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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 THURSDAY 16 AUGUST, 2018

AT 2.00PM

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THE COMMISSIONER: Just before we get started again, Ms Nolan, not pressing you at all but just can you give me some idea how much longer you might be? Mr O'Brien, I'm sorry.

MS NOLAN: Ms Nolan or - - -

10 THE COMMISSIONER: I'm sorry, my apologies. Mr O'Brien, any idea how long you might be?

MR O'BRIEN: I hope it'd be about 40 minutes.

THE COMMISSIONER: Sorry?

MR O'BRIEN: About 40 minutes.

20 THE COMMISSIONER: All right. Thank you. Now, I just want to make clear the program that's to follow after Mr O'Brien's finished. Ms Nolan, it's anticipated then that you'll be called upon to examine your client on any evidence that's been called so far. Have you any idea how long you might be or not?

MS NOLAN: At the moment, I don't think I'm going to be any more than 15, maybe 20 minutes.

30 THE COMMISSIONER: I see, all right. Just to be clear about it, I did indicate that your examination of Ms Bakis will relate to any evidence to date, that I will entertain an application for you to lead further evidence – that is, examine Ms Bakis further – but that's only in relation to any evidence that Mr Petroulias may give. You understand that's the position? Sorry, my apologies. Mr Petroulias has not yet cross-examined Ms Bakis. I have deferred his cross-examination, but I have indicated that I will entertain an application by you to further examine your client, Ms Bakis, after Mr Petroulias's cross-examination of Ms Bakis, but it's limited to that.

MS NOLAN: No, I understand that.

40 THE COMMISSIONER: I just want to make sure we're all on the same page.

MS NOLAN: No, I understand that.

THE COMMISSIONER: Yes, that's all right.

MS NOLAN: There's not much that I need to do today.

THE COMMISSIONER: Okay, that's fine.

MS NOLAN: There's only one topic which will span across Mr Petroulias and any inconsistencies. So, I mean, that will arise out of Mr Petroulias but that's it.

THE COMMISSIONER: All right.

MS NOLAN: I appreciate what you've asked me to do.

10

THE COMMISSIONER: So, Ms Nolan, you'll have the opportunity, from what Mr O'Brien has said, of being next cab off the rank, if I can use that expression, to examine your client and if need be there is time tomorrow for you to examine her. Now, what's your availability tomorrow?

MS NOLAN: I have a matter which I must attend in a longstanding trial commitment and it's at 9.30, and it may be 1 o'clock that I'll be finished, I could be here after lunch or it could be earlier or it could be later. I don't know. It's in the District Court.

20

THE COMMISSIONER: The only difficulty with that is that we need to know so that – whether Ms Dates is brought forward if you're not here in the morning or whether you use tomorrow morning if you need it to complete your examination of Ms Bakis is something that needs to be determined. It would seem to me that if you have a motion somewhere else in a court that it may be possible for you to speak to your opposite number and get a time from the judge if the judge is prepared to do that, and then there's more certainty so far as our program is concerned as to when you'll be here and when you won't be here.

30

MS NOLAN: Well, I'll have a look at the list and then I'll be able to give you a better idea when I know which list it's in. If it's in the registrar's list, then I may be able to do that. If it's in the list, judge's list, then I can ask for an indulgence.

THE COMMISSIONER: Yes, well, that's often done and sometimes it works, sometimes it doesn't.

MS NOLAN: Yes. And it may have a fixture.

40

THE COMMISSIONER: All right. Thank you.

MR WHITE: Commissioner, just to assist in relation to management, I have some questions of this witness but no longer than about five minutes.

THE COMMISSIONER: I see. All right. Thank you for that.

MR CHEN: Commissioner, can I just raise one matter in relation to the material produced by K&L Gates. Commissioner, they also produced a USB stick and Commission staff have uploaded that USB stick into a spreadsheet of some description and that is available if anybody wants it in hard copy. Alternatively, they can access that I believe shortly or later today when it's uploaded on the system.

THE COMMISSIONER: All right. Thank you for that. I think everybody has heard that. All right. Mr O'Brien, we'll get back to you now.

10

MR O'BRIEN: Thank you, Commissioner. So I'd ask that you have a look, please, at the folder of information that has been prepared.---Yes.

Now, before you turn to it, you'll recall that you were asked questions in relation to Exhibit number 102 which was the revised Solstice agreement, the marked-up document.---Yes.

20

And you'll recall that even though the document was a marked-up document on presumably a Word file, it nonetheless had signatures of Ms Dates and Mr Green apparently. Did you see that?---Yes.

And you remember the document?---I do.

So it's clear, isn't it, that there were a copy of Ms Dates' signature and indeed Mr Green's signature within, well, in an electronic format. Is that obviously, does that obviously flow?---I'm not sure how that document has come about to be honest.

30

Or a photocopy of that signature. Is that so?---It could be.

THE COMMISSIONER: There was an electronic signature I gather was there?---No.

There was not?---Electronic for Debbie and Richard?

Mmm.---No.

40

MR O'BRIEN: So it would appear to be the case that a copy of Ms Dates' signature and for that matter Mr Green's signature was available somewhere at some place other than, and of a photocopied or otherwise copied nature. Is that the situation?---No.

Well, how - - -

THE COMMISSIONER: The question is how did the signatures get onto the document if they didn't physically sign it themselves?---Well, I wouldn't know. I don't even know how to do that. I don't know if that, I don't know. I'll be honest with you. I don't know.

MR O'BRIEN: Well, it's obvious that someone has retained a signature and added it to this document, isn't it?---I don't know that it's obvious but I, I don't know. I don't know.

All right.---I don't know if it was a PDF or a Word document. I don't, I don't know what that thing was, or it was just on file.

10 All right. Can you have a look at tab number 1 in that document. That is, if we can have it on the screen as well, volume 6 at page 139. It's the put and call option agreement of 12 October, 2015.---Yes. Yes.

All right. This is a document obviously it would at first glance appear to emerge from Knightsbridge North Lawyers. Correct?---Yes.

And if we go then to the last page titled Execution of the Document. You can turn to page 153.---Yes.

20 I want you to have a look at that signature there.---Yes.

You can see the signature of Debbie Dates and the signature of Richard Green.---Yes.

And that's at the end under execution, that page of that option agreement, isn't it?---Yes, it is.

I want you now to turn to tab 2.

30 THE COMMISSIONER: I don't have tabs. What's the - - -

MR O'BRIEN: Sorry, tab 2 is the rescission, the deed of rescission.

THE COMMISSIONER: Yes, I've got that, thank you.

MR O'BRIEN: It's volume 7, page 71. Again you see that that's a document at least purportedly drafted by Knightsbridge North Lawyers. ---Yes.

40 And then page 73 is the execution portion.---Yes, yes. Yes.

I want you to turn to the execution portion there. You've got those two documents for each of those two documents that I've just shown you.---Yes, I do.

So when you compare, I suggest to you, the put and call option agreement execution portion and that with the deed of rescission portion signatures, I suggest to you that they are carbon copies of each other.---They look the same, yes.

THE COMMISSIONER: They appear to me to be absolutely identical.
---Yes.

In every respect, even the odd stray dot near the signature, at the end of the signature of Ms Dates. And there are other features there that seem to be identical.---Yes.

10 MR O'BRIEN: I want you now to turn to tab 3, please, which is the heads of agreement dated 19 November, 2015. Sorry, sorry, tab 4, it is, which is the general heads of agreement dated 2 October, 2015, volume 7, page 128.
---Yes.

