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PUBLIC
HEARING

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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE PETER HALL QC
CHIEF COMMISSIONER

PUBLIC HEARING

OPERATION SKYLINE

Reference: Operation E17/0549

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON THURSDAY 16 AUGUST, 2018

AT 10.30AM

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THE COMMISSIONER: Right. Yes, thank you, Ms Bakis. Yes, I'll have you re-sworn, thank you.

THE COMMISSIONER: Yes, thank you. Yes, Mr Lonergan.

MR LONERGAN: Ms Bakis, you were asked yesterday whether you were able to provide any documents today in relation to file notes. Have you been able to provide any, well, have you found any overnight in addition to what you've already put in?---No.

10

So, just to be clear, yesterday I asked you some questions in relation to file notes and your evidence was, and please correct me if I'm wrong, that where you provided advice to Mr Green in relation to agreements, documents et cetera, that that recorded file notes, is that correct?---I thought I had but those are not on the file, so I, I, I had a practice of – should I elaborate or - - -

20

Please.---All right. I had a practice of usually typing my files notes up on my laptop and I usually printed those file notes out, especially in situations like explaining documents, but they're not on the file and that laptop was destroyed by Mr Petroulias. He threw it on the street one day in anger. So, I – that's the situation I'm in right now. I, I don't, I've got a file pretty much about any of my file notes on it.

THE COMMISSIONER: Well, that's the first I've heard of that, I think. Did you ever draw that to the attention of any of the officers of the Commission when you received your summons to produce documents? ---No.

30

Well, as you know, similar to the obligation of the discovery in civil litigation, it's necessary to identify documents that were within your power or possession even if they are no longer in your power and possession. Similarly with this summons, why would you not have drawn to the attention of Commission officers that file notes that you previously had recorded or made on your laptop no longer exist because the laptop was destroyed by Mr Petroulias?---I, I, the fact that the, the paper copy was not available suggests, and I was unable to retrieve it suggested to me that that – I, I don't know what I thought, I'll be honest. I, I don't know.

40

All right.---I don't know. I didn't think. The fact that it doesn't exist it doesn't exist so I - - -

Well, it – sorry, are you finished?---No, it's all right.

Well, looking at the possibilities, is it possible that you believe that you had from time to time created file notes in relation to the agreements and other documents as Mr Lonergan has just asked you but in fact though you

thought you had you did not?---No, I had. I had at least done a few. I may not have done it on every occasion but, yes.

All right. Mr Lonergan.

MR LONERGAN: So, Ms Bakis, you have also given evidence to the Commission that you have memory problems. Do you recall giving that evidence in recent days?---Yes. Yes.

10 So is the position, Ms Bakis, that without your file notes you can't say one way or another that you gave advice to Mr Green in relation to any documents that are the subject of this Commission's hearing?---I have a distinct memory of discussing the costs agreements with Richard because I had the lengthy discussion about the charge but, and, and I can recall other instances where I've discussed documents with him but I couldn't tell you which documents they are. This is the position I'm in right now.

And just to be clear, in relation to the cost agreement, which cost agreement are you talking about here?---Both of them.

20

So going to the cost agreement 28 November, 2014, there is no file note that you're aware of that references that cost agreement and the discussions? ---There is a file note of around that, well, it's called a, I think it's, it might not be called a file note exactly, it could be called a memorandum, and the bottom two paragraphs of that I think have a brief discussion about me, my talking to Richard.

And sorry, was that in, well, volume 53 which is MFI 33 that was provided to the Commission?---I think so.

30

Can the witness, Commissioner, be provided a copy again of that folder.

THE COMMISSIONER: Yes.

MR LONERGAN: I'll just ask you to find that document.---It's on page 3.

Page 3. And which - - -?---Sorry, it doesn't say that. I've got that wrong. I was thinking about the heads of agreement.

40 Right.---Sorry. Yeah, you're right.

So we'll come to the heads of agreement but just to clarify in relation to the 28 November, 2014 cost agreement, is there anything in this file that you can point to in relation to that?---No.

Just before I finish on that cost agreement, Ms Bakis, you gave some evidence yesterday in relation to clause 20, and please correct me if I'm

wrong, but your evidence suggested that Mr Green and Mr Petroulias both had discussions with each other in relation to that clause.---Yes.

Now, and was it your evidence then, Ms Bakis, that Mr Petroulias then drafted that particular clause. Is that right?---Yes, he drafted that particular clause 20 that I inserted into my template.

10 And your evidence was that you were not party to the conversation that is alleged to have occurred between Mr Green and Mr Petroulias, is that correct?---I'm not sure. I don't know. Right now, I don't know.

Ms Bakis, I put it to you that Mr Green never suggested anything or certainly any clauses in relation to the 28 November, 2014 cost agreement. What do you say to that?---Well, if, if I've put it in the cost agreement I must have had some sort of comfort at the time that instructions had been taken.

20 Well, Ms Bakis, your evidence was - - -?---Yeah, I know. I know, I know. - - - that you didn't put it in there, that Mr Petroulias drafted the entire agreement.---He, he certainly drafted clause 20.

Or did he draft the entire agreement?---He might have. He might have.

Did you draft any part of that cost agreement?---It's, it's a template.

THE COMMISSIONER: Sorry, I couldn't hear.---Sorry, it's a template, so, you know, it's probably something that I've been using for a long time.

30 MR LONERGAN: So is the answer to my question no?---The answer is I don't know. I don't remember.

You still have the folder in front of you, right?---Yes.

40 Now, I did ask you yesterday in relation to that heads of agreement and I put it to you that Mr Green, well, sorry, that Mr Green had not been explained that heads of agreement to you. I need to also put it to you that Mr Green never suggested any part of what is in the heads of agreement dated 15 December, 2014. Do you agree with that?---I disagree with that.

Now, going to MFI 33, page 3, which is actually Exhibit 84, Commissioner. I believe that's been tendered. Which part of this file note are you saying explains the conversations with Mr Green?---It doesn't. Sorry, that's an error on my part.

So is there any file note that does explain the conversation with Mr Green regarding the heads of agreement?---No.

Because this file note, sorry, this file note, exhibit 84, page 3 of MFI 33, the one that you have in front of you, says that you were happy to complete a basic heads of agreement.---Yes.

So this file note predates any heads of agreement being constructed, is that correct?---I'm not sure. We might have had a draft at that point. It could be that I drafted something convoluted and there was a discussion of simplifying it. I, I don't know. I don't know.

10 Can I just ask you, I'll come back to this particular one, but I just want you to turn back a page to page 2, Ms Bakis.---Yes.

And this is a letter that accompanied what was the draft heads of agreement.---Yes.

The draft heads of agreement is in evidence whilst not attached to this particular folder. But I just want to draw your attention to, if it - - -

20 MR CHEN: I don't think there's a draft agreement in evidence. I don't know whether my friend meant to put that. There is an agreement in evidence but I don't believe there's an earlier version. I just draw that to my friend's attention.

MR LONERGAN: I'll take the witness to that, Commissioner, but before I do that I just want to ask a simple question in relation to this page. You can see up the right hand side there, there's in pen by the look of it, "Received by," and then there's an obscured signature underneath.---Yes.

30 Do you recall whose signature that is?---I think that's Debbie's.

Right and if you go over to page 4 - - -?---That's Debbie's.

That's Debbie's. And your recollection is that the signature of Debbie Dates is that on page 2, is it?---Yes. I'm pretty confident that that's hers.

40 So, just going back to page 2. It's up on the screen. So, the letter is addressed to Mr Green but I understand that your evidence yesterday was that whoever you explained the document to, you asked them then to sign the document. Do you recall giving that evidence?---Yes.

So is it correct to say that this document was given to and explained to Ms Dates and not Mr Green?---As in this letter?

The letter.---It's unlikely because this letter would have been on the top of the agreement so – and Richard having signed the agreement, probably satisfied me that he had read the cover letter or understood the cover letter.

Now, I did say that I'd take you to that. If you just give me a second, I'll find the reference to the draft. Exhibit 43, I believe, page 13. Now, if the Commission could assist me by scrolling down to the next page. So, this seems, and correct me if I'm wrong, but if they perhaps go back up to page 13, that's the same letter that we were just discussing?---I think so.

And the subsequent pages, if we just scroll down, was this draft heads of agreement, is that your understanding?---Yeah, just scroll, scroll on to the next page. I, I think so, yep.

10

And if you keep going down just to the signature page. It's unsigned. ---Right.

So, I just want to clarify, Ms Bakis, because I, I understood your evidence yesterday to be that where documents were presented to Mr Green or Ms Dates that your practice was that that person sign the letter et cetera. That gave you comfort, well, sorry, that clarified for your records that they had been explained the document?---Yes.

20

And Mr Green's signature does not appear on the letter, does it?---No.

So, you didn't explain the letter to him, did you?---That doesn't necessarily follow. I am pretty sure I did although - - -

Well, Ms Bakis, if you'd explained it to him, he would have signed it, isn't that your policy?---Well, he signed the agreement, so it, it, it could just be a little technicality like that and, and then I took the whole things to Debbie to make sure she understood it.

30

And sorry, did Ms Dates understand it?---It was explained to her. She understood the division 4A process.

All right. Just coming back to page 3 of Exhibit – sorry.

THE COMMISSIONER: Just before we leave that, without throwing you off your path.

MR LONERGAN: No.

