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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 WEDNESDAY 19 SEPTEMBER, 2018

AT 10.00AM

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

THE COMMISSIONER: Now, Ms Curtin, just before we call the first witness, just a few matters. Firstly, today's sitting will take a short morning tea adjournment at 11.30, 10 minutes, and then I'll adjourn at 12.30 for luncheon adjournment and we'll resume at 2 o'clock. If there's a need to pick up for the half hour early adjournment for the luncheon period, we'll sit on a bit after 4 o'clock if that's needed in order to complete the witnesses. Now, Mr Petroulias is here. Mr Petroulias just one matter before we get going I thought I should draw your attention to. Firstly, you've made a number of requests to Mr Broad for access to material and I've seen your
10 handwritten note of 5 August, 2018, identifying the documents that you are asking for access to. Just so that you have every opportunity to consider any material or submission you want to put forward in support of your requests, I thought I'd just go through them briefly now, so that you're on notice and you can take these comments on board and it might assist you.

Firstly, in relation to Mr Zong's bank statements, I have to say it seems to me a real issue here as to how those could be relevant, and I understand the argument you want to mount but I think you should give some further
20 thought as to whether it's going to be relevant to any issues that I have to deal with in this investigation. I won't say any more. I just want to put you on notice so that you can give it some more thought and you can address me in due course about that. The second relates to an affidavit – or affidavits, plural – sworn by Mr Zong and provided to the Law Society. My information to date is that Mr Zong did not actually swear any affidavit and provide it to the Law Society. That's based on information provided to Commission officers from somebody spoken to at the Law Society. If you want to make further enquiries about that just to satisfy yourself, then you'll have the opportunity of doing that, but I just thought I'd again put you on
30 notice and we can come back and you can address me further about it. You've also sought notes - - -

MR PETROULIAS: Sorry, Commissioner, just so we're clear, affidavit, you're not using it in a formal sense, loosely any statement signed by him.

THE COMMISSIONER: Well, you've asked for affidavits and I'm just simply dealing with the request as it is at the moment. Affidavits, plural, were sought and I hear what you say and I'll hear from you in due course about out. Notes made by Matthew Fisk, we'll look into that, but again you need to be ready to make a submission as to what's the relevance of those
40 notes to the issues arising in this investigation. Fourthly, you've sought material provided to the Commission by Mr Green. You have said that there were two bundles of documents, one of which has been marked MFI 30. In principle I don't at this stage see any problem in providing those documents to you in the sense of granting you access to them. The matter will be confirmed with you but I think that that's a request which we can meet.

And the fifth area, you made some general requests for all compulsory examinations and documents produced by witnesses in any such examinations. Mr Petroulias, it's not open to you or anyone to make a broad request of that kind. There are restrictions on the availability of such material, as you'd be aware, under the Act. It is always incumbent upon the Commission to ensure that if there's any exculpatory material in such material that that's closely considered for access purposes. The information I have at the moment is that there does not appear to be any what might be regarded as exculpatory material in the material that you've sought access to, but the problem with your request is its general nature and it's simply not permissible for anyone – not just you, but anyone – to make a request in those terms, that they just simply want access to all material which is otherwise not available for public access. So again I'm putting you on notice so that you can give it some thought and decide what you want to do about it. So, Mr Petroulias I'll - - -

MR PETROULIAS: Thank you very much.

THE COMMISSIONER: - - - leave it at that at this stage. I think you can take those comments for what they're worth on board and you can send a written document if you like setting out your position and identifying why it is that you say it's necessary for you to have access to these documents. Mr Broad will receive that document if you transmit it somehow to him and we'll deal with that on that basis and you will be notified if there's any other matters arising in relation to your requests.

MR PETROULIAS: Thank you very kindly.

THE COMMISSIONER: Yes. Very well.

MR CHEN: Commissioner, just before the first witness is called, could I just make two short statements in relation to what you've just dealt with, Commissioner.

THE COMMISSIONER: Yes.

MR CHEN: In relation to the material from Mr Fisk, Mr Broad has reminded me that the advice that – I'll start again. Following Mr Fisk's evidence and the request that was made at that time for Mr Fisk's notes, inquiries were made of Mr Fisk and his lawyers for any notes he had of any conversations dealing with the subject matter of his cross-examination. Mr Broad has reminded me that Mr Fisk's lawyers advised the Commission that Mr Fisk has no notes, so there would not be any material the subject of Mr Petroulias's request.

THE COMMISSIONER: I see. Right.

MR CHEN: The second matter, Commissioner, relates to Mr Broad again has reminded me that the advice that was received by the Commission in relation to the request of affidavits sworn by Mr Zong sent to the Law Society, Mr Broad has told me that he has received advice from Mr Mutton, not the Law Society directly, Mr Mutton was Mr Zong's lawyers, but the fact remains that Mr Zong did not swear any affidavit. Anyway, I thought I should draw those to Mr Petroulias's attention now.

10 THE COMMISSIONER: Thank you. Thank you, Dr Chen. Very well, we'll, Ms Curtin, we'll commence with the first witness for today.

MS CURTIN: Yes, Commissioner. I call Hayley Keagan.

THE COMMISSIONER: Ms Keagan, just take a seat there for a moment.

MR NOTLEY: May it please the Commission, my name is Notley, N-o-t-l-e-y. I seek leave to appear for Ms Keagan.

20 THE COMMISSIONER: Yes, Mr Notley, I'll grant you leave to appear.

MR NOTLEY: Commissioner, Ms Keagan will take the oath and she also seeks the section 38 declaration.

THE COMMISSIONER: She's had section 38 explained to her no doubt?

MR NOTLEY: Yes, Your Honour, sorry, Yes, Commissioner.

30 THE COMMISSIONER: Yes, thank you. Pursuant to section 38 of the Independent Commission Against Corruption Act I declare that all answers given by Ms Keagan and any documents or things produced by her during the course of her evidence at this public inquiry are to be regarded as having been given or produced on objection and there is no need for her to make objection in respect of any particular answer given or document or thing produced.

40 **PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT I DECLARE THAT ALL ANSWERS GIVEN BY MS KEAGAN AND ANY DOCUMENTS OR THINGS PRODUCED BY HER DURING THE COURSE OF HER EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND THERE IS NO NEED FOR HER TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.**

THE COMMISSIONER: Ms Keagan, although witnesses are entitled, quite entitled to the protection of a declaration or order such as I've made, it need hardly be emphasised, but I do nonetheless, that all questions must be answered truthfully. Do you understand that?

MS KEAGAN: Ah hmm.

THE COMMISSIONER: Thank you. Very well. Then I'll have the oath administered. If you wouldn't mind just standing, my associate will administer the oath.

10

THE COMMISSIONER: Yes, take a seat, Ms Keagan. Yes.

MS CURTIN: Ms Keagan, would you tell the Commission your full name, please.---Hayley Kim Keagan.

10 And you're employed by PKF Audit and Assurance Partnership Limited in Newcastle, is that correct?---Yes.

How long have you been employed by that company?---Since May 2010, so eight years.

What is your position?---Manager.

20 What does the position of manager entail in terms of your responsibilities, Ms Keagan?---So I will supervise the audit engagement team on audit engagements, answer queries, deal with clients and perform audit procedures as well.

And what are your qualifications?---I'm a member of the Institute of Chartered Accountants Australia and New Zealand.

You were involved in the audit of the financial records of the Awabakal Local Aboriginal Land Council for the financial year ended 30 June, 2015, is that correct?---That's correct.

30 You worked on that audit supervised by Clayton Hickey, is that correct? ---Yes.

And who else was on the team?---So there was also David Hutchison, who is also an audit manager. There were other staff involved in the procedures as well but I don't recall who they were.

As part of your work on that audit, were you required to correspond with Despina Bakis?---Yes.

40 Who was Ms Bakis, to your understanding?---She was the lawyer and the accountant for the Land Council.

Part of your responsibilities in assisting the audit included the review of the Land Council minutes, is that correct?---Not sure that I reviewed them myself or if I assisted other team members with the review in terms of directing them as to what, what to look at and how to interpret them.