Turn then to the execution clause on that document, which is on page 134.
---Yeah, I have that.

And I want to suggest to you once again that signature and writing is identical.

20 THE COMMISSIONER: Well, which signature are you talking about?

MR O'BRIEN: The signature of both Dates and Green.

THE COMMISSIONER: Well, I'm not sure. Is that - - -

MR O'BRIEN: I suggest it is.

30 THE COMMISSIONER: The signature of Mr Green might be a bit different. The one of Debbie Dates - - -

MR O'BRIEN: If one has a look, Commissioner, to assist, the dot at the end of the signature Dates.

THE COMMISSIONER: Yes.

40 MR O'BRIEN: If one looks at the position of the signature above the typeset, signature of chairperson and date of chairperson, and again the dot at the end of Mr Green, those three signatures at the end of each of those execution agreements, the execution portions of those agreements, are identical.

THE COMMISSIONER: I'm not sure. I'm not a handwriting expert but you might be right.

MR O'BRIEN: I want to suggest to this witness that they are.

THE COMMISSIONER: All right.

THE WITNESS: They look the same to me.

MR O'BRIEN: Thank you. So which, if any of them, is real?---Well, I was just having this discussion with my counsel this morning as to – I, I don't even know what original documents I have in my file anymore. I don't know which one is real. I honestly don't.

Perhaps none of them are real.---I don't know. I can't answer that.

10 Perhaps each of them have been appended to these agreements using some sort of electronic format or photocopy. That's a possibility, isn't it?---It's a possibility, yes.

Because we know that that was happening within the firm, wasn't it?---I don't think it was.

THE COMMISSIONER: Had it come to your attention, this matter of signatures apparently being identical signatures and that coming about through some process of either photocopying or – did you ever note that and raise that?---No. Absolutely not. I would not condone this.

Mr Petroulias say anything to you about using any methods of that kind to reproduce the signatures?---Never. I'm surprised again by this. Very surprised.

You're very surprised at what?---That there's three documents with the same signatures on it, which, you know, I mean, I, I don't know how you would do it because it's not my practice to do this sort of thing, but, yes, I, no, he didn't discuss these matters with me.

30 MR O'BRIEN: And you could never say for certain whether Ms Dates indeed signed any of these agreements, could you?---I'm not sure if there's originals of any of these. I actually don't know but, yeah, if you looked at like this, you wouldn't know.

Because it's one signature across three different agreements.---Yes, but perhaps she has actually signed one of them.

40 Which one?---I wouldn't know.

But it's possible also that she hasn't signed any of them, isn't it?---That's also possible, yes.

I'm going ask to turn now to the fifth tab, which is the general heads of agreement, dated 15 December, 2014. It's volume 8, page 59.---Yes.

Again, a document purportedly produced by Knightsbridge North Lawyers, do you see that?---Yes, yes.

And the execution agreement at page, execution portion of this document is on page 64.---Yes.

I want you to look fairly carefully at the signature of Ms Dates as it purportedly stands on that document.---Yes.

10 Can it be expanded on the screen, by any measure? I'm grateful, thank you. You see the signature, at least in part, appears to be over, on top of and indeed covering the dotted line upon which the signature is meant to be placed?---Yes.

That's irregular, isn't it?---It is.

Is it possible that this was an electronically produced signature and placed onto this document?---It's very possible.

20 Who did it? If it's possible, who possibly did it?---It wasn't me. So, it's made its way into a file of mine, so must have been Mr Petroulias.

It demonstrates, the signatures that I've shown you, plus those that have been subject to questions from both Counsel Assisting and Mr Lonergan in relation to Exhibit 102, suggest that a serious problem in relation to how signatures come to be on documents. Am I right?---Well it appears that way right now, yes.

30 So, to the extent that a person's signature is on a document, a legal document, a significant, important legal document, so far as this Commission is concerned, is a matter now of some conjecture as to how it got there, if it's original or not, correct?---That's right.

We simply do not know if Ms Dates signed these documents.---That's right.

And in and amongst all of the things that she must have signed on a day to day basis and a week to week basis, we don't know if she signed these things or not, do we?---Not unless there's originals, that's right.

40 And we don't know, we certainly don't know, given the state of your file notes and the state of the documents themselves, as to whether, if she did sign them, there was ever any explanation as to what was contained in the contents, correct?---If she signed it before me then I would have made a good attempt at explaining it.

But you - - -?---But otherwise, yes, there are no file notes, so - - -

Well, just to clarify, before lunch you agreed with me that a lot of the signatures and executions, even the lion's share you said on my question, were undertaken by Mr Petroulias.---That's right.

So, we have no idea what was said by him to her, do we?---No. Well, apart from what's in my memorandum's on file.

None of which demonstrate that she understood anything as to what she was signing, correct?---That's right, yep.

THE COMMISSIONER: Have you finished with that folder of documents, Mr O'Brien?

10

MR O'BRIEN: No. I'd like to go tab 6, please. That's the Solstice agreement 19 November, 2015. Volume 8, page 22.---Yes.

Again a document purportedly by Knightsbridge North Lawyers. You agree?---Yes.

Page 28 contains the execution arrangements.---Yes.

Now, this document you will have noted was 19 November, 2015.---Yes.

20

Ms Dates apparently has signed it as chairperson.---Yes.

You know there's a problem with that, don't you?---Well, she wasn't chairperson.

Yes. She wasn't chairperson - - -?---Well, no, she wasn't.

- - - between 2 November, 2015 and 28 December, 2015. Isn't that so?
---That's correct.

30

I suggest to you that she never signed anything when she wasn't a chairperson as the chairperson.---That was my understanding.

Thank you. I've finished with that bundle of documents.

THE COMMISSIONER: All right. We'll have those marked for identification, that folder, MFI 38.

40

MR CHEN: Commissioner, I'm content – the material is otherwise dispersed throughout the public brief. It may be convenient just in terms of keeping the documents together for me to tender them and I'm content to do that if that would be - - -

THE COMMISSIONER: Tender the bundle?

MR CHEN: Yes, Commissioner.

THE COMMISSIONER: Yes. Then I'll revoke that. The folder of documents used in cross-examination of Ms Bakis by Mr O'Brien will become an exhibit, Exhibit 109.

#EXH-109 – FOLDER OF DOCUMENTS PRODUCED BY MR O'BRIEN USED FOR CROSS-EXAMINATION OF MS BAKIS

10 MR O'BRIEN: All right. Ms Bakis.---Yes.

Can I take you back to MFI 33, page 30, please. This is a document you can see on the Land Council letterhead dated 11 January, 2016 addressed to you.---Yes.

Apparently from Debbie Dates, chairperson.---Yes.

And you have agreed earlier in your evidence that it was not Ms Dates who wrote this document.---I agree that it was unlikely she would have, yes.

20

Thank you. And you suggested that it may have been drafted by Mr Petroulias.---I couldn't think of anyone else.

Thank you. Now, so you're suggesting it was not you who drafted this document?---I didn't draft this.

So we certainly don't know, let's assume that that, and I don't know because it seems to be very faint on the copy that I have, but let's assume that the signature on that document is the signature of Ms Dates.---Yes.

30

Can we?---Yes.

All right. Now, assuming she has signed this document, it's been drafted by someone other than her, and let's presume it was Mr Petroulias, there is no way of knowing so far as you're concerned that she was given any explanation as to what was contained within this document?---That's right.

Nor was it explained to her what was annexed to this document?---Yes, correct.

40

And the fact is that you said in your evidence at 2454, line 10, that you had never seen this document before viewing it in these proceedings. Is that so?---I think that's right, yeah.

