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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 2.00PM

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

THE COMMISSIONER: Just before we resume with evidence, I propose to sit slightly longer sitting hours this week. So tomorrow it's intended to start at 9.30, finish at 4.30, the same on Wednesday, sorry, Thursday will be 9.30 to quarter to 4.00 and, subject to confirmation, Friday 9.30 to 4.00.

All right.

10

MR CHEN: As I understand it, Mr Broad has mentioned, Commissioner, is that some consideration has been given to allowing some further time of next week.

THE COMMISSIONER: Yes. I understand Tuesday would be a possibility and in the interests of getting through the witnesses who have been scheduled, if need be we will sit Tuesday. I'm unsure about any other days at this stage next week, but I'll confirm that tomorrow.

20 MR CHEN: Now, Ms Bakis, I just want to return to this meeting on 8 April, 2016.---Yes.

Now, as I understand your evidence, you don't have a recollection about what was discussed. Is that the position?---I don't have a recollection of what was discussed in detail, no.

Right. You've got some recollections though, do you?---Yes.

30 Well, can I suggest, Ms Bakis, that what you didn't disclose were the various matters that I raised with you that should be fully and completely disclosed in connection with Sunshine at any stage during the course of this meeting. Isn't that right?---God, I don't remember what I said, but my recollection, I actually don't remember the detail of what was discussed, I do know that the, the meeting was, I'm sure we spent about an hour on the property deals and I know we talked about Sunshine for some time and I can't remember exactly what.

And can I suggest - - -

40 THE COMMISSIONER: I take it you didn't prepare any speaker's notes, as it were, to take to this what seemed to have been a fairly significant meeting, to ensure that all the relevant matters that had to be drawn to the attention of the board were in fact drawn to their attention?---No.

MR CHEN: I understood you to say in fact, Ms Bakis, earlier, that you actually didn't do any speaking during the course of this meeting.---Well, that's right.

And it's the case as well, Ms Bakis, that you did not disclosed the detail of the Solstice transaction at all to the board members during the course of this meeting, did you?---No, because it was preliminary.

And can I suggest, Ms Bakis, that these matters and the failure to mention that in particular what had transpired in 2015 in connection with Sunshine, was because you were involved in this arrangement to try and on-sell these Gows Heat's agreements to not only Sunshine but to Solstice as well.

---That is completely false and there is, that is a dishonest question.

10

THE COMMISSIONER: That's not for you to judge, madam.---Well, it is, because it is, because he's, he's made statements in that, in that question that he knows are false.

Why was it a dishonest question, why was it a dishonest question?---Oh, because, I can't even remember the question now. Sorry.

20

MR CHEN: Now, Ms Bakis, this, these minutes, and I'll just have them brought up for you so you can have a look at them, volume 11, and in particular just on page 314 where you can see the heading Summary of Proposals, do you see that?---I do.

And this is what you had a read over - - -?---Yes.

- - - before the adjournment.---Yes.

And you'll see that it makes reference to Gows and IBU. Do you see that? ---I do.

30

Ms Bakis, at no stage was there any discussion about IBU and Gows during the course of this meeting.---I don't remember if there was.

And as well it's not true, is it, as these minutes purportedly record, that the board had resolved unanimously to sell most, if not all, of the land?---It's in the minute, isn't it?

Well, Ms Bakis, this seems to be conveying that all of the land or certainly most, if not all, of the land of the Land Council was proposed to be sold.

---Most of the land, yes.

40

That's simply not true, is it?---I'm not sure if it's - I'm not sure. I, I, I can't remember which lots are in that Gows agreement and what they are and if in fact they are most of their land.

Well, you do know that the ultimate Advantage transaction, at least approximately, had about 30 lots of land, don't you?---Yes but most of those were their rental properties that were going to be repaired.

Ms Bakis, you do know surely that the call option agreement that you drafted contained call options in respect of on or about 30 lots of land owned by the Land Council?---Yes.

And you do know surely that the Gows Heat agreement, which underpinned the Sunshine transaction, only had five?---I think it had five lots. I'm not sure if that translates to – I actually don't know, sorry, Mr Chen. I can't help. I actually don't know.

10 Well, if you just accept for the proposition those rough figures, there's plainly a significant discrepancy between the two, is that fair?---Well, if what you're saying is correct, yes, there is. Yes.

And it would not be correct – again, if you assume that my suggestion that the Gows Heat agreement only contained the five lots – it would certainly not be a correct characterisation to say that the Land Council unanimously resolved to sell most, if not all, of its land, would it?---I can't remember what that minute resolved to sell but if it's not correct, it's not correct.

20 And you see, Ms Bakis, you were never told by Mr Green that the board had resolved to sell anything to Gows Heat, isn't that right?---No, that's incorrect.

And neither had Ms Dates told you that fact?---That's incorrect.

Well, Ms Bakis, in relation to these minutes, did you have any role in preparing or settling them?---These 8 April minutes?

30 Yes.---I don't remember. Who took, who was the minute taker in this meeting?

Well, it appears to be Nicole Steadman according to volume 11, page 312. ---Okay. Okay. She might have asked for assistance.

And did you provide it?---I might have.

THE COMMISSIONER: Did you?---I don't remember.

40 MR CHEN: Well, in the past you provided assistance in connection with minutes, had you not?---Sometimes if she didn't understand concepts. Not – I don't know that I'd been to a board meeting before this. I actually don't, I don't - - -

THE COMMISSIONER: What's that got to do with the question?---Well, the question is, "You had previously provided assistance, hadn't you?" is an incorrect question because I physically couldn't because I wasn't there.

MR CHEN: Well, that may not be entirely accurate, but in any event you weren't involved, were you, in taking the minutes or settling them, is that the position?---That's right.

And it's not really, in any event, your job to settle or prepare the minutes, is it, unless there is a particular clarification that may be asked of you?
---That's right.

10 And so too that would be the position of Mr Petroulias, I take it?---Sure.

It's not his role to do it?---Yeah, but we were, I was being asked to do it right up until the end.

And you agreed to do it, did you?---Up until the end, when I, when it became ridiculous because there'd be two pages of notes for four hours meetings. So, I stopped.

20 Well, in any event you were sent these draft minutes by Ms Steadman after she had prepared them, isn't that right?---I don't remember.

Well, just have a look, if you would, at – just bear with me, Ms Bakis, for a moment. We'll just sort out some electronic issues. I'll just have to come back to that, Ms Bakis. Let's just return to these minutes if we can for the moment, Ms Bakis.---Yes.

You'll see that – sorry, we'll start again.---Okay. That's okay.

30 So it's volume 54, Commissioner, page 30. Do you see that on the screen now, Ms Bakis? An email to you, or to your email address, from Ms Steadman?---Yes.

And you can see what is attached are the minutes.---Well, that's what it says, yes.

Well, if you just look at the next page, which is page 31 - - -?---Yes.

40 - - - and you can see that they're the draft minutes that Ms Steadman has prepared. And if you have a look then, please, at the next page, which is page 32, you can see Proposals. Can you see that?---Yeah. Yes.

And I'm not asking you to do a fine-grained analysis, Ms Bakis, at all, but you can see, can't you, from even a quick look at those, that there are significant revisions to what is part 4, Proposals, in the draft minutes when compared to what became section 5 of the actual minutes. Do you agree?
---Yes.

Were you involved in the preparation or settling of these minutes, Ms Bakis?---I wasn't.

Was it Mr Petroulias that settled them?---Yes.

You know that, do you?---Yes.

And he told you presumably that – I'll withdraw that. They were sent to your email address, as you've seen in the email.---And I would have printed them off and given them to Mr Petroulias to say, “Oh, look, Nicky’s missed most of the things we discussed. Can you fix this, please?”

10

THE COMMISSIONER: You would have or you did?---I don't remember exactly, but I might have, would have, I don't know.

MR CHEN: In any event, what is clear is that you handed them to Mr Petroulias for him to revise.---Yes, because they were wrong.

I see.

20

THE COMMISSIONER: In what respect?---Well, like I just said, Nicky took a lot of – she used to write a lot on paper, but she was so busy writing she, she usually missed most of the points. Not just property things, anything else. I mean, like, this Larry Slee one below, that was discussed at length but she’s only got two lines, for example. So she asked for help. Now, I don't know if she accepted what we sent through but presumably she did.

