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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE PETER HALL QC
CHIEF COMMISSIONER

PUBLIC HEARING

OPERATION SKYLINE

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON TUESDAY 14 AUGUST, 2018

AT 10.00AM

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THE COMMISSIONER: Yes, Mr Chen.

MR CHEN: We're ready to proceed with Ms Bakis again, Commissioner.

THE COMMISSIONER: Yes. Very well. I'll just clarify before we start. Yes, just take a seat, thank you. As I understand it you anticipate you'll be finished with Ms Bakis during the course of the day?

MR CHEN: Yes, Commissioner.

10

THE COMMISSIONER: And then Mr O'Brien and Mr Lonergan have indicated they wish to cross-examine. I will if necessary determine the scope of the cross-examination. Mr Petroulias is not here I see.

MR CHEN: He has a court commitment I'm told.

THE COMMISSIONER: Sorry?

MR CHEN: He has a court commitment I'm told, Commissioner.

20

THE COMMISSIONER: Oh, that's right, yes. Yes. Okay. His position is already known, that is to say that he's not in a position to cross-examine, and for that reason I've indicated that I will defer any cross-examination by Mr Petroulias. Ms Nolan asked yesterday that she be permitted to follow Mr Petroulias in examining Ms Bakis. I've determined, however, that the proper course to follow be for Ms Nolan to examine, if she wishes to, Ms Bakis on any matter, following the cross-examination that Mr O'Brien and Mr Lonergan, and at some future date Mr Petroulias can exercise whatever rights of cross-examination he's permitted to have, and that following that Ms Nolan be given a further opportunity if there are matters arising out of the matter to apply to further examine Ms Bakis after Mr Petroulias has finished.

30

It is necessary for the Commission to adopt whatever approach is required for the examination and that involves necessarily flexibility in determining the order of cross-examination and of examination and by the witness's own counsel. Mr Petroulias's position makes it necessary to devise a method of approach which I've just outlined, so that Ms Nolan's application is not granted but it is, as I've stated, the position that I will entertain an application after Mr Petroulias has finished his cross-examination if she wishes to further examine her own witness, her own client I should say. So, I hope I have made it clear as to what is intended as the future course for the hearing. Now, just before I go on, how does that sit and accommodate the witness, Ms Dates, who has been programmed for today?

40

MR CHEN: Well, Ms Dates is here but she was, through Mr O'Brien, advised that she was not required today because of the estimates given by those behind me. She's not available tomorrow, so that would fit, in my

respectful submission, well. If the examination and cross-examination of Ms Bakis continue tomorrow with a view to completing it as soon as possible, either tomorrow or Thursday, and thereafter I think the expectation is that Ms Dates would then be called.

THE COMMISSIONER: Very well. Thank you. We'll swear the witness again, thank you.

THE COMMISSIONER: Yes, thank you, Ms Bakis. Just take a seat. Yes.

MR CHEN: Thank you. Ms Bakis, have a look if you would, please, at exhibit 57, page 8, which are the trust account disbursements instructions which Mr Green has apparently signed on 3 December, 2015. Do you see that?---Yes.

10

And you can see that Mr Green has, as I understand it, handwritten something there, or is that your handwriting?---I think that's Mr Petroulias's writing.

I see. Well, that seems to be indicating obviously that money – that is to say, the balance of the \$712,000 that was in your trust account – was to remain in the trust account, isn't that right?---That's right.

20

And Mr Green has, it seems, appended his signature acknowledging that fact. Do you accept that?---Yes.

Well, what's changed, Ms Bakis, between 3 December and 22 December which thereafter would enable that \$312,000, which was to be held on trust, to be remitted to Gows Heat rather than to the Land Council?---I, I think from memory that a, a report, feasibility report valuation, I can't remember the name of it, had been done and maybe Zong had been satisfied that he could get the rezone that he thought he would.

30

To your knowledge, is this the case, a feasibility report had been prepared and submitted to you, had it?---I just said I think, I don't know.

Right, well that's why I'm asking you.---I don't have any recollection of, of what happened between then and then.

So, is your answer really nothing has changed so far as you know?---That's the complete opposite of what I just said.

40

Well - - -?---I just said I don't recall what happened between that date and the 23rd. Or perhaps Tony Zong was satisfied that the deal was a good one and that he should in fact release the money.

Is it - - -?---I'm not quite sure. Without, I, I, I, I don't have the file note, I, I just don't know what I'd written.

Well, Ms Bakis, there was no rezoning approval though, was there?---No, no. Not from the council, no. God no, no.

And you can see, well, I'll have it put back up on the screen again, Ms Bakis. It talks about zoning approval, not a feasibility report or anything of the kind. Do you see?---Yes.

So, what's the position, Ms Bakis? There was no rezoning approval to your knowledge, was there?---No.

10 And you're unable to say why this money, at least on what you say, was held in the trust account for Mr Zong was thereafter released?---Well, I had his written instructions. So - - -

THE COMMISSIONER: Sorry, just on the written instructions. From? ---Mr Zong to release that money.

MR CHEN: You mean the \$312,000?---Yes.

Which you know he disputes of course.---Well, I don't know why.

20 Right. Well, he gave - - -?---Because - - -

- - - a reasonable explanation why, he didn't sign anything.---Is that right? Well, the Commission has the original. I would love that back to have that tested because that is completely false.

Well, the Commission - - -?---Completely false.

30 - - - has the original, it's on your file and your counsel looked at it.---My counsel looked at it, right. Mr Zong signed that document. That is his signature.

Right. You've got a clear and absolute recollection of this, do you?---Yes.

But you seem to have difficulties remembering when anybody else has signed documents around this time, wouldn't you agree?---But I, I, my trust account obligations are very important to me and I, I do remember being concerned about the release of this money and I know for certain that he signed that document. That is one thing I know.

40 Well - - -?---And I'm sure he's, I'm sure he's retreating from that, but wouldn't you?

Well, I'm suggesting to you it never happened, Ms Bakis.---Oh, well, okay.

And in fact it wasn't even Mr Zong's prerogative, Ms Bakis, so it's clear, for him to sign the release. What do you say to that?---It was money he'd put in trust for Gows.

You know that's simply not true, Ms Bakis, don't you?---Well, no, that's, no, that is, that is the fact.

Well, Ms Bakis, we went through yesterday that then somehow you thought it was important to keep your clients, Ms Dates and Mr Green, abreast of these developments. Isn't that right?---Yes.

Hence you spoke to them about it. Is that the position?---Yes.

10 And you sent them a letter which set out all this detail, did you not, which I drew your attention to yesterday?---Yes.

And you're not able to explain how it is that Ms Dates's signature apparently is appended to a trust account disbursement on 22 December when in fact she only was provided with the letter by you on 23 December, 2015.---I, I didn't say I can't explain that.

20 All right. Well, what is the explanation for it?---Well, it could just be a typo on the date, where I wrote the date. It could be many reasons. What do you mean? This is, this is not fair.

Well, Ms Bakis - - -?---The Commission has had that document for a long time to have that tested.

30 Ms Bakis, there's no suggestion that I've put to you that that document, the trust account disbursement that Ms Dates's signature appears on, is irregular in the way you're suggesting. What I'm suggesting to you, Ms Bakis, so you're under no misunderstanding, is the dates are inconsistent with the sequence. That's what I'm suggesting.---Okay, so one of the dates on one of the documents is wrong.

Well, Ms Bakis - - -?---It's not the first time that's happened.

THE COMMISSIONER: There's two possibilities, that the dates are in fact correct, the second is that the dates are not correct.---Right.

40 Well, what evidence is there pointing to the latter? In other words, on the face of it, the ordinary principle of regularity is that things do occur in the order in which they're stated.---Sorry, Debbie, Debbie has signed a document on the 22nd which I wrote a letter and said I'd given to her on the 23rd and therefore because it's been dated the 22nd there must be a big issue here. Is the original document on file, on my file?

MS CHEN: Well, there is a document, which is Exhibit 57, that has come from your file. Whether it's an original is - - -?---Well, I'd like to know.

- - - debatable.---Well, I'd like to know.

Well, you're welcome to look at it, Ms Bakis. It's your file and you've got a complete copy of it and you've got a complete copy of Exhibit 57 and have had such document - - -?---Mr Chen, I don't know - - -

- - - for many months.---Copies are copies, originals are different.

Well, Ms Bakis - - -?---You'd appreciate that. And I don't know, I'm seeing documents here for the first time.

10 Well, you haven't seen this for the first time, Ms Bakis. It's been available in your file - - -?---Oh my God.

- - - for the entirety of at least this investigation and it's been tendered and cross-examined upon by your counsel.---Mr Chen, you're not listening to me.

I'm afraid I am, Ms Bakis.---You're not listening to anything I'm saying right now.

20 THE COMMISSIONER: Ms Bakis - - -?---No, no.

- - - Counsel is providing you with an explanation that the documents have always been available, this - - -?---I want to know - - -

- - - particular document.---No. I want to know if that's an original.

And it - - -

30 MR CHEN: Well, Ms Bakis - - -

THE COMMISSIONER: Go on.

MR CHEN: As I understood your evidence yesterday, you were providing these trust account disbursement instructions and matters of that kind just to keep Dates and Mr Green in the picture, so to speak, notwithstanding that, strictly speaking, it had nothing to do with them. Is that the thrust of your evidence from yesterday?---Yes.

40 So why, Ms Bakis, are you asking Ms Dates and Mr Green to ratify these documents?---That is consistent with what my evidence was.

My question, Ms Bakis, with great respect, is different. Why are you asking them to ratify?---So that they knew what was going on.

No, Ms Bakis, please. You understand, surely, as an experienced practitioner, that sending someone a copy of a document is distinctly different and legally different to asking them to ratify it. Is that not right? ---Perhaps I used the wrong terminology.

No, I showed you this letter, Ms Bakis. Have a look at it again. This is MFI 33, page 28. And you can see down the bottom, Ms Bakis, we went through this yesterday. "Can you please also ratify, acknowledge and/or consent to those matters?" Down the bottom as well.---Well, perhaps I shouldn't have asked them to ratify.

No, but let's be clear. You did ask them to ratify, didn't you?---Yes.

10 And you know legally that's quite different than asking them to simply note that this has occurred, isn't that right?---My recollection is to ratify the note I was using the same context. It was probably legally incorrect.

So really all you're doing is saying, "Please note these matters"?---"Please be aware of these matters," yeah.

THE COMMISSIONER: Well, that, with due respect, can't be right. You've chosen the specific words for emphasis, "ratify, acknowledge and/or consent".---Sorry?

20

You're asking for them to ratify - - -?---What, what line are we looking at?

- - - the matters in the two dot points that follow. Why?---Okay. It says "ratify, acknowledge and/or consent". Either of those three.