I see. As part of that review, either conducted by yourself or one of your team members, it came to your attention, did it not, that there was an entity

that had some involvement with the Land Council by the name of Advantage Property Experts Limited?---Yes, I saw that in the minutes myself.

What did you do, Ms Keagan, when you saw that reference in the minutes to the Advantage Group?---So I just seeked clarification as to whether there was an executed agreement or something else that may have an impact on the financial report disclosures that needed to be made.

10 Sorry, the representation, the reference in the minutes that you saw to Advantage were to agreements that had been executed, is that right?---Yeah, it made mention of agreements that had been executed, so I think I requested copies of those agreements.

You did that by email to Ms Bakis, I understand?---Yeah, yeah.

I'll take you to a copy of that email, Ms Keagan. It's Exhibit 83, page 33. And you'll see there down the bottom of the page it's your email that you sent to Ms Bakis on the 19th of July. Do you see that?---Ah hmm.
20

And in that email you refer to the minutes that you had reviewed and the reference to Advantage Property Group. Do you see that?---Yes.

And you requested copies of the executed agreements.---Yes.

In the email you also requested, down the bottom of that email, details concerning the Advantage company. Do you see that?---Yes.

30 You received two responses to those requests, Ms Keagan. The first was by email from Ms Bakis at 10.26pm, and that's on page 33, just above your email. Do you see that?---Yes.

But a further response was sent the next morning. Do you recall receiving a further response from Ms Bakis by email?---I received many emails so I'm not sure if it was in response to a specific email or if it was under a separate email.

40 I see. Well, I'll take you to the responses that you did receive, but before we go there I wanted to see if you recalled a further email that you sent Ms Bakis around about the same time. I'll take it to you. It's page 37 of Exhibit 83. It's an email that you sent on 19 July at 9.58pm. Do you see that email there on the screen?---Yes.

And that email discusses entities which the Land Council may have a direct or indirect interest in. Do you see that?---Yes.

What was your concern about these entities, Ms Keagan?---So, I was trying to identify if there were any entities which the Land Council may have

controlled in an accounting sense, which would require that disclosure within the financial report, and also to see whether any entities which the Land Council may have control of may have entered into agreements with other parties.

I see. You noted, did you not, that one of the companies or some of the companies, rather, had been incorporated in New Zealand, is that right?
---That's correct.

10 And that a further company had been removed from the register?---That's correct.

If you go over the page, please, to page 38 of Exhibit 83, you'll see you've got a snapshot there of the companies that had been incorporated in New Zealand and you'll see there that you made an enquiry of Ms Bakis about why the companies had been incorporated in New Zealand rather than Australia. Do you remember that?---Yes.

20 And Ms Bakis responds to that email and you'll see her response begins on page 36 of Exhibit 83. I'll just have you have a look at that, down the bottom of that page.---Yes.

And you'll see there she says, "As you can see from the extract, the entities involved no longer exist."---Yes.

And over the page she says, "The entities involved do not have anything whatsoever to do with the Land Council and are private to Richard Green." Do you see that?---Yes.

30 I take it that in that email you don't recall Ms Bakis answering your query about why the companies had been incorporated in New Zealand?---That's correct.

But do you recall the following day that a further response was sent by Ms Bakis in connection with this enquiries?---Via email?

Yes.---If I could see the email - - -

40 Yes. So, at page 35 of Exhibit 83. You see that Ms Bakis responds again and in that email she attaches the Advantage agreements. That's the first line of the email. Do you see that?---Yes.

And she also provides some explanation as to the location of the incorporation?---Yes.

And you'll see there that she says that the place of incorporation is irrelevant?---Yes.

Did you ever look at the agreements that Ms Bakis attached to the email, Ms Keagan?---Yes.

And what did you notice about them?---That they were draft, unsigned agreements.

So to your mind had Ms Bakis satisfactorily answered your enquiry?---So, no, I wasn't satisfied. So, I believe there was a phone call that occurred to clear up the remaining queries.

10

So you subsequently telephoned Ms Bakis, is that right?---Yes. Actually, I can't recall who initiated the phone call but the, so this wasn't enough for the audit evidence. I needed to do further enquiries and that was dealt with over a phone call.

Before we go to the phone call, the agreements that were attached, I'll just take you to those if I may. The first is on page 48 of Exhibit 83 and that's the collaboration agreement, dated 7 June.---Yes.

20 With the title Awabakal Economic Advancement Strategy.---Yes.

Do you recall seeing that?---Yes, yep.

And that is, as you said, an unexecuted copy?---That's right.

And then a subsequent agreement at page 73 of Exhibit 83. I'll just take you to that and that's also dated 7 June.---Yes, I recall that one.

30 It's entitled the Collaboration Agreement Addendum, and that was also unexecuted.---Yes.

So, Ms Keagan, you said that you subsequently had a phone call. You can't recall whether you called Ms Bakis or Ms Bakis called you.---I'd have to refer to my notes.

We'll go there, Ms Keagan.---Okay.

40 So what do you recall of the conversation that you had with Ms Bakis?
---So I sought clarification on the need to incorporate entities within New Zealand and whether any of those entities were actually incorporated and therefore able to enter into agreements that may have an impact on the audit of the financial report that we were dealing with at the time.

So you discussed with her the purpose of the incorporation of the companies in New Zealand.---Yes.

And can you recall what Ms Bakis said about that?---So the initial part of the phone discussion with Ms Bakis was quite short and then she brought on

her associate and it became a conference call, which is Nick Peterson, and then through the conference call it was then explained that the purpose of the structure was to establish entities within New Zealand because it's more attractive for property developments that way.

So just pausing there. Ms Bakis said that she'd bring on her associate, did she?---Yes.

10 Did she give any further explanation as to who her associate was, other than simply his name?---Just, just his name, associate. I, I was of the understanding he was an employee of Knightsbridge so had been working on the matters.

How did you come to that understanding, Ms Keagan?---Just from the discussion and the way it was explained, my associate, they were in the office at Knightsbridge so I assumed it was another staff member.

As in on that phone call?---Yes, yeah.

20 But what did Ms Bakis say about who Mr Peterson was to you on that phone call?---Associate.

That he is an associate - - -?---Yes.

- - - of mine.---I may need to refer to my notes.

Okay. And so it was then Mr Peterson, was it, who explained the purpose of the incorporation in New Zealand to you?---Yes, yeah.

30 And what did he say?---That the purpose was so that with the New Zealand incorporated entities, they thought it was more attractive for them to enter into property development deals because it was outside of the Aboriginal Land Rights Act then and it was more attractive to investors.

So did you ask Mr Peterson if the reason for establishing the companies in New Zealand was to avoid the effect of the Aboriginal Land Rights Act? ---Yes.

40 And he said that it was?---Yes, in short, that that was the intention.

During the phone call did Ms Bakis mention any other agreements that Awabakal Local Aboriginal Land Council had entered into with Advantage? ---She made it clear that there was nothing that had been entered into or executed because it was still awaiting members' approval.

So did she mention any other agreements other than the two agreements that she had emailed to you on the previous night?---No.

So as far as you were aware, the two agreements that were in existence were the collaboration agreement and the addendum agreement. Is that right?
---That's correct. I didn't take them to be in existence however because they weren't executed so I didn't believe they had any enforceability.

And what did she say to you about them not being executed?---Because they were still awaiting members' approval.

10 Did you request any further documents on that phone call, Ms Keagan?
---I'd requested any draft agreements and the proposal because the proposal was going to provide the understanding for creating the structure within New Zealand.

And did Ms Bakis say that she would provide any further documents to you?---The proposal. I don't think it was Ms Bakis, though. I think it was Mr Peterson that said he'd provide the proposal.

20 And when you say the proposal, what did you understand that to mean?
---So it was going to be the presentation that would be shown to the members that evening to explain how the land dealing would occur to get the members' approval.

I see. And it's your practice to take notes of conversations that you have such as this?---Yes, yeah.