THE COMMISSIONER: How could that be if it was on your file?---I, I may have seen it when, when I was flicking through the file to - - -

Well, would that be likely that you did at some point?---I might have at some point seen it but obviously didn't have a second thought about it. I might - - -

No. I mean, you had, during the currency of these transactions between December and this date, that's January '16, you would have had frequent recourse to the file, wouldn't you?---No.

No?---It was Christmas. Unlikely.

10

MR O'BRIEN: Now, if we go to page 28, which is the previous document within this bundle of material, I want to suggest to you, Ms Bakis, that those two documents are similar in very many respects. Would you agree with me?---Similar fonts, yes. Similar style, yeah.

It's the same font. It's - - -?---Yeah. Bullet, bullet points.

Same use of dot points.---Yes.

20

It appears to be, although that wouldn't be necessarily an uncommon feature, the date in the right-hand corner and the way in which the addressee is set out.---Yes.

And how it's signed off.---That's right.

They all appear to be similar features of those two documents, don't they?---Yes.

30

Yet one is purportedly from the Land Council and the other is from its lawyer.---Yes.

In this case you.---Yes.

So I want you to reflect on your answer before. This document wasn't, if this document wasn't produced, written by Ms Dates, could it have been written by you?---No.

40

THE COMMISSIONER: Your signature is on it, of course. You would have read it before you signed it?---Oh, are you talking about this letter?

Yes. Well - - -?---Oh, sorry.

Page 28.---Got the wrong one.

You're talking about page 28?

MR O'BRIEN: Sorry, no, I - - -

THE COMMISSIONER: I'm sorry.

MR O'BRIEN: I've misled obviously you both and I apologise. I'm suggesting to you, Ms Bakis, given the similarities between the letter on page 30 and the letter on page 28, that they may well have been written both by you.---I didn't write both of these letters.

You certainly wrote the one on page 28.---Yes.

10 Which you've agreed with me bears significant similarity to the letter on page 30.---Yes, but I didn't write the letter on page 30.

But it doesn't look good, does it?---(No Audible Reply)

Well, it doesn't look good for you, does it?---No.

The significance of the letter on page 30, if we can go back to it, is that it contained, as annexed, a number of significant documents related to the flow of money, correct?---Yes.

20

In particular it related to disbursements that were travelling from your trust account into Gows Heat's bank account, correct?---Yes.

And these trust account disbursement instructions were purportedly signed by Ms Dates.---Yes.

Can we go, please, to Exhibit 57. And if Exhibit 57 is, I don't have a – page 102.

30 MR CHEN: I don't think that's right. I think if you can identify the date of the – do you want the trust account disbursement?

MR O'BRIEN: Yes, sorry, I thought it was part of Exhibit 57.

MR CHEN: It is.

MR O'BRIEN: Page, sorry, page 6. Is there a page 6?

MR CHEN: Yes.

40

MR O'BRIEN: I beg your pardon. You remember being taken through the trust account disbursement instructions?---Yes.

And you recall that you were asked about the signatures that appeared on it, including Mr Zong's and Ms Dates'?---Yes.

Now, if we have a look at that document there on page 6, it says "ratified". I want to suggest that that's your writing. You agree?---No.

Whose writing do you say it is?---Mr Petroulias's.

Mr Petroulias's writing?---Yes.

Thank you. And the signature appears to be that of Ms Dates.---Yes.

And then "reconfirmed" is again Mr Petroulias's writing?---Yes.

10 So Mr Petroulias has written "ratified" and he's written "reconfirmed"?
---Yes.

And in between those signatures, Ms Dates apparently signed.---Yes.

So this is another document that it would appear Mr Petroulias has generated. Is that so?---I don't know. I, I don't know if there's an original.

20 But it would appear at least that this is a document that Mr Petroulias was privy to the signature being placed on it by Ms Dates.---He might have taken it to her for signing.

Well, did you ever take part in the signing of this document?---I don't remember.

For the sake of completeness there's - - -?---I might have been there. I don't know.

30 Thank you. For the sake of completeness, page 7 and also page 8. There's a similar annotation. "Ratified", "reconfirmed" and in between the signature. Again, Mr Petroulias's writing?---Yes.

Thank you. And on page 8, if we can scroll up further. You said I think in evidence in the last several days that that down the bottom, right down the bottom on the right-hand side, was a signature of Ms Dates, you said?---I thought it was, yes.

And again the word appears to be, although it's very difficult to read, is it "ratified"?---I think that's what it's trying to say, yes.

40 And again that's the signature of Mr Petroulias?---The handwriting.

Sorry, beg your pardon. Yes.---It is hard to tell, to be fair.

So in relation to these you've got no independent recollection now as to whether you gave any advice or legal assistance in relation to the preparation of those documents, sorry, in relation to the signing of those documents by Ms Dates, correct?---I can't remember if I was there explaining to her what had happened. I'm sure I was.

You would agree that the trust account is something that you, as the single principal and director of this law firm, was a matter of great significance, am I right?---Yes, yes.

That you are solely responsible under legal profession rules for the administration of your trust account, correct?---Yes.

10 And you know that you cannot as a matter of regulatory, as your regulatory understanding of how trust accounts operate, that you can't allow other people within the practice to operate them, correct?---And they didn't. These documents were not required under trust account reporting. They were just a mechanism to notify the Land Council about what was going on. The, they weren't, in terms of my records, which I've given to the Commission, my records don't have these annotations on them.

THE COMMISSIONER: But do I understand, this trust account disbursement instructions document was not drafted by you? Or was it? ---Mr Petroulias drafted this.

20

Yes. So in terms of operating a trust account so far as this release of these part payments are concerned to Gows, he's not only calling the shots, he's engineering the release of these moneys to Gows, isn't he?---He's not engineering them. They're, they're, there's a legal - - -

Well, did he come and consult with you about - - -?---Yes. Absolutely.

30 Well, he's drafted the document, he's got it all signed up ready to go. All that has to happen now is for the money to be physically released out of the account.---Yes.

Well, did he come to you and say, "Release the money, I've got it signed up"?---No.

Well, how were the moneys released out of your trust account?---Well, I, I don't, I don't know what the date on this one is, but certainly the second one, I was there when Mr Zong signed it. I insisted.

40 Well, now just answer me. How did it come about that these funds were released from your trust account, paid out?---I logged onto my Westpac bank account and paid the money out.

And you did that at Mr Petroulias's request?---No. I had, I was - - -

Well, why did you do it?---I was very comfortable that the transactions reflected that this money should be paid.

I'm sure you might have been comfortable but the question is, it seems on the evidence thus far, Mr Petroulias is engineering all of this, he's getting the instructions and presumably comes to you and you put in the code or whatever you do and you have the moneys released. Isn't that the way it went?---No.

Well, you tell me, how did it go?---Well, I, I told you. I - - -

10 Start from the start. So, how much was paid out? Was it 400,000 or some -
- -?---400,000.

Right. Now, how, starting from the start, how did it come to be that consideration was given to releasing 400,000 and what mechanical steps and steps did Mr Petroulias and you take to release that 400,000? Start from the beginning.---It's really hard without my trust records but - - -

20 Doing the best you can.---I, this, this document was drafted, was signed by Tony Zong, then I can't remember if there was email correspondence to confirm it and then the money was paid out.

You say Mr Petroulias drafted this document?---Yes.

So, he had spoken to Mr Zong?---Yes.

To get his permission to release the 400?---Yes.

He gets the signatures on the document, the instructions?---Yes.