40

THE COMMISSIONER: On the file note of 12 December, 2014, it's on page 3, the last two paragraphs address the question of obvious conflict of interest. Do you see that?---Yes.

And plainly that was a matter of specific significance about which you needed to give advice.---Yes.

And your advice was that it was important that Ian Sheriff runs through the agreement, et cetera, as recorded in the file note.---Yes.

When you wrote on the same day, 12 December, 2014, to Richard Green, there's no reference to that advice on the conflict of interests point at all. ---Yeah, I probably should have raised it.

So why would you not on the same day, more or less at the same time you're dealing with this matter with Richard Green, record in the letter to him that which is in the last two paragraphs of the file note on page 3 about the conflict of interest?---Probably didn't occur to me. Oversight.

10

See, I'm just drawing it to your attention because it might be suggested – I'm not saying it is, but it could be at some point put to you – that though you were prepared to put it in a file note, you were not prepared to put it in the letter, and that in fact you didn't give the advice on conflict of interests to which the file note refers. How would you respond if that proposition were advanced?---Well, the, the file note recorded a discussion and has been signed by Debbie and Richard. The fact that I haven't put it in the letter is just, I probably had the letter drafted before I had that discussion or – I, I don't know. I don't know why it's not there.

20

You wouldn't know, though, would you?---It didn't, it didn't occur to me.

But what I'm putting to you is it might be - - -?---In the letter.

- - - it might be suggested that this is in effect being stage-managed. That is, you create a file note which records your advice about conflict of interest and you get the relevant people, including Mr Green, to put his initials on the document but that you didn't give any such advice. That's why you won't find it in the letter of 12 December, 2014 because that's not a matter you wanted to have Mr Green actually action, that is, seek independent advice about the matter. I'm just putting it to you in case that proposition is advanced against you and how you would respond to it.---Well, just because it's not in writing doesn't mean it wasn't discussed. And it was discussed and Richard knew that Gows was Nick's company. He was very well aware of that. So, I mean, yes, I should have, I should have put all of this in writing, yes.

30

And that's because it was an important matter, as you've already agreed, to advise him on the conflict of interests.---Yes. Yes, I should have. Yes. I agree with that.

40

MR LONERGAN: You have that file note dated 12 December, 2014 in front of you, Ms Bakis?---Yes.

Now, Mr Green has given evidence before the Commission that he's never heard of Gows Heat. You're aware of that?---Yes.

He's also given evidence before the Commission that the only presentation he's seen was one by IBU and that there was no joint presentation with Gows Heat. You're aware of that?---Yes.

So, Ms Bakis, just starting at the top of this file note, I just now want to go through it. And Mr Green's evidence was that there was no decision by the board of Awabakal Land Council to sell the lands on or around 31 October, 2014. You're aware of that?---Yes, I am, yes.

10 So I put it to you that this file note does not accurately record what Mr Green has said on or around 12 December, 2014 to you or anyone else in this meeting.---That is completely false. I think Richard has met every property developer in Australia, telling them that Awabakal wants to sell their land. I mean, that is so false.

No, but that's not quite the question I asked you, Ms Bakis.---I know but, and he, he was doing that on the basis that there was a resolution by the board to sell their land.

20 Mr Green never said to you or anyone else in this meeting, if the meeting indeed occurred, that Awabakal was going to or wanted to proceed to buy a property portfolio. What do you say to that?---Where does it, sorry, I'm just trying to read it.

That being dot point 1 and dot point 2.---He would have. That would have been his thing at the time. That would have been his flavour of the month that, you know, this is what Awabakal should do. That's why, that's why it's been put there.

30 Dot point 4, Ms Bakis, Mr Green never said that Cyril and Omar made a presentation about establishing a public company, did he?---Yes, he did.

Mr Green – sorry, just going to after the fourth dot point there, who do you say provided you with a copy of the joint presentation including Gows Heat?---It was either Mr Petroulias or Mr Green. One of those two.

Well, Ms Bakis, I put it to you that Mr Green didn't present it to you because he'd never seen it.---Well, he was in the board meeting when it was presented so I can't imagine that's true.

40

Well, it is correct, Ms Bakis. Mr Green's evidence is that he was in the board meeting when a presentation was presented. However, his evidence is that it was an IBU presentation only. Do you agree with that or not?

MS NOLAN: Do you agree with the fact that that's his evidence?---No.

Or with the position - - -

MR LONERGAN: Sorry.

MS NOLAN: - - - contained within his evidence?---Yeah, I don't know what to agree to.

It probably needs to be clearer.

MR LONERGAN: Yes. My friend is quite right. I withdraw that question and I put it this way. Mr Green never gave you a joint presentation between
10 IBU and Gows?---It's possible, yes.

THE COMMISSIONER: It's possible what?---That he didn't give me a joint presentation.

MR LONERGAN: Now, Ms Bakis, just moving along the top line of that paragraph. It says there NP. I assume NP is Nick Petroulias or Nick Peterson.---Yes.

Did not want it, and then in commas there's the joint presentation submitted.
20 The reference to joint presentation, sorry, joint version on reading of that implies that there was more than one version. Have you seen more than one version of a presentation?

MS NOLAN: Can my friend put a time limit on that because we all have. It's just a question as to when the question is directed.

MR LONERGAN: In and around when this file note was created, being 12 December, 2014.---I don't believe I'd seen multiple versions of it, no.

30 So you'd only seen one version?---I think so.

And you say that that version that you saw included Gows and IBU in it. Is that correct?---I think so.

Are you able to say with any certainty, Ms Bakis?---No.

Now, going then down to the subsequent conversation that's said to have occurred between Mr Green and Mr Petroulias you see that - - -?---Yes.

40 - - - where it says RG and there's some comment and NP.---Yes.

Ms Bakis, I put it to you that this conversation never occurred. What do you say to that?---I'm pretty sure it did. I do remember these sorts of conversations at the time.

Did you - - -?---Now, whether this exact one happened, I can't say.

THE COMMISSIONER: Do these dot points represent your note of them or were they supplied to you by Mr Petroulias or written by Mr Petroulias?
---Mr Petroulias wrote those.

MR LONERGAN: Ms Bakis, that's perhaps the question I should have asked you at the start. This file note, was any part of this written by yourself?---No.

10 Do you know who wrote the file note?---Mr Petroulias wrote that.

And you're certain of that?---Yes.

Do you know when he wrote the file note?---Around December '14.

Now, the Commissioner drew your attention to the second last paragraph there regarding conflict.---Yes.

20 Now, is this a conversation that you had with Mr Green and Ms Dates? I presume DD means Ms Dates.---Yes.

So, just - - ?---So DD is, DD is Ms Dates and the conversation was had that Gows is Nick's company. There is a conflict and it's something we'll need to manage.

And do you say that this conversation happened on 12 December, 2014 or some other time?---Not sure.

30 Well, you - - ?---I really don't remember what, what specific date, when. It, it probably happened on or around this date.

THE COMMISSIONER: Sorry, just while we're on this area. The letter of 12 December, '14 to Mr Green, page 2, is that drafted by you or was that drafted by Mr Petroulias?---I, I think I drafted that.

MR LONERGAN: And Ms Bakis, did you draft that letter, the one on page 2, before or after – sorry I withdraw that. Dealing with page 3, this file note, was there actually a meeting on 12 December, 2014, to your recollection?---A meeting?

40 Yes, a meeting between yourself, Mr Green, on that date or around that date?---Yes, there was, around that date, yeah, but I've, I've said before, I can't remember if Richard was at my house around this time. I, I just can't remember the detail. So - - -

So, if you go back to page 2, page 2 of the Exhibit 84, you can see the date on that document is 12 December, 2014.---Yes.

And the date of the file note is 12 December, 2014 as well.---Yes.

And in the file note, Ms Bakis, well it says there "DB happy to complete a basic heads of agreement." Can you see - - -?---Yes, yes.

But this letter that you send to Mr Green has a final draft of the heads of agreement, so I'm asking you how is it possible that, well, on one hand, 12 December, 2014 you're happy to complete the basic heads of agreement, and here, same day, at least on the documents, you're enclosing a final draft of it?---Can you assist me and tell me when that deed was signed? Was it the 15th? Or it's unclear?

Well, there is a deed of agreement that's in evidence that was dated 15 December, 2014.---Right. So it's likely that I met with Richard a few days beforehand to present a draft and then taken a final with me to Newcastle when I met him to sign it. That could be what's happened here. It'd be nice to know.

But your evidence is that you only went to Newcastle, around this period you went to Newcastle on the weekend, is that right?---More a day off, yeah, I, I'm not sure.

Because 12 December, 2014 is a Friday.---Right.

15 December obviously is the Monday after.---Yes.

So my question to you is simply did you present to Mr Green this heads of agreement, the final heads of agreement, before the Monday?---The final heads of agreement?

Yes, the one that he signed.---I don't know. I don't know if, if I had originally given him a draft and amended it because it was – I, I don't know.

Well, did you see Mr Green sign the 15 December, 2014 heads of agreement or not?---Yes.

And when do you say that you saw him sign it?---We were in Newcastle.

Was it on a weekend?---Yes. Weekend or day off or thereabouts.

So you can't be sure? You don't know?---No, I can't be sure but I certainly saw him sign it.

THE COMMISSIONER: Did you give him any advice before he signed it? ---Yes. Yes.

You did? What advice did you give him?---I would have run through it quickly to explain the terms of whatever was in it.