30

MR CHEN: When you say “we sent through” that means you approved, did you, what went back? Is that right?---I don't, I don't remember if I looked at it.

So you're not able to say whether it – I mean, as I understand the position, Ms Bakis, you don't have a recollection about what went on at this meeting. Is that the position?---No, that's not what I said. I recall, I recall the meeting. I recall discussing the proposals. I don't recall what was discussed in detail. I do remember running through each proposal, or Mr Petroulias did. I remember there was a paper presented by Able Consulting. So I do have a recollection.

40

I'll just show you, Ms Bakis, page 29. You can see that Mr Petroulias – I'll just wait till it comes up on the screen – has sent an email to Ms Steadman, and you appear to be copied in via that email address, do you see that? ---Yes.

And asking for her to do a draft, and you and Mr Petroulias – by the word “we” – to edit for their final approval. Do you see that?---Yes, yes.

And they've then come back, is it by you or by Mr Petroulias, do you remember?---Sorry, this was the email forwarding, was this in relation to those minutes you showed me earlier from the 8th of - - -

It appears to be that way, Ms Bakis.---Right. And so what are you asking?

Well - - -?---Did I send them back?

10 I'm just asking whether it's your recollection that you sent them back or whether Mr Petroulias did.---I don't actually remember.

Well, if you just have a look at page 34, which is what I showed you earlier, you can see it's signed, "As amended for accuracy, regards, Despina." Do you see that?---(No Audible Reply)

20 Now, is that you that sent them back or is this an instance where Mr Petroulias has been involved in responding using your name?---I don't actually remember, but I, I don't actually remember amending the wording of those minutes.

I see. And to the extent you may have sent them back, do you recall whether you read those amended minutes - - -?---I don't think - - -

- - - or not?---I don't think I did.

30 So aside from you receiving them in draft form from Ms Steadman and forwarding on those or providing them to Mr Petroulias, that's the end of your recollection about what went on, other than you don't believe you amended them?---That's right.

Now, Ms Bakis, you can see as well on volume 11, page 313, that there's another resolution that appears to have been - I'll just want till it comes up - but you can see under part 4, "Further ratification of previous payments and actions."---Yes.

And you can see there that a resolution was in fact passed to ratify the payments and actions made during the period of non-functioning, et cetera. Do you see that?---I do.

40 Now, it's the case isn't it, Ms Bakis, that you're the person that prepared that draft resolution that ultimately was read by Ms Steadman. Isn't that right?---This whole thing?

No.---Oh, the one - sorry, the one at the bottom.

You see the resolution as read by Nicole Steadman?---I think so.

Yeah.---Because it had become a big problem in the audit, yeah.

And you make reference, don't you, in – I withdraw that. You can see the reference in the second paragraph under this section of the minutes which deals with the justification for that resolution as deriving from the draft audit report and in particular paragraphs 17 and 15(d) of the draft audit report. Do you see that?---Yes.

10 And what this is conveying, Ms Bakis, is it not, these minutes, is that the need for that resolution derives from the draft audit report and in particular paragraphs 17 and 15D of it, correct?---Yes.

And so really what's conveyed is that the auditors are suggesting that this take place?---No. The auditors never suggested that they would do this. I, I think, I'm not sure what the date, what's the date of this?

The date of what, the meeting?---This minute.

20 8 April, 2016.---Right, okay. I just started speaking to Clayton Hickey at this time and some of the board were concerned with the related party transactions listed in the audit report, the draft audit report for '15, and one of the issues that had come up was that a lot of the payments hadn't been ratified by a board. So, this is what this was doing is the board is looking at these payments now and ratifying them. It wasn't Clayton Hickey that suggested this.

30 But this resolution is not, in its terms, purporting to limit specific types of transactions at all to be ratified, is it?---Well, it's limiting to the transactions that Kelvin Kenney had identified, which were mostly related party transactions.

Ms Bakis, just so it's clear, what's discussed that leads to a resolution is quite severable from what actually is resolved. Would you agree?---As a general principle or in relation to these minutes?

Well, both.---So, these minutes say, during the period – that, that - - -

No, I'm not asking you about what's in the – Ms Bakis, you're - - -?---It's quite limited as to what it's ratifying. It's very limited.

40 Well, the resolution as read to the board was what was passed, namely that part that's contained after the colon, "Resolution as read by Nicole Steadman," isn't that right?---Yes.

And that's got no fetter or limit that it's dealing with, for example, related party transactions at all?---Well, that's, that's, that was its purpose.

Well - - -?---Perhaps it doesn't convey that properly.

It doesn't convey it at all, does it?---Well, I mean, in the context of what's written in that minute, it does.

Well - - -?---But if you, if you just pull that resolution out, during the period of – well period of non-functioning was what, February, February '15 to November '15, so it's quite limited in, in, in the time and that's what Kelvin Kenney was concerned about.

Just come back to this question that I've asked you.---Yes.

10

This is really not limiting at all, the ratification to any particular related party transactions or anything that Kelvin Kenney has said?---Well, that, that was, that, that was the purpose of it. I'm not sure what Nicky wrote in the book. That's what, that was what was discussed in the meeting.

Well, can I suggest to you, Ms Bakis, just so it's clear, that that may have been, may have been a purpose. It's not what is expressed in this resolution. ---Okay.

20

Do you accept that or not?---I accept that, yes.

And you drafted that resolution, didn't you?---I don't remember.

And you drafted it and sent it to the Land Council prior to this meeting, didn't you?---Well, I don't remember but, I mean, it's referring back to the 8 March resolution which I remember was a complete mess.

Well, I'm going to come to that. Don't worry about that at the moment. ---So, and I'm not sure if that helps me out here at all in terms of being - - -

30

Would you like to see it?---Well, yes, please, because that might help in terms of limiting scope.

Well, I will show it to you, but I just want you, if you'd be good enough, to answer my question.---Yes.

That it's not limiting at all, this resolution that you sent to – I withdraw that. You sent that resolution to the board is the proposition that I've put to you. ---I don't remember if I drafted this or sent it.

40

THE COMMISSIONER: I thought you said a few minutes ago "I drafted it."---Did I? Okay.

That's my note. Do you want to change that evidence?---No. I don't know.

MR CHEN: Well, I'll show it to you, Ms Bakis, and then we can show you the March resolution, if you like.---Yes.

So it's volume 54, page 12. Do you see the email there, Ms Bakis?---From 8 April?

Yes.---Okay. Oh, I wouldn't have drafted that. I don't underline.

So you draft the resolution but you don't send it? Is that the position?---I don't, I don't know. I, I'm trying to remember. Well, because I haven't drafted this email, I perhaps didn't draft the resolution, would be my guess.

10 THE COMMISSIONER: So you're now wanting to go back and change your evidence?---I might have drafted it. Might not have drafted it.

MR CHEN: Well, Ms Bakis, you were at this meeting and surely - - -?---Is this the same meeting where - - -

THE COMMISSIONER: Just a minute. You have interrupted counsel once again.---My apologies.

MR CHEN: You were at this meeting on 8 April, 2016, where this very
20 topic was to be discussed, isn't that right?---And I, wanting clarification on that. Was I there? Or is, is this the same one we were talking about earlier?

Well, it records you being there, Ms Bakis, and I've suggested and I understood you'd accepted the proposition that you were there but didn't speak.---Oh, okay. It's the same one. Okay, yes. Okay, so, yes, I was at that meeting.

And not only did you draft the resolution, Ms Bakis, but I'm going to
30 suggest to you that you in fact emailed it to Nicole and Debbie in line with that email.---I, I might have but an email that's Nicole and Debbie with an underline is not something I would do in an email. That's why I'm hesitating and that's why I'm withdrawing from what I said earlier, because looking at that, that is not something that I would do.

THE COMMISSIONER: What is it that you wouldn't have done?---It says "Nicole and Debbie" and it's underlined, and I, I wouldn't do that in an email. I've never done that.

40 Wouldn't do what?---Underline.

Underline?---The names in an email.

MR CHEN: Ms Bakis, that's distinct from whether or not you drafted the resolution, is it not?---It's not, because if I had done it - - -

You wouldn't have underlined.--- - - - I would have sent it.

I'm sorry? If you'd done it?---The, I'm trying to make a point about why I'm confused, because that underlining doesn't look like something I would do.

All right. So it's the underlining that's throwing you, is it?---The, well, the underlining's throwing me because it's not my style.