30 He then brings the instructions to you and asks you to pay the money out, is that right? And you did?---Yeah. And I don't, I - - -

Is that right, is all I'm asking you at the moment.---I can't remember if there was more to it.

Well, at least those steps were taken, I take it?---Yes.

Right. Why isn't Mr Petroulias, in effect, engineering your trust account, if you just obey and he does all the lead-up work?---I don't know.

40 Yes, Mr O'Brien.

MR O'BRIEN: You understand that pursuant to the variation agreement that had been entered into sometime earlier to this, this 400,000 was actually pre-ordained to the Land Council?---No, it wasn't. The variation agreement that's been put up in this Commission certainly said that but there's probably 50 versions of that document.

So, you understand that the variation agreement that was purportedly signed on 23 October, 2015, had a clause in it that stipulated that the \$400,000 that we're talking about now was destined, at least initially, for the Land Council, correct?---No.

THE COMMISSIONER: Why not?---Oh sorry, that document you're referring to, yes, yes.

10 MR O'BRIEN: Yes. And I want to suggest to you that you never informed Debbie Dates at all that there was money that was being diverted from the Land Council to Gows at all?---That money was never meant for Awabakal.

In fact, the reason I suggest why you had to have the signatures appended to this disbursement instruction of Ms Dates was so you could justify that diversion of funds from the Land Council to Gows Heat, is that so?---No.

And there was never any explanation given to Ms Dates that that is effectively what she was doing?---That's all untrue.

20 You do agree, though, that the money authorised the provision – sorry, that the – I withdraw that. You do agree, though, that the disbursement instructions seem to suggest that Ms Dates agreed that Gows be paid the sum of 400,000. Correct?---No. No.

What do you say it said, what do you say was the effect of her signing that disbursement instruction?---It was an attempt at transparency so that she knew that money had gone to Gows. It wasn't, that money was never meant for Awabakal. I can say that 50 times but no one is going to believe me.

30 THE COMMISSIONER: Why do you say that?---Because if you look at the correct version of the documents that's not what the intention was.

Why not?---Awabakal was going to be paid another lot of money. That 400 was never ever for Awabakal. Gows was always going to be paid first. There is no doubt in my mind about that.

I'm sure Gows was going to be paid first and they were.---Yes. So - - -

40 The question is whether they were entitled to it, that is, whether Gows was entitled to it or any part of it.---Well, if Mr Zong was so confident he could have continued with his legal action.

MR O'BRIEN: I want to suggest to you that in relation to those disbursement agreements that I've, those disbursements instructions that I've shown you - - -?---Yes.

- - - and that in relation to many of the file notes that simply bear the signature of Ms Dates, that no explanation has been given to Ms Dates, that

she's simply been asked to sign the documents. Are you in a position to disagree with me about that?---I disagree that she was never explained anything about anything. That's not true.

Well - - ?---She, there were occasions when things were explained to her.

You couldn't know, could you, of what was explained to her and what wasn't if you weren't there, right?---That's correct.

10 And in many transactions it wasn't you who was there taking the signature. Correct?---That's right.

So again I suggest in relation to many, if not all, the lion's share again I suggest, she was never given an explanation as to what the document was about.---That's right.

And the practice I suggest that you had was similar to that of Mr Petroulias was to simply put the documents in front of her and have her sign them. ---That's not true.

20

Because she trusted you to be doing the right thing by the Land Council. That's why she did it, isn't it?---Yes, but that's not true. As the chairperson she fully understood her responsibilities and blindly signing everything was not her style. She wanted to know why she was signing things and what she was signing. It makes no sense that she would just sign anything I put in front of her. I hadn't known her for that long.

And was it explained to her that Mr Petroulias was not a lawyer?---Many times.

30

Was it suggested to her – well, if that was explained, Ms Bakis, and she came to know that because it had been explained so many times, where was the legal advice coming from in relation to these documents that she knew all about that he was putting in front of her?---Sorry?

Well, if Mr Petroulias – I withdraw that. If Ms Dates was told by you many times that Mr Petroulias was not a lawyer, where was the legal advice coming from when he took documents to her to have them signed?---It was coming from him.

40

And he's not a lawyer.---That's right.

And she knew that apparently.---And she trusted him.

So she was taking advice knowingly from someone who was not a lawyer, who is going through the detail of the documents and you had nothing to do with it. Is that the situation?---Yes.

Is that a competent way to operate a legal practice, Ms Bakis?---No.

Is it a diligent or professional way to operate a legal practice?---No.

Because what you were doing was - - -

THE COMMISSIONER: Well, why were you operating in an other than a diligent fashion?---I think we'll get to that in cross-examination. It's a long story.

10

Well, you've admitted now a number of times that you did not exercise due diligence, proper diligence as a solicitor.---Yes.

Well, why are you making those admissions now?---I've always made those admissions.

Who to?---In this Commission.

20

To?---To this Commission. I know I've acted badly in terms of my professional responsibilities. I'm not denying that. Absolutely not.

Yes, Mr O'Brien.

MR O'BRIEN: You see, I want to suggest to you that it was never explained to Ms Dates at all, that any money was ever going to be transferred to Gows.---That is very, very untrue.

30

And I want to suggest to you that there was never any expression to you that she was allowing other people such as Mr Green to enter into land transaction agreements.---Sorry, I, I missed the first bit of that, sorry.

Well, let me withdraw that question and take you to MFI 33, page 3 again. You've seen this a number of times today.---Yes, yes.

You've told us that this was written by, this file note was written by Mr Petroulias?---Yes, yes.

40

And it apparently records a meeting that took place, is that so?---I believe so.

When one usually file notes a meeting, wouldn't it be commonplace even for you to include at the top of the file note the attendees at the meeting? ---Yes.

And of course that hasn't been done here?---No.

In the file note, it's suggested at the third last paragraph that, well, in fact in the last paragraph, that, "DD will ratify/confirm RG acting as her delegate." Do you see that?---Yes.

And you said earlier in your evidence that that was what you were told, that Debbie Dates had agreed that Mr Green would sign on her behalf and in fact on behalf of the board, is that so?---In relation to land dealings, yes.

10 I want to suggest to you that no authority was ever suggested by Mr [sic] Dates as to be given to Mr Green in relation to land transactions?---Well, that's not my recollections.

I want to suggest to you also that she had no knowledge of the Gows agreement?---She knew about the Gows agreement.

And she never said that she'd ratify it before the board?---Okay.

Well, you accept that, do you?---That's not true.

20 You've documented in this same file note this issue of the conflict of interest that's been raised with you in the third last paragraph.---Yes.

You told Ms Dates apparently that you would act for both parties to a transaction?---Yes.

And that there would not be, that that would not be a problem?---Yes.

I suggest to you that you never told her that it was a conflict of interest. ---That's not true.

30 But you'd accept that she should have been told that you were in fact hopelessly and grossly conflicted, shouldn't she?---I told her I was conflicted.

No, that you were hopelessly conflicted, so grossly conflicted that you should not have been acting at all for the Land Council. Correct?---Perhaps, yes.

40 I want to suggest that what you came – either you or Mr Petroulias or the both of you – came to suggest had happened with Gows' involvement in all of this is that they had walked away from the agreement. Is that the case? ---When?

That at some stage Gows became disinterested in acquiring land from the Land Council?---Yes, that's true. They weren't going to get the funding that they wanted and needed.

And you never disclosed that Gows were going to get paid for walking away.---Debbie knew that.

I suggest to you she didn't because you nor Mr Petroulias told her.---Well, that's not true.

