MR CHEN: So surely it would be a simple exercise, Ms Bakis, just to nominate Mr Green, then, wouldn't it, as the driver so he would be the person who would be levied the fine and any demerit points that might attach to it.---That, that should follow, yes.

20 It must follow, mustn't it, if he's the driver when he parked there.---Well, we all know what we all do, but, yeah.

Well, I'm not sure what you're talking about, Ms Bakis, so if you need to explain that - - -?---No.

Well, you see, you know, don't you, Ms Bakis, that in fact Mr Green was not nominated, isn't that right?---I wouldn't have a clue.

30 So the ticket's left on the car and what happens to it then, Ms Bakis? You write the letter to the department or the Office of State Revenue. What happens thereafter?---You can tell me, Mr Chen, what happens.

Well, I'm asking you to tell the Commissioner.---I don't remember. I don't remember, so you can tell me. I honestly don't remember.

You see, somehow, Ms Bakis, Daphne Diomedes has been nominated again from Tasmania.---Oh, there you go.

40 So how has that happened, Ms Bakis?---It's magic. I don't know.

Well, it's not magic. We know that. That was you, wasn't it, Ms Bakis? ---Excuse me?

Well, Ms Bakis, you're the party who was driving the car, can I suggest, when you got that fine.---Okay. I just said I don't remember and I, I don't know.

You write the letter to the Office of State Revenue nominating Mr Green, which, can I suggest, is plainly not so.---Yes.

And can I suggest you're the person that nominated Daphne Diomedes electronically by an eNomination form. Just have a look at page 73. Isn't that right?---I wouldn't know how to do this. I, I - - -

10 You're denying it's you, are you?---Look, you saw my financial position the other day. This is a \$549 penalty. I would have given it to Mr Petroulias to sort out, pay. So what he's done with it since then, I don't know.

You say you've got nothing to do with this? Is that the position, Ms Bakis? ---Yes.

You know full well what happened, don't you, Ms Bakis? That she was – that is, Daphne Diomedes – was nominated for this fine, don't you?---No, I don't know.

20 THE COMMISSIONER: What was the date of the nomination? Could we have that back onscreen?

MR CHEN: 18 October.

THE COMMISSIONER: 18 October.

30 MR CHEN: 2017. Now, Ms Bakis, yesterday you gave some evidence about Knightsbridge North Lawyers accounts, in particular an account held by Macquarie numbered 8-8-4-9. Do you remember me asking you some questions about that?---Yes.

I should say, Ms Bakis, I have throughout the course of Tuesday used instead of Knightsbridge North Lawyers the expression KNL.---I understand that.

Good. Now, your evidence, as I understood it, Ms Bakis, and you tell the Commission if this is not right, is that that was the Macquarie bank account that was opened by you in about January of 2016.---Yeah.

40 And that more or less you did not use it, I think you said.---Generally speaking I didn't.

But do you accept that you did use that account during the course of 2016 and onwards?---I don't think I did.

Ms Bakis, that account has a – I withdraw that. As you know, Mr Petroulias has been incarcerated since at least 20 June of this year, isn't that right? ---Yes.

And that account numbered 8-8-4-9, from Knightsbridge North Lawyers, the Macquarie account, is still being used, isn't it?---I have had to use it while he's not been there, yes.

So you still have access to that account, don't you?---Yes.

And in fact it's been the case that you have used that account throughout 2016 as well. Isn't that so?---No.

10 Well, you know that Mr Petroulias has been overseas from time to time, don't you?---Um - - -

Well, I'll help you, Ms Bakis, and I'll make it a bit more specific.---Yeah, please help me.

He went to Abu Dhabi did he not in November and December of 2016? ---Yes.

20 You knew that, didn't you, obviously?---You could ask him but I assume those dates are right.

And this account was still being used, Ms Bakis, whilst he was overseas, wasn't it?---Yeah, he might have been using it overseas.

So do you say that a transaction to M1 Properties in November of 2016 was by him and not you. Is that right?---How much?

\$200.---Oh, sorry, when was he in Abu Dhabi?

30 I want you to assume that it's between 26 November and 8 December, 2016.---Yes, and this transaction happened when?

29 November.---Right. I didn't make that transaction.

You didn't?---No.