Well, Ms Bakis, a moment ago you gave evidence that ratification was a big problem from the audit, and that you – as then the, presumably, lawyer and person providing accounting and tax advice to the Land Council – would
10 have been quite on top of, isn't that right?---What's – quite on top of the audit issues or the resolutions or what?

And what you said was - - -?---Sorry, you didn't finish your question.

Well, I believe I did, but I'll make it clear for you, Ms Bakis, is that you gave evidence just a few minutes ago saying you're aware of this resolution and the need for ratification because, "It was a big problem."---Yes, and I'm not retreating from that.

20 So is the only issue then really, Ms Bakis, whether you emailed it and your concern is that because there's underlining there, that tends to suggest to you it was not you?---That's right.

But in fact what actually occurred during this meeting, can I suggest, Ms Bakis, is that in fact what the board members were asking for was more details and something from Kelvin Kenney, rather than supporting this resolution. Do you have any recollection about that?---That's not my recollection at all. I don't remember there being that, that resolution.

30 I withdraw that, Ms Bakis, I've made an error in what I've put to you so - - - ?---Okay.

Now, Ms Bakis, at this meeting of 8 April, 2016 - - -?---Yes.

- - - you didn't disclose, did you, that Mr Petroulias had been convicted and gaoled of the dishonesty offences that we went through on last Monday?
---No.

40 You didn't disclose to him, disclose to the board at any time that that was the case, did you?---Well, it was disclosed to the chair and deputy chair. They knew. They definitely knew.

THE COMMISSIONER: When? When was it disclosed to the chair?
---I'm sure it was back in '14. I'm sure it was back in '14.

Who was it disclosed by?---I, I think Nick mentioned it to Debbie.

Well, do you know?---I think this is in a file note. I can't remember, but I'm, it, I'm not the sort of person that goes around, it would have been Nick. Nick would have raised it with them.

Were you there when the disclosure was made?---Yes.

And what did he say?---"I've got a history. I worked at the Tax Office and got in trouble and I've been to gaol." I think words to that effect.

10 And what was the context in which he made this frank disclosure?---I'm not sure. I'm not sure if it came up in conversation or, I'm not sure.

You're not sure where it happened?---Well, '14, it would have been at Debbie's house.

Do you know?---It would have been at Debbie's house.

I'm not talking about would have been. Do you have an actual recollection?
---I don't but I'm just working backwards.

20

You don't know what the date was or the occasion?---No.

Right.---Not, not without my files, I can't - - -

Yes, Dr Chen.

MR CHEN: Well, Ms Bakis, you also, I just want to take you back to the property aspect of this meeting, that is section 5. So you can see on page 315 of volume 11 that there's a resolution passed approving the
30 establishment of Awabakal LALC Trustees Limited?---Yes.

Et cetera, and approving the ultimate sale to Solstice. Do you see that?
---Yes, yes.

Now, Ms Bakis, I asked you some questions about the establishment of this company last week, do you remember?---I do.

40 And that was a company which at this stage had been registered in New Zealand, had it not?---Yes.

And as at the date of this meeting the sole director and shareholder of that company was Mr Petroulias, was it not?---I think so.

And that's something again that you did not disclose to the meeting, did you?---Well, that, that was an error.

Nor did Mr Petroulias, did he?---Well, yeah, yep but - - -

I'm sorry, just answer my question or - - -?---It was disclosed because it was just an error.

And, Ms Bakis, it's the case, isn't it, that although you said last week you would have researched it, it was not permissible under the Act, was it, to establish this New Zealand corporation to have any role in this transaction, isn't that right?---I don't think that's right. I think there are, I think the Act does allow the establishment of these sorts of entities in certain circumstances.

10

It certainly does so now but it didn't at the time, did it?---Oh, I don't - - -

Or you don't know?---I don't know right now.

Now, Ms Bakis, you do know of course that these minutes on 8 April talk about matters arising in connection with Mr Slee, do you see that?---Oh, yeah. I saw that earlier, yes.

20

All right. Would you like to see it again?---Yes.

So, it's page 316 of volume 11.---Yes.

Have you read that now?---I have, yeah.

And you see it refers to a legal letter to cease and desist baseless allegations by Mr Slee.---Yes.

30

Can I suggest to you, Ms Bakis, that there was no discussion along the lines referred to in these minutes by the board at this meeting, was there?---There was.

And who was the person that gave you instructions to send that letter, Ms Bakis?---Nicky.

So she's the acting CEO of the Land Council?---Yes.

40

So you are purporting to write a letter on behalf of the Land Council, weren't you, directed to Mr Slee on the instructions of the acting CEO? ---Yes but I, I remember talking to both Richard and Debbie about this because they were both incensed at what this man was doing at the time. I had, I had no interest in – like, I was happy not to do this.

Well, you thought, didn't you, that he was potentially a bit of an agitator? ---He was an agitator in the sense that he was obsessed with the fact that his son had been sacked or, you know, removed and he just didn't seem to be able to get past that fact and therefore was questioning everything that Nicky in particular was doing.

Well, in fact he was the one that was actually making enquiries about matters such as how you became appointed, isn't that right?---I never heard Larry Slee say one thing in any of those meetings.

And - - -?---Not one.

10 Well, Mr Green has given some evidence that in fact he had not authorised this letter to be sent at all. So, what do you say the position is, that he's wrong and you're right, are you?---That's not true. No, no. Richard used to follow him around into the toilets to see who he was calling when he went on a break. I mean, they were all very angry about what he was doing. So, I mean, perhaps he didn't directly instruct me. Perhaps the instructions were from Nicky and Debbie.

20 And you then sent, did you not, a follow up to this in May of 2016, namely a show cause letter to him, isn't that right? As to why he shouldn't be removed as a board member.---Yeah, I think that's because he was sending documents. Yeah. There's a whole context to this because there was an investigation going on.

THE COMMISSIONER: Don't worry. You haven't been asked that.
---Okay.

MR CHEN: So who gave you the instructions to send that letter?---Can I see the letter?

Yes, it's Exhibit 54. That's all right. We'll bring it up.---That might, might remind me.

30 Exhibit 54, page 7.---I think it was Debbie. I think.

Well, you certainly would need to have instructions to send this letter, Ms Bakis, surely.---Yes.

And, what, your best recollection, is it, that Ms Dates gave you those instructions?---Yes.

40 And did she also tell you as well and instruct you that litigation would be imminent against Mr Slee?---Is that what this letter says?

Well, that's what the first paragraph says.---Okay. They were all pretty angry.

Please, please, Ms Bakis, let's just focus on the questions if we can. We'll move through this far more expeditiously. Did she give you those instructions or not?---Yes.

She did, did she?---Yes.

And you would have kept a record of that, presumably, would you?---I don't know.

Well, what litigation was Ms Dates contemplating at this stage?---Not sure.

10 And where were you getting the instructions from to catalogue, apparently, all this misconduct that's being asserted against Mr Slee?---Every time I went up to the Land Council, I probably spent an hour talking to people about this issue, so presumably it's just a summary of a lot of discussions that I've heard.

So my question was, where did you get the instructions from? What is your answer to that question, Ms Bakis?---I said probably Debbie Dates.

Well, you didn't say that.

20 THE COMMISSIONER: Did you get signed instructions from her, from anyone?---No. No.

Did you make a file note about your instructions?---I don't know. I don't think so.

MR CHEN: And did you show this to Ms Dates before it was sent?---I don't know if I emailed it to her. I don't remember. And the reason I hesitate is because – anyway, sorry.

30 No, please. Why do you hesitate?---I was only asked to produce documents in relation to property proposals and I'm just, at the back of my mind I'm just wondering if there's more documents, emails or anything behind this. I'm not sure.

Well, you could have a look, could you, overnight, and if there's anything further, produce it to the Commission, could you?---Probably not overnight but, yeah, I could have a look, yeah.

All right. Well, as quickly, as expeditiously as you can.---Yes.

40 Now, Ms Bakis, you would know – I withdraw that. Mr Slee sent a response to this, didn't he?---Oh, I think so.

And do you know whether you forwarded on his response to the members of the Land Council or the board of the Land Council?---I don't know.

Well, you do know, don't you, that he disputed what had been catalogued against him in your letter, that's right?---Of course he did.