And you certainly never disclosed to her that Mr Petroulias was personally and financially to gain from that transaction.---That's not true.

10

I suggest, Ms Bakis, that you consciously and deliberately withheld from Ms Dates information as to the benefits flowing to Mr Petroulias in all of these transactions.---That's not true.

I suggest to you that in your dealings with Ms Dates you acted unethically. ---Not true.

You acted fraudulently.---Not true.

20

You took advantage of her naivety and her ignorance of these types of transactions and legal disputes in general didn't you?---That's, that's entirely untrue.

Nothing further. Thank you.

THE COMMISSIONER: Okay, Mr O'Brien. Yes.

MR WHITE: Yes, thank you, Commissioner. Ms Bakis, I appear on behalf of Mr Strauss, Mr Ryan Strauss.---Yes.

30

I just wanted to ask you some questions about the meeting which took place concerning the Solstice agreement at the office of Knightsbridge Lawyers - - -?---Yes.

- - - when Mr Kavanagh and Mr Strauss were present.---Yes.

You were at that meeting weren't you?---What date?

November, 2015.---No. No.

40

Were you present at any meeting - - -?---No.

- - - that Mr Strauss and Mr Kavanagh were at?---No.

So you deny being present at any meeting they were at?---Absolutely deny it.

Do you recall where you were when that meeting took place?---The November one, November, '15?

Well, any meeting involving Mr Kavanagh and Mr Strauss in the board room at Knightsbridge Lawyers. My question to you is are you aware of where you were when any such meeting has ever taken place?---I've given evidence that there was one meeting, and I don't know if your client was there, where I threw them out of the office because they were being overly, they were arguing. I would have been in my office during - - -

So you're saying you weren't present in that meeting?---I was not present in that meeting, and I know your client has said I was there but I wasn't.

Is there any reason why you weren't there?---These were negotiations on property deals that were preliminary I believe.

THE COMMISSIONER: And your husband would have told you what those negotiations were about?---Oh, not always.

No, but on this particular occasion in relation to which Mr Strauss and Mr Kavanagh were involved?---I don't think so. I actually don't - - -

Why don't you think so?---I, I just don't remember, I don't remember the Solstice bill being, deal being discussed as early as that.

No, you may not remember it but if you just cast your mind back, you knew he had met with Mr Strauss and Mr Kavanagh - - -?---I don't know.

- - - and there were ongoing negotiations, didn't you?---I might have. If they were in my office I might have but knowing that there were developers coming in - - -

Are you telling the truth now?---Absolutely. I have no reason to lie about this. I, I - - -

Well, it might be put to you - - -?---We didn't talk a lot about these sorts of things.

It may be put to you so that you have an opportunity to deal with that you do have something to hide. That's why I'm asking you whether you are now telling the truth about this matter that Mr White is asking you about. ---Whether I was in a meeting?

Yes. In a meeting or that you knew the subject matter of the meeting. Either/or or both.---I have never met Andrew Kavanagh or Ryan Strauss in my office ever. Ever, ever. I am very certain about that. In fact, I'll go

back and look at the dates and check my diary to see where I would have been.

Yes, Mr White.

MR WHITE: Do you know why the office – sorry, I withdraw that. Do you know why the meeting was held at Knightsbridge Lawyers’ office?---It had a big, nice big boardroom, and Mr Petroulias used to like to bring people to meet there because it was just nice. That’s all.

10

Mr Strauss, when he gave evidence he said that there was a woman present who appeared to be present associating with Mr Petroulias who was, who had black hair and was taking notes. Do you know who that would be? ---No idea.

Do you know any woman who was present at that meeting?---I don’t even remember this meeting.

THE COMMISSIONER: Could it have been you?---No. I can’t say this enough times.

20

MR WHITE: See, earlier today you were asked a question about whether Mr Green was at the meeting, and your answer was, “I don’t think he was there.”---Different meeting.

Which meeting was that?---That’s, that, that’s the one where I threw them out of the office, and I think that was much later.

Well, that was the meeting that Mr Strauss and Mr Kavanagh were at, based on the question that was asked of you today.---No.

30

Well, it was. You were asked a question specifically about Solstice and Mr Kavanagh, Mr Strauss being there, and your answer was, concerning whether Mr Green was there, you said, “I don’t think he was there.” I have a note, a contemporaneous note with your evidence today.---Yes. Because I threw them out of the office. So they walked out, but I wasn’t sitting there taking notes. There’s a very distinct difference to that.

All right. So you have a recollection now of a meeting where you threw them out of the office, including Mr Strauss and Mr Kavanagh, is that right?---I don’t know if Mr Strauss or Mr Kavanagh were both there. I don’t know who was there. All I know is that they were from Solstice.

40

When you gave evidence earlier today in response to Mr Green’s lawyer’s question about the Solstice agreement, where he put to you propositions about Mr Strauss, Mr Kavanagh being at the boardroom, at this meeting, you said, concerning Mr Green, “I don’t think he was there.”---Yes. That’s right.

Well, this is a meeting then that you're aware of that Mr Strauss and Mr Kavanagh were at.---Because they filed out of the room as I threw them out.

So you now remember them being present at a meeting?---I don't know if those two individuals were there because I don't know what they look like. But perhaps they were.

10 Are you serious about that answer? You don't, you have no awareness of those two particular individuals being in your office?---That's not what I've just said.

You said I don't know what - - -?---I can probably get evidence from the people I was working with at the time because we all had the discussion about how loud these people were. I got up off my desk and threw them out. I can probably get this evidence for you. I, there were people in the meeting room, which I believed were Solstice, with Sam Say, Mr Petroulias. I don't know if Mr Green was there. And I went into the doorway and I told them, "Can you please leave? You're being too loud."

20

And Mr Green was there?---I've just said I don't know.

You said before, "I don't think he was there."---That's right. I don't think he was there. I don't know. I don't recall.

Doesn't that suggest that he wasn't there or at least you thought he wasn't there?---Perhaps.

30 See, for whatever reason, the truth is – and you know – you were present at that meeting.

MS NOLAN: I have to object because I was - - -

THE WITNESS: I don't even know what dates we're talking about. I don't, I don't - - -

MS NOLAN: I was just going to – just stop, please.

40 THE WITNESS: Sorry.

MS NOLAN: I was present during the evidence of Mr Strauss and I actually asked him a question. He gave evidence with – Ms Bakis wasn't here. I just want to note that for the record. I was. The evidence he gave was he was unsure. I asked him a certain question. It was affirmed. I'm not sure that my friend's really in a position to be able to put these questions to this witness in such direct terms based on the evidence that's been given.

THE COMMISSIONER: Yes, he is entitled to. It's a legitimate cross-examination.

MS NOLAN: Really?

THE COMMISSIONER: And in fairness to the witness, he needs to put it if he's going to make any submission about it. You go ahead, Mr White.

10 MR WHITE: Yes, thank you, Commissioner. What do you say then about the proposition that you were present during this meeting?---I'm not sure what meeting you're talking about. There's, there is a meeting in November '15. I thought the meeting that I threw people – I didn't attend either meeting. I was in the doorway of one the meetings, I was not sitting in any meeting either time.

Whilst Mr Strauss and Mr Kavanagh were present, is that your evidence? ---That's my evidence.

20 You were also asked some questions about the proposed payment of an amount of \$450,000. Do you remember being asked questions about that? You gave evidence today about, you referred to it as a bribe.---Oh, yes, yes.