And you did take notes on this occasion?---Yes, as audit evidence, yeah.

30 I'll show you a copy of your file note, Ms Keagan. Would you prefer a hard copy or are you happy to see it on the screen, Ms Keagan?---I'm happy with the screen.

And do you recognise this as the file note that you took of your conversation with Ms Bakis and Mr Peterson on 20 July?---Yes.

And you'll see there that HK, which I take it is yourself - - -?---That's me.

- - - in the second, sorry, third line there you ask the reason for establishing entities in New Zealand - - -?---Yes.

40 - - - was it to avoid the ALRA land-dealing regulations?---Yes.

And further down the file note you say that Ms Bakis brings in her business associate, Mr Peterson.---Yes.

And then further down the page you've recorded that Nick responded that, in short, yes, the entities are in New Zealand to bypass the ALRA requirements. Do you agree with that?---Yes.

And further down the page, Ms Keagan, you'll see that you've written, "DB explained that the New Zealand entities are still being established so there is no signed agreement with Advantage." Do you see that?---Yes.

Ms Keagan, Ms Bakis has given evidence to the Commission that she informed you over the telephone that she did have the signed or executed agreements between the Awabakal Local Aboriginal Land Council and Advantage but that they were in her office and that there was no way she would be able to get copies of them to you that day. Do you recall her
10 saying anything to that effect?---No.

And you don't recall her saying that in that conversation or at any other time?---No, because that would have had a very different impact on the audit if that was the case.

I see. And if she had said anything to that effect, your file note, I take it, would also have recorded that?---Yes.

And I take it also that at no stage did Ms Bakis disclose in this phone call or
20 at any other time that there were two call option agreements involving the Land Council and Advantage.---No. I had no knowledge of the call option agreements at the time of the audit.

And if she had disclosed those agreements in this phone call, you would have written that down also on this file note, is that right?---Yes.

And you would have wanted to review those agreements.---Yes.

Ms Keagan, towards the end of your file note, over on the second page,
30 you've written, "DB to send over supporting documents for the Advantage deal." Was that the proposal that you were referring to earlier in your evidence?---I believe it was the, I've asked for any documentation or correspondence relating to the Advantage deal. So it was just a general comment for all correspondence so that I could review it.

I see. But did Ms Bakis in fact send over any other supporting documents?
---Apart from those unsigned agreements, I don't believe I received anything else.

40 And just staying on that page, the second paragraph, up the top, you've written "HK requested clarification on how ULC relates to any of this." Do you see that?---Yes.

Do you recall what that was about?---United Land Councils. It was an entity that we identified had been established and had a connection with Richard Green, so we wanted to understand if that related to the Land Council and if there was any need to disclose it as a related entity or look into transactions that that entity may have entered into.

And what did Ms Bakis say to that?---That it was not related to the Land Council. It was a private entity of Richard Green and that the way in which that entity was going to operate was quite different to what the Land Council was doing.

So I take it that she did not at any stage say that ULC was related to this deal that Awabakal was entering into with Advantage?---No.

10 Ms Keagan, earlier this morning we discussed the Awabakal LALC Trustees Limited company that you had searched for and found had been removed from the register in New Zealand.---Yes.

Did Ms Bakis ever disclose to you on this phone call that that entity had been incorporated in January 2016 but that no steps had been taken to remove it from the register until 15 July, 2016?---I don't recall.

20 Did she on this phone call give you any further details about that particular entity?---I don't recall. If it's not in my notes, I'd say no.

So if she had given you any further information about the entity, you say you would have recorded it on your file notes, is that right?---Yes, yeah.

I take it then that Ms Bakis did not disclose to you in that phone call that that particular entity, namely Awabakal LALC Trustees Limited, had been a party to the Advantage agreements that she had sent to you?---I wasn't aware.

30 She didn't discuss that with you in the phone call?---No.

Did she tell you that Mr Green and Mr Petroulias had an association with that entity?---No.

And would that have been important information for the purposes of the audit that your firm was conducting?---Yes.

Yes. Commissioner, I tender the file note of Ms Keagan, dated 20 July, 2016.

40 THE COMMISSIONER: Yes. Ms Keagan's file note, 20 July, 2016, will be admitted to become Exhibit 115.

**#EXH-115 – FILE NOTE BY HAYLEY KEAGAN RE ALALC
DISCUSSION DATED 20 JULY 2016**

MS CURTIN: Sorry, Ms Keagan, I've taken you to the Advantage agreements that Ms Bakis emailed to you on 20 July. Did Ms Bakis ever disclose to you a further agreement that had purportedly been entered into by the Awabakal Local Aboriginal Land Council with a company by the name of Gows Heat?---No.

She never mentioned that agreement to you?---No.

10

And she never provided you with a copy of that agreement, I take it?---No.

Thank you, Commissioner. I have no further questions.

THE COMMISSIONER: Yes, thank you. Yes, is there any questions of Ms Keagan, Ms Bakis?

MS BAKIS: Commissioner, Ms Nolan is at NCAT. She's due to arrive in about half an hour. Should we wait for her to ask questions or can I ask my own questions?

20

THE COMMISSIONER: Sorry, where is she?

MS BAKIS: She's at NCAT. She's in another court. Sorry, I know. Should – I know - - -

THE COMMISSIONER: Well, that's far from satisfactory.

MS BAKIS: I know.

30

THE COMMISSIONER: There's been nothing said or notice given to the Commission about her - - -

MS BAKIS: I didn't know about it until this morning, so – I have questions, I can ask them myself. There's only two or three or we can wait.

40

THE COMMISSIONER: Well, Ms Bakis, what I think we'll do is, in the interest of keeping things moving, I'll let you put any questions you wish to Ms Keagan and then we can reserve the position as to whether or not further questions will be allowed by Ms Nolan if and when she arrives.

MS BAKIS: Yes, okay.

THE COMMISSIONER: All right. You go ahead then.

MS BAKIS: Hayley, I'm Despina. Nice to meet you. Do you agree we were under intense time pressure to finalise this audit?---There was a bit of time pressure, yes.

Yes. Good. And you stepped in at a very late stage, as in a week or two before the deadline?---I began assisting towards the end.

Yes. So, you weren't privy to anything that had happened before that date? Well, in terms of my involvement and discussions I had with other people, et cetera?---I had full access to our audit files and - - -

10 THE COMMISSIONER: I'm sorry to interrupt you. Could you just talk towards the microphone so that – perhaps if you could just start again, yes. ---Yep. I had full access to our audit files and our audit files contain notes about all of our discussions and all correspondence that had been received to date, plus I had a briefing from the audit team and the audit partner.

And had you time to look at the file, the notes in file relating to this matter? ---Yes. Before I commence any audit procedures, as usual practice, I will obtain an understanding of the engagement of the client and obtain a briefing.

20

MS BAKIS: You had told me that the audit had been sent to Sydney for a second review, is that correct?---That's correct.

Yes. Why was it sent for a second review?---Because that occurs on occasion. We have a second partner review for quality assurance reasons. That is part of the audit strategy which is set by the audit partner.

30 So, when you mentioned people on the team, such as Clayton Hickey, David Hutchison, there were in fact other people on the team?---Yes, there are other people on the team.

I'm just going to the Advantage documents, the supporting documents that we just went through in that last file note that you saw. Did you ever follow me up for those documents that I said I would send you?---I believe you provided them, you provided me with everything that you had available.

On the day of the audit?---Yes.

40 And you were satisfied for the audit that you had everything you needed? Signed documents and everything?---Yes, I believe after our phone discussion that the queries had been answered in relation to the agreements that I had had on hand were the draft unsigned ones and that there was no further information to be provided.

But why didn't you ask for the signed ones on a further occasion, on another occasion?---I wasn't aware that they existed.

Right. That's all my questions, Commissioner.

THE COMMISSIONER: Yes, thank you, Ms Bakis. Anybody else? No. Then, yes, anything else?

MS CURTIN: No, Commissioner.