All right. And it would have been important therefore to ensure that the board knew what his response was. Would you agree?---These matters were raised at - - -

THE COMMISSIONER: Would you answer the question?---Yes, it was important that they knew.

10 MR CHEN: Yes. And so there would be no reason at all why you would not provide his response to the board I take it?---That's right.

And if you didn't provide it, you should have.---Yes.

Is that the position?---Yes.

And now, you would know as a practitioner, Ms Bakis, that when a summons or subpoena is issued to a person to produce documents, they need to take steps to ensure that they make proper inquiry to produce the material?---Yes.

20 And you also know that when it's produced that there are limits on what you can do with the material?---Yes.

You can only use it for a proper purpose, can't you?---Yes, yes.

You can't disclose it to your next-door neighbour just for the sake of it, can you?---No.

30 There's something that the law recognises called what, that precludes you from doing it?---I don't know, but I know you can't do it. I don't know what the term is.

And you can only provide it to, if material is produced – I withdraw that. You as a lawyer would know that you can only provide it to people who critically and absolutely need to see the information and not otherwise. Would you agree?---Yes.

40 And to provide it to people who have no direct and immediate need to see the information would be contrary to those very important implied undertakings that practitioners give to the court. Would you agree?---Yes.

And in this case for the Land Council, Ms Bakis, being involved in this litigation, you were required to issue a number of subpoenas, weren't you? ---Which litigation?

Involved – I withdraw that. The litigation involving the Land Council and the Minister - - -?---Yes.

- - - and the Registrar. Isn't that right?---Yes.

And the people who you were taking instructions from were the board members.---Yes.

Is that so?---Yes.

In particular, Mr Green and Ms Dates?---Yes.

10 There's no reason you can think of, of why you needed to traverse instructions from anybody else, is there?---Well, needed instructions from the board as, as a whole.

But you need instructions from the board or individual board members on key topics. That's the collective who you would require instructions from, would you agree?---Yes.

And nobody else?---That's right.

20 And, Ms Bakis, you know, don't you, that you issued a subpoena to Larry Slee in the Land and Environment Court proceedings, didn't you?---I think I did.

Yes.---I'm trying to remember.

And you required him to produce a number of documents relating to his dealings or contact with, amongst others, the Registrar, Mr Wright. Isn't that so?---Yes.

30 And you knew that Mr Wright had a statutory function to deal with complaints or allegations of misconduct against board members, don't you? ---Yes.

And you knew that Mr Slee perceived there to be issues that required ventilation, at least from his perspective, with the Registrar?---Yes.

And that's why you issued a subpoena to the Registrar. Is that not right? --- (No Audible Reply)

40 You wanted to see that material?---Yes.

Well, you thought it was relevant presumably to the proceedings that you had instituted in June of 2016. Isn't that right?---Yes.

Ms Bakis, you knew, didn't you, that in 2016 Candy Towers was not a board member of this Land Council, isn't that right?---What, June, she was acting CEO.

Well, she was not a board member, was she?---No.

And she had no reason at all to see any of the material that Mr Slee had produced on subpoena, isn't that right?---Well, if she was a CEO, she might have. I don't remember the timing of all this.

When you say that she was appointed the CEO?---Oh, this, this was a whole saga. Nicky left early June, I think. She was appointed about a week or two after.

10 What would Candy Towers be required to give you instructions on, Ms Bakis, rather than the board?---Well, the CEOs have quite, quite a broad function. She was instructing me on various things.

Not in relation to these proceedings, she was, was she?---I would, I would communicate with her to get messages to board members.

Well, Ms Bakis, let's cut to the chase here. Have a look at, if you would, Exhibit 101. I'm sorry, 115. So, you can see down the bottom, Ms Bakis, that that's an email from your email address, is it not?---Yes.

20 Signed off by you?---Yes.

And sent to, amongst others, the email address of Candy Towers, project officer at the Land Council?--- Yes.

Why were you sending it to her, Ms Bakis?---Well, there were two reasons. She was the CEO at the time and, secondly, if I wanted to communicate with Debbie, the best way to do it was via Candy. So, perhaps that was inadvertent, but Debbie never checked her emails. So if, if I wanted a message to get to Debbie, I knew Candy would be able to print it out and show Debbie. But she was the CEO. I think Sophie Anna wasn't appointed until a few weeks after this.

And so, what, you were sending this to Ms Candy Towers, were you, to forward it on to her mother?---Well, that, that happened a lot, yes.

And who's Wayne Prestan, Ms Bakis?---Maybe Prestan, Theresa Towers, who was the, where are we, this is 22nd. Theresa Towers was the brand-new chairman of the board. Her husband is Wayne Prestan and I always communicated with her via this email. I know, I know it looks silly but that's what happened. I can prove this to you. I have a lot of emails to Wayne Prestan, who is her husband.

And so rather than just have the material available for Ms Dates, you've sent this material to Candy Towers for her to pass on and print out to her mother. Is that the answer, Ms Bakis?---I think so.

And when you say you think so, well, isn't - - -?---Well, I mean, I've even put a note there about these documents are only to be used for these proceedings, so I've even put a warning on the email. So - - -

Nobody's doubting that Ms Bakis.---So, I would say, I probably, I, look, I honestly don't remember but I'm trying to understand what my mindset would have been. I, she was a CEO, I would have sent it to her to print out and have it available to any board members that wanted to see it so we could get any instructions for the litigation.

10

And in relation to what, specifically, Ms Bakis?---I, I don't remember. I didn't even know it was in, in the documents.

Well, you know Mr Slee complained because the material was used to attack him personally, or so he said. Do you know that?---No, I didn't. I'm not surprised but I didn't know that.

I'm sorry?---I'm not surprised but I didn't know that.

20 Why are you not surprised?---Oh, he was good at complaining.

You don't think his complaints had any foundation. Is that your view?
---The, this Land Council was very political and - - -

THE COMMISSIONER: Now, would you answer the question now?
---No, his complaints were not founded.

30 MR CHEN: At all? Is that your view, is it, Ms Bakis?---Look, I haven't seen any of his letters and I haven't seen the documents produced under this subpoena, but my recollection is that it was just petty personal complaining which had arisen from his son being sacked and he never, he never forgave Debbie for, for sacking his son and, and it was just a vendetta, and I, I had no personal interest in him, whether he stayed or went I didn't care, but the board certainly did.

THE COMMISSIONER: Do you accept that you sharing around these documents, sending them in that last email - - -?---Yes.

40 - - - the subpoenaed documents - - -?---Yes.

- - - produced by Mr, just to confirm that Mr Slee had, which indicated his ongoing reporting of events to the Minister, Registrar and investigator, was wrong?---No, because - - -

But yes, why, why is it not wrong?---The board - - -

Why was it justified, in other words, that you could obtain subpoenaed documents and send them to these people?---It's not wrong.

No, but why not? You were sending them, you were sending the documents for an extraneous purpose, weren't you, nothing to do with the proceedings in terms of - - -?---No, the - - -

- - - the handling of those proceedings?---The board was very interested in these proceedings and in particular what Larry was producing because there had always been suspicions that he was communicating with the Minister and this - - -

10

What's wrong with that?---Well, they were very concerned that one of the board is communicating with the Minister.

And so that doesn't excuse you to go and obtain subpoenaed material. He might have every reason in the world, entitlement, whether he's right or wrong, to take a, bring a matter to the Minister's attention.

20

MS NOLAN: Commissioner, I'm not sure that I understand this line of questioning, but this witness is entitled to issue a subpoena. Mr Slee had rights with respect to that subpoena. He didn't exercise them apparently because the documents were produced. The letter that you're reading from actually does acknowledge the Harman undertaking clearly in a sentence.

THE COMMISSIONER: Yes, but that's the very harm she's doing herself that she refers to in her - - -?---I'm not.

30

MS NOLAN: She refers to very clearly in no uncertain terms to the Harman undertaking which she can't remember the word, but that's what my friend's referring to. I'm not sure that these questions are correct, Commissioner.

THE COMMISSIONER: Anyway, I won't pursue it.

MR CHEN: I do want to put one other question before we move on, though, if I can, Ms Bakis. You accept of course that if Ms Towers was not the acting CEO, then there is a direct and clear breach of that undertaking. Do you agree?---No.

40

Well, just explain that, Ms Bakis, if you would.---She was the project officer and she often printed documents and had them available for the board as they dropped in, and they used to drop in all the time, and the board were very interested in this litigation.