And what, you're unable to explain how it was transacted, I suppose. Is that the position?---They have Internet over there.

40 Ms Bakis, on 1 December, 2016 there was a transaction out of that account from funds Rent a Space in the sum of \$537. Do you recall a transaction of that account being undertaken by you?---No, but - - -

You do know don't you that what Rent a Space was for, don't you?---That's the storage, yeah.

We went through this I think on Tuesday that that's part of the storage premises at Burwood. Isn't that right?---That's right.

And that payment was made on 1 December by you, wasn't it?---I don't remember.

On 5 December, 2016 out of this same account, Ms Bakis, an amount was paid to ASIC in the sum of \$249.---Right.

10 Again can I suggest that's a transaction that you effected, Ms Bakis, from that account, namely the Knightsbridge North Lawyers account with Macquarie. Isn't that right?---No.

You say that Mr Petroulias logged in from overseas to pay ASIC, do you? ---He may well have.

And on 7 December an amount of \$50 was transferred to M1 Properties.---I think you've, when, I thought he was back by then.

20 Well, I'm asking you to assume he does not return till 8 December, 2016. ---My apologies. My apologies. No.

You're denying it's you, are you?---Denying that.

What is M1 Properties a payment for, Ms Bakis?---This is '16? Are we talking '16 again?

7 December, 2016.---That would have been the rent on that property at Mary Street.

30 THE COMMISSIONER: At Mary Street?---Yes.

What was that property again?---It was an apartment that I was using as an office.

MR CHEN: Can I suggest you made that payment, Ms Bakis?---I don't think I did. I usually didn't make any of those payments and it would be unusual for me to make that payment.

And do you know Sami, S-a-m-i, Travel?---No.

40 Never heard of that company?---No.

You know nothing of a transaction – again out of that account – on 7 December, 2016, in the sum of \$350?---No (not transcribable) haven't travelled anywhere.

I'm not suggesting you've travelled.---Well, there'd be no reason for me to pay for travel if I wasn't travelling, so it wasn't me.

Now, Ms Bakis, would you have a look – I withdraw that. I asked you some questions on Monday about going to a, I'll call it holiday park in Forster. Do you remember me asking you those questions, Ms Bakis?---Yes.

And I think you said that you agreed that you remember going to the general area but you had some uncertainty about perhaps the precise name of the place where you stayed.---That's right.

10 But I think you did accept – and this is page 2037 of the transcript – that you were familiar with Wallamba River Holiday Park in North Tuncurry.---I, I think I said, and I still think it was a motel. I don't remember being at a holiday park, but - - -

It may well have been a motel.---We were driving around a lot at the time, so - - -

And you're the person that booked that accommodation, can I suggest to you, Ms Bakis?---Not sure. Don't know.

20 Well, just have a look, if you would, Ms Bakis, at volume 40, page 168, and you can see there that there's an invoice addressed to you. Do you see that?---I do.

And it's dated, or it refers to an arrival date on 18 June, 2016 and a departure date on 19 June, 2016. Do you see that?---Yeah.

30 And if you turn to the next page, which is 169, you can see that there's the reference Wallamba River Holiday Park and you can see an address there. ---Yeah.

Having seen those now, do you recall it probably was a superior river view, two-bedroom cabin. Do you remember that?---I don't.

You're not denying that you went there and stayed there?---I'm not denying it. I'm not denying it, but I don't recall this at all.

40 And you don't deny that you paid for that accommodation as well in that amount, do you?---I, where are we? '16. I wouldn't have paid for this. I, I highly doubt I would have paid for this.

Now, I asked you some questions as well about purchasing a mattress and a base and I think you said that you remember getting it but perhaps Mr Petroulias might have ordered it.---That's right.

Are you sure that that's the position, Ms Bakis, and in fact that you didn't order it?---I might have ordered it, I, but I wouldn't have paid for it.

Well, Ms Bakis, did you have an email address bakisde@me.com?---Yeah.

And can I suggest to you that you in fact ordered the furniture that has been described as the queen mattress and the base from Fantastic Furniture on 6 November, and also - - -?---What year? What year, sorry?

2016.---Okay.

And it cost approximately, with delivery, just over \$1,060.---If, we were probably together buying stuff and often my email addresses are used, yeah.