THE COMMISSIONER: All right. Thank you, Ms Keagan. There is an outside possibility that if and when Ms Nolan turns up she might have a question for you. Now, I'm not going to ask you to wait around. Are you
10 working in the city here? What's your position? What's the balance of convenience for you? To wait around for half an hour or so and see if Ms Nolan turns up in that period? Or do you want to leave and one of the Commission officers can make contact with you during the course of the morning? What's the balance of convenience?---So I will probably be around the city until 2.00pm.

And you're contactable by mobile phone or something like that?---That's right. On the mobile.

20 You'd prefer to do that?---Yes, please.

All right. Mr Notley?

MR NOTLEY: I'll just indicate, Commissioner, if Ms Nolan could indicate as soon as she arrives whether further cross-examination is required because I will have difficulties coming back at 2 o'clock this afternoon.

THE COMMISSIONER: Yes, I appreciate it affects you as well as - - -

30 MR NOTLEY: I'm here now, so - - -

THE COMMISSIONER: I'm trying to handle the situation - - -

MR NOTLEY: I appreciate that, Commissioner. I appreciate that.

THE COMMISSIONER: - - - with an unknown variable.

MR NOTLEY: Yes.

40 THE COMMISSIONER: So, well, Mr Notley, if you'd like to leave your contact number.

MR NOTLEY: I will.

THE COMMISSIONER: And Mr Broad will make contact with you and keep you up to date with what's happening.

MR NOTLEY: Great. Thank you, Commissioner. Can I otherwise be excused.

THE COMMISSIONER: Yes, indeed, you're excused on that basis. Thank you, Ms Keagan.

THE WITNESS STOOD DOWN

[10.42am]

10

THE COMMISSIONER: Yes.

MS CURTIN: Commissioner, I call Sophia Anna.

MR RAMRAKHA: Commissioner, she was here. She was sitting at the back. Can I just go find her?

THE COMMISSIONER: Yes, certainly, yes.

20

MR RAMRAKHA: Oh, she's here. Ramrakha again, Commissioner.

THE COMMISSIONER: Yes. Just take a seat there for a moment, Ms Anna. Mr Ramrakha, you seek leave to appear on behalf of Sophie Anna?

MR RAMRAKHA: Yes. Yes, I do.

THE COMMISSIONER: Yes. I grant leave.

30

MR RAMRAKHA: Thank you, Commissioner. Ms Anna will be taking an oath. We're also seeking a declaration pursuant to section 38 of the ICAC Act, the effect of which has been explained to her.

THE COMMISSIONER: Thank you. Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by Ms Anna and any documents or things that may be produced by her, or during the course of the evidence to be given by her, are to be regarded as having been given or produced on objection. Accordingly there is no need for Ms Anna to make objection in respect of any particular answer given or document or thing produced.

40

PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY MS ANNA AND ANY DOCUMENTS OR THINGS THAT MAY BE PRODUCED BY HER, OR DURING THE COURSE OF THE EVIDENCE TO BE GIVEN BY HER, ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION. ACCORDINGLY THERE IS NO NEED FOR MS

ANNA TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.

THE COMMISSIONER: Ms Anna, you understand that you are, however, under an obligation to answer all questions truthfully. You understand that?

MS ANNA: Yes.

10

THE COMMISSIONER: Thank you. Now, I'll have my associate administer the oath so that you can then proceed to give evidence.

<SOPHIA ANNA, sworn

[10.44am]

THE COMMISSIONER: Thank you, Ms Anna. Just take a seat there. Yes.

MS CURTIN: Ms Anna, could you tell the Commission your full name, please.---Yeah, Sophia Anna.

10 Do you sometimes also go by the name Wotherspoon?---No, Wotherspoon is my maiden name.

I see.---My legal name is Sophia Anna.

You commenced working as the acting or interim CEO of the Awabakal Local Aboriginal Land Council on or about 8 August, 2016, is that right? ---Yes.

You were initially appointed for a period of six weeks?---Yes.

20 THE COMMISSIONER: Just before you go on, is the microphone working properly so - - -

MS CURTIN: I'll endeavour to - - -

THE COMMISSIONER: No, it's all right. I just wanted to make sure everyone can hear. So, okay, good. Thank you.

30 MS CURTIN: But your contract of employment was subsequently extended by the board for a further four weeks. Is that correct?---Yes, I think so.

So your contract with the Land Council ultimately finished on or around 19 October, 2016?---I think so.

And that was around the time that Mr Lawler was appointed as the administrator of the Land Council?---I believe so, yes.

40 When the administrator was appointed you weren't in fact working at the Land Council, you were on a Workers Compensation claim. Is that right? ---I had left and I think it was, I don't think I was actually on Workers Comp at the moment, I had put in a claim for Workers Comp I think a week maybe prior to Terry coming in, I'm not - - -

THE COMMISSIONER: So Ms Anna, could I ask you just to move towards, closer to that microphone, that might - - -?---Is that better?

Yes, that's - - -?---Okay.

I think that's working.---Okay, sorry.

Just tap it and see if it's working. Yes, that's good. Okay. Thank you.

MS CURTIN: I see. But did you spend any period of time in your role as CEO after Mr Lawler had been appointed?---No. He did advise me that he would keep me on for four weeks. After being abused I just said, "I can't do it." And I didn't continue in the role after probably a week or two when Terry was in.

10 You came to be the interim CEO after addressing the board of the Land Council at a board meeting on 5 August, 2016.---Yes.

Theresa Dargin was the newly-appointed chairperson of the board at that time. Is that right?---Yes.

And was it Ms Dargin or Ms, is it Ms Dargin or Ms Towers, is that - - -?
---I know Theresa as Towers but her married name is Dargin.

20 I see. So was it Ms Dargin who asked you if you would be interested in filling the role of interim CEO of the Land Council?---Yes.

And it was at the board meeting of 5 August that you spoke to the board. Is that right?---Yes.

And after speaking to the board you commenced working as the acting CEO on 8 August?---That sounds about right, yes.

30 Who else was working at the Land Council when you commenced your role as interim CEO?---Candy, Tamara and Pete.

THE COMMISSIONER: Sorry, I can't hear you.---Sorry, Candy, Tamara and Pete.

MS CURTIN: And when you say Candy, you mean Candy Towers?---Yep, Candy Towers, I'm not familiar with Tamara's last name, maybe Towers, and I can't think of Pete's last name, I'm sorry.

Pete Townsend. Is that right?---Yes, that's it.

40 And very soon after starting your role, you arranged a meeting with Despina Bakis and Mr Petroulias. Is that correct?---Yes.

When was that meeting, do you recall?---I believe that was in the first week of, of being in the Land Council.

I see. So would around the - - -?---So maybe a Wednesday, mid-week maybe.

If I said 10 August, 2016, does that sound about right?---Sounds correct.

And why did you arrange that meeting?---I attended the members' meeting at the Croatian Club. It was very, rather aggressive, inability to communicate.

10 THE COMMISSIONER: Inability to?---Communicate. Ray Kelly, Sean Gordon, very aggressive. They stood up the whole time. People were trying to correspond and talk, they weren't given that opportunity, become very hostile with members. I think Theresa herself stood up and, you know, tried to get some organisation within the meeting. So when I was given the opportunity to fill in that role temporarily for the Land Council I said to Theresa and also Despina that it's, I think it's very important to have a very clear understanding of the issues surrounding the Land Council. I wasn't very familiar, I'd never worked in a land council, but I picked up very quickly at the meeting, so when I come into the Land Council and on my first day Debbie come in and sat down and told me, you know, spoke a lot about, about issues, Richard did the same, so I got the feeling that for me to even be in any position to have some, some sort of, you know, calmness within the Land Council it was important to have my own conversation with Despina to understand her role, I wasn't familiar exactly what her role was.

MS CURTIN: But you understood that Ms Bakis was the lawyer for the Land Council?---My understanding that Nick was the lawyer and Despina was the accountant. So for me it was clarification, it was also for Theresa, Theresa was new to her role, it was very beneficial for both of us and also Despina and Nick so we could all be open and honest about whose job is what, what's going on.