It's your understanding, is it, and, well, as I understand your evidence, you're saying that you were not involved in any discussions in relation to that particular issues concerning that proposed payment of money, is that correct?---Sorry - - -

30 MS NOLAN: Any discussion with whom? With your client or, who do you, do you want to narrow it down to the discussions with whom?

MR WHITE: Yes. I'm happy to do that. This is – you seem to understand what I'm referring to.---I know what you're talking about, yes.

The proposed payment. Thank you.---Yes.

And are you aware of the amount of the sum, \$450,000?---Yeah, 450, okay, yep.

40 Now, my question is this, did you have any involvement in the discussions or negotiations that took place in relation to that particular proposed payment?---No. Did I - - -

Well, is it consistent with your - - -?---It's a bit preposterous but no, no.

Is it consistent with your understanding that those discussions went through Mr Sayed?---Yes, correct.

And is it also your understanding – if it’s not, please say so – that there was no direct contact made between Mr Strauss and Mr Kavanagh and Ms Dates?---I wouldn’t know. I can’t answer that question.

And I think it follows from your earlier answer, that you were not privy to any of those discussions with Mr Sayed?---No.

10 You were asked some questions about a document MFI 33 at page 63. If that could be placed on the screen, Commissioner. And towards the bottom of that page, now you say this was not your note.---This is not my note.

Whose note is it?---This is Mr Petroulias.

Had you seen that note at the time?---I don't remember.

If you could go to the bottom of the page. Do you see the reference to, “We think Sam is bullshitting. Cannot believe that Ryan would be offering a bribe given that he knows there is no value in it.” Do you see that?---Yes.

20 All right. Sam is referring to Sam Sayed, correct?---Yes.

And you were aware at the time of this note of this suggestion of either a bribe or a lobby fee payment?---No. I became aware of it after it had, had been emailed.

But you were aware of that general issue at that time, were you?---I, I became aware of it, yes.

30 And you were aware that Ryan Strauss and Mr Kavanagh had received legal advice at that time?---Barristers’ advice regarding land dealings?

Yes.---Yes.

And you were aware that, from their perspective, that there would have been no value in making a bribe in such circumstances, bearing in mind the legal advice?---I, I don't know why they were trying to bribe Debbie. I can't get into their minds so I really can't answer that.

40 No, I'm not asking you that. I'm just asking you that, from your perspective, based on the legal advice that you're aware that they had received, that there wouldn't have appeared to be any value in making a bribe?---There would have.

You say there still would have.---I'm sure there would have. Why couldn't you just do a deal with Debbie to get a deal through the members and NSWALC?

See, what I'd suggest to you is that that could be your note. What do you say about that?---This note here?

Yes.---I didn't write that. I wouldn't write "bullshitting" in a file note.

And that could also have been your opinion at the time concerning it not being a bribe.---Well, that's not my file note, so - - -

10 All right. I have nothing further.

THE COMMISSIONER: Thank you, Mr White. Yes. Yes, Ms Nolan.

MS NOLAN: Exhibit 57, pages – I think 57 is MFI 31, isn't it? It's been referred to variously. I'm just picking up on - - -

THE COMMISSIONER: I think that's right.

MS NOLAN: So MFI 31.

20

THE COMMISSIONER: 31 or - - -

MS NOLAN: 33. Pardon me.

THE COMMISSIONER: 33. Yes.

MS NOLAN: These were some questions that you were asked by - - -

THE COMMISSIONER: What's the exhibit number?

30

MR CHEN: Exhibit 57. It contains relevantly the guarantee and the trust account disbursements. MFI 33 contains the folder of, at least in part, the file notes from Ms Bakis's files.

MS NOLAN: Right. Well, I'll stick with the nomenclature taken by Mr O'Brien, then, if that's the case, thank you. Exhibit 57, please, pages 7 and 8. Could they be brought up? Could you scroll down, please, to page 8. See page 8? The writing above that which you were asked questions about, which is faint, whose writing is that, the handwriting?---Mr Petroulias'.

40

Now, you've been asked a question, I think it was from Mr Lonergan, and the answer to which you said that you trusted Mr Petroulias. You've also been asked a swathe of questions with respect to his criminal antecedents and the circumstances surrounding those. Can you please tell the Commission why it is, despite that, you had trust in Mr Petroulias?---Well, he, it's a good question. He, I felt when he came out of gaol in 2010 that he was a changed man and that he genuinely wanted to build a new life. And he was the father of my children and he genuinely wanted to build a

sustainable business that would keep him occupied. And I just, I, I just felt that as someone who was that close to me, that I should be able to trust him. I, I, I didn't feel that he would ever do the wrong thing.

And did he give you any reason to doubt that trust at any stage during the periods of 2014 through to 2016, when you ceased working for the Land Council?---No. I, I was keen to get off the engagement. I, I really didn't like this job by the time we got into '16 and I really wanted to get out, but he kept putting pressure on me, a lot of pressure on me to stay. And I - - -

10

Did that undermine your trust in any way, the pressure that he was placing on you?---I began, I began to have issues around trust, yes. But I always, I was always comfortable with the fact that any property deals would never get approved unless they were done properly.

20

So you've told the Commission just now that, you know, you started to have reason to doubt your trust in Mr Petroulias around as I understand it, when are you saying, towards the end? Could you give a date?---Actually I don't think that's right. I don't know that I, I stopped trusting him. I just, I felt like it, it was very, he was very determined to, to do property deals and, sorry, I just lost my train. Sorry.

Well, you were saying you were, you don't feel that you lost trust and he was very determined to do property deals. Does that assist you in regaining your train of thought?---Yes. And I just felt that perhaps he was getting a bit too close to Debbie and Richard and that I felt like perhaps they should get new lawyers. I felt that strongly towards the middle of 2016.

30

And what steps did you take then to act on that, if any?---Well, I, I told him many times, look, I'm going to leave this job. I can't do it. It's too much work. It's too much pressure. Too much politics. And he wouldn't let me. He put a lot of pressure on me, a lot of pressure. A lot of abuse. A lot of, a lot of pressure.

40

Well, you're a grown woman. How did you react to that pressure, what steps did you take to extricate yourself?---Well, over the years I've thrown him out of my house a few times because of his issues, mentally ill, but if, if I, if he was putting pressure on me he would threaten to take my children away from me and I, and then I'd think okay, all right, I'll just, I'll plod on through for another month and it just kept going and I should have done something about it. I acknowledge that now.

A question was asked of you, I think by Mr O'Brien, with respect to your competence, diligence and lack of professionalism and you accepted that and you said something that this would be dealt with in I think cross-examination. Did you mean to say that you would deal with it throughout the course of this questioning?---Yes.

What did you wish to say?---Just, that's what I've alluded to. I, it was a job that I never really wanted to do. I couldn't do. I didn't have the capabilities to do in terms of staffing and resourcing so Mr Petroulias had to help me out and as a result I, I did things on this engagement that I have never done on any other engagement. I didn't keep my eye on the ball clearly from what I've seen today.

10 When you say today, do you wish to limit it only to today or would you expand it further?---Oh, I would expand it further. I mean those documents that Mr O'Brien showed me before were a complete shock to me. I hadn't seen that before.

When you say you haven't seen the documents, were you referring to the documents or the matters that he drew your attention to?---The matters he drew my attention to and I think I mentioned that to you this morning that I, I really wanted to see the original documents now because I just don't know what's real and what's not anymore and I'm really disappointed in myself, very disappointed.