Why are you asking them to ratify?---I'm not asking them. I'm asking to either ratify, acknowledge or consent.

30 You're asking them to ratify the matters set out in the two dot points, aren't you?---Well, I'm not. I don't accept that.

Well, you are just being - - -?---It's not what that says. It's not what that - - -

You are just being obstructive.---I'm not being obstructive.

You are because it - - -?---No, I'm not.

40 We're dealing with English - - -?---You want me to tell you what you want to hear.

Don't talk over me, please.---No.

Don't talk over me. I don't know how many times you've been reprimanded or requested not to talk over the questioner. It must be now dozens of times. You keep doing it. This is not helping your credibility one little bit, the way you're conducting yourself in the witness box. I'm just reminding you of that. As you know, credibility has to be assessed both on what people say in

the witness box on oath and the way in which they say it. You keep arguing the point by talking over the questioner. I don't know quite why you're doing it, but you've been asked to desist. Perhaps it's to try and stop the questioner from putting the question so that you can drown the questioner with your words and not the questioner's words. I don't know what you're up to, Ms Bakis, but we'll see how you go today and whether you persist in doing it as you have almost every other day of your evidence. We'll come back to the document, MFI 33. As you see on the screen, you are specifically writing to Mr Green and Ms Dates, addressing them as Richard
10 and Debbie, and you there are asking them to do something, namely "Can you please also ratify, acknowledge and/or consent to," the first dot point, the complete instructions, trust account disbursement instructions dated 3 December, et cetera. Why were you asking them to ratify the matters set out in the letter?---I don't know.

MR CHEN: Well, Ms Bakis, let's have a look at then the response you get back from your clients, which is MFI 33, page 30. You can see that there, Ms Bakis, apparently Ms Dates has sent back a letter ratifying all these matters. Do you see that?---Yes.

20 And, Ms Bakis, there can't be any doubt about this, can there, because according to the letter that I've drawn your attention to, dated 23 December, 2015, you spoke to Ms Dates about this very matter, isn't that right?
---Sorry, when did I speak to her?

On or before 23 December, 2015, about this very topic, namely ratification.
---Yes.

30 There can't be any doubt, Ms Bakis, that you told Ms Dates and/or Mr Green that they needed to ratify these documents. Isn't that right?---In my letter?

Ms Bakis, please.

THE COMMISSIONER: Don't be obstructive. Answer the point of the question.---I'm, I'm really confused.

You keep avoiding the question.

40 MR CHEN: You're not - - -?---No, I am not. I'm really confused.

THE COMMISSIONER: Madam, it is plain to anyone in this hearing room now that's exactly what you are doing. You are refusing to answer the question.

MR CHEN: Let's do it - - -

THE COMMISSIONER: This is not doing your credibility one little bit of good.--- I'm sorry - - -

I'm trying to assist you.---Can we go again, sorry? Just, I'll, I'll listen carefully. Please, ask the question.

MR CHEN: Ms Bakis, we went through this yesterday.---Yes.

10 And you were at pains to say how you'd delivered this letter and you had a discussion with them, isn't that right? MFI 33, page 28.---Did I say that? Okay, assume I said that yes, okay.

Well, sorry, is this letter just an invention, Ms Bakis? I should ask you. I mean, I'm assuming that this is a genuine letter, this letter of 23 December, 2015. Did you actually write it?---Can you scroll down? I may not have written it.

I'm sorry?---I may not have written this letter.

20 THE COMMISSIONER: Oh, go on.

MR CHEN: So - - -

THE COMMISSIONER: Ms Dates – Ms Bakis I should say.

MR CHEN: So, when it referred - - -

30 THE COMMISSIONER: This is a – just a minute. This is a letter on your firm's letterhead with your signature on it. Anything's possible in this world but it certainly looks on its face as if this is your letter, doesn't it?---Yes. Let's assume it is.

Sorry?---Let's assume it is.

I'm sorry, I can't hear you.---Yes.

No, what did you add?

40 MR CHEN: "Let's assume it is".---Let's assume it is.

THE COMMISSIONER: No, no. We're not talking about assumptions at all. We're talking about prima facie the evidence is that it's your letter. Do you want to walk away from that? Do you want to distance yourself from the letter as not yours?---I can't remember drafting a lot of these documents but that doesn't mean that I didn't. So, I'm not going to distance myself. Please continue.

MR CHEN: And you can see in the first paragraph, Ms Bakis, it says, "Further to our conference call yesterday," et cetera. Do you see that?
---Yes.

And you spoke plainly, can I suggest to you, to Ms Dates and Mr Green at or around this time, asking them to specifically ratify all the documents that you sent up to them or provided to them in your letter of 23 December, 2015, isn't that right?---I, I think I did.

10 Well, let's have a look now at the response you received apparently, Ms Bakis, back on 11 January, 2016. So, this is MFI 33, page 30. Ms Dates apparently has arranged for this letter to be sent to you, ratifying all of these documents?---Yes.

Ms Bakis, is this a letter that you received from Ms Dates?---I don't know.

What's your hesitation about it, Ms Bakis?---Well, this letter, well, Ms Dates couldn't have written this letter, so she would have had someone write it for her.

20

THE COMMISSIONER: It certainly seems it's unlikely she wrote it.
---That's right.

I agree with what your answer was. And who do you think did draft the letter for Ms Dates to sign in her name?---It might have been Mr Petroulias preparing a draft for her to assist her in responding to my letter.

Well, if it's not Debbie Dates you think it's likely that it was Mr Petroulias prepared this letter?---Yes. I, I don't know if it was Nicky, I don't think so.

30

And why do you think he went to the trouble of having this letter prepared and then submitting it to Debbie Dates for signature? That's the letter of 11 January, '16?---I'm not sure.

Well, what do you think his rationale, his reason for doing it was?---To make sure it's documented properly. I, I couldn't, I couldn't say why he did it. I honestly don't know.

40 Do you know what level of education Debbie Dates had?---I said I don't think she wrote it. Sorry, sorry.

No, I understand your evidence that you think it's unlikely she wrote this letter.---That's right.

I understand, and I can understand why you say that. Do you know anything about her background and what level of education she had?
---I don't know. I remember discussing it with her but I don't, I know she didn't have a lot.

MR CHEN: Have you ever seen this on your file, this letter, Ms Bakis?
---I haven't.

You haven't?---No.

And is the first time you've seen it either today or perhaps when your barrister may have shown it to you when it was provided to the Commission as MFI 33?---I think that's right. I don't recall, I don't recall seeing this
10 document previously.

Well, I just want to take you back, Ms Bakis, because I don't feel that I've been given a response to the question I asked about why you needed to have this ratified. Could you provide the Commission with a response to that question, please, Ms Bakis?---I actually don't know, Mr Chen, I don't know. I, I honestly, if, trying to think back to that time, it, from my perspective it would have been that everyone knew what was going on and I probably used the wrong words, ratify.

20 What's the purpose of ratification, Ms Bakis, in your words?---Ratifying um, it's, it's like a, you know, an entity resolving, or, you know, to do something or acknowledging, ratifying, no, it's, ratifying, it's putting a stamp on something that's, that it, that involves it. I don't know.

That's making a decision, isn't it?---Making a decision.

Is that your understanding of ratification or is there more to it?---Yeah, it could be that, yeah.

30 Sorry, could be what?---Making a decision.

Is that what you understand it to be?---I think so.

Ms Bakis, you don't know what ratification is, do you?---No, in my mind I do but now I've lost all confidence so I'm - - -

And what are the essential elements, then, to have something ratified, Ms Bakis, do you know?---Well, it would need a board resolution.

40 Is that right? And what other steps would be required, Ms Bakis, as a matter of law, for a decision to be ratified, do you know?---For a Land Council?

I didn't qualify it, Ms Bakis. I said a board.---Oh, you said board. A minute. A meeting. A, oh, I'm not, I, I've said earlier that this, when I've used the term ratification in that context, I've used it more in terms – it was used incorrectly in that letter.

Please, Ms Bakis, attend to my question.---But I'll attend to your question.
What does ratification mean?

No, what does it involve? What are the steps? You've said there's got to be a meeting. There's got to be a minute. What are the legal requirements for something to be ratified?---Well, there's got to be a board meeting minute and then the board needs to ratify those minutes at a subsequent meetings.

10 We've worked the mechanics of it out. Obviously there has to be a meeting.---Yes. Well, that's what you're asking me.

But, no, what are the legal requirements? What are the steps that need to be taken by that board to enable it to resolve to ratify something?---Well, it needs to consider things.

Is that your understanding, Ms Bakis, of it?---Well, the process, yes.

20 And so that's the advice presumably you're giving members of the Land Council about what they need to do to ratify things. Is that it?---Yeah, the process of ratification is have it explained to them and take it to a board.

No, Ms Bakis, please, you're answering a different question. I'm asking you, is that the subject matter of what you were giving advice to the board members on about what it requires to ratify something?---Yes. They all knew that, yes, and that's what I explained to them, yes.

30 Well, Ms Bakis, one of the effects of ratification that you would well know is it authorises or legitimises something after the event, isn't that right?
---Yes.

And so sending these documents off to the board or these board members of the Land Council and having them sign it creates, at least on the face of it, an appearance that these documents and the instructions contained within them are all legitimate, isn't that right?---Yes. But that's not what I was doing here.

40 Well, the effect of what has occurred or the attempt here contained – I withdraw that. What you were endeavouring to do, Ms Bakis, seemingly with the assistance of Mr Petroulias, is to try and legitimise all of these payments to Gows Heat, isn't that right?---They didn't need legitimising.

Well, Ms Bakis, that is the effect, apparently, of what is contained in attached ratified copies of the various documents that you can see in MFI 33, page 30, isn't that right?---They didn't need legitimising.

That is the effect of it, Ms Bakis, is it not?---Well, that is one effect of it, yes.

And that was the intent of you asking for Mr Green and Ms Dates to ratify all of these documents that you sent to her.---No.

And that is why, based upon the advice you gave them, presumably Ms Dates returned ratified copies of those documents.---Okay. That's not a question.

Well, is that what occurred or not?---Well, if, from this, from what you've shown me today, that's what's occurred.

10

MS NOLAN: Commissioner, I'm just going to object because I think, I understand why my friend's asking these questions. I think he needs to be a bit more square and direct about what he's actually putting to this witness. I can understand her confusion because the proposition that was just put, I understand it's an important one, but he has to put squarely what he's suggesting by that question, and I think the delineation is blurred, with respect.

THE COMMISSIONER: Sorry, the last bit?

20

MS NOLAN: I think the delineation is blurred, with respect. I understand what my friend's putting. The witness doesn't. My friend, if he would just withdraw that question and put his proposition more squarely. That's what I'm asking, because I don't think it's a very fair question at the moment and I understand why the witness is confused because the question is a little - - -

THE COMMISSIONER: Well, the witness - - -

MS NOLAN: - - - blurred.