10

So is your recollection that you were buying it together with Mr Petroulias? Is that the position?---Well, yeah, because I wouldn't have, I wouldn't have gone to buy a bed on my own because I couldn't have afforded it on my own.

Well, can I suggest in fact that you ordered this online and you actually rang up and spoke to them about organising the delivery. Does that now assist you in your recollection, Ms Bakis?---No.

20

And in fact you paid for the bed on two credit cards, first on 6 November, 2016, and later on 17 November, 2016.---Why would I have done that? What are you asking?

I'm just suggesting to you, that's when you paid for it. You paid it on two occasions, the 6th - - -?---I wouldn't have paid for it. I told you that. I didn't have enough money to pay for things.

You may not have had the money to pay for it, Ms Bakis, but you certainly had a card to access to pay for it. Isn't that the position?---No, no.

30

Not at all?---No.

Well, remember I asked you as well yesterday about the payment for the filing fee for the proceedings that you commenced against the Land Council on behalf as your firm, as well as by Advantage against the Land Council? ---Yes.

And you again paid those filing and court fees on a credit card, didn't you? ---I, I would have had Mr Petroulias with me because the deal was that United Land Councils was going to fund that litigation.

40

What, so the United Land Councils paid for the filing fee, did it?---Well, someone would have, yeah. It, it, it, the deal was that United Land Councils were going to pay for the litigation filing fees, yes.

Why?---Well, because that was the arrangement we came to.

All right. And I'm just asking you why would this company pay for your firm to commence proceedings to recover its fees against the Land Council? ---Because Advantage was -- you're talking about the Advantage, not, yeah, sorry, yeah. Advantage was part of United Land Councils and this deal was viewed as a United Land Councils-type deal and I said to all of them, "Look, if you're going to start litigation like this, I can't afford it, I can't afford to pay barristers so you guys have to fund this."

10 But this was your firm's fees you were recovering as well, Ms Bakis.---It was, but primarily it was the Advantage fees. I wouldn't have started litigation just for \$27,000.

Well, can I suggest that you did pay for the filing fee, Ms Bakis, and it wasn't paid for by United Land Councils.---I just said I didn't pay for it so
- - -

Right. Well, can I suggest to you, Ms Bakis, that the United Land Council didn't pay for it.---Okay.

20 So if that proposition is right, that the records don't show that United Land Councils paid for it, who did?---Nicholas Peterson? Gows Heat? I'm not sure. I actually don't know because I, I recall Mr Petroulias being with me at the time and whenever there was a situation with fees I had to pay I would take him along because I didn't want to get stung with a bill.

And you also arranged the payment, Ms Bakis, can I suggest for the dance academy fees that I took you to on Monday, via [REDACTED] at Burwood.---No. We would have been together when that happened, in fact we were.

30 What, together whilst the account was being paid?---Yeah, because it would have been their first day of dancing so we would have all gone to see them dance.

Commissioner, is that a suitable time?

THE COMMISSIONER: Yes. Thank you. Before we adjourn, Ms Bakis, you may step down, thank you.---Thank you.

40 We'll see you here tomorrow.

THE WITNESS STOOD DOWN

[3.59pm]

THE COMMISSIONER: Mr Petroulias, I made an interim order suppressing two aspects of evidence on Monday and I said I'd revisit those two orders that I made. I wanted to be sure that the matter was fully

considered before I made any final order one way or the other. I have now given the matter further consideration and I propose to deal with it. So, you may take a seat. Yes. On Tuesday, 7 August last Ms Bakis in her examination by Senior Counsel assisting the Commission gave evidence. In the course of doing so, evidence was given in relation to two matters. Firstly, the circumstances surrounding an application by her, made to the Tasmanian authorities for the issue of a driver's licence. She said she travelled there in the company of Mr Petroulias. On her evidence she accepted that a false passport was used for the purposes of obtaining a
10 Tasmanian driving licence in a fictitious name, the surname of which was Diomedes, and that the passport, the licence I should say, in due course was issued in that name but with a photograph of Ms Bakis on the licence. The second matter was evidence given by Ms Bakis in respect of certain entries in a Macquarie bank account which contained entries in the name of Diomedes. Mr Petroulias has been recently charged in relation to two offences, details of which will be extracted into these reasons. As to the charge involving him allegedly being in possession of a credit card said to be a false credit card – just pause there. Mr Chen, it was a false credit card or is it a false - - -

20

MR CHEN: It was in another name, Commissioner, as I understand it.