20 And how would you explain, I think you've used the expression took your eye off the ball, how would you explain why if this is not something that you would ordinarily do that you took your eye off the ball in this instance? And by this instance I mean throughout the course of this transaction, these series of transactions I should say.---Well, I mean at the time I had two very small children, they were virtually babies, and I was running a practice, a very busy accounting practice, and I, I just, I just couldn't cope with all this, the work. I mean the Sunshine, the Sunshine transactions just went on and on and on and I just couldn't, I just physically did not have the time to deal with all of it and I unfortunately passed, passed a lot of the responsibility of
30 drafting to Mr Petroulias.

Now, you've given some evidence with respect to your computer that you say was destroyed by Mr Petroulias and you said in about September of 2016.---August.

You say August now. Why do you say August now?---Because I've just checked my phone over lunch and it was 26 August. I, I took a photo of it.

40 You took a photo of it.---At the time. At the time. I was so angry that I took a photo of the laptop on the street because I was going to go to the police. I was so angry.

And what steps have you taken with respect to informing the Commission as to the existence of those photos?---Oh, well I, I've emailed a few of those to Mr Broad over the lunch break.

So this is a printout of, I'm going to show you, of an email and three photographs. Can I ask that they be shown, please, to Ms Bakis. Thank you.---Yes.

Do you recognise those four documents which I've handed you?---Yes.

And can you tell the Commission what they are, please?---They're photos of my damaged laptop, that - - -

10 Well, you corrected me when I said that your evidence was that it was at September 2016 that you identified as being the relevant date when the laptop was destroyed and you said that it's actually August.---Yes.

Why are you able to say that?---It was on my phone. It's a photo on my phone and I just identified the date from my phone.

So can you explain what you mean by identifying the date from your phone a little bit better, please, for the Commission?---Well, when I scroll through my iPhone, I can see that that photo was taken on that date.

20

And you say that date is August 2016?---Yes.

I have nothing further, thank you.

MR CHEN: I can tender those photos if my learned friend wishes me to.

THE COMMISSIONER: They can be marked for identification or tendered.

30 MR CHEN: I can tender them, Commissioner.

THE COMMISSIONER: All right.

MR CHEN: Unless my learned friend - - -

MS NOLAN: Is there any way in which the electronic version which contained the metadata to which the witness has referred could somehow also form part of that? Or could we agree on that metadata being the fact if that's something that my learned friend wished to consider?

40

THE COMMISSIONER: Yes.

MR CHEN: I'm sure they can.

THE COMMISSIONER: Yes, I think that can be done. They'll be marked Exhibit 110, three photographs of Ms Bakis's computer, August 2016.

#EXH-110 – THREE PHOTOGRAPHS OF LAPTOP OF DESPINA BAKIS

THE COMMISSIONER: Yes.

10 MR CHEN: Commissioner, Ms Bakis has produced, as I understand to the Commission, the tax returns for Knightsbridge North Lawyers but we are yet to receive, as I understand it, the tax returns for Knightsbridge Tax and so too the paymaster agreement, as I understand it.---Yes.

THE COMMISSIONER: What's the position, Ms Bakis?---I was looking for the paymaster agreement last night. I, I do remember it being emailed to, to Chalk. I, it was taking a long time. I've just got to locate it, I just need more time and Knightsbridge Tax are, tax returns are slightly, haven't been down for a few years, so I, I'll have to print out an income, perhaps a P&L. I'll produce those to Mr Broad, that should suffice, I think.

20 What years are we talking about?---I'm not sure. I think '15-16. I didn't think I was - - -

Your call was for which years?

MR CHEN: I think I did the three years. I'd need to check exactly, Commissioner. My recollection is it was '14, '15 and '16.

30 THE COMMISSIONER: Yes. Well, perhaps that can be checked, then, and those documents should be produced tomorrow morning. We'll deal with those when we resume at 9.30 in the morning. First matter, first item of business.

MR CHEN: Yes, Commissioner. And if indeed there's some difficulty, well, we'll deal with that in due course.

THE COMMISSIONER: Very good.

40 THE WITNESS: I don't think I can get them here by 9.30.

THE COMMISSIONER: I'm sorry?

THE WITNESS: I don't think I can get them here by 9.30. I, sorry, I just, I've just got a commitment.

THE COMMISSIONER: Well, how long do you need?

THE WITNESS: Oh, perhaps till 11.00.

THE COMMISSIONER: All right. I'll make it morning tea time, 11.30. Now, Dr Chen, do you want to re-examine Ms Bakis, and if so do you want to do it now or start in the morning?

MR CHEN: I don't propose to re-examine the witness, Commissioner. The only discrete topics that I may have to ask the witness on relate to the material that's been produced, and that would be a discrete topic to deal with, which wouldn't take long.

10

THE COMMISSIONER: Well, we can deal with that tomorrow if need be.

MR CHEN: And if there's a difficulty, Commissioner, with that, as I would say it, it could be done at a later point in time.

THE COMMISSIONER: Very well.

MR CHEN: And I could just – I'd like to consider the material in its proper forensic setting if I could.

20

THE COMMISSIONER: Very well. All right. Now, Ms Bakis, you may step down.---Thank you.

You may be required to re-attend.

THE WITNESS STOOD DOWN

[3.31pm]

30 MS NOLAN: If there's anything, pardon, my apologies, if there were to be anything arising out of those documents, may I reserve my right just to re-examine further, please?

THE COMMISSIONER: Yes, certainly. Certainly. Now, Mr Chen, do you want to start with another witness?

MR CHEN: I'm in your hands, Commissioner.

40 THE COMMISSIONER: Yes. Well, perhaps we might start and then I'll adjourn at quarter to 4.00.

MR CHEN: Yes, Commissioner.

THE COMMISSIONER: Thank you.

MR CHEN: So I call Debbie Dates.

THE COMMISSIONER: Yes, now, Ms Dates, you've been called to give evidence. Do you want to give evidence on oath or an affirmation to tell the truth?

MS DATES: On oath. Oath.

THE COMMISSIONER: If you wouldn't mind standing, my associate will administer the oath.

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

MR O'BRIEN: Just before the Counsel Assisting - - -

THE COMMISSIONER: Sorry.

10 MR O'BRIEN: - - - can I ask that a section 38 declaration be given to the witness, please.

THE COMMISSIONER: Yes, very well. That's been explained, has it, to the witness?

MR O'BRIEN: It has on a previous occasion, yes.

20 THE COMMISSIONER: Very well. Ms Dates, I understand that you want to invoke the protection available to you under the Act so that the evidence you give here can't be used against you in other proceedings.---Yeah.

All right. Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by Ms Dates and all documents or things that may be produced by her during the course of her evidence shall be regarded as having been given or produced on objection. That being the case, there is no need for Ms Dates to make objection to individual answers to be given or documents or things to be produced.

30 **PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY MS DATES AND ALL DOCUMENTS OR THINGS THAT MAY BE PRODUCED BY HER DURING THE COURSE OF HER EVIDENCE SHALL BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION. THAT BEING THE CASE, THERE IS NO NEED FOR MS DATES TO MAKE OBJECTION TO INDIVIDUAL ANSWERS TO BE GIVEN OR DOCUMENTS OR THINGS TO BE PRODUCED.**

40 THE COMMISSIONER: Yes.

MR CHEN: Would you tell the Commission your name?---Deborah Dates.

Ms Dates, have you been a member of the Awabakal Local Aboriginal Land Council for around 30 or 35 years?---True, yes.

Ms Dates, did you become a board member of the Land Council in about 2010 or 2011?---Yeah, 2010.

Did you hold the position – I withdraw that. Were you a board member thereafter until the administrator was appointed in October of 2016?---Yes.