30

THE COMMISSIONER: No. I'm going to allow it. It's very clear to me.

MS NOLAN: Well, I know it is to you, Commissioner. It's not to the witness and it is apparently to me sitting here as an observer, what the proposition is - - -

THE COMMISSIONER: Yes. I've heard your objection.

MS NOLAN: But it needs to be put more squarely. If my friend takes that on board.

40

MR CHEN: I will take that on board. I'm just having my - - -

THE COMMISSIONER: Mr O'Brien? Just a moment. Mr O'Brien?

MR O'BRIEN: I'm sorry, I think the question has the potential, Commissioner, of being somewhat misleading because it was the witness's evidence earlier on that in fact she didn't draft this document or that she'd

never seen it before and therefore Petroulias may have done it. In those circumstances, the proposition as being put by Counsel Assisting, that Ms Dates has returned these ratified documents, doesn't necessarily flow from the earlier evidence.

THE COMMISSIONER: Well, Mr Chen, I think perhaps take that on board and - - -

MR CHEN: I think my question accommodates it, with respect.

10

THE COMMISSIONER: I thought it did.

MR CHEN: I haven't linked up the letter with these documents being returned at all. I put the proposition but I was just having my junior identify the question because, Commissioner, I can't precisely remember it. So - - -

20

MS NOLAN: Well, the question was, "That is why Ms Dates returned it?" So the question was the legitimacy of this – the whole point is this is a sham, there's legitimacy, and that's why Ms Dates returned it, and Mr O'Brien's interest is directly and squarely affected. I objected basically because I wanted to make sure that everybody gets a fair hearing here.

30

MR CHEN: Commissioner, I've taken on board, I've just asked my learned friend if I can have an opportunity to read the note and I'll rephrase it if I need to. So, she doesn't need to repeat it, I've understood what she's said. Anyway, I'll withdraw the question and I'll put this question. Ms Dates, I'm sorry, Ms Bakis, the intent of you asking Ms Dates and – I withdraw that. The intent of you asking Ms Dates and Mr Green to ratify those copies was so that you would have on your file a record that would somehow legitimise these payments to Gows rather than the Land Council, isn't that right? ---That's completely incorrect. Completely incorrect.

40

Well, what other explanation do you have then for, as it seems, Ms Bakis, for asking board members of a Land Council to ratify these documents? ---As I've explained, I, I wanted them to know what was going on, that the deal had been done, that the money had been transferred to Gows, and I actually think in hindsight I've probably used the wrong term in, in terms of ratifying. I think I wanted them to acknowledge the existence of the documents.

THE COMMISSIONER: You're avoiding the question.---Well - - -

It's not a question of notifying them, giving them notice. You were, in your own words, seeking ratification, assuming that this letter was written by you. That is to say, you wanted them to endorse after the fact of the payments.---Yes. But that endorsement had no effect.

Well, whether it had, doesn't matter what effect it had, that's what you were seeking to achieve, to have them not only informed, but to exercise their mental processes and ratify the payments. Ratify in the sense we've earlier discussed. Is that not right?---It's not right.

Well, if it's not right, what other possible explanation could there be for you asking them to ratify?---I just wanted to them to know, to - - -

10 But you're asking them to do something and that was, it's been put to you, to create some evidence that they were supporting the payments to which the letter refers. Now, what do you say to that?---I completely reject that.

All right, well why are we asking them to ratify then? What's the purpose behind that?---Well, I think I know what you're suggesting but - - -

Don't worry about what you think I - - -?---It didn't matter - - -

- - - might be suggesting.---It didn't - well, I have to - - -

20 If you'd just focus on the question, please, madam, as you've been asked dozens of times - - -?---Okay. Well - - -

- - - and respond to the point of the question.---And I've responded dozens of times with, with words to the effect of, I don't know.

Just answer my question.---Okay.

30 What other purpose would be served by asking them to ratify these payments, if it wasn't to create evidence that you could or Mr Petroulias could rely upon to legitimise the payments?---So that, that, that the board knew and the Land Council knew and that there was a clear record of what had been going on.

But that's more than informing the Land Council, it's asking them to do something.---Okay.

40 To exercise their mental processes to do something by way of ratifying the payments. The question is, if it wasn't just to create evidence to try and legitimise the payments out, then what was the purpose of asking for ratification?---I don't know.

Well, can you think of any other possible reason?---I actually can't. I can't.

So the - - -?---I know, I know why it was done, I can't hypothesise as to what, what other people could perceive it to have been done for.

Well, if - - -?---Honestly, that is my honest answer.

If you can't see any other purpose for asking them to ratify these payments than it would provide evidence of some legitimising of them, then that must have been the purpose.---But they are legitimate. They didn't need legitimising.

No, well, that's - - -?---I know, I know you - - -

That's your submission.---No, it's not my submission, it's the truth.

10 There's a very large question as to whether they are legitimate. You appreciate that, don't you?---It, this is very hard for me because this transaction has happened in one way and now it's being put to me in another way and I have to imagine why it was done that way. It's very difficult.

MR CHEN: Well, Ms Bakis, presumably you saw these documents returned to you, namely the deed of acknowledgement and guarantee and the trust account disbursement instructions which are referred to in your letter to Ms Dates and Mr Green of 23 December, 2015. Is that not right?
20 ---I actually don't remember if I saw them or whether they went straight to a file.

Well, there's only one file, it's your file and you're the solicitor apparently acting for the Land Council. Isn't that right?---Yes.

And as I understood your evidence last Monday, you were the only person that was working in your office in late 2015.---I was.

All right. So the only person that's going to put them on the file is you.

30 MS NOLAN: Commissioner, I object, please. I have a clear record of my friend putting a – I know that he wants to test it, but I have a clear record of my friend putting “Have you ever seen this on your file?” and that line of questioning from there on and the answer was no.

MR CHEN: No, that's the letter.

THE COMMISSIONER: It doesn't go to that last question, Ms Nolan.

40 MS NOLAN: No, the letter, no, pardon me, Commissioner, I haven't quite finished. The letter to which I'm referring, maybe I'm, maybe I'm wrong, but I understand it's the Debbie Dates response letter.

MR CHEN: No.

MS NOLAN: Is that the letter to which my learned friend is referring?

MR CHEN: No, it's not.

MS NOLAN: Because there are two.

MR CHEN: No, it's not. I - - -

MS NOLAN: All right. Well, if my friend would be clear. I apologise, but that's my understanding and that's the basis of my objection.

THE COMMISSIONER: Well, let's get on with the cross-examination. Sorry, the examination of this witness.

10

MR CHEN: The point, Ms Bakis, as I understood it, is that you were the only person employed in Knightsbridge North offices in December of 2015. ---Yes.

Yes. So the only person that's going to put these agreements or trust account disbursements and matters of that kind referred to in your letter of 23 December, 2015, is you, is it not?---Well, Mr Petroulias was helping with this.

20

Oh, so he's in your office now, is he, helping you out in this transaction? Is that the position, Ms Bakis?---Okay. All right. I work from home and I work in an office. Okay. Two, two workplaces. And the paperwork for this matter I kept at home most of the time in a pile, so in, in my Castlereagh Street office he wouldn't have, he wouldn't have been there, all right, sorry, so what were you asking from the beginning?

THE COMMISSIONER: Well, it comes back to the question, it's likely in those circumstances you've just outlined that you would have put these, this letter and the documents on your file at home.---Well, that - - -

30

Which is where you kept all the papers you said, or most of the paperwork. ---That's not what follows from what I just said. It could have been Mr Petroulias has come back from Newcastle and put it on a pile or left it on my desk, so I probably saw it at some point.

All right.

MR CHEN: You were, Ms Bakis, plainly working hand-in-hand with Mr Petroulias all throughout 2015-2016 with these transactions, weren't you?

40

---Yes.

Now, as I understood your evidence late yesterday, Ms Bakis, you say that you – and tell me if this is not right – that you don't know anything about this second Gows Heat heads of agreement. Is that the position?---I don't recall, I don't recall drafting it.

Ms Bakis, I took you to this document, you would remember, last week and I showed it to you.---Right.

And you accepted the fact that not only did you draft it, but you saw, observed Ms Dates sign it and Mr Green sign it.---That, was this the second one? I don't recall saying that.

All right. Well, the transcript will be what it will be, Ms Bakis, but what's the position now in relation to the Gows Heat heads of agreement – would you like to see it again – that appears within the Solstice agreement of 18 or 19 November, 2015? Would you like to see it?---No.

10

Right. Did you draft it or you didn't draft it?---Well, I didn't.

Right. And did you provide it to Mr Green to sign?---No.

Did you provide it to Ms Dates to sign?---No.

You recognise of course, though, Ms Bakis, that this is on your file that you've produced to the Commission, don't you?---Yes.

20 And what's your explanation for how that's come about? Mr Petroulias has put it there, has he?---Mr Chen, there's a lot of documents that I've seen in my examination that I have never seen before and - - -

Right. Well - - -?---And I've become increasingly concerned as each day wears on because there's things that I perhaps am saying that I have seen when, when I think about it in retrospect I haven't. So my explanation as to how they've been put there is Mr Petroulias must be putting them there.

Well - - -

30

THE COMMISSIONER: So, Ms Dates, sorry, Ms Bakis, I discern in what you've just said that you're becoming increasingly aware and concerned as to Mr Petroulias's involvement in, or intermeddling in these transactions? ---Yes.

And that that's impacting on you in some way?---Yes.

40 And what are you really saying about what he was doing in 2015 which you feel is perhaps, my word, compromising you?---Well, I, I have been shown clauses in documents that I squarely would never have put to Debbie or Richard where their property is being charged, for example, and one of those was that one of the option deeds in the Advantage agreement, and what's becoming clear to me now is I've seen one version of the documents and it has perhaps been amended later without my knowledge, and I don't know how much of that there is, although - - -

Well, at the moment we're talking about the second heads of agreement involving Solstice.---Yes.

And you say you did not draft it.---No.

And you did not provide it to Green or Dates to sign. Is that right?
---That's right.

Well, if you didn't, is the only possibility remaining that Mr Petroulias did those things?---Yes.

10 Were you concerned at any point in 2015 as exactly what Mr Petroulias was
up to in relation to the Sunshine transaction? And if so, at what point?---I, I
was concerned and I was very concerned that a large amount of money was
going into my trust account and I, and that's why I made sure that I had the
proper authorities to release that money. But I, having seen some of the
evidence yesterday, there's two lots, there's the same agreement drafted two
ways, signed by Debbie and Richard, and, and I don't know if that was just a
process of the way that transaction was going, and it, and it was, it was, it,
it was very, it was a very muddled process. Documents were coming from
them, from us, and what appears now from Mr Petroulias. So, so, yeah, I, I,
20 in hindsight I'm concerned. At the time I was more concerned about the
money as opposed to the documents because I thought that the documents
that I'd seen were the ones that were being signed.