MR LONERGAN: I mean, just on the advice that you say you'd given to Mr Green, I understand you have given evidence in relation to, well, the process that has to be gone through for agreements to bind the Land Council in relation to selling land.---Yes.

And your evidence, at least in one version of it, was that agreements such as, well, the Sunshine ones in particular were not worth the paper they're written on. Do you recall giving that evidence?---I might have said that.

10 Well, you certainly used the word "void".---That doesn't mean they're not worth the paper they're written on. I guess - - -

Well, Counsel Assisting put it to you and said, well, the agreements were not worth the paper they're written on and you said yes.---Okay.

20 So is there any particular, or is there any reason that you can think of why an agreement between the Awabakal Land Council and Sunshine is not worth the paper it's written on but an agreement between Gows Heat and the Awabakal Land Council would be any different?---The agreement is void as against the Land Council but it's not void against parties that aren't the Land Council. It's a, it's a statutory void. So I know that sounds silly and ridiculous, but that's how that statute works.

And is this the advice that you say you gave to Mr Green?---I'm not sure if I went into that sort of detail. I'm not sure.

30 Well - - ?---I, I would have, I would have run through the approval process but I'm not sure I would have explained that the, the things wasn't void against Gows.

So, can you tell the Commission exactly what the, well, in any terms, what the advice that you gave Mr Green in relation to this heads of agreement was?---No.

Just moving now, Ms Bakis, over to Solstice. Please correct me if I'm wrong here, but your evidence yesterday was to the effect that you did not give Mr Green any advice in relation to any document that contained Gows Heat in and around the Solstice transaction, is that correct?---Yes.

40 Ms Bakis, is that because – I withdraw that. Were you aware of any involvement of Gows Heat in the Solstice transaction?---No.

So, I just take you to your minutes and if you just give me a second, I'll find the relevant document I'm after, sorry, your file notes, my apologies, page 52.---Yes.

If you just have a look at that for a minute. Now, this is a file note that on the document says 5 May 2016.---Yes.

Is this a file note that you wrote?---No. I wouldn't put that level of detail into a file note.

And you'll see there that it says, "Richard on phone." It says, "The Solstice deal went to ALC board on basis that Gows had no part of it." Do you see that?---Yes.

10 Were you part of this conversation at all?---No.

Because you had no knowledge of Gows at all being involved in Solstice, is that right?---Yes.

So how is it, Ms Bakis, that this file note has, well, made it into what on the face of it is a file note of Knightsbridge North Lawyers?---Mr Petroulias probably dropped it in there. I, I had, I had, his role was to document the transactions as they moved but, yeah, it's just ended up in the pile of paper.

20 THE COMMISSIONER: That ended up in the Awabakal land transaction file?---Yes.

Which you would have reviewed from time to time to keep abreast of developments - - -?---No.

- - - and notes that were being put on the file about the matter?---No.

30 Even though you knew that Mr Petroulias had adopted almost a practice of placing files notes on the file?---I didn't because we used to talk about them, so I just didn't. I should have but I didn't.

Well, as a solicitor dealing with a current matter, I would have thought that normal practice would be to keep abreast of developments and read anything that's new that came into the file from day to day, is that not right?---I don't think there was that much going into the file on each day. I mean, I didn't - - -

40 Well, whether there was a lot or a little that would be normal practice, wouldn't it? A solicitor would keep abreast of developments by reading file notes or other memoranda staff might put on the file so that he or she is fully abreast of any developments?---Yes.

Why wouldn't you do that?---I didn't need to at the time because I felt like I knew what was going on. I, I - - -

Did you avoid reading your file from time to time?---I didn't avoid it. I just at the time didn't feel it was necessary given the conversations we were having.

MR LONERGAN: Ms Bakis, I'll take you to Exhibit 102 and it's - - -

MR CHEN: Just before my learned friend goes to that, Commissioner. This is not an exhibit at the present time obviously but I'd seek a suppression order, Commissioner, in relation to the second dot point between the two dashes, that is, after the words "they are close friends".

THE COMMISSIONER: Yes. So the words in parentheses?

10 MR CHEN: Yes.

THE COMMISSIONER: Yes. Well, in relation to MFI 33, volume 53 of the KNL material, page 52, second dot point, the words in parentheses commencing "do" and ending with the word "phase" are not to be published or communicated by or to any person. That direction is made pursuant to section 112 of the Independent Commission Against Corruption Act.

20 **SUPPRESSION ORDER PURSUANT TO SECTION 112 OF THE
ICAC ACT: IN RELATION TO MFI 33, VOLUME 53 OF THE KNL
MATERIAL, PAGE 52, SECOND DOT POINT, THE WORDS IN
PARENTHESES COMMENCING "DO" AND ENDING WITH THE
WORD "PHASE" ARE NOT TO BE PUBLISHED OR
COMMUNICATED BY OR TO ANY PERSON**

THE COMMISSIONER: Yes, thank you.

30 MR CHEN: Thank you, Commissioner.

MR LONERGAN: We were going to Exhibit 102 and at page 327 and Counsel Assisting - - -

THE COMMISSIONER: Sorry, have you finished for the time being with MFI 33 or do you want the witness to retain it for the moment?

MR LONERGAN: I'd prefer the witness to retain it, Commissioner.

40 THE COMMISSIONER: All right. Just close that file if you wouldn't mind.---I have.

Your attention is now being taken to something else. Yes. Yes, you proceed. Exhibit 102, page 327.

MR LONERGAN: And scroll down to page 334. Just you can see there page 328 and 329 that there were some, and here on, I believe that's page 330 that there are comments deleted, et cetera. So this is a draft document. You recall being taken to this.---Yes.

Yes.---Yes.

And then going over to page 334.---Yes.

You see the signature there on this document of Mr Green and Ms Dates.
---Yes.

10 Is it correct that you didn't ask them to sign this draft document?
---That's correct.

And do you recall asking them to sign the final heads of agreement?
---What's the date on this? This is the second one?

Yes, this is Solstice - - -?---This is the second one.

- - - and I believe it was - - -?---No. Yeah, no, I didn't ask them to sign this.

20 So you didn't give them any advice on that Solstice heads of agreement
dated 19 November, 2015?---No.

Now, Ms Bakis, you recall Counsel Assisting took you from this document
to, from this draft document to the, well, to the, let's call it final version of it
and the signature page seemed to have transferred across. Do you recall
being shown that?---Yes.

Do you have any knowledge as to, or knowledge of that occurring?---No.

30 If that is to have occurred do you have any understanding of who would
have done that?---I would suggest it was Mr Petroulias. No, I can't see
anyone else being interested in it so - - -

So, Ms Bakis, in relation to the Solstice transaction – sorry.

MR PETROULIAS: (not transcribable) I think Counsel Assisting correctly
identified that this document was Dean Alcorn's document, not my
document.

40 THE COMMISSIONER: Sorry, can't hear you.

MR PETROULIAS: Counsel Assisting - - -

THE COMMISSIONER: Just speak into the microphone.

MR PETROULIAS: Sorry, Commissioner. Counsel Assisting, in the
transcript, properly records that this was Dean Alcorn's document, the, the -
- -

THE COMMISSIONER: This was?

MR PETROULIAS: Dean Alcorn from Solstice, not my document.

MR CHEN: Commissioner, I didn't do that at all.

MR PETROULIAS: Well, sorry, that's what I read in the transcript.

10 THE WITNESS: No, no, no. There's, there's - - -

THE COMMISSIONER: A misunderstanding, I think, Mr Petroulias.

MR PETROULIAS: Okay, that's fine.

THE WITNESS: It's another document he's referring to.

THE COMMISSIONER: All right.

20 MR PETROULIAS: Okay. I'm sorry.

THE COMMISSIONER: Yes, Mr Lonergan.

MR LONERGAN: So, Ms Bakis, again please correct me if I'm wrong, but my understanding of your evidence in relation to the Solstice transaction was that this was just a straight sale of relevant Awabakal pieces of land for \$30 million. Is that your understanding of what the transaction was?
---Broadly, yes.

30 And also that there was this clause whereby the price would adjust downwards depending on relevant zoning. Is that your understanding?---
Yes.

And that ultimately the deal fell over because that clause was seen to be unfair or not commercial or not in the commercial best interest of Awabakal, is that correct?---That's correct.

40 MR CHEN: I don't think that's the evidence, if my learned friend – I don't know whether my friend is putting that as a proposition or reciting the evidence. If it's the latter, that's not her evidence, but my friend can pursue that in another way if he so desires.

MR LONERGAN: Yes, Commissioner, my learned friend is correct. It's me putting the proposition, not reciting the evidence. It was in summary of
- - -

THE COMMISSIONER: Yes, very well.

MR LONERGAN: So, Ms Bakis, the evidence that Mr Green gave was that he had a meeting with the two representatives, or two representatives from Solstice – I believe they were Mr Kavanagh and Mr Strauss – where he says that he told them about the requirements under the Aboriginal Land Act for purchasing, and that subsequent to that he thought they'd just gone away. Do you recall him - - -?---Yes, I do.

10 Now, Ms Bakis, do you agree with me or not that Mr Green had no involvement in the Solstice after November 2015?---I honestly don't remember. I don't think that's right. I don't think that's right but I couldn't point you to any detail as to why I think that. He, he would have been well aware of discussions, I'm sure.

Were you party to this meeting where Mr Green told Mr Kavanagh and Mr Strauss about the land dealings?---No.