Right. So really the purpose of you sending this to Ms Towers, if you accept the assumption for the moment, would be to print them off for everybody to, that is, Ms Towers, Ms Dates and Mr Green. Is that right? ---There was a new board at this point.

Please, Ms Bakis, we need to move through this.

THE COMMISSIONER: Just answer the question, please.---No, but you've just asked me that she's printing them out for Debbie, Richard or herself, that's not - - -

MR CHEN: No. I thought you said it's Theresa Towers was the new CEO? ---Chairman.

10 Or chairperson.---Yes.

Right. So I've put correctly those three names to you, have I not?---Yes.

And what you were saying was that these, one of the reasons, if you accept for the moment that Ms Candy Towers was not the acting CEO, that perhaps you were sending it to her so she could print them out.---So that they were available to the other board members, all other 10 of them or 12 of them, if they wanted to see them.

20 Why didn't you say that in the email, for example?---I didn't need to. It was, that's just what Candy and I used to do.

I see. And why do you only send it to some, not all, of the board members? ---I wouldn't have had their email addresses.

Well, why didn't you say, for example, "Can you please send this on to the other board members"?---Because I'm pretty sure at that time she didn't have them either. I don't know that the new board had met at this point.

30 Well, it obviously had met because Ms Towers was appointed the chairperson.---Yes. They probably had. They might have met that day.

Now, Ms Bakis, let's move through this, please. You know, of course, that the Solstice deal fell over. We've been through that already, correct?---Yes.

And a resolution was passed, was it not, on 6 May, 2016 to that effect, isn't that right?---I think that's right.

40 Would you like to see the minutes, Ms Bakis?---Oh, if it matters, yes.

Well, no, it doesn't matter to me. If you want to see it - - -?---No.

All right. But the resolution that was passed at that meeting, Ms Bakis, was in fact drafted by you, wasn't it?---Well, then, can I see the minutes?

This is volume 14, page 198, and it's at page 201 in particular that I'll get you to look at once you've identified the minutes, Ms Bakis. Do you see the minutes of 6 May, 2016 there, Ms Bakis?---I do.

And if you have a look, please, at 201 you can see that there are a couple of resolutions there, resolution 1 and 2.---Yes.

And you drafted those, didn't you?---I don't think I did.

Well, have a look if you would, please, at volume 54, page 40. And you can see there that there's an email of 6 May, 2016, sent from your email address.---Yes.

10

You can see the resolutions are in terms what has been passed by the board on 6 May, 2016.---Yes.

And signed off with the name Despina, your name.---Yes.

Right. And do you accept now that you've prepared these resolutions, Ms Bakis?---No.

20

What's the position, then?---I think Mr Petroulias has drafted these.

Well, did you know that that had happened, Ms Bakis?---I might have.

THE COMMISSIONER: Did you?---Is there, is, is there a - - -

Did you?---No.

You discussed the Solstice deal with Mr Petroulias, I take it, many times.---Yes.

30

And including the rejection of the proposal by Solstice?---Yes. What was, sorry - - -

No, you don't ask questions.---Sorry, I'm just trying to work out.

Yes.---I think I was at the meeting when this email was sent. That's, that's the only thing I'm querying.

40

Yes, thank you, madam. Just wait for the next question.

MR CHEN: Well, Ms Bakis, then you would know, surely, if you were at the meeting when this email is sent, that an email is being sent from your office to the Land Council from Mr Petroulias.---Yes.

But that's fairly disturbing stuff, isn't it, Ms Bakis, that Mr Petroulias is in fact passing himself off seemingly as you, sending emails to your client?---Yes. And there were a lot of arguments.

And what did you do to tell the board that, hang on, you need to check because Mr Petroulias is sending emails, passing himself off as me?---They knew.

THE COMMISSIONER: No, no. Would you answer that question, please?---What did I do?

Would you answer the question?---What did I do? Sorry, can you ask, I'm not sure which question you asked.

10

You just repeated it to yourself.---Sorry. Is it, was it that one? Okay. What did I do? Nothing, but it was obvious to everyone that if an email's being sent when I'm in a meeting that it wasn't me and it didn't seem to concern them.

MR CHEN: It's entirely unsatisfactory, Ms Bakis, is it not, that matters are being drafted by Mr Petroulias, a non-lawyer, being sent to this Land Council, your client, is it not?---Yes.

20

And you're a willing participant in all of this, aren't you, Ms Bakis?
---Totally not willing.

THE COMMISSIONER: Well, why didn't you do something about it?---I tried many times. I tried many times.

30

Why did you not write to the Land Council and say, "If you get any emails in my name, check with me because there may be a chance that they're being written by somebody other than myself without my authority, including in particular Mr Petroulias," squarely on the line to warn them and caution them, pursuant to your duty of loyalty and fidelity to your client?
---I, I used to change the password.

Why did you not do that?---Because I thought I'd fixed it in other ways and -
--

MR CHEN: What other ways?---Changing passwords.

Well - - ?---But he still managed to get in.

40

What is - - ?---I mean, I, I, look, honestly, I should have just started working somewhere nowhere near him but - - -

Well, what, he's hacked into your computer, has he, and sent this email?
---He, he finds my passwords.

He's hacked into your computer and sent an unauthorised email containing a resolution that you then later accept and have put before the board, is that the position?---He, he hasn't hacked in.

Well, he's been an unauthorised user of your email on what you've said?
---Yes.

And sent an email to the Land Council whilst you're there?---Yes.

Containing a resolution which presumably you see and are happy with?---I,
I'm, finding it – okay, so - - -

10 THE COMMISSIONER: Just answer the question.---Sorry. Well, that's
what happened.

MR CHEN: That's it, is it?---Sorry, I lost, I lost my train of thought. I
mean, Nicky knew that Nick was drafting resolutions. Nicky knew that.

THE COMMISSIONER: We're more concerned about your conduct at this
point. Why you didn't protect and warn your client?---Well, I should have.

20 But why didn't you do it?---Because I thought - - -

It's a pretty simple matter just to simply write a stern, clear email or letter
saying, "Be warned," et cetera, "If you get an email from somebody in my
name, please check with me because there is somebody using my name in
unauthorised fashion," words to that effect.---Well, I should have.

But why didn't you do it? It's simple - - -?---I was probably embarrassed
and I didn't - - -

30 Embarrassed.---And I put that ahead of perhaps my duty to the client to, to
warn them that, "If you receive an email from me," but - - -

What's embarrassing about it?---That someone is passing themselves off as
me. It's embarrassing. There, I can assure, there were a lot of arguments
about this, not that that has any bearing on what's going in here.

MR CHEN: Well, Ms Bakis, you know that the board passed subsequently
a resolution that enabled the substitution of Solstice for Advantage, don't
you?---Yes.

40 And, Ms Bakis, that was again, a resolution that you drafted, wasn't it?
---No.

Well, Ms Bakis, I'll show you his document first and we'll approach it this
way if we can. So it's volume 54, page 47. You can see there's an email of
2 June, 2016 from your email address?---Yes.

And it's attaching a resolution obviously. You can see that?---Yes.

And if you look at the next page, page 48, you can see, can you not, the resolution that's attached to it?---Yes.

And you prepared that, didn't you?---I didn't prepare this resolution.

All right. Who did?---Mr Petroulias did that.

And you knew about it, though, didn't you?---Yes.

10 And you approved him preparing it, didn't you?---Yes, because it was a deal that he had put together, yes.

And did he email it or did you email it?---I'm not sure. I probably sent this one.

Well, in fact you attended this meeting, can I suggest, on 2 June, 2016 of the board of the Land Council, didn't you?---Can you suggest or can you say. I assume I was there, yes.

20 All right. Well, if you have a look at volume 15, page 73. Now, you recognise or you can identify, can you not, those as the minutes?---I was there, yes.

All right. And if you have a look, please, at page 74 of volume 15 you can see at number 5, "Despina spoke about resolution that they would like for board to pass."---Yes.

30 So, Ms Bakis, you go to this meeting for the presumably specific purpose of ensuring that this resolution is passed. Is that not right?---Well, and to discuss the proposal in broad terms.

Well, Ms Bakis, these minutes are entirely silent on there being any form of discussion at all about Advantage.---It's mentioned there.

Well, when you say there, do you mean the resolution?---Yes. Oh, okay.