30 And when you say – sorry to interrupt, but when you say you understood that Nick was the lawyer, you mean Mr Petroulias?---That was my assumption. I, that, that's what I believed him to be. He spoke as the lawyer at the members' meeting that evening.

Did you ever hear him say that he was acting as the lawyer for the Land Council?---I can't remember. I just remember the, the hype of the meeting was the, the Awabakal Land Council's accountant and a lawyer will address the members and answer questions. So, it was just my - - -

40 And that person who did that was Mr Petroulias?---Yeah. So, Richard, yeah, well he was talking and then there was a lot of commotion going on and I was sitting up the back, so it wasn't very clear. There was a lot of yelling but Nick tried to address the board members. It was, it wasn't going anywhere. I think Clayton even tried to address the members and it was just, it was a very hostile environment.

And in any case, so you decided to arrange a meeting with Ms Bakis and Mr Petroulias shortly after coming into the role of interim CEO?---Yes.

And Ms Dargin accompanied you, you said, to that meeting?---Yes.

Shortly after that meeting, in a matter of weeks, you did come into conflict with Ms Bakis, is that right?---Yes.

Do you recall asking Ms Bakis for copies of the service contracts that the Land Council had entered into?---Yes.

10 And why did you do that?---So on a Sunday, Theresa called me upset and frantic and her Auntie Jaye, she was a board member - - -

THE COMMISSIONER: I'm sorry, I can't hear you. You'll have to keep your voice up.---Sorry.

Just move again closer to the microphone.---The Sunday prior to, on a Sunday, Theresa called me upset and frantic that her Auntie Jaye, which was a member of the board had rang her upset, she wanted to get off the, the signatory off the accounts in the Land Council and because she had noticed
20 that Despina had transferred around \$300,000, from her calculations. Theresa was very distressed, Auntie Jaye was distressed. So, we met at the Land Council on a late Sunday evening. My father and my best friend came with me and Jaye was, you know, upset and I just said, "Let's just get this information." I noticed myself, the transactions that were coming out. I noticed that, one, they weren't bound by the legislation of the Land Rights Act. You know, so the, no, no, no payments were being approved, so I thought, well, there's an issue here. Having no, I didn't really know what to do, it was Sunday, so I took it to Ray Kelly's house and I said to Ray,
30 "Here's a copy of the bank statements. Jaye's rather concerned. I think I'm concerned." He said, "Soph, you need to get some independent legal advice." I said, "Yes." So, the following Monday, I think, was the start of the, the audit and I am, I can't remember if it was the Monday Ray and I went to seek this legal advice or if it was the Tuesday following the legal advice, she wrote down, "This is a serious matter, Soph. What I want you to do is," she wrote down the names of the people within the bank accounts that money was being transferred in to and she said, "Ask Despina for a copy of the service contracts" And I, I did. Despina was rather - - -

40 MS CURTIN: Can I just, we'll just pause there.---Sorry.

So, what you wanted to do was to understand the basis upon which Ms Bakis, in her role as accountant I take it, was making payments to third parties from the Land Council accounts, is that right?---Yeah. I wanted to make sure the board were aware because if Jaye wasn't aware of these transactions, then clearly the, the board wasn't, then I thought maybe these are transactions made from the old board, but then I was aware there was such a substantial time between the old board and the new board, so I said to

her, "It's very important that we get these and I can give the, a copy to the board so the board are all aware of payments going out."

When you said, you said to her, you mean you subsequently had a conversation with Ms Bakis when you asked her for copies of the service contracts?---Yeah. I just said, "Look, Despina, can we get a copy of the service contracts with all the people that you're transferring moneys from the, the Awabakal Land Council and who you're, like, transferring them out to, so I give them, a copy to the board."

10

Whenabouts was this? Was this in early August?---So, this was the start of the audit week. So that maybe was the second week of me being in the Land Council. I can't remember.

So, mid-August do you think?---So, whenever the audit was on, yes. The audit team were in the Land Council when I asked Despina for a copy of those.

20 An audit report was delivered to the members on 20 July, 2016. Is it possible that you're confused about the timing there?---No, no, no. See, so we had a clean-up day which has been a focal point here. So, I was, oh, sorry.

Well, I'll take you - - -?---So, there reason I know I haven't got - - -

THE COMMISSIONER: Just pause there.---Oh, sorry. Thank you.

30 When you're asked a question just answer the question as best you can without giving a long statement.---Oh, sorry.

I mean, I'm not restricting you in how long your answers are but just stay with the questions that are being put and deal with those as fully as you can and the other matters that you might want to deal with will probably come up in later questions.---Okay. Sorry.

40 MS CURTIN: That's all right. So in any case, you're certain that it was around mid-August or shortly after you commenced working as interim CEO that you asked Ms Bakis for copies of the service agreements?---I know it was the audit because that's the only, there was only two days Despina was at the Land Council and they're the days that I asked her and I only saw her once again in the Land Council after that, so, yeah, it would have been mid-August.

And did you also ask Ms Bakis for a copy of her cost agreement with the Land Council?---I can't remember.

Can you recall asking Candy Towers to look for it?---I may have asked Candy if she had copies of the service contracts between all the people that

Despina was paying and I probably would have asked her for a copy of Despina's contract with the Land Council so we could have that on file. I never got any copies so I'm not too sure. Despina was going to - - -

Well, I'll take you to a copy of each of the cost agreements that Ms Bakis had with the Land Council. The first is Exhibit 43, page 1. It should come up on the screen before you. Can you see that's dated 28 November, 2014?
---Okay.

- 10 And it's addressed to the Awabakal Aboriginal Land Council and the directors of the Land Council and if you go over the page for the schedule of work and then the next page. So if we just scroll down, again you will see there there's the cost disclosure statement and the client service agreement. Do you recall ever seeing a copy of that document?---No.

And you're sure about that?---Dated 2014?

Yes.---I'm pretty sure I didn't see it.

- 20 And then there's a subsequent cost agreement and that's at Exhibit 42, folder 1, page 162 and that's dated 27 November, 2015. Do you see that?---Yes.

And you will see there the same format, cost disclosure statement and client service agreement of 2015. Did you ever see that document?---No.

The third cost agreement is found at volume 15, page 162 and I'll just take you to that one. It's dated 7 June, 2016. You'll see that's entitled Confirmation of Variation of Retainer and Engagement.---Yeah, I think that's the one I saw. I think that's the one Despina gave us.

- 30 So when you asked Ms Bakis for copies of her cost agreement with the Land Council you believe she gave you a copy of this?---I believe she gave, I believe, I remember seeing something like that, yeah, similar to that lying around after a board meeting.

Do you also recall asking Ms Bakis for an itemised bill with respect to the legal work that she had performed for the Land Council?---I may have. I can't recall right now, no, I'm sorry.

- 40 Well, I'll take you to a copy of the board minutes for 24 August. I take it that you started attending the board meetings?---No. I was sort of disgruntled and sort of shunted away from the board meetings. I think I only attended maybe two or three in total.

Well, if I take you to the minutes for the board meeting on 24 August. That's at volume 17, page 130. You will see those are the minutes from 24 August, Ms Anna?---Oh, yes. Sorry. Yes.

And can you see that your name is there as one of the attendees at the end?
---Yes.

Sophia Anna.---Yes.

And if we go to, scroll over to page 133, down the bottom of that page, can you see there in the final paragraph, “Recommendations. Itemised accounts, open communication”?---Yes.

10 Can you recall that discussion?---It was more of trying to get the discussion. It was a very heated board meeting. Again, it was communication within the board meetings weren't very, very easy, so, yeah, I do remember the conversations being trying to be made, yes.

And would that have been instigated by you?---I tried to initiate that the board needs to be able to listen and everyone have something to say. I did suggest that itemised bills, you know, and accounts need to come through the board. The board needed to make those improvements in line with the Land Rights Act and, and to have open communication in the terms of, you
20 know, listening and corresponding by listening and talking back. And, yeah, I, so those conversations were always tried. I always tried to emphasise those, yeah.