THE COMMISSIONER: A credit card, was it?

MR CHEN: That's so.

THE COMMISSIONER: Yes. Sorry. In any event, I understand he's been charged with an offence of being in possession of allegedly a false instrument with the intention of benefitting himself with it. I paraphrase the
30 section, I'll set out the details of the section under the Crimes Act in these reasons. Mr Petroulias sought a wide-ranging suppression order which I indicated I was not prepared to make. I was concerned to ensure that there was no evidence given by Ms Bakis that could in any way prejudice Mr Petroulias in the charges that have been brought against him, in particular the charge involving being in possession of the false credit card. I did express doubt as to whether or not there was sufficient basis certainly for a final order because it seemed to me, as I said, to be at best a tenuous connection between the evidence and Mr Petroulias in relation to the outstanding charge brought against him.

40

The two suppression orders were firstly that the evidence was suppressed as given by Ms Bakis concerning the false driver's licence obtained in Tasmania to which I've earlier referred being handed to Mr Petroulias and the second was a suppression order prohibiting publication of any evidence given by Ms Bakis which directly links Mr Petroulias to the Diomedes transactions in the bank account to which I've referred, which has been referred to as the Gows account.

On further reflection I confirm what I stated yesterday, that is that section 18 of the Independent Commission Against Corruption Act 1988 does not apply in circumstances in which the proceedings that have been brought, in particular in relation to the possession of the false credit card, has not moved to the District Court to be tried as an indictable offence and remains in the Local Court. It's plain from the reading of section 18 firstly that the Commission may proceed, even when there's parallel proceedings on foot in a court tribunal or before a coroner or a magistrate or other person, so much is stated in section 18(1).

10

18(2) makes provision whereby the Commission may, if it thinks it necessary to do, to ensure an accused's right to a fair trial is not prejudiced to any of the matters in A, B and C. Each of those subparagraphs refer to the phrase, "During the currency of proceedings." As I say at the moment the proceedings are in the Local Court only and no date has been set on the information that I have, that the proceedings might be moved to the District Court in the near future, and indeed no date has yet been set for any committal proceedings. Section 2A(a) specifies, "In the case of committal proceedings, before the commencement of the committal hearing, that is the taking of the evidence for the prosecution in the committal proceedings, and (b) in any other case, after the proceedings cease to be proceedings for the trial of a person before a jury."

20

As I've said, there being no committal proceedings or hearing scheduled, section 2A(a) does not apply, nor does (b), which operates in respect of proceedings for the trial of a person before a jury. That situation has not arisen. Accordingly section 8 has no work to do in supporting suppression orders. Section 112 is entitled A Restriction on Publication of Evidence, and section 112(1)(a) provides that, "The Commission may direct that any evidence given before it shall not be published or shall not be published except in such manner and to such persons as the Commission specifies."

30

It's important to observe that section 112 carves out the circumstances in which the discretion vested in the Commission may be exercised and section 1A of that section states, "The Commission is not to give a direction under this section unless satisfied that the direction is necessary or desirable in the public interest." Section 1A is emphatic in its terms. The court is required to – I withdraw that – the Commission is required to have material before it which would make it desirable or necessary in the public interest. Plainly if there were circumstances that did fall within section 18, then that would be a public interest factor and there may be other circumstances one envisages where there is sufficient public interest that it is desirable to activate and use the power under section 112 to restrict all publication of evidence.

40

I have considered the elements of the criminal offence relating to the possession of a false instrument as alleged against Mr Petroulias and have considered whether or not any of the evidence given by Ms Bakis could operate in a way of having effects or consequences so significant that there

is a public interest issue here requiring the use of the suppression power under section 112. The fact that section 18 doesn't apply of itself indicates that there's a very limited residual basis upon which discretion could be exercised in a case such as the present.