Well, did you at some stage in 2015 become concerned because of the activities of both Mr Petroulias and Mr Green in relation to the Solstice transaction? Sorry, in relation to the Sunshine transaction.---I wasn't concerned about Mr Green's involvement.

30 Well, did you understand that Mr Green was, as it were, somewhat
subservient to Mr Petroulias? Or were they, as it were, equal partners in this
venture?---Look, they thought of each other as equal partners, they behaved
as if they were equal partners, and they rang each other up constantly to
make decisions. But clearly Mr Green was obviously in a position of
subservience to him just from sheer lack of commercial knowledge on
things. But I wasn't concerned because United Land Councils was a
legitimate enterprise and Tony Zong knew what they were doing and Tony
Zong is being showed other opportunities that weren't related to Awabakal,
so I wasn't necessarily concerned about Richard's involvement.

40 Your concern focused more on what Mr Petroulias was doing in relation to
the Sunshine transaction and the moneys that were paid under it by Zong?
---Yes. Yes. Yes.

MR CHEN: Well, why is that a concern, Ms Bakis? You've been saying
now for days it's all legitimate. Why is it even a remote concern for you?
---From my trust account obligations.

But, Ms Bakis, it's got – you've been repeatedly saying, as I understood your evidence, this is all done consistent with the agreements.---It is.

All the disbursements from the trust account have been proper and in accordance with directions, contractual obligations, et cetera, isn't that right?---And they are.

So why on earth has that got even the slightest concern in your mind at all? ---Well, I was just asked if I had a concern, and I had a concern.

10

No, I'll tell you, Ms Bakis, with great respect, what your concern is, is that you gave evidence last week where I showed you this very agreement – this Gows Heat agreement contained within the Solstice agreement – and you gave evidence – and this is at 2334 and following – in clear terms that you knew of it, that you were there when Ms Dates signed it and Mr Green signed it. Isn't that right?

20

MS NOLAN: I object. There's clear evidence that this witness has said, has explained the reason for the discrepancy. And I'm going to – the Commission, please, the Commission approaches this area with complete courtesy.

THE COMMISSIONER: With what?

MS NOLAN: Complete courtesy and a moderated tone, with a genuine view to eliciting truth, and my friend just bashes. Please.

MR CHEN: With great respect - - -

30 MS NOLAN: No, please. I have a - - -

THE COMMISSIONER: That is an outrageous, outrageous comment.

MS NOLAN: No, it is not, Commissioner.

THE COMMISSIONER: It is. It is. And I ask you to withdraw it.

MS NOLAN: No, I do not. I, I - - -

40 THE COMMISSIONER: All right. Well, sit down and stop interrupting this cross-examination. Your objections are not in point, I'm afraid.

MS NOLAN: No, this has been asked and answered, and now my friend is taking it too far.

THE COMMISSIONER: I allow it.

MR CHEN: No, with respect, my learned friend should not say that, and if she looked at the transcript I said, quote – and I'll read it onto the transcript so my friend doesn't labour under the misapprehension she obviously has. This is at page 2334. “Well, I'll show it to you, Ms Bakis, so you're at no disadvantage. It's volume 8, page 59. Now, do you see that's a second Gows Heat heads of agreement, is it not, dated 15 December, 2014?” Your answer was, “Um, yes.” And I took you through it line by line, Ms Bakis. Isn't that right?---I, I don't remember that but I would have assumed that it was my document.

10

Well, I asked you about - - -?---I would have assumed back then. Things have changed in a week, significantly.

Well, I asked you about - - -?---And perhaps I gave the wrong evidence.

Well, I asked you about it in detail and I took it through about whether Mr Green and Ms Dates were a willing participant and I asked you at page 2345, “But you drafted the agreement, I take it, did you not? The 2015 agreement?” “Yes, I think so” .---“Yes, I think so,” are the key words.

20

But, Ms Bakis, it's in line with and needs to be read with the evidence where I took you through it, where you gave evidence – again, this is at 2334 – that Mr Green signed it in your presence or you thought he did, et cetera. So, Ms Bakis, is the position that you know nothing of this second Gows Heat agreement?---I don't think I do.

Well, this is - - -?---Right now I don't.

Well, Ms Bakis, this is evidence that you gave on Friday.---Yes.

30

THE COMMISSIONER: You realise you have contradicted your own sworn evidence at 2334-5 today?---I haven't because - - -

MR CHEN: Well, she attempted to - - -?--- I haven't.

To be fair to the witness, I just - - -?---I haven't.

THE COMMISSIONER: Yes.

40

MR CHEN: She attempted to change it yesterday afternoon as I – well, attempted to give different evidence yesterday afternoon but subject to that caveat - - -?---Am I being asked a question, sorry? The - - -

THE COMMISSIONER: No. The observation has just been made that you've given inconsistent evidence. You have an opportunity, if you want it, to try and extricate yourself from that inconsistency if you can.---Okay, well, I thought I explained it. I, when documents were shown to me early last week, I was working on the assumption that if they were on my

letterhead and signed by me, that I had drafted the, but the more that the Commission, my, my examination has continued, it's become obvious to me that that's not the case. And, and that, at the time, when I saw that document, I would have assumed I'd drafted it, but in hindsight, I didn't. I've had time to reflect a lot on these things and I don't ever recall seeing that document. Which is why I said, "I think so," because I wasn't sure.

10 MR CHEN: Well, Ms Bakis, can I just suggest to you that you did draft that agreement, or at the very least, you knew of its creation. What do you say to that?---I, I didn't.

And you at least arranged for it to be signed or somehow knew that signatures had been placed upon it, isn't that right?---No.

And you knew, Ms Bakis, that there was no resolution at all or any board determination to support the existence of this supposed second Gows Heat agreement, isn't that right?---Well, I didn't know. I - - -

20 You see, Ms Bakis, can I suggest that really, that you're attempting to change your evidence because you understand that this agreement now, this second Gows Heat agreement, is simply a false agreement, isn't that right? ---I don't know if it is or not.

THE COMMISSIONER: Can't hear you.---I don't, that's not why I'm changing my evidence. I'm trying to be honest with you people. If you're not going to assist me, I can't help you.

30 MR CHEN: And the - - -?---I'm, I'm just trying to assist the Commission. And the - - -?---I'm not changing my evidence.

Well, Ms Bakis - - -?---I'm trying, I have explained to you three times now, three times.

Well, what steps did you take, Ms Bakis, to check through the documents that you produced to the Commission in answer to the summons?---I, I didn't. That was my big mistake. I didn't.

40 What, you just handed it over to Mr Petroulias, is that the position?---Well, I think I had a week to prepare the documents and I said to him, "Oh, God. I don't have time to do this. How am I going to do this?" and he volunteered to do it. I had a quick flick through the file and, just to check that, you know, file notes were there et cetera and I didn't take a close look at it.

Well, did you look at all the file notes?---No, I said I had a quick look.

Well, just on that, Ms Bakis, there's a lot of - well, I withdraw that. There are a number of file notes within your file, aren't there?---Yes.

Did you prepare them all, Ms Bakis?---No.

Did you prepare any of them?---Yes.

Are you able to identify which ones you did prepare or those you did not?
---If I had a long look at them and a long think about them I could work it out.

10 You see a lot of them contain information – I’ll withdraw that. Who has, if you haven’t prepared them, Ms Bakis, who has prepared these file notes?
---Mr Petroulias. It’s - - -

And a lot of these file notes contain signatures of apparently Ms Dates, Mr Green, yourself and Mr Petroulias.---Yes, but if, if he drafted it I would have read it and agreed to it.

20 You’re not disputing that you signed them, is that the position?---No, as long as there’s an original somewhere on the file, yeah, I’m not disputing it.

And what about the signatures of Mr Green and Ms Dates? Are they all original signatures that you’ve seen, Ms Bakis?---Yes.

They are, are they?---Well, I have my doubts now. The, the, the file notes that I’ve signed that were also signed by Debbie and Richard, I’m confident that they signed them, if there’s anything aside from that, like I said to you, I’m losing a lot of confidence in a lot of things.

30 Just coming back – I’m sorry, did you finish?---Yes.

You see, you would accept, Ms Bakis, that in relation to the Gows Heat heads of agreement contained within the Solstice agreement, that you don’t know whether Mr Green or Ms Dates had the authority to sign such agreements. Is that right?---That was November ’15?

Well, to be clear, December ’14 and November ’15.---Oh, you’re talking about the original agreement, on the original agreement.

40 Well, let me break it up so you’re not under any disadvantage. On what you say, Ms Bakis, to the Commission, you don’t know whether Mr Green or Ms Dates had the authority to sign that other Gows Heat heads of agreement?---In hindsight they probably don’t, that’s right.

Well, as I understood your evidence, I’m sorry, Ms Bakis, I mustn’t be understanding what you’re saying today, but as I understood it, you knew nothing of the Gows Heat heads of agreement relating to or that was contained within the Solstice agreement of 18 or 19 November, 2015. Is that right or wrong?---Sorry, you keep jumping back to the ’14 one. So

were you just asking about the '15 agreement and whether Debbie and Richard had the authority to, to - - -

I'll have it brought up on the screen. Just pause there, Ms Bakis. I'll have it brought up on the screen so that we can get this clear. Now, Ms Bakis, the, I'll call it second Gows Heat agreement is at volume 8, page 59.---Yes.

10 And what as I understand you say is that you know nothing of this second agreement. Is that right?---That's not the right agreement. I don't think that's the agreement you're talking about, is it? I thought the one - I'm so confused.

Well, Ms Bakis, this is an agreement which is contained within the Solstice heads of agreement dated on the cover page 19 November, 2015. If you just turn back to page 59 you can see it says Schedule C. It's a - - -?---Yes.

It's attached to those agreements.---Okay. All right. I got it.

20 Now, is your evidence that you have or have not seen that agreement before?

MS NOLAN: Sorry, which agreement, the Solstice agreement or this original Gows one?

MR CHEN: The one that's on the screen.

THE COMMISSIONER: Schedule C, the heads of agreement, 15 December, 2014.

30 THE WITNESS: Scroll down. Has it been signed? I, I haven't seen this. I haven't seen this agreement.

THE COMMISSIONER: You've not seen it?---No.

MR CHEN: So, if you - - -?---My recollection is I drafted one document in December '14.

40 And you would accept, therefore, that you know nothing of the apparent authority of Mr Green or Ms Dates to sign it?---That's right.

And you know nothing of whether there's a board resolution or minute for that transaction to occur, is that the position?---That's right.

And presumably you have never been told by Ms Dates or Mr Green that there was such a resolution, is that the position?---That's right.