During the time that you were a board member, you did hold the position of chairperson, did you not, from around 2013 until July 2016?---No, I was only chairperson for two years.

10

And when approximately was that time that you were the chairperson, Ms Dates?---Probably 2015 to 2016. Oh, no, sorry, 2014 to 2015, sorry.

THE COMMISSIONER: 2000 and - - -?---'15.

So what's that?---Two years. 2000 and - - -

So the beginning of 2014, the end of 2015, something like that?---Yeah. Yes.

20

MR CHEN: It may well be your dates are slightly out, Ms Dates - - -? ---Could be.

- - - and that maybe you were the chairperson until July of 2016, when Theresa Dargin assumed the position of chairperson. Does that sound right?---Yes.

Would you accept that therefore you were probably the chairperson from 2014 until July '16?---Yeah.

30

Now, you first came into contact, did you, with Mr Petroulias in your role as the chairperson of the Awabakal Local Aboriginal Land Council in around 2014, is that right?---Yes.

And were you introduced to Mr Petroulias by Richard Green?---Yes.

And can you assist the Commission in saying when approximately you were first introduced by Mr Green to Mr Petroulias?---It was at a board meeting so I couldn't remember.

40

There's no doubt, though, that the introduction came by Mr Green, though, is there?---Yes.

THE COMMISSIONER: You agree?

MR CHEN: You agree?---Yeah.

THE COMMISSIONER: It was through Mr Green you came to meet Mr Petroulias?---Yes.

MR CHEN: And you've known Ms Bakis, have you not, since approximately when, Ms Dates?---I'm not sure. Could be 2014 to 2016. I'm not sure.

10 Are you able to be a bit more exact as to when it was, perhaps in relation to when you first met Mr Petroulias you met Ms Bakis, or you can't say?---I can't, I can't remember.

Again, was the introduction to Ms Bakis through Mr Green?---Yes.

And Ms Bakis came in due course to provide legal services to the Land Council, didn't she?---Yes.

20 And is the way in which she came to provide those services through Mr Green or some other way?---It was Mr Green but I think it was done at a board level because we were looking for a, we had no solicitor, no bookkeeper.

And by your answer do I take it that you believe the appointment was put before the board?---Yes.

And was the subject of board discussion?---Yeah.

And appointment by resolution. Is that the position?---Yes.

30 All right. Well, I might come back to that, Ms Dates, if you like.

THE COMMISSIONER: Could I just ask you, when you first met Mr Petroulias, being introduced by Mr Green, do you remember at that first meeting what was the subject of discussion? when you got to know Mr Petroulias that day, the first day you met him, what was the subject of discussion, if anything, that you recall with Mr Petroulias?---I can't recall.

You don't know what subject matter was brought up?---No.

40 MR CHEN: I'm sorry, I didn't hear that answer.

THE COMMISSIONER: She said no, doesn't recall.

THE WITNESS: I said no.

MR CHEN: All right. Now, Ms Dates, you would have attended during your time as a board member of the Land Council many board meetings. Isn't that right?---Yes.

And you understand, don't you, that the procedure is for matters that are the subject of discussion in and during the course of a board meeting of the Land Council to be recorded in the minutes?---Yeah.

And when matters are the subject of motion or resolution those motions and resolutions are also recorded in the minutes are they not?---Yes, they are.

10 And you as the chairperson have particular obligations, don't you, under the model rules, or did at the time when you were chairperson, to ensure that minutes of the meetings were taken?---Yeah, yes.

That they were accurate?---Yes.

And that they properly recorded the subject matter of matters that were discussed and material that was tabled. Correct?---Yes.

And you did your best, I take it, Ms Dates, to ensure that the minutes were at all times, whilst you were chairperson, accurate?---Yes.

20 In the particular way in which this Land Council or the board of the Land Council operated, the minutes were initially taken by hand, weren't they? ---Yes.

And as at the second half of 2014, the appointed, perhaps informally appointed, note taker or minutes taker was Mr John Hancock, was it not? ---Yes.

30 And at least of course during the board meetings that he attended, he was the person who would write the minutes in a book, isn't that so?---Yep.

And after the minutes were, or the meeting had concluded, the minutes were typed, were they not?---Yeah, the next day, yep.

And they are then tabled at a subsequent meeting?---Yep.

And they are read through and approved, are they not, by the board as a true and accurate record of whatever meeting and minutes are currently before the board, is that so?---Yes.

40 And you as the chairperson had a particular role, did you not, in signing if the minutes were accurate that that was so?---Yes.

And you, I take it, took that role seriously, did you?---Yes.

And you ensured that, to the extent that you were called upon to consider minutes, that you reviewed them to ensure that they were accurate, is that right?---Yep, yes.

And you would sign them only if you were satisfied that they were, correct?---Correct.

Now, you would also know, would you not, that following the meeting, resolutions would also be typed up?---Could you say that again?

Of course. As you know, that sometimes during the course of a board meeting the board would resolve in favour of certain things happening?
---Yes.

10

And did the board also keep a separate book of resolutions that were passed by the board?---No.

There's been some evidence that there's a separate folder of resolutions that are kept in the offices of the Land Council. Do you recall there being such a book or folder with separate types resolutions being kept within it or not?
---No, no.

20

Do you believe there was such a separate book or not?---No.

THE COMMISSIONER: What would you do with the resolutions- - -?
---You would just put it - - -

Or if it wasn't you, who would take them and store them somewhere?---No, you just put it in the minutes, all the like, what you're going to get passed, the note goes into the minutes book.

30

MR CHEN: And so it's clear, Ms Dates, what you mean is that when the minutes are typed, that itself contained the record of the resolution that may have been passed at that particular meeting, is that the position?---Yep.

Now, the minute book, where ordinarily would that be kept? I should make this clear. The book of minutes that are taken by hand, where would that book be kept?---It's kept in, it's kept in the CEO's office.

And who ordinarily would have access to that minute book?---Staff.

Including who, Ms Dates? All staff, some staff?---All staff.

40

Did you ever have reason to have access to it?---No.

Never did during your time as a board member?---No.

Ms Dates, do you know of a gentleman called Greg Cahill?---I can't recall.

Do you remember a particular developer who was interested in securing a lot, possibly opposite the Charlestown Golf Course on Hillsborough Road?

---No. We, we had a lot of developers come through. Like, probably eight to nine developers, people coming to the Land Council looking for land and buildings.

But you don't remember a gentleman who has been reasonably persistent in attending the board of the Land Council over many, many years, seeking to potentially - - -?---Oh, yes, yes. I can recall.

10 All right. Just so we're talking about the same individual, he was particularly interested in potentially putting a retirement village in that lot on Hillsborough Road. Do you remember that fellow?---Yeah. Yes, I do.

And he's been coming to the Land Council for, certainly during the time you were a board member, on at least a couple of occasions, isn't that right?
---Yep, yes.

That's probably a convenient time, Commissioner.

20 THE COMMISSIONER: All right. Very well. Ms Dates, we're going to continue tomorrow. I take it you made arrangements to be here tomorrow?
---Yes.

So, we're going to resume tomorrow morning at 9.30, if you wouldn't mind being here by that time?---Yep.

Thank you, you may step down.---Thank you.

30 **THE WITNESS STOOD DOWN** **[3.45pm]**

THE COMMISSIONER: Nothing else?

MR CHEN: Thank you, Commissioner.

THE COMMISSIONER: I'll adjourn.

40 **AT 3.45PM THE MATTER WAS ADJOURNED ACCORDINGLY** **[3.45pm]**