10 I do not consider that there are any circumstances that would provide a basis upon which the Commission could be satisfied that a direction in the terms I gave on Tuesday could be made as a final or ongoing suppression order. In other words, on consideration, I do not consider that there is a sufficient or sound basis which would warrant the suppression of Ms Bakis's evidence on those two very limited issues I've already referred to. No prejudice can be identified, actual or potential, in the circumstances to which I've earlier referred, nor is there any particular public interest outside the fact that there are parallel proceedings on foot at the moment – I refer to the Local Court proceedings and the proceedings of this Commission – of itself justify the making of an order. That circumstance is likely to arise in many situations when the Commission is conducting a public inquiry. It certainly doesn't mean that it prima facie provides a basis for suppressing the publication. It is, in other words, only in those circumstances where – as I've said before –
20 it is necessary or desirable in the public interest, which, in my view, no such requirement arises or exists. Accordingly, the two suppression orders made on Tuesday last, 7 August, 2018, are vacated. Accordingly, those orders no longer can operate as from this time.

**VARIATION OF SUPPRESSION ORDERS: THE TWO
SUPPRESSION ORDERS MADE ON TUESDAY LAST, 7 AUGUST,
2018, ARE VACATED**

30 THE COMMISSIONER: Very well.

MR PETROULIAS: Commissioner?

THE COMMISSIONER: Yes, Mr Petroulias.

MR PETROULIAS: Yeah, that, your reasonings relate to Tuesday's evidence, so this evidence today more directly relates to the possession charge, so - - -

40 THE COMMISSIONER: Which part of the evidence?

MR PETROULIAS: Well, the evidence what, it was paid for by the Diomedes card was some of the evidence today.

THE COMMISSIONER: Sorry, paid for - - -

MR PETROULIAS: There was a suggestion that there were payments from that card.

MR CHEN: I don't think I've put that, Commissioner. I've asked, I put to the witness she paid for it and she's given responses. I haven't identified any account at the present time. To the extent that's relevant, but I just thought I'd draw that to your attention. I haven't put any account details to the witness. I've suggested that certain transactions involved her. In relation to the KNL account, I - - -

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THE COMMISSIONER: But you have not put to her questions of whether she's paid any - - -

MR CHEN: From where.

THE COMMISSIONER: Or from where.

MR CHEN: Not yet, no.

20 THE COMMISSIONER: You may be jumping the gun a bit on that one, Mr Petroulias.

MR PETROULIAS: Yeah. No, no, no. Not, not at all. In fact - - -

THE COMMISSIONER: But what else is there?

MR PETROULIAS: So in fact the evidence more directly, even emphatically, connects activities of what's with the Diomedes card with what - - -

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THE COMMISSIONER: Because of the name on the fine and penalty notices?

MR PETROULIAS: That's right. The fines and everything else, yes.

THE COMMISSIONER: But how does that – that doesn't, it may involve the same vehicle. It may involve, on one view of the evidence, Ms Bakis or, if her evidence is accepted as being accurate, it could be evidence against you, that you were involved in those penalty notices. But let's assume against – it's only an assumption.

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MR PETROULIAS: Yes.

THE COMMISSIONER: Let's assume that the evidence finally was taken as sufficient to exonerate her but implicate you in these penalty notices. That doesn't mean that that would have any carryover effect in relation to the charge that's outstanding against you at the moment, being in possession of a credit card, the false credit card.

MR PETROULIAS: Well, okay, assuming, for instance, that the police were to use their ordinary, ordinary powers in, in their ordinary way and there wasn't this extra power of this Commission extracting evidence through this, from Bakis, yes, I wouldn't have a problem. But adding this to the normal powers of the police, which they may or may not have, does paint a pretty direct link.

10 THE COMMISSIONER: But the key in determining whether there should be either suppression of evidence or a private hearing where there are outstanding criminal proceedings is whether there's an overlap in the subject matter of the criminal proceedings and, in this case, the public inquiry of this Commission. And - - -

MR PETROULIAS: There is an overlap. That's clear.

20 THE COMMISSIONER: There isn't an overlap as I see it, because the penalty notices all relate to different activity on different days, and even if it's assumed for the purpose of this argument that you were responsible for putting in the false penalty notice material, that, that doesn't cut across any of the elements in the outstanding offence that you're being charged with.