40 But my question, Ms Bakis, is these minutes are entirely silent about any so-called discussion that was had about Advantage. Isn't that right?---Can you scroll down. Okay. All right. They are. I don't think Nicky understood it.

Will we find an advice dated 2 June that you would have sent beforehand explaining this Advantage transaction to the board members prior to them resolving as it seems for this transaction to be between Advantage and the Land Council?---I'm not sure if I did a briefing paper that day or earlier to the meeting.

THE COMMISSIONER: So the answer to the question?---Is I don't know.

MR CHEN: Right. I mean, you know, Ms Bakis, this is a distinctly different transaction between Solstice on the one hand and Advantage on the other. Isn't that right?---Yes.

And the lots that are involved for example, Ms Bakis, change from approximately 18 lots of property associated with Solstice to around 30 with this transaction, Ms Bakis. Isn't that right?---Yes, but that was the initial cut of that deal, yeah.

- 10 Well, Ms Bakis, let me be clear to you. You may call it the initial cut. They are the documents that within five days of this meeting, upon your advice, have been executed by the members of the board of the Land Council, Ms Dates and Mr Green. So there's no question that this has changed in character in these five days, Ms Bakis, is there?---No.

So there's no initial cut. These are the properties that form the subject of the call option deeds, be it the 7th or 10th of June, 2016, isn't that right? These 30 properties.---Yes.

- 20 And so in the space of you turning up or emailing through a resolution on 2 June, this board has been seemingly persuaded by you to pass a resolution to substitute Advantage over Solstice, isn't that right?---No.

Well, explain it if you'd be kind enough, Ms Bakis. What's happened? ---There had been discussions leading up to this point. Richard and Advantage had had many discussions. Debbie was aware of the deal. She was happy with it. So having had those two across it, then they decided it should go to the board.

- 30 So let's focus on you for the moment, please, Ms Bakis.---Yeah.

There's apparently no advice provided in this window between May and June of 2016 when this arrangement has been passed, but if there's something on the file then perhaps you'd be good enough to draw it to the Commission's attention.---I can't do that right now.

And was it a briefing paper that maybe you did prepare?---Perhaps.

- 40 And tell us, Ms Bakis, what was the value or the valuations that were arranged by somebody to ensure that the value identified in the Advantage transactions was a good, bad or poor one?---I don't remember.

There wasn't any, was there?---There'd been heaps of valuations done up until this point in relation to a lot of things.

Well - - -?---There were, there's thousands on my file alone, I thought.

THE COMMISSIONER: We're talking about the period May to June 2016.---Yes.

MR CHEN: So somewhere on your file, Ms Bakis, so it's clear, you'll be able to dig out all these valuations which are directed to these 30 properties the subject of this transaction, is that right?---Probably not. I'm just confused as to the 30 properties because I thought that changed. There was an issue with that, but - - -

10 Leave the number aside, Ms Bakis. You know what I'm talking about. The properties identified in the call option deeds.---Yes.

So if you go through the file, you'll be able to dig out, will you, these heaps of valuations that you've identified?---I will find many, yes.

And you'll find valuations, presumably, of all the properties, would you not?---Maybe not.

20 Well, surely knowing the value would be, front and centre, one of the most important things that could occur to enable you to give any proper advice as to whether this was a good, bad or poor transaction for the Land Council. ---Yes, that's right.

And you didn't have that information, is that the position?---Well, the position was that was the whole point of moving forward with these people, was that if the valuations we'd had to date were sufficient, we'd, we'd get, weren't sufficient, we'd get more. And, and these, I said this in my evidence the other day, these, these weren't fixed agreements. The whole idea was to go to the members and the community and find out what they wanted and
30 then do what they wanted. This, whatever - - -

Ms Bakis, I must put this back to you because I don't think that you've actually responded to the question I put, and I want to give you the opportunity to do so again. Namely, it would have been centrally important to have valuations for these properties but you did not have them, did you? ---I had valuations for a lot of them, if not all of them.

40 All right. Well, we'll find out when you go through the file, Ms Bakis. But, Ms Bakis, absent those valuations identifying the value of these individual lots, it would have been impossible for you to give any proper advice to the Land Council about whether the transaction was good, bad or a disaster, isn't that right?---That's correct.

And, Ms Bakis, how did it come about that the Land Council itself decided through these call option deeds that you'd prepared to sell the Land Council offices? Who gave you those instructions in particular?---This deal – and I'm sorry for pausing, I'm just trying to remember now. This deal I think was to purchase all their land and the reason for that is, a lot of their land

was worthless. So, the Land Council offices – oh sorry, I'm just babbling now. Who gave me instructions? Debbie and Richard.

And you've got a file note, do you, recording that they've given you instructions to sell that land, is that right?---Not that land in particular. I mean, it was part of the deal.

10 But presumably you've taken instructions which will set out the board's resolve to sell all of its land and here it all is and I'm going to commit that to these call option deeds. You surely would have a file note to that effect, would you?---I might.

So, we'll be able to find that in your file somewhere?---I'm not sure.

Well, is there a record, a letter going back, so far as you can recall, to the Land Council confirming this, even if there's no file note?---Confirming that I'm, that - - -

20 That "You've instructed me to get rid of all of the, or sell, all of the land and to include it in these call option deeds"?---No, there's no letter of advice, no. I don't, I don't recall that.

Well, what sort of due diligence did you do on Advantage, Ms Bakis?---A lot of meetings.

THE COMMISSIONER: No, no. What did you do, actually do by way of due diligence?---I generally looked at their credentials and experience and knowledge.

30 What's all that mean? That's just a form of words. What does it embrace? ---Well, they – I don't know.

You don't know?---I - - -

This is a major land transaction proposed.---Yeah.

40 And it's for the whole of the land, you'd have to be, you'd have to carry out due diligence before you could possibly even contemplate putting forward this resolution, wouldn't you?---There, they seem to know a lot of people - - -

No, no, no. Just stay with me. You would have to have due diligence performed, proper due diligence, to be able to recommend or put forward this resolution that we now have under discussion.---Yes.

But do you say, sitting there now, you don't know what due diligence was undertaken or by whom?---I think, I think Mr Petroulias did all the due diligence because - - -

No, no. I'm asking you, do you know what due diligence was done and by whom?---The due diligence was done by Mr Petroulias and the due diligence he did was confirming the network of people that these people alleged they knew. You know, government people, town planners, developers, there were, that's my recollection.

Are you - - -?---Whatever they said, "Oh, yeah, I know so and so," he would go and check out.

10

Are you seriously putting forward that that is due diligence?---Well, I mean - - -

Or are you just obfuscating?---I'm not obfuscating, I mean - - -

Well, do you seriously put forward what you have just described in that answer as being due diligence?---Well - - -

20 Relying on what Mr Petroulias said?---No. They had a lot of experience and I knew - - -

Now you might answer my question. Do you seriously put forward that as being due diligence?---No, I'm honestly just trying to remember what happened at the time.

Well, you might care to - - -?---No, that is not - - -

- - - say - - -?---That is not - - -

30 - - - was that - - -?---That is not - - -

Was that intended to be the due diligence that was carried out before this particular proposal for Advantage was put up or was there more?---I think, I think there was more, but it's very - - -

Well, tell me what more was, what does it mean?---It's, I mean what do you do, I mean - - -

40 Please, would you answer my question? What more due diligence was performed and by whom?---I don't remember. I don't remember. I, I mean they didn't just come off, up off the street and I know I had seen, one thing I was concerned about was whether they had enough funding behind them because they looked like a \$2 company and I actually met their investors prior to this, their, their Chinese investors had come out from China and I'd met them and I had, I had been made, I'd been comforted by the fact that there appeared to be real money behind them and they weren't wasting everyone's time. That's probably the extent of my due diligence.

MR CHEN: So let's try and summarise I hope what I think you've been endeavouring to say, Ms Bakis, is that you handed over, did you, whatever due diligence entirely to Mr Petroulias but for that you were, you'd met the Chinese investors?---Yes.

All right.---I mean it's very hard to do due diligence on a \$2 company.

Right. And the fact is you didn't do any. Isn't that right?---Well, I just said I did.

10

Right. Well, handing it over to Mr Petroulias is not what you would understand to be due diligence at all. It's just asking for his opinion on something and relying upon Mr Petroulias doing something. Isn't that right?---Yeah, but I also checked the source of the funding.