And on that footing, so far as you know, there's not proper base at all for an agreement such as this to be drafted, isn't that right?---Yes.

And it would seem unless Mr Green and Ms Dates did give such instructions and the board has so resolved to enter into this transaction, it's a plain attempt to create a false agreement, is it not?---Yes.

And to use it would be an attempt to try and defraud the party, namely Solstice?---Yes.

10 Now, you did know, though, don't you, that there were negotiations involving Solstice, isn't that right?---I, I did know, in I think it was about March or April that there were negotiations with Solstice.

And do you mean by that, 2016?---'16, yes.

And you were aware, were you not, that agreements have been prepared following meetings that had occurred, isn't that right?---Yes.

20 And you were involved in that, weren't you?---In, in what? The meetings or the drafting? The draft - - -

Well, you certainly participated in a meeting, if not in November 2015, certainly in or around April 2016, isn't that right?---No. That's not true.

And you certainly prepared documentation around early April 2016 to deal with this attempted transaction with Solstice, isn't that so?---I didn't.

Didn't know of it?---I knew - - -

30 At all?---I knew there was a transaction under way and I spoke to Mr Petroulias and Mr Green about it and I never liked that transaction and Mr Petroulias was doing the drafting on that.

You had nothing to do with it?---Very little to do with Solstice.

What does very little mean, Ms Bakis?---Documents would have been drafted, then I, I would have had a quick look at them.

40 All right. So, you knew it was proceeding forward, this negotiation between on the one hand the Land Council and on the other Solstice?---Yes.

And you ultimately approved the documentation, presumably consistent with your role as solicitor for the Land Council, being issued, isn't that right?---My recollection is the documents were drafted by Solstice and we had input.

THE COMMISSIONER: All right. Now, you might care to answer the question that was put to you.---Sorry. Sorry, Mr Chen?

You ultimately approved the agreements that were drafted, the Solstice agreements?---Yes but I – yes.

MR CHEN: And you knew, didn't you, Ms Bakis, that this transaction involving Solstice involved the very same lots that apparently had been dealt with in this Sunshine transaction, isn't that so?---Yes.

10 And the people that you, sorry, that were from Solstice were a gentleman named Andrew Kavanagh, isn't that right?---I never met Andrew, but yes.

And Ryan Strauss?---Never met Ryan, but - - -

Well, you certainly saw his name in the email exchanges, didn't you?
---Yeah, yeah.

And also a gentleman called Dean Alcorn.---Yes. He, Dean called me a few times and I just asked him to call Nick Petroulias.

20 Well, he was calling you because you were the solicitor for the Land Council.---Yes.

And you knew that what had issued in early 2016 was a revised set of, and more detailed set of agreements involving the Land Council and Solstice. Isn't that so?---Around April?

Yes.---Yes.

30 And it involved a series of agreements, a collaboration agreement, a management agreement, call option agreements and matters of that kind. Isn't that so?---Yes.

And that became the subject of fairly intense discussions between on the one hand Solstice, but also on the other hand the Land Council. Isn't that so?---Yes.

And you were involved in those discussions resulting in revised documentation being prepared, isn't that so?---No.

40 Not at all?---No. The, my involvement was they were all in my office one day and I threw them out because they were making too much noise and I went downstairs to buy my lunch and they were still yelling at each other downstairs. It was that sort of transaction.

But you knew that following that there was revised documentation prepared, Ms Bakis, didn't you?---I don't know when that, when that happened and
- - -

THE COMMISSIONER: You're not asked about when, but you knew the fact that they came into existence, physically you could see a collaboration agreement, management agreement, the call option agreement and so on? ---Yes, they were their drafts, yes, that they'd sent.

Sorry, they were?---They were drafted by them, by Solstice.

10 MR CHEN: But you knew in any event that the range of agreements that were going back and forth between the parties involved the call option agreement, the management agreement, the collaboration agreement, a surrender and release agreement as well as a revised I think collaboration styled agreement. Isn't that so?---Oh, broadly, I mean - - -

Well, just so it's clear, this transaction again was proceeding on the footing that it involved the buying out of an interest that apparently Gows Heat had. Isn't that right?---I don't recall that.

But - - -

20 THE COMMISSIONER: Well - - -?---I, I - - -

What was being purportedly transferred by these, under these agreements, some of them?---This was a straight purchase of their land for 30 million with a very, a clawback, which, which was not good. It was a straight purchase. I didn't think there was a Gows Heat, I, I, I don't recall there being a Gows Heat element to those, to those deals.

30 MR CHEN: Well, I'll show you, Ms Bakis. Have a look at volume 10, page 160.---Yes.

You now accept, don't you, that there's a requirement that an interest that apparently Gows Heat have be bought out?---Where, I don't know where this came from. This - - -

40 THE COMMISSIONER: You see the recitals. It purports to state – whether it's true or not is another question – Gows has the option to purchase various properties from the Awabakal Land Council arising inter alia from this heads of agreement of 15 December, 2014. Do you see that? ---Yes.

Got the picture now? Well, that's what you're being asked about.---Is this signed?

MR CHEN: I'm not suggesting it's signed, Ms Bakis.---Well, I, I don't know where this came from.

Well - - -?---I, I have, I don't know about this.

Well, have a look at volume 10, page 137. It's been emailed by you to Sam.---Yes. Yeah, well - - -

Isn't that right?---I didn't send that email.

You didn't?---No.

So, Ms Bakis, you were, let's be clear, the solicitor for the Land Council.
---Yes.

10

And again you knew that these documents were being circulated and you'd approved the documents issuing, isn't that right?

MS NOLAN: I object. My friend has not at all established which documents this witness knew were being circulated or not. His questions have been broad and unfettered and they will live and die by virtue of that lack of clarification.

20

THE COMMISSIONER: Ms Nolan, that's just not right.

MS NOLAN: No - - -

THE COMMISSIONER: We're talking about the agreements referred to on the screen. Yes, I'll allow the question.

MR CHEN: I've shown her one document to – I don't know what my friend's concern is. I've shown her a document. She's denied knowledge of it.

30

THE COMMISSIONER: Yes.

THE WITNESS: The Solstice deal went on for a long time.

THE COMMISSIONER: No, don't make speeches.---Oh, I'm sorry.

You just give answers to questions.---Okay.

Start again.

40

MR CHEN: So as I understand it, Ms Bakis, you were the solicitor for the Land Council, isn't that right?---Yes.

And you had, as I understood it, agreed that you had approved the documentation that had issued to Solstice, isn't that right?

MS NOLAN: The question – my objection is the same.

THE WITNESS: I can't – see, if I answer yes or no to that, I'm not giving you a truthful answer.

THE COMMISSIONER: I just want you to answer the question.---Well, no.

MR CHEN: You didn't approve it?---No.

10 And so is the position you know nothing of the documentation that issued at any point in time between on the one hand the Land Council and on the other Solstice?---I do know.

THE COMMISSIONER: You did not, did you say? Sorry, what was your answer?

MR CHEN: She said “I do know.”

THE COMMISSIONER: You do.

20 THE WITNESS: I don't, I, this, that document you just showed me before – which I assume is attached to this, I assume you people are doing the right thing – I haven't seen before. And I didn't think that was part of the latest suite of documents. I could be wrong.

MR CHEN: Well, Ms Bakis, what documents do you say you've seen?---I don't know. I honestly don't know.

Well, have you seen a call option agreement?---Yes.

30 Have you seen a collaboration agreement?---I have seen that, yeah.

Have you seen a deed of rescission and acknowledgment?---I don't recall seeing that.

Have you seen a management agreement?---I think so.

So the two documents that deal with Gows Heat and the Gows Heat agreement you say, do you, you've never seen before? Is that the position? ---I'm pretty sure that's the case, yes.

40

So how has it happened – I withdraw that. Ms Bakis, you do know, don't you, that documents – whether you were involved in it or not at the present time is immaterial – issued to Solstice in November 2015 and now in, at least your understanding, in early April 2016?---I knew documents had been issued to Solstice, yes.

And on either version, Ms Bakis, that has issued to Solstice, you can see, can't you, that it involved buying out of a Gows Heat interest, isn't that right?---I don't know.

Well, I'm just showing you the documents and that seems to be what they're purporting to do.---Well, that's not what this email is saying. But if you're, if - - -

10 Ms Bakis, I'm not asking you about this email. We'll take down the screen so you don't get distracted. I'm just asking you about the two transactions both involve the removal of and the buying out of a Gows Heat interest, isn't that right?---I accept what you're saying.

THE COMMISSIONER: No, no. We're asking you about your knowledge.---And I have said about four times now I don't know about that.

Are you serious when you give that answer?---I am - - -

20 Just take time to consider the answer. Is that a serious answer or do you need to really answer it again?---I am serious.

You were the solicitor for the Land Council- - -?---I was one of the solicitors.

- - - at this time, weren't you? That is November and April - - -?---Yes.

November '15/April '16?---Yes.

30 And are you seriously saying that you had no idea that the documents that were sent or issued to Solstice had anything to do with an interest claimed to have been held by Gows Heat?---That's exactly what I'm saying. Exactly what I'm saying,

MR CHEN: Well, Ms Bakis, you can appreciate though, can't you, by looking at them now, that that's plainly what was attempted to be transacted, can't you?---Yes.

40 And so, as I understand your evidence, is that somehow, these additional documents never made it to your attention? Is that the position?---Yes.

And that you remained ignorant of them at all times?

MS NOLAN: Well, can my friend clarify "all times"? I mean she knows about them now.

MR CHEN: Well, I will. 18 November - - -

THE COMMISSIONER: I'll allow the question.

MR CHEN: No, during the transaction. 18 November, 2015 until when this board resolved to reject it?---Yes, that's right.

That somehow these documents had been created completely without your knowledge, sent to the other side without your knowledge, is that the position?---Yes.

10 And who do you say has prepared these documents, Ms Bakis, if it's not you?---Mr Petroulias.

And he's never had a discussion with you at all about this?---(No Audible Reply)

You need to audibly answer, Ms Bakis.---I was waiting for you to finish, Mr Chen. Well, he, no, he has not had a discussion about this.

20 You see, can I suggest, Ms Bakis, that your evidence is simply not true and that you did know precisely about Gows Heat throughout the totality of this attempted transaction with Solstice. What do you say to that?---I, I didn't.

And the only reason why you're now attempting to distance yourself from it is because you know plainly that it involves an attempted fraud?---I didn't know about this transaction.

30 I'm sorry, let's be clear. You did know about the transaction. You're saying you didn't know about the Gows Heat element to the transaction?---That's right and I, I, I'm, I'm, I'm sure it was not in a later version of documents that I saw. I could be wrong.

Well, they'd be in your file then, surely?---Well - - -

If there is such a - - -?---Who knows what's on my file?

Well, you must know because it's your file and you produced it.---Yeah, well, who know? Yes.