Were you informed in any way of that conversation?---No, no.

20 MR PETROULIAS: If we've just finished on that document, the transcript reference I was talking about was 2481, line 23. The marked up version's apparently been prepared by Mr Alcorn.

MR LONERGAN: Now, Ms Bakis, you did reference that there was a conversation that was had in your office with the representatives of Solstice and - - -?---Yes.

- - - you kicked him out and sent him downstairs, I believe was your evidence.---Yes, yes.

30 And Mr Green was not at that meeting, was he?---I don't think he was. I, I remember Sam and Nick and a few other people but I don't recall Richard being there. I don't think, I don't think he was there.

Before I move into the next set of dealings, I do want to go back to your affidavit, sorry, the affidavit that Mr Green has said to have signed. If I'd be assisted by the reference to that. I believe it's Exhibit, I don't have the reference to it, but I'll be assisted if the Commission was able to point me to that affidavit.

40 MR CHEN: Of Mr Green?

MR LONERGAN: Of Mr Green.

MR CHEN: I should just correct Mr Petroulias's statement, Commissioner, that somehow there's a link. It doesn't seem to me to be material but I don't want him to be under any misapprehension, Commissioner. The reference at, it seems to be 2481, is referencing marked-up documents with a timing of late April, 2016. The questions I asked of Ms Bakis were directed to the

presence of this document, which I think is Exhibit 102, and how it came to be signed when it was obviously a draft. Anyway, I'll – but that's the evidence, in my respectful submission, and I just want to point that out to Mr Petroulias.

THE COMMISSIONER: Have you got that Mr Lonergan?

MR LONERGAN: Yes. The affidavit I was referring to is Exhibit 101 as well.

10

THE COMMISSIONER: What is it?

MR LONERGAN: Exhibit 101, I believe.

THE COMMISSIONER: 101?

MR LONERGAN: Yes. If that could be brought up on the screen. And if we go down to - - -

20

THE COMMISSIONER: That's a summons.

MR LONERGAN: That's a summons. I believe page 8 is where the affidavit starts, or is part of the affidavit. So, if we just scroll back up to the start there.

THE COMMISSIONER: I thought you said it was an affidavit of Mr Green.

MR LONERGAN: Yes.

30

THE COMMISSIONER: This is the affidavit of Ms Bakis you're talking about.

MR LONERGAN: My apologies, Commissioner. I have the wrong reference. I'll come back to the affidavit of Mr Green. I've taken down the wrong reference to it but I can deal with it perhaps – Ms Bakis, do you recall Mr Green signing an affidavit in relation to proceedings against the Awabakal Land Council?---I do. I think it was maybe June or July last year.

40

Yes, in 2017?---Yes.

Now, Ms Bakis, you didn't explain the content of that affidavit to Mr Green, did you?---Yes, I did.

Mr Green signed - - -

THE COMMISSIONER: Who prepared the affidavit?---I, I prepared some of it. Mr, Mr Petroulias prepared some of it and we, we both met him to discuss it and - - -

I'm just intrigued how Mr Petroulias, who's not a registered legal practitioner, is doing all this drafting, particularly of affidavits to be used in a court, which of course is prohibited under the Legal Profession Act. Why was it you and he were drafting all these documents together when he was not a legal practitioner?---A non-legal practitioner surely can draft an affidavit.

Well, he's doing solicitor's work which is, I would have thought, something that is contrary to the Legal Profession Act.---Well - - -

I mean he seems to be not just a clerk but he's actually drafting documents for use in court which is a - - -?---It was more - - -

- - - highly significant matter to the process of justice.

20 MS NOLAN: Commissioner, I understand your point but I think technically the Commission's point is not correct because, examine it this way, that would mean that self-represented litigants are not able to draft their own affidavit. What I think you're referring to is solicitors work for charging purposes - - -

THE COMMISSIONER: No, but a self-represented litigant is acting for him or herself. This is another person working in a legal practice who is not registered drafting, in particular I'm focusing on affidavits to be used in court because that's a very serious matter. It goes to the administration of justice.

MS NOLAN: I accept that.

THE COMMISSIONER: How can an unregistered person be drafting an affidavit for use in court? That's what has caught my attention.

MS NOLAN: You won't hear me cavil with what you've just put to me but I just, all I'm drawing to your attention is, is the Legal Profession Act doesn't actually speak to it except in terms of solicitors work for the purpose of charging, but you won't hear me cavil with the proposition that you've put with respect to it being an improper act. That's not something I'm going to cavil with.

THE COMMISSIONER: Yes. Anyway, I just felt – yes, okay.

MR CHEN: Well, I think as well, Commissioner, just to add to the mix. I think the evidence was that his name was removed from the roll of practitioners which is – in any event, let's move on.

THE COMMISSIONER: Yes. Anyway, I just note it. It probably doesn't assist in any respect in the investigation but I note it as somewhat extraordinary. However, I'm sorry, Mr Lonergan, I've thrown you off your path. You were talking about the affidavit and I think her last answer was that she drafted part of it and Mr Petroulias drafted part of it I think is the effect of your evidence.---That's right, yes.

All right.

10

MR LONERGAN: And, Ms Bakis, to your understanding, how is it that Mr Petroulias is in any position to draft part of an affidavit for Mr Green in relation to these proceedings?---Because Mr Petroulias and Mr Green spent probably more time together than I spent with Mr Petroulias. They spent a lot of time together talking to a lot of these people. He had a lot of knowledge about all these matters and was able to assist.

20 So is it your position then, Ms Bakis, that Mr Petroulias is using Mr Green's affidavit as a means to put his story across?---No, no. He could have done his own affidavit if he wanted to but - - -

Well, he could have but the point here is that I mean - - -

THE COMMISSIONER: He may not want to have gone on the record, Ms Bakis. That would be one good reason to use somebody else wouldn't it?---Yeah, but this, he, it was an affidavit coming from a board member of Awabakal so it had - - -

30 Well, we know that.---Well - - -

Well, it was an affidavit the handiwork of which belonged to Mr Petroulias in part.---Only because he had knowledge of the facts, a lot of the facts.

I think with great respect you're missing the point.---Obviously.

Whether he had knowledge or not is – anyway, I won't say any more.

40 MR LONERGAN: Ms Bakis, you understand that an affidavit of Mr Green should be Mr Green's evidence, right, not Mr Petroulias's?---Yes, yes, and I was aware of that which is why I went through it with Mr Green.

Ms Bakis, just so I'm clear, I put it to you that you did not do such a thing. You did not take Mr Green through this affidavit.---Well, then, why did he sign it? Why would he sign it in front of me while I'm going through it page by page? I went through this thing with him at his house and I remember it distinctly.

It's really, it's only for submissions but, Ms Bakis - - -

MS NOLAN: I object to that. That's not right. It's an answer to a question and it's her evidence.

MR LONERGAN: What, answering a question with a question is evidence?

MS NOLAN: No, it's a rhetorical question.

10 THE WITNESS: Well, the answer is he signed it in front of me so, and, and I went through it with him so there's nothing more I can say.

MR LONERGAN: And just so we're clear, do you have any file notes in relation to this?---No.

In relation to the preparation of it?---Unlikely.

In relation to Mr Green signing the affidavit?---No. It speaks for itself. It didn't need an affidavit to confirm it had been signed.

20

THE COMMISSIONER: Well, Mr Lonergan, we might take a morning tea adjournment. Is that convenient?

MR LONERGAN: Yes, Commissioner.

SHORT ADJOURNMENT

[11.29am]

30 THE COMMISSIONER: Yes, Mr Lonergan.

MR LONERGAN: Ms Bakis, just before I leave Sunshine, I just want to take you to one document.

THE COMMISSIONER: You said Sunshine, did you mean Solstice or - - -

MR LONERGAN: Sorry, I've left Solstice.

THE COMMISSIONER: All right.

40

MR LONERGAN: Now, I just need to go back to Sunshine for one document. If the Commission could bring up the Exhibit 57, page 1, and if you just scroll through to the signature page. Sorry, just before we scroll. Do you see that deed of acknowledgement and guarantee?---Yes.

If you just scroll through. You see that now had a signature on it?---Yes.

I asked you questions yesterday about whether you knew Mr Green had signed this document and I think your answer to me was, "Well, did he sign it?" And you can see here that there is a signature on it. Does that refresh your memory - - -?---Yes it does.

- - - in relation to that?---Yep.

10 So, is it your evidence, I'm sorry, what is your evidence now in relation to explaining that document to Mr Green?---Well, I was there when this was signed. I assume I was there because Toni Manton witnessed it.

And Toni Manton, to your - - -?---Was Richard's partner at the time. 21 December, what - - -

Two thousand and - - -?---'15?

20 '15, yes. Right, so Mr Green signed the document. Do you recall explaining the document to him?---I'm pretty sure I did. If, if it's the same document that's, that was signed at my house, I, I don't remember if I explained it to him on the day he signed this. I actually don't. I don't know if it was - - -

THE COMMISSIONER: Sorry, I'm totally confused.---Sorry, so am I.

I think the question was - - -?---I don't know, I don't know is the answer, is the efficient answer.

30 MR LONERGAN: Well, the document wasn't signed at your house, I presume?---It wasn't or was, sorry?

Was not. Was not signed at your house.---I'm not sure. That's why I'm hesitating.