And if you go over the page, then, to page 134, you'll see also a reference towards the top, “Individual contracts that lawyers engaged.” And - - -?
---Sorry, up - - -

“Individual contracts that lawyers engaged.”---Oh, yes, yeah.

30 And you'll see a couple of lines further down, “Sophia calls for transparency, respect. Itemised account to be presented to the board.”
---Yeah, okay.

So is that commensurate with your recollection of the requests?---Yeah, I think I was trying to ask that, yeah, all, all accounts come through the board, itemised accounts come through the board.

So those minutes accord with your recollection of the conversations that you have with Ms Bakis around this time, is that right?---I don't know if I had
40 them with Ms Bakis directly but I certainly had them with the board, yes.

You'll also see in those minutes towards the top of the page it says, “Knightsbridge North Lawyers have tabled their notice of intention to cease to act.”---Oh, yes.

Do you recall Knightsbridge North Lawyers and particularly Ms Bakis tabling her notice of intention to cease to act at that meeting?---I do.

But it wasn't at that meeting that they did cease to act for the Land Council, was it?---I don't believe so. I believe it was Ray Kelly verbally abused Despina and we were seeking an apology and some open communication regarding the situation of the hostility between Ray and Despina, and I from memory believe that Ray – I can't remember exactly but I believe that the situation was resolved, that Ray may have been sorry and Despina may have accepted it. I'm not sure if this is, I think that was the first notice she gave and then I think, yeah.

10 I see. So it was a couple of weeks later, do you recall, that this question of Ms Bakis and Knightsbridge North Lawyers no longer continuing to act for the Land Council came up again?---Yes. She did serve the same papers but she also included me in that.

I see. So I'll take you to the minutes of the board meeting on 9 September. It's at volume 17, page 155. Do you recall attending this meeting, Ms Anna?---On 9 September?

20 Yes.---I'm not sure. Because I missed quite a few, I couldn't tell you which ones I attended or – I, I wasn't told of many of the board meetings so I couldn't, I'm not sure if I was there or not.

Well, look, I believe you were.---Okay.

If we go down to page 157, there's a motion there, "Sophia to engage Nicholas Dan to make Nicholas Dan our new representative." Do you see that?---Oh, yeah. So this was further down – yes, I did, oh, no, my screen's, oh, yeah. Oh, yes, I do see that.

30 And do you recall the board resolving to retain Mr Dan of Bilbie Dan?
---Yes.

40 What role did you have in the board determining to retain Mr Dan as the lawyer for the Land Council?---It wasn't at my discretion. I said, I think Larry made a motion or to cease litigation in regards to State Land Council and the Minister and the register. Larry was pushing for that. Then, then that was resolved. They just, the board decided to cease litigation. I actually stepped out of the room. I said I don't think this is an appropriate situation or appropriate for me to make that decision. This is a decision that they needed to make. They had all the information. Debbie recommended Nicholas because he was, she had, he was a good friend of hers and she's represented him and she said, you know, he can come in here, he has an understanding, he knows the Land Council. So the board, that's what the board voted and they asked me to get in contact with Nicholas.

I see. And that's what you did?---Yes.

And you'll see in accordance with the evidence you've just given that the motion - - -?---Yeah.

- - - directly beneath the one - - -?---Oh, okay.

- - - to engage Mr Dan - - -?---Oh, yes.

- - - refers to ceasing litigation on the part of the Land Council against the Registrar and the Minister. Do you see that?---Yes.

10

So that decision was made by the board at that time also, was it?---Yes.

And after that point I take it, then, any further need that the Land Council had in terms of legal advice or legal representation was through Mr Dan. Is that right?---I believe so.

And you had no further communications with Ms Bakis?---No, not, not from memory, not really, no.

20

Ms Anna, I believe you were in attendance yesterday when some evidence was given with respect to disposal of documents at the Land Council. Shortly after you commenced working at the Land Council you organised a clean-up day. Is that right?---Yes.

THE COMMISSIONER: Sorry, did you?---Yes.

MS CURTIN: And you discussed the prospect of having a clean-up at a staff meeting. Is that right?---Yes.

30

And then you tasked Ms Towers, Tamara Towers, with organising a skip bin?---Yes. Candy sort of took initiative, she was, she always took initiative in things and I allowed her to take that initiative. She organised a skip bin.

So it was Ms Candy Towers, not Tamara Towers, who organised the skip bin?---Well, Candy, I'm not sure if it was Tamara, but Candy said to me, "Soph, I've organised a skip bin, it'll be here tomorrow. It'll be here for three days over the weekend and get picked up on Monday." I said, "Okay."

40

So there was a staff meeting on 5 August which was your first, sorry, 8 August, which was your first day at the Land Council.---Yes.

And it was at that meeting that you determined that there should be a clean-up?---Yeah. The Land Council was filthy and lot of broken furniture, old furniture, a lot of papers, a lot of like, food, like, like it was just, it needed a good clean, and I said, and you know, most importantly it was for OH&S reasons and also, you know, part of the funding through State, State Land Council, one of the requirements is the checklist, you know, OH&S, you

know, is chairs, tables are clean, you know, files and accounts and everything. So the priority was to get the Land Council in, in, in an organised state so - - -

Yes. And so the clean-up took place on the Friday, 12 August, a few days after that meeting?---Yes.

And was that the only time when you were acting as CEO that you organised a skip bin to be delivered to the premises of the Land Council?
10 ---Yeah, I didn't, didn't organise any skip bin to go to the Land Council.

But you - - -?---Oh.

- - - tasked someone with the responsibility of organising that skip bin?
---Oh, sorry, yes, just that once, we only had one skip bin.

Yes.---Yeah.

When you were the acting CEO, that was the only time that you saw a skip
20 bin on the premises?---Oh, yeah, yeah, we only had one.

And were you there on the day that the clean-up took place?---So I arrived about 10.30 and, or sorry, 9.30, and I left around 10.00 and I came back about, well, it was lunchtime because Candy and Tamara asked if they could go and buy some hot chips, fish and chips for everybody for lunch. So that, it was, so it could have been 1.30, it could have been 2.00, it could have been - I'm not too sure. I just know it was lunchtime when I got back and everyone was hungry.

30 When you got back. And who else was there on that occasion?---So the Green Team was there, I'm sorry I'm not familiar who they were, the staff, all the Green Team staff, Candy, Tamara, maybe Tamara's girlfriend, I think Theresa may have been there, Debbie was there, I think Aunty Jaye might have been there, I'm not, that's vague memory.

Was Mr Townsend there?---Oh, Peter, yes, Peter was there.

40 Did you see what was thrown out into the skip bin?---No. So when I arrived the skip bin was reasonably full and the Green Team were smashing and breaking down old furniture and I said, "Oh, are we going to fit that in the bin?" And they're like, "It's okay, we've broken it all down." And I'm like, "But it's hanging over the edge, like, is it going to get picked up?" And so it was pretty much full by the time I got there and when I got back the job had pretty much finished because Candy said, you know, "We've pretty much finished." And I'm like, it was overflowing pretty much, I was concerned that - - -

Did you see any documents in the skip bin, Ms Anna?---No.

Ms Candy Towers has given evidence that there were certain papers obtained from the CEO's room, the boardroom and the reception that were contained in folders that were then placed in the skip bin.---No.

You say that's incorrect, do you?---Well, I didn't put any folders in there and I didn't see any folders in there and my instructions eminently were, "Please do not throw out any paperwork. Put all the paperwork into the boardroom".

10

You gave those instructions, did you?---Yes.