40 THE COMMISSIONER: What sort of an answer is that? "Who knows? Yes."---Well, I feel like I'm repeating myself. If there were later documents, I am, oh God, I mean, there must have been more emails after this. I - - -

MR CHEN: There's no doubt, Ms Bakis, that there was ongoing dialogue and you - - -?---Well, there you go.

You were involved in - - -?---There you go. So, the answer is I do recall seeing documents. I do not recall seeing that.

Well, I just want your evidence to be clear. Is it no recollection or a straight denial?---No, I've got no recollection right now as to ever seeing that document.

All right, but you're not denying you have, you just don't recall it?---No, I'm denying it. I have not seen that document.

10 Well, just so it's clear, when you say that document, do you mean the surrender agreement and release?---Yes, the one that you showed me earlier.

And let me show you another one as well. You should have a look at the deed of rescission and acknowledgement, volume 10, page 162. You can see that's a document that's prepared using your firm's name?---Yes.

And if you turn to the next page, 163.

THE COMMISSIONER: You'll see on the cover page, there are three parties, one of which is Gows Heat?---Yes.

20 You would have seen that?---I, I wouldn't have seen this.

You wouldn't have seen it? Why not?---Because I, I, I don't, I don't understand why Gows would have been involved in this transaction and I'm trying to remember if it was and I honestly don't remember it being involved.

30 Well, if it was involved in the transaction you don't have to guess as to why. You would know that it's purporting to surrender a claimed interest in the land.---That's right. That's why I don't remember it.

Sorry, continue.

MR CHEN: You're not denying it though, are you, Ms Bakis?---I've already said I denied it.

Well, this is a different one. In fairness to you, Ms Bakis, I put to you a surrender agreement and release which I think you've denied ever seeing, and this is a different document, so it's clear to you.---I, I deny seeing this.

40 But otherwise - - -

THE COMMISSIONER: I couldn't hear that answer.---Sorry, I, I deny seeing this document.

I still can't hear your answer.---I, I deny any of that.

You deny?---I deny seeing that document.

MR CHEN: But otherwise, Ms Bakis, you accept, do you, that you did know of the existence of all the other documents?---Well, there were subsequent documents, yes.

THE COMMISSIONER: We're not talking about subsequent documents. ---Well, there must have been subsequent to this because, yes.

MR CHEN: Well, you certainly knew of the existence of these documents that were attached to the email of 1 April, 2016, but for this denial that
10 you've made of the two documents. Is that right?---Well, I've seen, I think I've seen later versions of those.

Of those. What do you mean by those, what are you defining as those?
---Those documents, the collaboration agreement.

And the call option agreement?---Et cetera, yeah.

And the management agreement?---Yes.

20 And you'd be familiar with them presumably, would you?---Not very familiar.

Well, you would have approved them surely?---Well, I would have seen them, yes.

Well, you're the solicitor for the Land Council, Ms Bakis.---They were never signed so - - -

30 Ms Bakis - - -?---They were never signed, Mr Chen. This is a very important point.

THE COMMISSIONER: Would you stop talking over him and just answer his questions?---Well, he's asking me questions, he has to give me an opportunity.

Yes, well, don't you worry about that.

MR CHEN: I am giving you an opportunity, Ms Bakis, and you know that,
40 and my question to you is, you were the solicitor for the Land Council. ---Yes.

And you would be well aware that you would be intending to act and drafting documents to look after the interests of the Land Council.

---Yes, which is why I advised them never to sign these.

I'm not asking about signing anything at the moment, Ms Bakis.---Okay.

But you would have ensured, I take it, that you would carefully prepare them to make sure that they were accurate.---I didn't draft them. We were just amending - - -

THE COMMISSIONER: Would you answer the question?---Oh my goodness.

I don't know how many times I have to tell you.---Okay. All right. He's trying to trick me, it's evident, okay.

10

Would you - - -?---So - - -

Madam, you are not at liberty to make grand speeches. You are there for one purpose and that is to answer questions put to you. Do you understand that?---I do, Commissioner.

I thought as a legal practitioner you might. So do it.---I, I - - -

Put the question again.

20

MR CHEN: You would have been careful to ensure that the documents when they were issued were accurate?---Yes.

And you did that, didn't you?---Yes.

And that would involve you looking at them and reading them, even if you didn't draft them?---Yes.

30

And you would have been careful to make sure that your client's interests, the Land Council, would be protected, to the extent it could be, during the course of this transaction?---Yes.

And you'd be careful to look at what the respective rights and obligations of the parties are within it?---Yes.

Right. And you did that, didn't you?---I think I did.

THE COMMISSIONER: We might take the morning tea adjournment. Is that a convenient time?

40

MR CHEN: Could I just complete this topic?

THE COMMISSIONER: Yes.

MR CHEN: I won't be much longer, Commissioner.

THE COMMISSIONER: Yes, certainly. Sorry.

MR CHEN: You see, the various agreements, Ms Bakis, in particular the collaboration agreement, in fact referred to Gows Heat, Ms Bakis, and agreements between Gows Heat. I'll just show it to you. Volume 10, page 138. You see this is the agreement that I think you've accepted you have seen.---Well, I think.

And if you look, please, at that volume 10, page 145, you can see that within the agreements that you've been careful to check over, there's a specific reference to Gows Heat in clause 2.1, subclause B.

10

MS NOLAN: Well, I object. There's such a flaw in this because she's never - - -

THE COMMISSIONER: Oh, Ms Nolan, really and truly.

THE WITNESS: No, well, there is.

MS NOLAN: No, please, please.

20 THE COMMISSIONER: This is just obstruction.

MS NOLAN: It is not.

THE COMMISSIONER: It is.

MS NOLAN: And I reject that.

THE COMMISSIONER: Well, you may reject it.

30 MS NOLAN: I reject that.

THE COMMISSIONER: And you may sit down.

MS NOLAN: No, Commissioner - - -

THE COMMISSIONER: No, I'm not going to allow it.

MS NOLAN: - - - it has never been established that these documents have been sent by this witness. That is plain.

40

THE COMMISSIONER: She said she's read the document.

MS NOLAN: She has never had a document - - -

THE WITNESS: I've never said that.

MS NOLAN: - - - put to her and asked has she read this document. She has been taken to an email and asked to acknowledge whether she knew of the existence of them.

MR CHEN: My friend is misunderstanding. I'm establishing - - -

THE COMMISSIONER: I think she is misunderstanding the point.

10 MR CHEN: What I've put to the witness is that she's denied any knowledge of the surrender and release agreement and the deed of rescission and she's accepted the proposition that the balance of the documents she has seen.

THE COMMISSIONER: That's what I thought she said.

THE WITNESS: No, I did not say that.

MR CHEN: So - - -

20 THE WITNESS: I said I've seen versions of those documents.

THE COMMISSIONER: Would you be quiet?

THE WITNESS: Oh my goodness gracious.

THE COMMISSIONER: You haven't been asked anything yet.

MS NOLAN: This is outrageous.

30 THE WITNESS: There's no fairness here.

MS NOLAN: This is outrageous.

MR CHEN: So, Ms Bakis, do you deny – let's go through it. Volume 10, page 138. You deny, do you, seeing a collaboration agreement for an unincorporated venture?---I don't know where this document came from.

40 Well, it came from your file.---I don't know whose file it's from, it could be from Solstice's file, I don't know what this - - -

THE COMMISSIONER: Would you stop being obstructive - - -?---No, I'm not.

- - - and answer the question.---I'm not. This is very unfair.

MR CHEN: Ms Bakis, I'm telling you, this is - - -?---No, I have not seen this document.

I see. And so what documents, I've given you the opportunity to say, what documents have you seen, Ms Bakis, relating to this transaction?---I don't know.

You've got no recollection at all?---No, not right now.

That's a convenient time, Commissioner.

10 THE COMMISSIONER: Yes, thank you. I'll take the morning tea adjournment.

SHORT ADJOURNMENT

[11.42am]

THE COMMISSIONER: Yes.

18 MR CHEN: Now, Ms Bakis, I think where we got to before the
20 adjournment was whether you had seen the collaboration agreement, as it's described, as any point in time during the course of the negotiations between Solstice on the one hand and the Land Council on the other.---Yeah, I'm sure I saw it at some stage.

And is it your case, Ms Bakis, that you did not see at any point in time, the deed of rescission?---That's right.

As well as the surrender and release agreement involving Gows, the Land Council and Solstice, is that the position?---Yes.

30 But in relation to the other documents, the collaboration agreement, the management agreement and the call option agreement, do I understand you to say that you've certainly seen versions of them, the precise version may be up for debate. Is that a fair summation of where we got to before the adjournment?---Yes.

And you do know, don't you, that in late April 2016, there was an attempt to meet and bring to a head the negotiations on the one hand between Solstice and on the other the Land Council?---Yes.

40 And Mr Petroulias was involved in that, wasn't he?---Yes. This - - -

Mr Green was involved, at least at some point, during the course of Solstice, wasn't he?---Yes.

Are you able to pinpoint when he was involved in those negotiations to discussions or meetings?---There was that meeting I had described where I kicked them out of my office. I don't remember Richard being there but

that doesn't mean he – I actually don't recall if Richard was there. I, I do recall Richard being involved in the discussions.

Are you able - - -?---Around Solstice but I'm not sure how, how much.

Do you know when that was, Ms Bakis?---When, with Richard when - - -

Yes.---It would have been around April, I think. April '16.

10 Now, Ms Bakis, do you – I'll just show you a document if I can. So, it's volume 12, page 224. And, Ms Bakis, it's an email, as you can see, that has travelled around a reasonable amount but ultimately appears to be sent to the email address admin@knightsbridgenorthlawyers.com. Do you see that?---Yes.

And that's your email address, isn't it?---Yes.

And it's sent on 26 April, 2016. Do you see that?---Yes.

20 And do you remember receiving at about that time what's described in the bottom email, the mark-up versions that apparently have been prepared by Mr Alcorn?---I don't remember. I, I, so - - -

Well, I might be able to assist you a little bit further, Ms Bakis.---Yeah.

If you have a look at the next page, which is 225, you can see that, you probably need to read this from the bottom up, Ms Bakis, but you can see that an email is sent from your email address, apparently by you, and there is a response you can see in the middle of that page by Mr Kavanagh?

30 ---Yes.

And then a further response from your email address. Do you see that at the very top?---Yes.

Now, did you write that email and send it at the bottom of the page, that is the email at 10.17am?---No.

Do you know anything of it?---I've seen this before, I have seen this email before, but - - -

40

Well, did you see it at the time, that is at or around 28 April, 2016?---No, it would have been after this.

When you say after this, do you mean after the email?---After, I imagine it would have been some quite a time after.

Well, you certainly knew - - -?---I've seen it on file, I have.