Sure. So, that's all I have for you on Sunshine. I will take you shortly through to Advantage. However, you mentioned in your evidence or you gave evidence in relation to Mr Green and Mr Petroulias being part of, I'm just trying to remember the terminology for the company - - -?---United Land Councils?

40 That's the one. United Land Councils. Now, to your recollection, when did this business start operating?---I don't know is the answer. I know they were talking mid-'14 onwards. I'm not sure at what point it turned into a ULC business, whether it was late '14 or early '15 but it would have been that sort of timing I think.

And you gave evidence that you donated a car – well, sorry, I withdraw that, that your car, being a Mercedes, was transferred to that entity, is that

correct?---No. That, that was another entity but, yes, I had a car transferred to an entity that Richard I think was director of.

And this was or was not United Land Councils?---No, it wasn't.

Do you recall what the entity was?---I don't remember the name of it but it wasn't, it wasn't the United Land Councils company. It was a company that was ultimately going to be turned into a charity. That was the idea of it.

10 And the purpose of this charity, to your understanding?---Oh, it, it was to assist the Awabakal community doing various things. I, I actually don't remember but it, it, it didn't last long because it was all supposed to be, I, I don't remember the timing, sorry.

But the reason that you gave Mr Green, or an entity Mr Green was a director of, this Mercedes car had nothing to do with the Sunshine transaction, is that correct?---That's right.

20 Had nothing to do with Gows Heat, to your understanding?---No.

So you gave Mr Green, or a company related to Mr Green, this car because he was going to be doing some charity work. Is that your evidence?---No. The, the car, the car was not, mechanically very deficient and I kept complaining about it and Richard, Richard said, "Oh, look, you know, maybe we can take it and fix it and, you know, use it to run around the countryside." And I said, "Look, you know what, have it because I don't know what else to do with it." I would have been surprised if it was worth \$5,000 at the time. So it, it, it was literally a way for me to get rid of it.

30 So when you say "not mechanically deficient" I presume you meant that it was mechanically deficient.---It was, sorry, yes, mechanically deficient. It had cost me a lot of money in repairs and, yeah, I didn't, didn't want it anymore.

So to your understanding, if Mr Green was to make any use of this vehicle, he'd have to do a fair bit of repair work, is that your evidence?---Yes, and I think he did.

40 Now, you'll recall \$2,000 was paid to Mr Green, well, it was on a Knightsbridge North cheque, I believe.---Yes. Yes. Yes.

Now, to your understanding, what was the purpose of this \$2,000 that was paid to Mr Green?---He had asked for a donation to his men's shed. I think something to do with Aboriginal, young Aboriginal men and, oh, I can't remember what the cause was but it was a men's shed to help these kids and provide furniture for some place they could hang out. Yeah. And I think Tony Zong was happy to donate that money to him.

And you also mentioned in your evidence in relation to United Land Councils that your understanding was that Mr Green and Mr Petroulias, sorry, that Mr Green thought he was in a partnership with Mr Petroulias but the reality was more that Mr Green was subservient to Mr Petroulias. Do you recall that?---I don't recall it but that doesn't, I can't remember what context I said that in but - - -

Well, it was to the effect that Mr Petroulias had far greater commercial acumen than Mr Green.---Yes. Yes.

10

Now, you've observed Mr Green and Mr Petroulias over a reasonable period of time in relation to these transactions. Is that a correct characterisation? ---Yes.

And that characterisation carries through for 2014 through 2016?---Yes. And some of '17, I think.

20

And, yes, sorry, yes. Some of 2017. So, I mean, to your understanding, United Land Councils, what did you understand that they were trying to do with this business or enterprise?---The, the point of the business was to talk to land councils and see what land they couldn't sell or couldn't use and try and help these land councils with commercial outcomes, and the idea was that they'd get a commission. So if they could put solar panels on some land in the back of, back of beyond, that they would organise for some, you know, German manufacturer to use the land and then they'd get a commission out of doing it. So it was, it was a way of helping land councils make money and also for ULC to make money.

30

And were you aware of Mr Green being paid any remuneration or some sort of compensation in relation to doing this work?---Yeah, I think, I think he was paid a fair amount from memory, but I don't know the details of it aside from what I've heard here. He, he - - -

THE COMMISSIONER: That's enough then, I think. You can't add to that?

MR LONERGAN: You can't add any further to that, Ms Bakis?---Well, I know he was paid remuneration.

40

And how do you know that?---Mr Petroulias told me that he needed to reimburse his expenses and reward him for the time that he was putting into the venture.

Now, coming back to the start of 2016. There was a resolution that was put before the board of the Awabakal Land Council on 11 January, 2016. Do you recall that?---Yes.

Now, can you recall that in relation to that, or one of the resolutions that was there, was a ratification of a cost agreement?---Yes.

Now, that cost agreement was to your understanding the one dated 27 November, 2015. Is that correct?---Yes.

Now, who at the Land Council did you speak to in relation to this cost agreement?---To have it signed?

10 Yes.---Richard.

You didn't speak to Ms Dates about that?---I did subsequently but she wasn't the chairman at the time but Richard's, Richard's, and Richard had a lot of respect for Debbie because she was still theoretically the chairman elected by the members so he ran most things past her at the time.

And just help me understand this. The cost agreement that you, that was the subject of the board meeting was the work that was retrospective or prospective to the cost agreement or both?---Prospective.

20

Prospective only?---From 27 November onwards, yes.

So it had nothing to do with any of the transactions that had been, well, signed or circled around up until that point in time?---No, that's right.

And all the work that you did to your understanding under this cost agreement were invoiced to the Land Council?---Yes.

30

And have they all been paid by the Land Council?---Yes. Well, there were two disbursements that we took to court but let's assume they've all been paid for now.

So then now turning over to Advantage. You mentioned or you gave evidence that Mr Green was involved in discussions with Advantage. Is that correct?---Yes.

Were you involved in these discussions with Mr Green and the other people in Advantage?---No.

40

So how do you know that Mr Green was involved in Advantage discussions?---There were a lot of meetings in my office and I know he was in those meetings so I assume he was participating in the discussions at the time.

And, sorry, the people you're talking about here, who are you talking about?---The Advantage team, so there were three of them. There was Hussein, Rose and Peter Soulios. I recall there being quite a few meetings around May, June, July I think '16.

All right. And you've heard Mr Green give evidence in relation to the Advantage meetings, sorry, around his understanding of Advantage?
---Knows nothing about it. I don't remember.

All right. And so in relation to discussions with Advantage, you gave Mr Green no advice, is that correct?---Very little.

10 Well, what advice did you give him?---There was some documents signed at some point. Very little advice, sorry. My recollection is it was around the fact that this was a joint venture as opposed to a straight sale.

THE COMMISSIONER: Which documents did you see signed?---I don't know. I don't know that I saw documents being signed.

MR LONERGAN: Do you recall - - -

20 THE COMMISSIONER: I thought you said you did see some.---I might have.

Signed, that is. You might have but you don't know?---I, I don't know. I actually don't remember.

MR LONERGAN: And there's no file notes in relation to the advice?---No.

If I could just have a second, Commissioner, I just want to make sure I've not missed anything. Just one point, Ms Bakis.---Yes.

30 It just comes back to the original cost agreement.---Yes.

And, sorry, and your file note dated 12 December, 2014, which is Exhibit 84, page 3.---Yes.

The bit about you need to – you've got that in front of you, do you? Exhibit 84, page 3?---Yes, I do. I do.

The bit about, the second-last paragraph there. You need separate, independent legal advice or risk it being unwound.---Yes.

40 You never gave that advice to Mr Green, did you?---I remember talking to Richard about who they used as lawyers and what he thought of them and, you know, saying this really should go to whoever you guys normally use so that they're aware of what's going on. And, sorry, I'm probably not answering your question. No, I, I did say that they needed separate legal advice. They should consider it.

It's not that they should consider it. This purports that they needed you – being, I presume, the Land Council – need separate, independent and then, underlined, legal advice.---Yes.

Now, are you aware at any point through the Sunshine transaction of independent legal advice being obtained?---No.

10 So wouldn't it therefore follow, Ms Bakis, that even on your own words, that the risk of this transaction unwinding would be very high without such advice?---Yes.

And now flicking back to page 2. You had the perfect opportunity, indeed presumably the same day that this file note was created, to put in a letter saying to Mr Green that they need their own lawyer or own separate legal advice.---Yes.

You didn't do it, did you?---No. I should have but I didn't.

20 Commissioner, I have no further questions.

THE COMMISSIONER: Yes, thank you, Mr Lonergan. Mr O'Brien?

MR CHEN: Commissioner, just before my learned friend rises - - -

THE COMMISSIONER: Yes.

30 MR CHEN: Commissioner, I will need to put a proposition arising out of Ms Bakis's evidence today about the file notes being absent in light of the evidence she gave yesterday at page 2564. I don't know whether it's convenient if I put that proposition now?

THE COMMISSIONER: I think it's appropriate that you do.

40 MR CHEN: Thank you, Commissioner. Ms Bakis, you gave evidence this morning, the effect of which, as I understood it, was that the absence of file notes between the Lawcover file – that is the file which is by K&L Gates – and the file you produced to the Commission can be explained on the basis that there were electronic versions on a laptop which was destroyed by Mr Petroulias. Is that what you were saying this morning?---No. I am, I am not questioning any differences in the two files. I am saying that there is a complete absence of my personal file notes on any file.

Well, I think that's partly accurate, but what was the relevance of the computer being destroyed by Mr Petroulias?---Well, for me to try and retrieve any of my personal file notes, I would need to get them from that computer because the hard copies are not around anywhere.