30 MR PETROULIAS: Yes, it does. It, it paints all the circumstances to, all the circumstances with the use of the card. Yeah, I, I just said that, so it was all, all the, all the circumstances relating to the use of the card, Diomedes and who the possible users are. Now, that would have been fine. I mean, the normal, we start with the proposition that the police will use their ordinary, and I'm entitled to an ordinary trial and with the police using their ordinary powers. Now they've got this additional material that's come out of the extraordinary powers of this Commission to assist them, which, for the - - -

THE COMMISSIONER: But the evidence has been given under objection, so it can't be used.

MR PETROULIAS: Yeah, but the, the, all, all, the, the, the fact finding can,

40 THE COMMISSIONER: No, it can't.

MR PETROULIAS: Well, it's the fruit of the tree. All, all, all the little pieces, all the pieces of the - - -

THE COMMISSIONER: Any finding I might make in these proceedings can't be used elsewhere.

MR PETROULIAS: Yeah. That's, well, the transcript's the easy bit. It's, the transcript and all the evidence is now available to anyone who's reading it.

THE COMMISSIONER: Yes. That may be so but the police might read from cover to cover the evidence given by Ms Bakis but they're not going to be able to adduce one word of it.

10 MR PETROULIAS: Certainly. But they can follow the footsteps and do exactly the same.

THE COMMISSIONER: Well, that's the operation of the Act, is that it is possible for police to get derivative evidence out of evidence given under objection but I don't see that as a basis for you to forward in seeking suppression orders. That's always the case.

MR PETROULIAS: Sure.

20 THE COMMISSIONER: In other words, the protection given under the section, in this case in the declaration under section 38, has an absolute effect in precluding the use of the evidence anywhere else but what it does not do is prevent anyone from, police for example, using it to derive evidence elsewhere. But even if they could obtain derivative evidence as to the circumstances in which this credit card was created, it wouldn't still be sufficient for you to have all this evidence suppressed because the police will have no difficulty at all in establishing that it was a false credit card. They'll be able to, independent of any evidence given here today, establish that.

30 MR PETROULIAS: The card wasn't false.

THE COMMISSIONER: The real issue may be whether you had the intention to use it and that's another issue, that's the second element of the offence. Look, Mr Petroulias - - -

MR PETROULIAS: Certainly. But what I'm saying is - - -

40 THE COMMISSIONER: I, I won't preclude you from raising this application tomorrow but I'm afraid on the material I have before me, there's absolutely no basis upon which I could make an ongoing suppression order.

MR PETROULIAS: The only thing I was going to say is, that's all very fine but the problem is not when there's, not when there's charges pending and they could be, indictable charges actually commences and election has not been made to keep it in the Local Court.

THE COMMISSIONER: No.

MR PETROULIAS: If it had, that would have been fine but it's still possible to prejudice a possible - - -

THE COMMISSIONER: It, it could get into the District Court if the Crown presses for it.

MR PETROULIAS: That's right.

10 THE COMMISSIONER: But even if it does, the Act only operates when the, once committal proceedings have commenced. So, there's another step to get to, that is whether there was ever a committal. You see, section 18 is very narrowly drawn. It doesn't omit, because of parallel proceedings, ipso facto a suppression order should be made. You've got - - -

MR PETROULIAS: No, I understand that. You should, you should exercise that discretion.

20 THE COMMISSIONER: Yes. But only if there's facts upon which to do so. In other words, if there, as I said, was an overlap between what you're charged with in the proceedings in the Local Court with what the material is here. And we're not concerned about that credit card in these proceedings.

MR PETROULIAS: Yes. And so we've got (not transcribable), we've got similar fact evidence, we've got all the - - -

30 THE COMMISSIONER: Oh, well we don't have similar fact evidence anymore but we have (not transcribable) in evidence and whether the police could hit home on that one, I'm not sure at all but it's certainly not self-evident to me.

MR PETROULIAS: Okay, well - - -

THE COMMISSIONER: Mr Petroulias, if you want to renew your application tomorrow, but I think you need to give it a bit of thought as to, with respect, as the how.

MR PETROULIAS: I think it will be a bit too late tomorrow, Commissioner.

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THE COMMISSIONER: Well, I'm - - -

MR PETROULIAS: Thank you.

THE COMMISSIONER: Very good. Is there anything else?

MR CHEN: No, Commissioner.

THE COMMISSIONER: No. Very well. I'll adjourn until 10.00am tomorrow.

AT 4.19PM THE MATTER WAS ADJOURNED ACCORDINGLY
[4.19pm]