I'm sorry?---I've seen it on my file. I, I don't, I don't recall receiving it, sorry, I've sent this, no, I didn't send this, so - - -

You're sure of that, are you?---(No Audible Reply)

THE COMMISSIONER: Just think about it, just think about that.---Sorry, I'm, I don't actually remember.

10 MR CHEN: Well, you do know that the transaction didn't proceed further, don't you?---I do.

And you do know, don't you, that at least on the part of Solstice, that they had come across or secured the advice of a barrister who had advised them that there were some limitations on the title and they want - - -?---That's right.

I'm sorry?---Sorry, sorry, I interrupted you.

20 Sorry, what was your answer?---I said that's right.

Yes. And they wanted to proceed only on the basis that the agreements would be conditional. Isn't that so?---Yes, I do recall this, yes.

Yes. And what they wanted was that any moneys to be paid to be held, conditional upon the appropriate approvals being secured.---Yes.

30 And that's a not unreasonable request to have, do you agree?---No, that's not unreasonable, but what was unreasonable was that they offered \$30 million to buy this property but in fact what they were offering after all clawbacks was about 7 million. That was unreasonable.

And when you say clawbacks, you mean expenses relating to development? ---No, no.

40 Or something different?---The, they had a condition in the contract that if they didn't get a certain rezoning or certain DA approval through – I think, sorry, if they didn't get the approval that then they could claw back the amount of money they would contribute, was the effect. So ultimately this was going to be an \$8 million deal for Awabakal, which was just devastating. It was not a good deal for Awabakal.

Your understanding was that it was to operate in some pro rata way, that is to say the purchase price was modified, depending upon the outcome of rezoning. Is that the position?---Yes, that's right, yes.

I see. But can I suggest to you that at the time, at around 28 April, 2016, that in fact what was emailed through by Solstice were, at the very least, the

collaboration agreement as well as the surrender and release agreement.---
Okay.

Do you accept that or not?---I, I don't know.

10 And can I suggest as well, Ms Bakis, that you knew, certainly by this time –
that is to say at the end of April 2016 – that this transaction did in fact
involve buying out of Gows Heat.---I didn't. No, I, I remember seeing a
version of the collaboration agreement with a purchase price formula on it,
and I remember thinking this is, this is not good. There is no way that I can
agree that they sign this.

Well, that's a bit different to what - - -?---That, and I didn't really look
further.

So is the position this, Ms Bakis, that you had the document, at least the
collaboration agreement, but you didn't look at the terms of it? Is that the
position? Or all the terms of it.---Yes.

20 And you didn't bother to acquaint yourself with the remaining parts of it. Is
that your answer or your evidence, Ms Bakis?---Yes. I spent very little time
looking at these documents.

Can I just suggest to you, Ms Bakis, that that is simply not true on your part
and that the reason why you're taking this position now is because you know
full well that this transaction was premised on buying out of Gows Heat?---I
honestly didn't know that. I honestly didn't. That, that is the truth. I didn't.
I'm actually surprised that they were emailed that late. I thought it was a
different deal.

30 Well, just so you don't have any misunderstanding, Ms Bakis, that's a later
version of these agreements so far as the public brief is concerned, the latest
iteration of these agreements. So don't be mistaken. There are earlier
versions of this, or these agreements. Do you want to say anything further
in light of those additional facts that I've told you?---Well, obviously I'm
wrong. I'm, I'm surprised. I still am.

40 Well, Ms Bakis, you do know, though, of course, that the board had only
resolved to pursue this transaction in the first week or so of April 2016, isn't
that right?---Yes.

And in fact there was a presentation by you and Mr Petroulias about this
deal, isn't that so?---Was I at that meeting? Sorry, I just - - -

Do you not have a recollection of attending a meeting on 8 April, 2016?---I
might have.

Well, according to the minutes, Ms Bakis, you're recorded as attending.

---Okay, thank you.

But you're free to deny it if you - - -?---No, I'm not denying it.

Do you have any recollection of the meeting that you attended on that day that dealt with these property deals?---Vaguely.

Well, what's your recollection about what you said at the meeting, Ms Bakis?---Oh, I, I would have just said, look - - -

10

THE COMMISSIONER: You're not asked what you would have, you're being asked what you did say.---I don't remember what I said.

You don't remember? Not a word?---Not a word.

Not a word?---Not a word. If I'm, if I'm not allowed to, to speculate, I, I honestly do not remember word for word what I said on that day.

MR CHEN: Well, I - - -

20

THE COMMISSIONER: No, no, no. We didn't ask you to say what you said word for word. You know that.---You asked me to, what did I say?

Yes.---I don't know what I said.

Okay. I'll put it in these terms with which you'd be well familiar. What was the effect of what you said at the meeting?---I honestly don't remember and I'm not being evasive. I, I honestly do not remember. I may not have said anything at all.

30

MR CHEN: Well, do you know what Mr Petroulias may have said?---Was he at the meeting?

Well, just assume for the moment, because you don't have any recollection of it, that he was according to the minutes and that there's some evidence before the Commission that in fact he was.---Okay, assuming Mr Petroulias was there and assuming that he discussed this proposal, I assume Mr Petroulias would have said, "This is a great deal."

40

All right, anyway.

THE COMMISSIONER: Did he say it?---I don't remember. I don't even remember if he was there. I don't - there were a lot of meetings, I don't remember which one this was.

MR CHEN: Well, Ms Bakis, is it your position that really you're not able to assist one way or the other about what went on at this meeting? Is - - -?
---I might be, I might be able to assist you if I see some minutes.

Oh well, I'll most certainly have them put up on the screen and – have you not looked at the minutes at all, Ms Bakis?---Not, not for a few months.

Well, if you have a look then at volume 11, page 312.---Yes.

And would you have a look then, or would you like to have a look at where the properties were discussed?---Yes, please. I remember this meeting now. It was at night. Now I remember it, sorry.

10

THE COMMISSIONER: No, don't make statements. Just - - -?---I'm not making statements, Commissioner. I'm just trying to assist.

MR CHEN: Well, Ms Bakis, can you then now you've read the minutes, what did you say, if anything, at this meeting?---I, I, I don't think I said anything at this meeting.

20

And, well, do you know what Mr Petroulias said?---I think he presented the Able Consulting paper and ran through the various proposals and discussed the pros and cons.

Well, why is - - -?---That's my recollection.

Why is he doing that, Ms Bakis, to this Land Council in relation to its land? ---Well, he was part of United Land Councils, who had been asked to look for opportunities for the Land Council and so his role was to look at each deal and ascertain whether the Land Council should, should look at it seriously or not.

30

Well, Ms Bakis, you can just assume that – consistent with what appears to be the notation – that you were introduced with Mr Petroulias as both from Knightsbridge North Lawyers for the moment. There doesn't seem to be any reference at all that Mr Petroulias has come along in the capacity of United Land Councils to discuss any of this.---Yes.

Are you accepting that proposition?---Well, that's what it looks like, yeah.

40

But, Ms Bakis, you're the lawyer for the Land Council and Mr Petroulias seemingly comes there, so it seems, under the umbrella of Knightsbridge North Lawyers. Is that not the position?---No, no, that's not the position.

And so, well, did Mr Petroulias speak about what the Sunshine agreements were involved?---I don't remember that being – no, no, he did, he did. No, no, he did.

Right. And what did he say? What did he say?---He, he, he discussed the, the problem with the final version of what Zong had signed and, and the - - -

Well, that's got to be your role, Ms – sorry, you go.---And the confusion around what was actually signed at the end of that deal, yes.

That's it?---I don't remember. I'm really, I'm really struggling to remember, now, now that it's come to my mind I do remember it was night-time and there were, the deal, they ran, he ran through the deals, yeah.

Right. But you can't say much more, at least in relation to Sunshine, what that involved?---No.

10

Well, what about Able Consulting?---Mmm.

What was the connection to this Land Council and Able Consulting?---Able Consulting was just asked to summarise each proposal nicely, that's all, and
- - -

Who asked them to do that, so far as you knew, Ms Bakis?---Mr Petroulias.

Right. Well, Able Consulting, or the director of that company was Mr
20 Vaughan, was it not?---Yes.

And he'd been, so far as you knew, asked to become the director of that company by Mr Petroulias. Is that not right?---I'm not sure if that's the case. I don't know the history of that entity.

In any event, they were close. You certainly know enough that they're, they own the cars you drive.---Do they?

Well, isn't that what you told the Commission last week?---Oh, the
30 company does, yes, yes.

Right. Well, and Mr Vaughan, as I understood your evidence last week, and Mr Petroulias had had some business dealings stretching back some years?
---Yes.

And you would know, Ms Bakis, as the lawyer for the Land Council at this time that in fact Able Consulting was the entity that was to undertake the work pursuant to the proposed management agreement in this Solstice transaction. Isn't that right?---Yes.

40

So a party to potentially a favourable deal has been asked to undertake an assessment of the respective bids. Is that the position?---No. He was just to summarise them. It wasn't, it wasn't to provide any sort of assessment. He wasn't qualified to do that. It was, it was literally just can you please have a look at these and summarise them into a paper.

THE COMMISSIONER: Summarise them?---Yeah.

In what sense, summarise what?---The proposals.

MR CHEN: Well, who briefed him?---Mr Petroulias.

With what?---I don't know.

10 Well, Ms Bakis, can I suggest this is a fairly – I withdraw that. It's a little bit unusual, is it not, when the board of a Land Council is being asked to consider proposals for the development of land if somebody is briefed with material and then asked to provide a summary of them when they have no qualification to do so? Would you agree?---It's just a summary, so yeah, perhaps it is unusual, but - - -

Well, it's more than that, isn't it, Ms Bakis? It's unsatisfactory, isn't it? ---Well, maybe.

It's potentially, Ms Bakis, quite misleading to have a disinterested or an interested party prepare a summary, is it not?---Yes.

20 And what steps did you take to satisfy yourself that Mr Vaughan was briefed with the appropriate materials to even provide a summary?---I didn't.

And was that report tabled, Ms Bakis?---I, yes. I remember it being presented. I don't know if it was formally tabled.

30 And you knew at this stage, Ms Bakis, on 8 April, 2016 that if the Solstice bid was to be the preferred one of this board of the Land Council that this management agreement with Able Consulting would mean that Able Consulting would be potentially entitled to fees of either 750 or \$800,000, isn't that right?---I wasn't sufficiently close to those agreements to know that. But, yes.

Ms Bakis, really, for you to properly discharge your functions to this Land Council at this meeting, you were duty-bound to be across the detail of these proposed agreements, were you not?---Agreed.

And it was seriously remiss of you not to be across the fine detail of these agreements, isn't that so?---Yes.

40 And it was seriously remiss of you, Ms Bakis, to permit Able Consulting, a party who you say is not qualified, to prepare a summary based upon potentially unknown or incomplete material, isn't that right?---Well, I don't actually know for a fact that that's what happened. I don't know if Greg was furnished with all the agreements.