Well, how did you do that, Ms Bakis? Would you please tell the Commission, how did you check the source of the funding?---I, I wanted proof that there were funds.

20

Right. Thank you. And what did you do when you met these Chinese investors to determine that?---They told me what sort of projects they'd been involved in, et cetera, et cetera, and at some point I saw a bank statement or something to that effect. I can't actually remember now.

When did this occur, Ms Bakis?---I've got no idea, no idea.

Well, you've got to have some idea because - - -?---No.

30

- - - the transaction is on 2 June where Advantage is given the tick, so when in relation to 2 June and 6 May did you meet the Chinese investors and see this bank statement?---I don't remember.

Was there a file note, Ms Bakis, that we will be able to access that will identify these steps?---I'm not sure. I'll check for you.

Is there a letter at all which you've sent to the Land Council confirming that you've made inquiries to determine that the financiers that lie behind Advantage, a \$2 company, is good for its money?---No.

40

I mean, in a way, Ms Bakis, finding out or even seeing something from the Chinese investors is a bit of a moot point, isn't it? Because Advantage, as you accepted last week, does not even need to exercise any option at all under the call option deeds. Isn't that right?---Not the call option deed. There was a 7 June call option deed I think. I'm not sure which one you showed me. The one I saw didn't - - -

As far as I can see, Ms Bakis, to assist you, I don't think there's any difference between the two, other than the date, but - - -?---I think there is, but I could be wrong. I could be wrong.

There's certainly nothing, there's no difference, Ms Bakis, as I perceive it – but you tell me if I'm wrong, you drafted them – there's no difference in identifying that the option can be exercised by the grantee or its nominee?
---Okay.

10 Well, I thought that was common ground, Ms Bakis.---All right. Well, then, we don't need to ask the question. Okay. I accept that.

And so funding is in effect at least a moot point, isn't it, because Advantage don't need to do anything under the call option agreement?---I'm not sure.

You see, Ms Bakis, isn't this really the - - -?---I'm not sure.

- - - true position that this was a deal that Mr Petroulias had put together and you were just going along with it and pushing it through the Land Council
20 in line with his desires and your desires. Isn't that right?---I had no desire to put any land transactions through the Land Council.

Well, Ms Bakis, the thing is, is that after this meeting on 2 June another meeting is convened on 5 June when the members of the Land Council of the board are asked to actually execute the documents on the spot. So you have presumably, Ms Bakis, acquiesced in the idea that within five days of this initial resolution substituting Advantage that the board further resolve to execute these agreements.---Was I at that meeting, the second one?

30 It doesn't matter whether you are or you're not, Ms Bakis.---It does. Well, it does matter because, okay. So it was a good deal.

Right.---The board were very happy with this deal. It was, it gave them - - -

THE COMMISSIONER: On the basis of what information?---Oh, haven't we been through this before? I could be wrong.

On 5 June, 2016.

40 MR CHEN: The 7th is the meeting.---I don't know.

THE COMMISSIONER: 7 June is it, the meeting?

MR CHEN: It is, Commissioner, yes.

THE COMMISSIONER: 7 June.---I don't know. I don't remember.

You don't know?---I don't know.

MR CHEN: Now, Ms Bakis, did you give some advice to the board of the Land Council to explain why this transaction with Advantage was within the terms of the earlier resolution, namely, the resolution to sell to Solstice or some other entity on comparable terms?---Why would I do that?

Well, you're the lawyer for the Land Council during the course of this transaction and the resolution which had been passed by the board on 8 April 2016 was to permit the sale to Solstice or such other entity on comparable terms.---Yes.

Did you provide some advice as to whether or not the further sale was on comparable terms or not?---I don't think the two had any connection.

You see this as just a separate transaction. Is that the point you make? ---Yes.

I see. And Mr Petroulias knew the person who stood behind Advantage, did he not?---I, I think he'd met him a month or two prior.

And the various parties who were to perform obligations were all brought together, were they not, by Mr Petroulias. Is that so?---Yes.

Including, I think you accepted last week, Mr Griffith who was then the director of Able Consulting?---Yes.

Now, Ms Bakis, your role as the solicitor for the Land Council ceased, did it not, on or about 9 September, 2016?---I think so, yeah.

Well, I'll give you a date which may assist you in determining whether that's in practical terms right. You filed a notice of ceasing to act in the Land and Environment Court on 14 September, 2016. Do you recall doing that?---I do.

And is it your recollection that you in terms did not perform any work for the Land Council after 9 September, 2016 or what's the position?---That's generally my recollection, yes.

And when was the last time you had gone to the Land Council, Ms Bakis? ---It would have been around - - -

I'm going to withdraw that question. I need to put a time on it. Prior to you ceasing to act, when was the last time -- I'm sorry, I'll start again. Prior to you ceasing work on or around 9 September, 2016, when was the last time you went to the Land Council offices?---The offices? I think, yeah, there, there was a two-day board meeting I think around 24 August, and I attended that meeting over the two days and I, there were two meetings around this

time, big ones, and, oh, jeez, it was around 24 August to answer your question.

Now, Ms Bakis, you wrote a letter, did you not, to the Registrar under the Aboriginal Land Rights Act in connection with the then CEO Sophie Anna.
---Yes.

And it made allegations in that letter that she had been throwing out material from the Land Council. Do you remember that?---Yes.

10

And who provided you with those instructions to write that letter?---I think it was Theresa, the chairman, because she'd been in the offices over the weekend when that was going on, and I remember she called me I think on the Monday. But I, I think I had a few calls from Debbie and Richard over that weekend. Maybe even Candy.

Well, you know Mr Green doesn't accept that, of course, don't you?---Right. Okay.

20

Well, what do you say to that?---I'm sure if I check my phone records I'd have a call from him on that weekend, but I could be wrong.

And otherwise you think it's Ms Dates, do you?---Ms Dates or Ms Towers.

Well, Ms Towers, as you know, has given evidence and she has not suggested that she called you or made contact with you at all, so let's assume for the moment that evidence is what it is.---Theresa Towers?

30

No, Candy Towers.---I was talking, I was talking about Theresa Towers.

I'm sorry. Well, okay. I understood you to say that possibly Candy Towers was - - -?---Oh, yeah. Okay. Sorry. Maybe it wasn't Candy, then.

So you think it's either Ms Dates or Theresa Towers?---Yes.

Now, Ms Bakis, you would know, wouldn't you, that you also requested that Mr Green present to the board a resolution that your appointment, or the appointment of Knightsbridge North Lawyers, be ratified on 11 January, 2016. Isn't that right?---Yes.

40

And you gave him advice to do that, did you not?---I might have said to him you need to make sure that we're properly appointed.

THE COMMISSIONER: Did you?---I think so.

MR CHEN: And that's because, Ms Bakis, you knew that Mr Green, purporting to retain your firm, would not be effective without a board

resolution, isn't that right?---Well, I don't think that's strictly correct but, yes, it should have board resolution, yes.

And it must have been apparent to you, Ms Bakis, in you preparing that resolution for Mr Green to place before the board, that there'd be no board resolution appointing you, isn't that right?---I, I thought there was a resolution in November '15. I might have my timing off.

10 I believe you do, Ms Bakis, if that's of some assistance. But if you think to the contrary, then please tell the Commission.---Oh, well, then that's the case.

No, Ms Bakis, I'm not forcing you to say anything or agree to anything, I'm just suggesting that may not be the case but if you've got a different recollection or version, please say it.---My recollection is that there was a resolution in November '15 and I do know there was a resolution in January. I'm just trying to remember why there were two. It could, I'm not sure why.

20 In any event, leaving the date to one side for the moment, Ms Bakis, you'd accept that the purpose, though, was to get the board to resolve to accept your appointment as their solicitors?---Yes.

And that's because, to the extent Mr Green signed any of your fee agreements, he was not sufficiently authorised to do so without board approval, correct?---I, I think my costs agreement, my second costs agreement was signed in November '15 and I, I don't recall if the board was meeting, so to answer your question, yes, he was authorised to sign the costs agreement.

30 And this was part of - - -?--- But I could be wrong. I, I could have my timing off.

Well, your timing in terms of your fee agreement is correct. But I should tell you, Ms Bakis, to the extent that you wish to change your evidence, that the board met on 30 November, 2015 and this wasn't an issue that was discussed but - - -?---Oh, right. So, perhaps he forgot.