Well, so, are you saying - - -?---Whether they were printed or not, perhaps they never made it to the file.

So are you saying, Ms Bakis, that in effect the file that has been produced to the Commission is incomplete or not?---Well, it's complete insofar as documents that exist, it's complete but - - -

10 Well, I think we can accept that, Ms Bakis. So, let's focus on what really I'm asking you, which is are you suggesting that in fact other documents were created at a particular point in time that are not on that file?---File notes, yes.

And are you saying as well, are you, Ms Bakis, that in the K&L Gates file – that is the file you produced to Lawcover again – file notes were prepared by you but are missing, is that right?---It's the same issue, yes.

20 And that's because what you now say is that those file notes were contained on a laptop that Mr Petroulias destroyed?---Yes.

And when did Mr Petroulias destroy that, Ms Bakis?---Oh, I think it was around September '16.

Just pardon me for a moment.

THE COMMISSIONER: Ms Bakis, before today, did you ever inform an officer of this Commission that your file was incomplete because there were missing files notes, before today?---No.

30 Did you ever draw Lawcover's attention to the fact the file was deficient because it did not contain files notes made by you?---I, I had a discussion with Lawcover about the fact that there weren't a lot of files notes.

When did you have that discussion and with whom?---It would have been maybe September last year and it was with Greg Couston, a partner at K&L Gates.

40 Well - - -?---We both discussed how, how awful my file was and how deficient it was.

Well, if they had been informed, that is the lawyers for Lawcover, of your claim that there were missing files notes, why didn't you also inform officers of this Commission in the same terms?---I honestly don't know. I, I don't, I, I didn't think much turned on them until the last few days. I'll be honest with you.

It's accepted, wouldn't you say, that file notes by a lawyer can be very good friends for a lawyer because it records contemporaneous events?---Yes, Commissioner.

And that indeed why they're kept, because they not only form part of the record and accurately record things, but they can also offer protection for lawyers against spurious or false or incorrect claims?---Yes. I am fully aware of that.

10 I just can't quite understand why it is it's only today for the very first time you have drawn attention to this Commission to the fact that you say your file is deficient because there are missing file notes that you made.---I, I, it was only yesterday that I thought perhaps they were on the K&L Gates file and then when I looked at that I realised that none of my file notes were there and it's only in the last few days that I've realised that they are important and I know that that's probably not a good excuse but - - -

MR CHEN: Well, I'm going to suggest to you actually it's not true at all, Ms Bakis.---Well, that's the truth. I lost a lot of documents on that laptop.

20

Well, Ms Bakis, let's be clear. The Commissioner asked you whether you had a discussion with Mr Couston - - -?---Yes.

- - - at K&L Gates about the computer and my note of your answer was - - - ?---No.

- - - that you had a discussion with him about there being not a lot of file notes which is a different response.---Sorry, what are you asking?

30 The Commissioner asked you a question about whether you raised with K&L Gates that the computer contained file notes which had been - - -

THE COMMISSIONER: Mr Chen, I'm not sure that I put it - - -?---I never, I never asked - - -

- - - in those terms.---I never, I never, never raised that with K&L Gates.

MR CHEN: I'm sorry.

40 THE COMMISSIONER: I'm not sure if I put it in those terms about the computer was missing as distinct from file notes were missing.

MR CHEN: I see. Anyway, Ms Bakis, you say you never raised with K&L Gates the loss of the computer. Is that right?---That's right.

And you know, don't you, that in July of this year a folder of documents called MFI 33 was made available to you and your counsel which contained

what the Commission believed were all the file notes subject to those that might be with Lawcover from your file that you produced. Isn't that right? ---I don't know that I saw MFI 33 until last week but I could be wrong.

THE COMMISSIONER: The point of the question was the folder was supplied to you in July this year. Is that right, is that part right?

MS NOLAN: I don't think so.

10 MR CHEN: I'm sorry, that might be inaccurate. I'm sorry.

MS NOLAN: That's inaccurate because it only came to my attention very late - - -

MR CHEN: I'm sorry. I've withdrawn it. I've withdrawn it.

THE COMMISSIONER: Well, I think counsel has accepted that it was inaccurate.

20 MS NOLAN: Sorry. Thank you.

MR CHEN: You knew, Ms Bakis, from at least July that Mr Green had been taken at some length through at least some of the file notes within your file. Isn't that right?---Yes.

And you knew that he had disputed in clear terms what had been recorded in a good number of them. Isn't that so?---Yes.

30 And indeed the one that some considerable attention has been given during the course of last week and this week – namely, Exhibit 84 or the file note of 12 December, 2014 – was expressly and categorically denied by Mr Green in his evidence wasn't it?---Yes. Amongst a lot of other things, yes.

And so you knew full well that the existence of these file notes and what was contained in them was a live issue on Mr Green's evidence. Isn't that right?---Well, no, because it's not a live issue if the file notes are not there. There is nothing I can do about that now.

40 Ms Bakis, are you deliberately trying to avoid answering my questions? ---No.

You see, Ms Bakis - - -?---I don't actually understand what you're asking which is - - -

Ms Bakis, really all you are doing and all you have done today is invent this destruction of apparent file notes on this computer because you know that

you do not have an explanation nor a record of a good number of key events that are in dispute. Isn't that right?---Well, that's not correct.

And you are doing it as some belated attempt to try and restore some credibility to you because you simply do not have file notes at all recording these key events. Isn't that so?---That's not true.

Thank you, Commissioner.

10 THE COMMISSIONER: Yes, Mr O'Brien.

MR O'BRIEN: Ms Bakis, I represent the interests of Ms Debbie Dates in this inquiry.---Yes.

I want to take you back to the late part of 2014 and move then into the early part of 2015.---Yes.

And by that stage, of course, you were acting for the Land Council, as you saw it, in what was obviously in your mind a land transaction, correct?

20 ---Yes, it was just one agreement, yes.

And you came to realise, I think fairly early on in the piece or certainly by the early part of 2015, that there was a fair amount of acrimony on the board within the Land Council that you were dealing with, correct?---I didn't know that at the beginning. That, that was brought to my attention I think – I don't - - -

Well, let me help you, perhaps.---Yes.

30 Around February 2015, Steven Slee was suspended as CEO. Perhaps you came to realise there was some acrimony within the Land Council itself at that time, is that the case?---Yeah, I might have heard some talk at the time about that, yes.

And from that point on you were assisting the Land Council, also acting as a bookkeeper of some sorts, correct?---No, that, I didn't start doing that until February '16.

40 I want to suggest it was from the suspension, or around about the time of the suspension – that is afterwards, after the suspension of Steven Slee – that you came to act as a bookkeeper from time to time for the Land Council, am I right?---No, they had, they had a bookkeeper from – her name was Jodie Mortimer. She, I can't remember, Somerville, somewhere or other. She was their, she was their bookkeeper up until October '15.

But you accept that after that period of time and into 2016 you were acting as the bookkeeper for the Land Council?---From around February '16.

Thank you. And for a period of several months, is that right?---Oh, up until August '16.

And do you dispute the fact that between that time – so from around about the time of Mr Steven Slee or at least his suspension in February 2015 – and through until February of 2016, when you accept you were acting as bookkeeper, you were helping, at least helping in a de facto way perhaps, the Land Council with bookkeeping tasks?---No, I do not accept that.

10

From February 2016 you were therefore acting as the lawyer for the Land Council in relation to land transactions, correct?---Yes.

And as well as that you were also the bookkeeper for the Land Council, correct?---Yes.

So the tasks of the bookkeeper involved ensuring the payment of wages for the staff of the Land Council, correct?---Yes.

20 Paying bills and invoices, correct?---Yes.

Ensuring that any invoices were sent out as well, correct?---Yes.

You had access to the computer system in the Land Council, am I right?
---They had a computer there for the accountant but I used it – I didn't use it much.

You used it from time to time?---Occasionally, yes.

30 Thank you. And you had access, obviously, to the letterhead of the Land Council itself?---I had access to the letterhead from around August '16, when I asked for it to be sent to me in relation to drafting a letter for them in relation to a term deposit.

Thank you. We know from the evidence so far also that you assisted in the preparation of minutes of Land Council board meetings, correct?---Yes.

And you assisted in the preparation of the agendas from time to time as well, am I right?---If I was asked, yes.

40

Yes. Now, you'd agree with me that in those dealings with the Land Council, and also especially as a lawyer for the Land Council, that you were in a position of significant trust?---Yes.

Both as a bookkeeper and as a solicitor.---Yes.

And there was no doubt that Ms Debbie Dates had a great deal of trust in you.---That's right.

She trusted your advice as a lawyer?---Yes.

She trusted your assistance as a lawyer?---Yes.

She trusted your advice as a bookkeeper?---Yes.

And your assistance as a bookkeeper, you obviously knew that she had your trust in that respect as well?---Yes.

10

She also, to your knowledge, trusted that you electronically recorded acting in the best interests of the Land Council, am I right?---Yes.

And I suggest that through you she came – through her dealings with you and Mr Petroulias that she, to your knowledge, had the same level of trust in him?---She trusted him, yes.

20

One of the important binding points of the trust relationship that perhaps extended beyond the ordinary lawyer/bookkeeper relationship was that she was also involved in this particularly serious acrimony involving Mr Slee, correct?---Yes.