To whom did you give those instructions?---I gave them to Candy. I might have even said it to the other staff but I was aware the Land Council was a non-functioning Land Council prior to the clean-up. I aware, I was aware that the Land Council, the paperwork's the most important thing, documentation's the most important thing. So, whatever issues were happening and had been happening for a duration of a long time, the paperwork needed to stay in the Land Council. So, my main focus of the clean-up was to get the old furniture out and get every, all the paperwork, all the folders into the boardroom and the boardroom was a secure sort of room where they kept other paperwork. So, it was a priority for me to get all the paperwork into one room, sort it out. I had papers all over the board table. I had documents and papers all around the skirting boards and eventually a couple of weeks later I said to Candy, "I need you to order me some new folders because we need to file this", and she's like, "What do you need it for?" and I said, "Because we need this information and we need this documentation." So, for me to throw out folders, it's, it wasn't even in my, on my radar. It was more important to keep the folders and it was mostly that was the emphasis of the clean-up, to get all of the documents, all the paperwork in to one room, secure and available for the audit.

20

30

I see. So, you deny throwing out any paperwork belong to the Land Council or on the Land Council's premises?---I didn't do any, I didn't throw any out, no.

And in fact, you gave express instructions that no paperwork was to be thrown out?---Yes.

40

If you had seen folders or papers in the skip bin, what would you have done, Ms Anna?---I would have got them out.

I see. Did Ms Towers ever raise with you that documents belonging to the Land Council had been thrown out?---No.

Did anyone else raise that issue with you?---No. Everyone just kept telling me, "Look, Soph, look, look how great we've done getting all the furniture and all, all the furniture in, in the bin." Nothing was ever - - -

And Ms Dates has given evidence to the Commission that you did in fact throw out a lot of papers belonging to the Land Council.---No.

THE COMMISSIONER: Ms Dates, was it Ms Dates or - - -

MS CURTIN: Ms Dates has, yes, Commissioner.

THE COMMISSIONER: Yes.

10

MS CURTIN: What do you say to that, Ms Anna?---Who, sorry is - - -

Ms Dates, Debbie Dates.---Debbie said I threw them out?

Yes.---No. Well, then that's a lie.

Did Ms Dates ever raise that with you?---No.

And what about Mr Dargin?---As in Theresa?

20

Yes.---No. Theresa was actually with me and our plan was to keep all the papers as much as we can in the, into the room. We actually had discussions how important it was to keep all the information and document and paperwork into the room because she was aware, just like myself, that the Land Council was not in a good, not in a good position. So, you know, she said to me, "Let's just get everything and get it in the boardroom." I said, "Yes, that's what we've got to do." So - - -

30

Are you aware, Ms Anna, that a complaint was written to the Registrar in around September, 2016. By Ms Bakis about this issue of the disposal of documents by you?---No.

So, you don't recall seeing a copy of that letter?---No but, but a meeting was arranged by Steve Merritt for me to meet the registrar and he was very abusive and told me I had no grounds to go to ICAC and I had anything that, that I knew or had any idea of any of the information, had no ground and so when I did see that letter, I sort of made sense to why, I couldn't understand why that meeting was arranged, why he wanted to meet me. I couldn't understand why he was very aggressive and at me and very direct and - - -

40

THE COMMISSIONER: Sorry, this meeting you're talking about, who was it arranged by and who was present?---Steve Merritt.

Steven Merritt, right. What was his position then?---Well, he just – well, I'm not too sure. The whole thing was confusing. I didn't want to go. I said I don't feel comfortable meeting yourself or Steve Wright outside of a building and Steve Wright was, and that I'm not to be seen with him or seen at their office so we met at some shopping centre. He was very aggressive.

Steve Wright said to me, "I wasn't aware that was going to happen, Soph. I'm very sorry." And none of it made sense to me. I didn't understand but when I read the letter that Despina had wrote things started to make sense.

MS CURTIN: So just putting this in some kind of point in time. The letter that I'm talking about – and I'll take you to it – is dated 16 September. I take it you didn't see that letter at the time that it was sent?---No.

No. But subsequently you saw it. Is that right?---Yes.

10

I'll just show you a copy of the letter, Ms Anna. It's at volume 17, page 185 and you will see, yes, do you recognise that as the letter that was written by Ms Bakis to Mr Stephen Wright on 16 September, 2016?---That's the one that I read here?

Yes.---Yeah, I think, believe so.

THE COMMISSIONER: When did you, when were you shown this letter?
---In the private hearing. I never saw it prior to the private hearing.

20

Before then were you ever aware of this document and the allegations made in it?---Despina I know didn't like me and accused me of saying that I was accusing her of things.

She was saying what?---Despina said that I was accusing her of things. She's, the second time when she was going to cease to act she incorporated suing myself and the Land Council 250,000, myself personally and the Land Council if they didn't end my contract by 12 or some, sometime of the date of the letter and so I knew Despina, she just did not like me. I didn't know she'd sent this letter but I met with the Registrar. It was, I think it was the Thursday prior to the long weekend in October. A lot of people were saying a lot of bad things about me.

30

MS CURTIN: Thank you, Commissioner. Ms Anna, I'm just going to take you just down to the bottom of the page and it refers to, what's referred to as "The disposition of LALC files and records without authority and expressly contrary to warning given to her by Ms Dates." Do you see that?---(No Audible Reply)

40

THE COMMISSIONER: It's got three points there. They're numbered 1, 2 and 3.---Yeah.

And your attention has been drawn to the first of those.---Okay.

MS CURTIN: And you deny, do you, that Ms Dates ever gave you any kind of warning about - - -?---I don't deny it. It didn't take place. Debbie, Debbie never at all once, if anything all she ever said is I feel sorry for you. You've been treated badly. She would send me a text message contrary to

the same, the same, saying that I'm saying, she always tried to console me, tried to say you need to speak up, Soph. You haven't done anything wrong, Soph. So for me to read this is, it's - - -

I understand. It's distressing. So Ms Dates never told you not to throw out any documents and she never had cause to. Is that your evidence?---Yeah.

10 Point 3 refers to the disappearance of LALC minute books and supporting documentation.---So there was a lot of, always after board meetings there was always issues with the, the minutes book. Candy was very protective and possessive of the minutes book. Ray Kelly actually took the minutes book home one night. He picked it up and put it under his arm and left. He said, "I'm not leaving it here. I don't trust anybody." There was so much aggressive, aggressiveness and issues surrounding this minutes book.

20 Just pausing there, though. I take it that no member of the board or anyone else ever raised with you any issue about the disappearance of the minute books?---Not with me personally, no. Made a complaint. Is that what you're, is that what you mean?

Well, yes. Had anyone ever - - -?---No.

- - - complained to you about you doing anything with the minute books? ---No. They complained amongst themselves quite oftenly regarding the minute book but never to me.

30 If you go over the page, Ms Anna, it refers to, in the second paragraph, you throwing out office furniture along with files and hiring a skip bin to do so on a Sunday.---Okay.

And I take it you deny that you ever, commensurate with the evidence you've already given, threw out Land Council files into a skip bin on a Sunday.---No.

In fact, you never threw out any Land Council files at all.---No.

THE COMMISSIONER: Did Ms Bakis ever confront you with that allegation herself?---No. No.

40 She ever suggested to you that you had thrown out files on this day of the clean-up with the skip?---No.

MS CURTIN: Ms Anna, Mr Lawler did raise this issue with you after he was appointed administrator, is that right?---No, not to my recollection. Terry was very forthcoming in his opinions and, but he never asked me, "Soph, did you throw anything out?" Nothing along those lines. I wasn't even aware anything was chucked out till I heard that they'd been brought up through here. Do you mind if I just, just take a minute?

THE COMMISSIONER: Yes. We're going to take a break anyway. We're going to take a 10-minute break. I'll take it now, I think. Might be - - -

MS CURTIN: Well, that's the evidence.

THE COMMISSIONER: That's the evidence. Well, now, Ms Anna would you prefer to have a break now or are you – the examination by Counsel Assisting has now finished. Do you wish to take a break now or are you
10 happy to go on for 10 minutes and then take a break?---If I could just take a break.

Take a break. Okay. 10 minutes. I'll adjourn.

SHORT ADJOURNMENT

[11.22am]

THE COMMISSIONER: My apologies to all present, there was another
20 matter I had to deal with. Now, Ms Curtin, you've completed your examination?