Well, you do know, though, don't you, that the only person who briefed him was Mr Petroulias.---Yes.

And you don't know whether he decided to give him some, all or no material, isn't that right?---Well, that's what I just said, yes.

And that is a serious omission by you as the lawyer for the Land Council, is that not right?---They weren't making decisions based on that paper. It was merely a summary.

10 THE COMMISSIONER: Yes, you might care to answer the question now. ---To the extent that that paper mattered, yes, I should have been more careful, yes.

MR CHEN: And it's the case, Ms Bakis, as well, is it not, that during the course of this meeting there was no disclosure at all by either you or Mr Petroulias that in fact there had been signed agreements entered into by the Land Council on 23 October, 2015, isn't that right?---I'm sure that would have been discussed.

20 Ms Bakis, I'm putting to you that you did not disclose that.---Well, I didn't but I'm certain Mr Petroulias did. I'm certain of it.

And can I suggest as well that you did not disclose, and nor did Mr Petroulias, at any time during the course of this meeting that in fact as a result of this transaction with Sunshine that his company, namely Gows, had already received about a million dollars.---I don't recall that being discussed.

That was a significant matter for disclosure, was it not, Ms Bakis?---It had already been disclosed I thought prior to this.

30 It was not disclosed to the board members during the course of this meeting, was it, Ms Bakis.---During the course of this meeting I don't recall it being discussed.

And that was a serious matter for disclosure, was it not?---If it hadn't already been disclosed, yes, that's right.

40 And it would have been important to disclose, Ms Bakis, as well, would it not, that if this transaction went forward involving Solstice that Mr Petroulias's company, Gows, would in fact secure a very significant financial windfall, would it not?---Yes.

And that was not discussed at all, or disclosed, was it, Ms Bakis?---No.

That was a serious omission, was it not?---It was an omission, yes.

Yes. And it was misleading not to disclose it, wasn't it?---Oh, God. Well, misleading to the extent that, oh, God. I, I didn't know about that, about the involvement of Gows and I, I admit that's an error on my part but if I had, yes, I should have told them at that meeting, yes.

The failure to inform the board by any person that Mr Petroulias's company would secure a very significant financial windfall was a serious and misleading omission, was it not?---The failure by any person?

Yes.---Well, it's an important omission, yep.

The board had a right to know that information, did they not?---Yes.

- 10 The board had a right to know that Able Consulting would be the beneficiary of the management contract, did they not?---Yeah. I, I think that might have been discussed though.

THE COMMISSIONER: Would you answer the question now?---The board should have known. Yes.

No, had a right to know that Able would be a beneficiary of the transaction?---Yes. And they did know, yes.

- 20 MR CHEN: Well, how had that come about, Ms Bakis? As I understood it, you professed to being unaware of the detail of it.---Unaware of the meeting?

The detail of that agreement?---Yeah, but you've just asked me about my recollection of this meeting.

No, Ms Bakis, don't be confused about the questions.---Sorry.

- 30 And I'm going to take it back so you are under no misapprehension about what I am putting to you. What I've put to you, Ms Bakis, is that the board members had a right to know that Able Consulting Pty Ltd would be the beneficiary of or under an agreement if the Solstice bid was selected?---Yes.

And it was a serious omission for such a matter not to be disclosed?---Well, and I am suggesting that perhaps it was disclosed.

THE COMMISSIONER: Would you answer the question, please?---I have, I have no recollection, I can't answer that question honestly, Commissioner.

- 40 Yes, you can.---No, I can't.

Put it again, would you?

MR CHEN: I've joined issue sufficiently, Commissioner, on that topic.

THE COMMISSIONER: All right.

MR CHEN: And it was a serious omission, Ms Bakis, for the board not to be told about precisely what had gone on with Sunshine during 2015, leading to them signing these agreements on 23 October, 2015, do you agree?---But I think it was discussed.

Ms Bakis, I'm not - - -?---No, no. You're trying to trick me and I'm not being rude by saying that. It's, you're, you're telling me, you're asking me to agree that it was correct that, that it was serious omission when it wasn't omitted.

10

I see. So, you've got a recollection of it now being discussed?---I don't. I don't but I'm, there was a lot of discussion at this meeting that would have gone for an hour, over an hour and I'm certain that the Sunshine deals were discussed.

So, let's explore that.---I don't have a clear recollection of what exactly was discussed. Sorry, Mr Chen, I interrupted you again.

20 No, Ms Bakis, that's quite all right. Now, well, Ms Bakis, what would need to be disclosed, surely then, if you just look at that issue for a moment, would be full and frank disclosure about what exactly had happened during the course of 2015, would it not?---Yes.

And that would involve that there was an acquisition proposal signed?
---Yes.

Moneys were paid pursuant to that agreement?---Yes.

30 That at the very least three contracts were signed, namely a variation agreement, a heads of agreement and a surrender and release agreement?
---Yes, there were many contracts signed, many versions of those contracts, yes.

Well, leaving aside the versions - - -?---Yes, let's assume that there were three, yes, okay.

And that Mr Zong had paid well over \$1 million for what you say is some right or interest. Isn't that right?---Yes.

40 And as I understood what you were saying is that he had some right to take some deal forward?---Yes.

It would have been essential then, would it not, at least on the way you view the transaction, Ms Bakis, for all of those matters to be disclosed in that detail. Is that not right?---Correct.

And that you would need to say surely to discharge your responsibilities as the lawyer for the Land Council to follow it up with an idea that Mr Zong

may well think he has a binding agreement to do something here because he signed a lot of documents. Isn't that right?---Yes, yes.

And that was not, that full and frank disclosure was never given to this board, was it, Ms Bakis?---I'm trying to remember. I honestly don't remember. I don't remember to what extent Sunshine was discussed in detail, but I do recall that the discussion was had.

10 Well, we can accept the proposition, Ms Bakis, that at least Sunshine was mentioned because it's referred to in the minutes.---Yes.

But don't be distracted from what I've put to you, Ms Bakis, please, that these essential matters for disclosure were not.---Well, I can't say for certain that they weren't.

And if the evidence, Ms Bakis, is they were not, that would be a serious breach by you of your obligations to this Land Council, would it not?
---Yes.

20 It would be misleading conduct in the extreme, would it not, Ms Bakis?
---Yes.

And it would be tantamount to concealment, Ms Bakis, would it not?
---Yes. If these matters were not disclosed, that's - - -

That's the premise of all those questions, Ms Bakis.---Yes.

I appreciate you don't presently accept unequivocally what I've put to you, but you accept don't you all those matters - - -?---Yes.

30 - - - if in fact the evidence is that they were not?---Yes.

Now, Ms Bakis, was there any disclosure that in fact there had been advanced drafts of the Solstice agreements prepared, or you don't recall?
---I don't recall that.

Ms Bakis, I take it that if you accept for the moment that within the domain are a collaboration agreement, a management agreement, a call option agreement, a surrender and release agreement and a management agreement,
40 just assume that for present purposes that they were in the domain in early April 2016 before this meeting.---Yes.

You would accept, would you not, that it would be incumbent upon you to disclose to the board the existence of whatever agreements were in place?
---Um - - -

I'm going to withdraw that question, that's ambiguous. I'm sorry, Ms Bakis, I'm going to withdraw it because I shouldn't put the end part of that. I want to start again, Ms Bakis.---Okay.

You accept, do you, that if the evidence establishes that there are these five agreements in place, it would have been essential for this board to be told as much, do you agree?---Yes.

10 And the failure, if it be that, to make a disclosure about those five matters would be a significant omission, would it not?---Yes.

And you would accept, Ms Bakis, that the board had a right to know of what was proposed in relation to the Solstice transaction, would you agree?
---Yes.

And that would involve an explanation of who was involved and who was to get what.---Yes.

20 And, Ms Bakis, if the evidence is that none of these matters were disclosed to the board during the course of this meeting, you would accept, would you, that that would be misleading?---I'm not sure that's correct. I mean, if, if the discussions were still at an early stage and they were offering a lot of money to buy this land, I think, and it was still a moving feast as to how the agreements would be drafted, I don't think it's misleading because the board would ultimately sign off on any agreements being signed.

30 Well, Ms Bakis, you've seen the minutes. The board resolved to pursue the sale to Solstice.---Can you scroll down, sorry? Is that what this says? Next page. Yes, okay, yeah, sorry. What was - - -

Well, my question was it would be misleading for the board not to be told of the existence of these five agreements, would you agree?---I, I don't think it's misleading. I think it – I've just answered that. It's not misleading.

Well, it's certainly incomplete, is it not?---It's incomplete, yeah.

40 And the board members surely, if the Solstice agreements were discussed, to know what those agreements were, who was to be involved, who was to receive what, and what burdens were placed upon the Land Council.---Yes.

And why do you have a reservation that the failure to disclose the existence of those agreements would not be misleading, Ms Bakis? I don't quite follow.---Because my recollection of this resolution was that it was intended that discussions could be had with Solstice to develop appropriate agreements, and so what was currently on the table may not proceed. But if agreements were eventually to be signed, the board would go over them in detail.

THE COMMISSIONER: Do you see anything in the minutes to confirm that was discussed?---God, these, the minutes don't say anything about anything discussed.

Well, you might answer my question.---I don't, no, I don't.

MR CHEN: Well, Ms Bakis, what as I understand the position is, Ms Bakis, is that the discussion dealing with Solstice was really run by Mr Petroulias, is that not right?---That's correct.

10

And the substance of the agreements really is a matter for you as the lawyer for the Land Council surely?---Yes.

And despite the fact that you were appointed to be the lawyer for the Land Council - - -?---I wasn't, but - - -

THE COMMISSIONER: Would you stop interrupting.---Well, no, he's making incorrect statements.

20 Ms Bakis, do you remember I've reprimanded you earlier in the day for interrupting?---Yes. Okay.

Are you going to continue with this?---No, I won't. I apologise, Commissioner.

Start again.

MR CHEN: Ms Bakis – I'm sorry, now I'm interrupting. Ms Bakis, are you suggesting at this point you weren't the lawyer for the Land Council?
30 ---I wasn't the exclusive lawyer for the Land Council. I know other people were working at the time.

I see.

THE COMMISSIONER: And do you use that as some sort of an excuse, do you?---No. Sorry.

Well, why do you raise it?---Well, because the proposition was put, you were the lawyer for the Land Council.

40

That's consistent with what you just said. Anyway, that's - - -?---Sorry, no, it's not consistent with what I just said.

Yes, okay.

MR CHEN: Commissioner, I do notice the time.

THE COMMISSIONER: Yes. I'll adjourn and we'll resume at 2 o'clock.

LUNCHEON ADJOURNMENT

[1.01pm]