And a board that had apparently become split and dysfunctional, correct?---That's correct.

The Registrar had taken a dim view of what was happening within the Land Council?---Yes.

30

At around this time?---Yes.

And indeed, Ms Dates sought your assistance in taking on the Registrar on behalf of the Land Council, correct?---Yes.

So in that sense you became the solicitor also, or at least the legal advisor in some sense, to assisting her not only in land dealings but also in relation to her dealings with the officers and officials under the Aboriginal Land Rights Act, correct?---That's right because she wasn't happy with the existing advice she'd received, yes.

40

And a lot of your time was spent dealing with those particular aspects of the dispute within the Land Council and the state body, correct?---Yes.

Now, as the chairperson, Ms Dates was inevitably signing a large number of documents on a regular basis, am I right?---Yes.

She was signing off on matters and documents that were undertaken by the bookkeeper, correct?---Yes.

She was signing off on minutes of meetings, correct?---Yes.

And agendas to those meetings, correct?---Yes.

Other board documents and other documents that came to do with the Land Council generally, correct?---Yes.

A great number of documents needed to be signed by her on a weekly and even daily basis, am I right?---That's correct.

10

Debbie Dates was, as you described her, had not a lot of education. You knew that, didn't you?---Yes.

You knew, I suspect, that she had not been educated beyond year 6 level, primary school?---I didn't know that was the level but, yes, I knew she didn't have a lot of education.

20

And that didn't surprise you in terms of your – that doesn't surprise you in terms of your dealings with Ms Dates, am I right?---No, no it doesn't surprise me.

She had limited literacy skills so far as you observed, am I right?---Yes.

She had poor ability to read as far as you were aware, as well?---Yes.

Thank you. To your knowledge, she'd never been involved with agreements involving the sale and transfer of land before, is that right? ---No, I don't know that. I'm not sure if she'd been involved in any.

30

You certainly weren't aware that she'd been involved in any, is that your evidence?---I thought she had signed off on one a year or two prior.

You could be wrong about that?---But I could be wrong. Yeah.

It would have been abundantly apparent that in her dealings with you she was heavily reliant on your expertise and your assistance, am I right?---Yes.

40

She was heavily reliant on getting good advice from you, am I right?---Yes, yes.

Have you, in your dealings as a lawyer, ever represented Aboriginal clients before?---No.

These were the first Aboriginal people you've had to deal with in a solicitor/client capacity, is that the case?---Yes.

Are you're familiar with the concept of gratuitous concurrence as it related to dealing with Indigenous clients?---No.

The concept that Aboriginal people will often defer to those in authority, was that something you were familiar with then or are now?---No, I'm not familiar with that at all.

You see, Debbie Dates was a strong and determined Aboriginal woman, wasn't she?---Yes, definitely.

10 But when it came to legal issues she was very much in deference to you, am I right?---Well, yes, but she knew she had duties as a chairman and she was well aware of the duties. So, but, yes, she - - -

When it came to involvement in legal issues, issues clearly within your parameter of work with this Land Council, she deferred to your experience in every instance, didn't she?---Yes.

20 You said in evidence on Monday that you came to learn that Debbie Dates did not like reading and so that shaped your practice how to deal with her and Richard Green in your dealings with the Land Council, is that so?
---Yes.

You said your practice was to talk through documents and explain them one-on-one. You said that yesterday afternoon.---Yes.

And then you would prepare a file note.---Yes. Depending on the document, yeah.

30 But there would not be one moment where you would think, I take it, that important matters such as obtaining instructions needed to be file-noted, correct?---Sorry, can you repeat that?

It was badly framed. I apologise.---No, you're right.

You would want to make sure that important matters such as taking instructions were appropriately file-noted. We've been through it today. Do you accept it?---Yes. Yes, I accept that.

40 Now, it obviously flows from that, that in a material matter where instructions are taken or advice is given that you would want to be sure that a file note was created, correct?---Yes.

And we know that those file notes don't exist.---That's right.

There is not one file note that's been produced to this Commission on your file that explains or demonstrates that Debbie Dates was read a document to her, is there?---No, that's right.

There's not one file note demonstrating – that's been produced to this Commission – that she understood what had been explained to her, is there?
---That's right.

You agreed yesterday and in the course of the past seven days that Nicholas Petroulias drafted a large number of legal documents.---Yes.

It included agreements, yes?---Yes, yes, yes.

10 File notes?---Yes.

And even meeting resolutions, right?---Yes.

And indeed many of those files notes came to you as a bit of a surprise. Sorry, many of those documents came to you as a bit of a surprise during these hearings, is that so?---Yes.

20 You, in other words, hadn't known that these documents, according to your evidence, had been produced.---That's right.

Or drafted.---That's right.

Or even signed.---That's right.

And on occasion it appears from your evidence that Nicholas Petroulias in your absence had documents signed by Ms Dates.---That's correct.

And I suppose that demonstrates your trust in Mr Petroulias, does it?---Yes.

30 And it no doubt demonstrates what you knew to be a trusted relationship by Ms Dates towards Mr Petroulias.---That's right.

You've also given evidence in these proceedings, in short compass, that he assisted in the explanation of processes, is that so?---Yes.

He assisted effectively in the explanation of legal arrangements, is that the case?---Yes.

40 And that it appears from your evidence thus far he was in fact central to explaining many of these documents to Ms Dates. Am I wrong?---That's correct.

He arranged, I suggest to you, a lion's share, if not all, of the documents for Ms Dates to sign in relation to the land transfer arrangements, is that so?
---Yes.

Now, I want to suggest to you, Ms Bakis, that Nicholas Petroulias never disclosed to Debbie Dates that he had been convicted and gaoled of serious dishonest offences.---I'm surprised by that.

Well, on Tuesday you said that Nicholas Petroulias did disclose this to Debbie Dates.---Yeah, I did. That's why I'm surprised that she's saying she didn't know about it.

10 Well, I'm suggesting to you – do you have a clear memory of Nicholas Petroulias disclosing to Debbie Dates in his own words “I am a felon,” or something to that effect, “I've been convicted, I've been gaoled”? Is that your clear recollection of events?---Yes.

He said something to her about his criminal past. Is that the case?---Yes.

20 You see, on Monday of last week you gave different evidence to that. I'll refer you to the transcript at 2008 and line 40. You said – you were asked this in relation to this topic, you told Counsel Assisting that you yourself had told Debbie Dates about his criminal antecedents.---And I did. We both did.

You were asked, “What did you say?” and you said, “Nick's got a criminal history. He's been to gaol, words to that effect.”---Yes, that's correct.

So your evidence is that both of you disclose it?---Yeah. Nick, Nick had a lot of chats to her about gaol.

You see, when you were asked about this matter last week - - -?---Yes.

30 - - - and then this week - - -?---Yeah.

- - - you gave completely divergent evidence as to who had said what to Ms Dates in relation to - - -?---No, that's not true.

MS NOLAN: I object to that because that's not the effect even of what was just put to this witness and - - -

THE COMMISSIONER: She's denied it, rejects it.

40 MS NOLAN: Yes.

THE WITNESS: No, I'm not, no.

MR O'BRIEN: You were asked to clarify it by Counsel Assisting. This is transcript 2008/20 and you said, “I repeat again, I told her that Mr Petroulias had a history of being to gaol and I may have explained that he was working at the Tax Office at the time and he'd been accused of doing various things

or convicted.” That's what you said on Monday of last week.---Yeah, I'm not denying I said that, yeah.

And then on Tuesday of this week, about a week later, the evidence becomes that he disclosed his criminal antecedents to Ms Dates. Do you see the difference?---No. He also disclosed it.

So your evidence varies yet again. It's now both of you?---Oh, Jesus.

10 MS NOLAN: Is that a question or is it a statement?

THE WITNESS: It wasn't a matter that was quarantined to me only. It was a matter that was discussed often.

MR O'BRIEN: You see, the reason there's this divergence in the evidence I suggest is because you never disclosed and nor did Mr Petroulias disclose his criminal antecedents, his serious dishonesty, criminal convictions to Ms Dates.---There's no divergence in the evidence and that was disclosed to Ms Dates.

20

And the reason that you wouldn't have done that I suggest is that if you had done that Ms Dates would have been hesitant to sign some of these agreements that were presented to her by Mr Petroulias, wouldn't she?---I'm not sure. I wouldn't know.

If she'd been disclosed this information, surely a woman like her you would think, I suggest to you, would have been wary as to his representations of these proposals. Isn't that so?---I wouldn't know.

30 And for those reasons you never disclosed his serious criminal past?
---That's not true.

Did you ever disclose your own dishonesty to Ms Dates, Ms Bakis?---No.

MS NOLAN: I object. I mean what dishonesty, when she was 3 and she stole a lolly?

40 THE COMMISSIONER: Mr O'Brien I think you need to be specific if you're going to put that to the witness that she (a) was dishonest in some respect and (b) whether she ever disclosed it.

MR O'BRIEN: Fair enough, yes. You were dishonest on your own account to this inquiry when you agreed that you had used a falsified passport in a fictitious person's name in order to secure a driver's licence in a fictitious person's name.---Did I volunteer that to Debbie Dates. No, I didn't.

Well, did you volunteer that you were prepared to operate in that manner to Ms Dates?---No.

Well, you agree with me, that is a dishonest manner of operation, isn't it?
---Yes.

You didn't care to disclose that to Ms Dates though, did you?---Well, no.