40 I don't know what he did, Ms Bakis, but - - -?---Either do I.

- - - I'm telling you the dates. To the extent you wish to change your evidence or adjust your evidence in light of what appears to be the case, that the board did meet on 30 November, 2015.---When did he sign the cost agreement?

That is a question ultimately to determine, based on Mr Green's evidence, but the cost agreement that I think you're referring to is that of the 27 November, 2015.---Right. So - sorry to hesitate, I, I, just trying to

remember the, how the board was meeting back then. I, I do remember that I wanted the resolution to go through the board properly and to be considered by the board. Now, I'm just not sure as to the circumstances around when he signed that cost agreement.

What you were doing, leaving aside the date for the moment of when this ratification motion was proposed to the board, was to ensure that the board properly appointed you, isn't that right?---I'm not sure.

10 I think that was what you just indicated in your evidence, just a moment ago, Ms Bakis but - - -?---Yeah, but I'm just confused because I'm not sure if the board had met prior to 30 November.

Well, they obviously had at some point. And they had also met on 6 August, 2015.---Yeah. That was, that was that meeting at Hickey's office. Okay, so to answer your question, I presume that Richard took that resolution to the board to make sure my appointment was approved by the board as a whole.

20 And, Ms Bakis, that's because prior to that point of time, you knew that that had not occurred, isn't that right?---The board hadn't approved my appointment as a whole, that's correct.

Now, Ms Bakis, you also know, don't you, that on 8 March, 2016, you also proposed that there be a general ratification of decisions and payments, to put it generally, that the board had made, isn't that right?---Yes. This, this was the issue I was talking about two hours ago, yes.

30 And I'll just show you the minutes, Ms Bakis. It's volume 10, page 100. ---Yes.

You see the minutes in front of you?---Yes, I do, yes, I do.

And if you scroll down, please, and have a look, you can see there's a number of resolutions, and the one I want to draw your attention to is number 3.---Yes.

40 Now, Ms Bakis, that was a resolution that was drafted by who?---Mr Petroulias.

Is that your recollection, is it?---Yes.

You certainly did not draft it. Is that the position?---You're just referring to number 3 there, 6 sub 3?

Yes.---I'm not sure.

Well, have a look if you would, please, at volume 54, page 1, and if you just look at the bottom email first, in fact I'll just ask you to have a look at page 2 so you can satisfy yourself that it's been signed off in your name. Do you see that?---Yes.

And if you just have a look then you can see that there's an email attaching the draft resolution?---Yes.

10 And you can see at the top that in fact it's been updated on 7 March, 2016, and it's been signed off in your name. Do you see that?---Yes.

And I'll just show you the resolutions, Ms Bakis, it's at page 3. Do you see that resolution, Ms Bakis?---Yes.

Now, I'm going to show you another document, Ms Bakis, which explains why there's a slight difference between what you prepared and what ultimately went before the board to appoint, and that's at page 4. Now, do you see that email that is sent in your name to Nicole?---Yes.

20 And you can see that both Ms Dates and Mr Green wanted the resolution compressed?---Yes.

And if you then have a look at page 5, you can see that resolution 3 reflects that?---Okay.

Now, Ms Bakis, you drafted the initial resolution, did you not, dealing with ratification and regularisation of decisions made?---I might have, yeah. I probably did.

30 And you also were involved in discussing it with Mr Green on or about 8 March, 2016. Isn't that right?---Yes, yes.

And you can see, can't you, Ms Bakis, that the resolution that ultimately was passed by the board reflected that revised resolution which was attached to the email that you sent on 8 March, 2016, which is at page 4 of volume 54. Isn't that right?---Yes.

40 Now, Ms Bakis, you can see, I'll just take you back to the resolution itself as passed in the minutes, so this is volume 10, page 100, and just satisfy yourself that they're the minutes of 8 March, 2016, Ms Bakis?---Yes, thank you.

And you can see then at page 101 that the resolution accords with the final version that was - - -?---Yes.

- - - submitted by you following discussions you had with Mr Green. Do you agree?---Yeah, I didn't draft this, because it made no sense.

Well, who drafted it?---Mr Petroulias.

Right. And you were happy though for it to be sent on, albeit modified slightly at the suggestion of Mr Green and Ms Dates. Is that right?---No, I wouldn't have approved this. I didn't read it. I just didn't read it.

So is this the position - - -?---It doesn't make sense. That's why we had to do it again later. It didn't make any sense.

10 Is this the position, Ms Bakis - - -?---It's still meaningless.

Have you finished, Ms Bakis?---Thank you, yes.

Is this the position, namely that the original draft was prepared by you or not?---The original one with, the long one?

Yes?---I think I did because it's got detail in there that I would know.

20 And it was emailed by you, was it not, to the Land Council by you?---I think so, yeah.

And the version that came back, Ms Bakis, are you saying that Mr Petroulias drafted that, are you?---Yes.

But it refers to a conversation that you had though with Mr Green. ---I had been talking to Richard at the time about this particular issue.

So - - -?---About the auditors.

30 Right. And did you simply then pass on what Mr Green had told you about and what his concerns were and Mr Petroulias made the edits to it. Is that the case?---Well, referring to that email I've been asked to cut it down and I might have suggested to Nick, look, can you, can you modify this so it's shorter.

Well, Ms Bakis, I'll just put this proposition simply to you.---Yes.

40 All Mr Petroulias did was delete words in that the resolution as passed by the board embodied almost exactly your proposed draft which was initially circulated - - -?---Right.

- - - except the two dot points. I'll show you, Ms Bakis. So this is Exhibit 54, page 3. Now, if you have a look, Ms Bakis, down the bottom, you can see there's words in capitals under point 3?---Yes.

And after the word including, there's a colon and a dash?---Yes.

Can I suggest to you that in fact the resolution as it ultimately went to the board simply involves deletion of the first two dot points and the aggregation of the third point to the capitalised part.---Okay.

Well, I'll show you in a moment, Ms Bakis, but if that's right, if there's any confusion arising from it, it's from your draft. Wouldn't that be fair?
---Perhaps, yeah.

10 Well, Ms Bakis, what did the letter from Kelvin Kenney, sorry, the letter that is apparently referred to there to Kelvin Kenney deal with?---I've got no idea right now. I mean there were from memory a lot of related party transactions.

I see. Well, I'll just show you the letter if you would, Ms Bakis.
---Thank you. Yes.

And the letter, does that, having looked at it, deal with in effect related party transactions?---Yes.

20 I see. I'll tender that, Commissioner. That letter of Knightsbridge North Lawyers to Kelvin Kenney, dated 20 January, 2016.

THE COMMISSIONER: Yes, that letter as described will become Exhibit 103.

#EXH-103 – LETTER FROM KNIGHTSBRIDGE LAWYERS TO MR KELVIN KENNEY DATED 20 JANUARY 2016

30 MR CHEN: And so, it's clear, Ms Bakis, you wrote this letter, did you?
---Yes.

And did you sent it to Mr Kenney or not?---I'm not sure. I probably did.

Can you think of any reason why you wouldn't sent it?---I might have emailed – I don't know. I might have met him. I don't know. It hasn't gone.

40 I'm sorry, that's in any event the letter that he's plainly referred to in the minute, is it not?---Yes.

And so it's this ratification motion that's dealing with related party transactions, is it not?---Yes.

And the one of 8 April, 2016 that I took you to earlier is not dealing with that topic, is it?---It's the same topic to the – the minute passed in March made no sense and I, I can't remember the sequence now but I remember

reading it, thinking, no, no, the auditor won't be happy with this. We'll need to do this again because it's not, it's not specific enough.

Commissioner, I notice the time. I expected to finish today. I didn't for various reasons, but - - -

10 THE COMMISSIONER: Very well. We'll shortly adjourn. I just want to revise those times, those new adjusted times. I note an error in relation to Thursday. So, tomorrow, Wednesday, will resume at 9.30 and go through to 4.30. On Thursday there'll be a not before 10.15 start and we adjourn at 3.45 on Thursday. Friday, provisionally 9.30am start until 4.00pm. I'll adjourn.

THE WITNESS STOOD DOWN [4.02pm]

AT 4.02PM THE MATTER WAS ADJOURNED ACCORDINGLY [4.02pm]

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