Because, I suggest, your intention was to assist your husband at the expense
of the Land Council and you were not prepared to disclose your or his own
dishonesty?

10

MS NOLAN: I object.

THE WITNESS: That's just ridiculous, sorry.

MS NOLAN: Well, I've objected. That question is so poorly framed that it
can have no utility if answered.

THE COMMISSIONER: Yes, no. I'll allow the question.

20

THE WITNESS: Well, that's ridiculous.

MR O'BRIEN: I want to suggest to you that Debbie Dates was duped by
you into believing that what she was doing was in the Land Council's
interests?---That's entirely untrue.

She was duped and misled by you in forwarding your own and Mr
Petroulias's interests?---That's untrue.

30

I want to suggest that in a large number of documents that have been
provided to the Commission from your file, that have come to make their
way into MFI 33, volume 53, do you understand the documents I'm talking
about?---Not really but I, I know the ones that, that you're talking about,
yep.

Well, I'm obviously interested in the ones that are signed by my client, you
understand that?---Yes, yes.

40

I want to put to you, Ms Bakis, that in relation to how they've come to be
signed by my client, involved in most instances if not all, a cursory
explanation at very best. What do you say to that?

MS NOLAN: By whom? I mean - - -

MR O'BRIEN: Well, that is a good question.

THE COMMISSIONER: Look - - -

MS NOLAN: Well, take her to the document.

THE COMMISSIONER: Yes, I think, Mr O'Brien, you need to be a bit more specific than that.

MR O'BRIEN: Very well.

THE COMMISSIONER: It's a very broad subject matter, I think, in this inquiry. So, I'll leave you to take the witness to particular documents.

10 MR O'BRIEN: I can certainly do that. If I might just make the observation as to why that question was broadly framed. First of all, it appears in almost every instance this witness has not drafted these documents and, secondly, well, that is the most important feature of them, and secondly it appears on her evidence also that there may well be this other abundance of material that hasn't yet surfaced. So, I can be particular - - -

THE COMMISSIONER: Yes.

20 MR O'BRIEN: But I am going to be met with the same response.

THE COMMISSIONER: I mean, just so long as you make it clear as to which documents you're talking about, that's the main thing. You don't necessarily have to go through them one by one, so long as you can identify them by class or via some other means.

MR O'BRIEN: Thank you, Commissioner. I'll do that. Have a look, if you would, at MFI 33, page 37.---Yes.

30 Now, you can see that this is a briefing paper on potential property agreements, dated 5 April 2016. You see it says, "Received by," and there's a signature?---Yes.

And that apparently is Ms Date's signature?---Yes.

Now, first of all it doesn't say, "Explained to," does it?---No.

It doesn't say, "Understood by," does it?---No.

40 In fact, all it says is that purportedly that the person signing it has received it, is that so?---Yes.

There's no suggestion in that document itself that anything has been explained, correct?---That's right.

There's in fact no file note that demonstrates anywhere that this document has been explained to Ms Dates, is that so?---That's right.

Page 53. Again, at the top, "Received by," a signature.---Yes.

Whose writing is it by the way, "Received by"?---It's mine.

And you've asked her to sign it?---I think I did.

So I want to come back to that proposition I put before your counsel made the objection. In relation to these documents, documents such as these, and they're littered through this volume, that these have simply been received by her, not explained to her.---Some of these were explained to her.

10

THE COMMISSIONER: Sorry, what did you say?---Your client knew what was going on. Fully, fully aware.

MR O'BRIEN: I'll come back to the question, if I may.---Fully.

There's no indication on the documents that they were explained or understood by her, correct?---No, that's correct.

20 And in addition to that, there's no file notes demonstrating that fact.
---That's right.

And you're not sure which ones you explained to her and which ones you did not, correct?---That's right.

So we're left to your say-so in the witness box, facing some fairly serious examination about these issues, is that right?---That's right.

30 THE COMMISSIONER: Who prepared this document? It's a very detailed one. It runs to eight pages with attachments.---Mr Petroulias would have done this because it's a lot of detail in this.

MR O'BRIEN: It may well be that Mr Petroulias presented it to Ms Dates.
---Could well be.

So we have to rely on the possibility that he explained it to Ms Dates. Is that so?---Could be.

40 I'll come back to that folder in a minute, but I want to ask you about this expression "going forward". Do you know what I mean by that expression?---Yes.

It's been used a fair bit in these proceedings, hasn't it? Moving the Land Council forward, going forward.---Yes. Yes.

Can I suggest that that was a term used by yourself and Mr Petroulias to explain what you were attempting to do for the Land Council?---No, it was a term used by Richard or Debbie to explain why the land deals were necessary. It wasn't my term, it was their term.

It was certainly a term that they liked – sorry, I withdraw that question. It was certainly a term that Ms Dates liked the sound of, is that right?---Well, it was her term. It was her term, so - - -

MS NOLAN: Sorry - - -

MR O'BRIEN: I'll withdraw the question. I'll withdraw the question. Don't have to - - -

10

THE WITNESS: I'm sure Mr Green used that term.

THE COMMISSIONER: No, don't – the question's been withdrawn.

MR O'BRIEN: I'll withdraw the question, please.---Sorry.

Ms Dates was interested in having the Land Council moving forward in a positive way, wasn't she?---Yes.

20

She spoke to you, no doubt, about her desire to build a nursing home for Aboriginal elders.---Yes.

About building a youth centre for Aboriginal kids.---Yes.

About a establishing a cultural centre for the children to learn about cultural aspects and art in the region.---Yes. Yes.

And she had plans to use the Land Council to achieve these ends, didn't she?---That's right.

30

And she saw what you were doing, so far as you could see, as a means by which these sort of things could be achieved, am I right?---Yes.

I'm going to skip now to a fairly disparate document in the volume 53. So that's MFI 33, and it's page 63. Now, there's been evidence in this inquiry from Mr Sayed that money was offered to Ms Dates by way of some sort of remuneration. You recall hearing that evidence or being aware of it?---Yes. I'm aware of it, yeah.

40

This is a file note apparently dated 17 June, 2018, and I think you established with Mr Lonergan yesterday that date must be incorrect. Is that so?---I don't recall that, the - - -

Well, the discussion of June 2018 just couldn't be right, could it? That discussion, if you read the first paragraph, that can't be the correct date.---I think it should be May. Oh, I don't know. There was an offer made to your client.

Yes. The point - - -?---But I don't know when it was.

Well, leaving aside the date for a moment, the point is that when this offer was made to Ms Dates, she spoke to you about that, correct?---The bribery attempt?

Yes.---Yes. Yes.

10 And she told you that she'd been offered money by Mr Sayed, is that the case?---Well, Solstice via Sayed, yes.

And that she wanted to know what she should do about that.---Yes.

And she asked you to do what was appropriate, correct?---Um - - -

Can I be a bit more specific?---I don't remember those discussions but, yeah.

She asked you to write a letter.---Yes.

20 To Solstice in relation to it.---Yes.

And she asked you for your advice as to what she should do with the information that had come to her, that is, namely, that she had been offered money, correct?---I'm not sure.

30 Now, this file note appears to suggest that – and I'll go to the last, sorry, the second-last paragraph. “We think Sam is bullshitting. Cannot believe Ryan would be offering a bribe given that he knows there's no value in it.” Next paragraph, “What do we think about it? Don't think it's a real issue. Pointless to waste time on it.” That was the outcome of what Ms Dates took to you, is that the case?---I thought I wrote a letter to Solstice. I could be wrong. I thought I wrote a cease-and-desist letter and told them to stop.

Stop offering money to Ms Dates?---Yeah. I think so.

40 Now, when you had this information from Ms Dates, did it strike you that something perhaps more than a letter to the organisation that's offering the money should be done?---Well, that was a matter for her if she wanted to take it further.

She's asked your legal advice about it, obviously.---She asked me to write a letter on her behalf.

Well, she's told you what's happened and asked you what to do about it, isn't that so?---No, she asked me to write a letter.

Did you think you had broader obligations as to what to do in the circumstances where you were involved as a solicitor for at least one of the

parties, possibly two at that time?---Perhaps. I, I, I don't remember thinking it was a serious attempt. I, I'm not sure, I'm, I just can't remember the detail. I do remember her asking me to write to them. Yes.

And you say that that's what you did?---Yes.

10 I've got a bundle of documents I'd like you to see. They are already before the Commission in some form or another but I'll just ask that you have a look at the hard copy. So, I'll hand this – I think it's proposed that I hand this copy up.

THE COMMISSIONER: All right. Then show Counsel Assisting the documents.

MR CHEN: We've assisted in preparing that for my learned friend, so we've seen a copy of it. I assume that's what the folder is.

MR O'BRIEN: It is.

20 THE COMMISSIONER: Thank you.

MR O'BRIEN: The only difference is, I put some tabs on it so it's easily referable, rather than - - -

THE COMMISSIONER: Yes, that's all right.

MR CHEN: We can hand you a copy, Commissioner, too, if we could.

30 THE COMMISSIONER: Yes, thank you.

MR O'BRIEN: I note the time, Commissioner. I'm happy to proceed.

THE COMMISSIONER: Yes, all right. Yes, very well. Well, we'll take the luncheon adjournment. Ms Bakis, if you would mind just handing that folder back to my associate and we'll take it up at 2 o'clock.---Thank you.

Yes, then I'll adjourn.

40 **LUNCHEON ADJOURNMENT**

[1.00pm]