MS CURTIN: Commissioner, I had, but during the course of my examination Mr Broad received an email from Ms Bakis attaching a couple of documents and I think I should ask Ms Anna a couple of questions in relation to those documents.

THE COMMISSIONER: Yes. Very well. You proceed.

30 MS CURTIN: Sorry, Commissioner, I beg your pardon. I should say now that Ms Nolan is also in attendance.

THE COMMISSIONER: Yes, I see. Now, Ms Anna, are you ready to proceed now?---Yes, I'll just grab my glasses, sorry.

That's all right. Yes. Very well. Go on.

MS CURTIN: Ms Anna, some of the evidence that you gave the Commission this morning was in relation to a request that you made of Ms
40 Bakis for the service contracts - - -?---Yeah.

- - - that she had in her possession with the Land Council. What I didn't ask you was whether you ever received any of those contracts that you had requested from Ms Bakis.---I never received anything personally, no.

THE COMMISSIONER: Just keep your voice up if you could.---I never received anything personally, she never handed anything to me directly.

MS CURTIN: You don't recall getting copies of any service contracts. Is that right?---Not to me personally, no.

I'll just show you a copy of an email if I may. I think I only have it in hard copy I'm afraid, but Ms Anna, do you see – just ignore the top email – the email from about one-quarter of the way down the page is from Ms Bakis and it's to the Awabakal CEO?---Yeah.

10 It's dated 22 August, 2016, and you'll see that it begins, "Hi, Sophie?"
---Yes.

And beneath that it says, well, you can read it, but it refers to engagement letters with a number of barristers. Do you see that?---Yeah. Do I flick through?

No, that's all right.---Oh, yeah, yeah, I see that.

20 Do you recall seeing this email?---No, I don't. I didn't have access to the CEO email. It had a password on it which Candy had to tell me several times that password had been changed. Despina had access to this email. I did complain quite often that I had no access to email entry to the Land Council. Candy did write out the email but we did have two viruses go through the CEO computers and apparently the CEO computer lost all the data. So looking at this now, I never received this, she - - -

You never received this at the time?---Well, I never read it, no.

30 Sorry, but you never received it. Is that what you say?---Yes, I never received this email.

And it was never printed out for you I take it?---No.

THE COMMISSIONER: What do you want to do with that email?

MS CURTIN: Commissioner, at this point if I could just have the email and the attached documents marked for identification.

40 THE COMMISSIONER: Yes, very well. What's the date of the email, is it 22 August?

MS CURTIN: 22 August, Commissioner. I can hand up a copy.

THE COMMISSIONER: Thank you. Yes, the email from Despina Bakis to Mr Broad bearing today's date with attachments will all be together marked for identification, MFI 40.

**#MFI-040 – EMAIL FROM DESPINA BAKIS TO PATRICK BROAD
RE: ENGAGEMENT LETTERS WITH BARRISTERS DATED 19
SEPTEMBER 2018 WITH 4 ATTACHMENTS**

MS CURTIN: Thank you, Commissioner. That completes the examination.

10 THE COMMISSIONER: Yes, thank you. Yes, now, Ms Nolan, do you want to cross-examine?

MS NOLAN: If I may.

THE COMMISSIONER: Yes, all right.

MS NOLAN: Ms Anna, you were appointed as the interim CEO on a caretaker basis to the Awabakal Aboriginal Land Council at a board meeting on 5 August, 2016, that's right, isn't it?---I'm sorry. I can't hear properly.
20

You were appointed as an interim CEO, in the caretaker position to the Awabakal Aboriginal Land Council at a board meeting on 5 August, 2016, were you not?---Not at the board meeting, no.

But do you understand that's when the board decided to appoint you as the interim CEO?---I'm not understanding, I'm sorry.

THE COMMISSIONER: Sorry, could you just speak into the microphone?
---Sorry, I'm not, are you saying was I appointed at the time of the board meeting on that date? Is that what you're asking me?
30

MS NOLAN: I'm just going to put to you, the board appointed you as interim CEO on 5 August, 2016. Do you agree with that or not?---No, because I received a text message from Nick saying that I'd been appointed the position late that afternoon. The board, board never told me at all.

THE COMMISSIONER: Let's not spend too much time on this. I think it's common ground as to the date in which she was appointed.

40 MS NOLAN: Yes. Agreed. You weren't present at that meeting, is that right?---What's that sorry?

You were not present at that meeting, is that right?---When they made the decision to appoint me?

Yes.---No, I wasn't.

You do understand, though, that at no stage were you authorised to take steps without board approval that would ordinarily require board approval, that's correct, isn't it?---I'm sorry. I'm having difficulty hearing. I've got an ear infection, so I can't quite hear out of this ear. I'm sorry. I can't hear very well. I do apologise.

You weren't authorised – can you hear me now?---Yep.

10 You were not authorised to do anything that required board approval without board approval, were you?---No, that's incorrect.

You started employment of 8 August. 2016, didn't you?---I believe so, yes.

And on 14 August, 2016, you'd arranged for a skip bin to be brought onto the, at the Awabakal Aboriginal Land Council premises outside the building, that's right, isn't it?---No, that's not right.

20 Well, do you accept that you did arrange for a skip bin to be brought to the premises?---I didn't arrange. I didn't make any arrangements regarding the skip bin. That was between Candy and Despina. Candy informed me that Despina had paid the bill.

So you say you had nothing to do with the organisation of the skip bin, is that right?---No. I did not have any involvement whatsoever organising the skip bin.

30 Well, then, if there was a skip bin just turning up at the premises of which you were the interim CEO, did you ask for it to be returned?---We had a discussion to clean up the Land Council and Candy said, "I will organise a skip bin," in which, what she did, she corresponded with Despina because Despina was paying the bills and she said, "Despina has paid the skip bin, the skip bin will be here this afternoon," which it was.

40 Right, so then it is correct, isn't it, that you authorised the skip bin to be brought onto the premises because that conversation to which you've just now referred effectively authorised it, didn't it?---Well, effectively Candy initiated the, the payment, she effectively organised the skip bin. I have no idea who it was organised through. I had no, I didn't approve no payment with Despina because as far as I was concerned payments get approved by the board. So Candy took the initiative, which she always did within the Land Council, and took on that initiative to organise the skip bin, corresponded with Despina, Despina paid for the skip bin and the organisation was kept between them.

But you didn't have a problem with it because, as interim CEO, you were content for it to be there, weren't you?---It was, it was a part of cleaning up the Land Council, yes.

So you authorised the skip bin to be there then by default, by doing nothing about it?--I'm not sure what it is you're asking me.

10 All right. I'll move on. In any event, you accept, then, that this skip bin was on the premises at the Land Council so it could be cleaned up, as you put it, and that cleaning up involved the throwing out of equipment, furniture, artwork and documentation, didn't it?---No. No artwork was, was, was taken out. It was broken chairs and, yes, old, very old equipment. Richard had told me that morning that he was so happy that the clean-up was taking place because the Land Council had no furniture. This was the first time that there'd been a clean-up and furniture coming to the Land Council for as long as he could remember. So it was a positive initiative. There was nothing behind the skip bin.

20 Well, Jaye Quinlan actually spoke to you about it at or about this time – that time being 14 August, 2016 or thereabouts – questioning you why you were throwing out the furniture from the ALAC premises, didn't he?---Well, that, no, that's incorrect. Jaye actually requested to take furniture home. She asked if it was possible if she could take some old furniture from the Land Council. I said I would speak to New South Wales Land Council in regarding to furniture being going and she took the furniture home with her. Her son used the Green Team ute and they took the pieces of the furniture home. So she had no concerns at all.

Well, that doesn't necessarily follow from that, you would accept. I mean, she actually asked you, "Why are these changes necessary?" and she asked that question because you have - - -?---No, she didn't.

30 I haven't finished. And she asked that question because you had said to her, "This is necessary for OH&S issues." Do you accept that?---No, because I didn't have a conversation with Jaye Quinlan on the day of the clean-out.

So how is it, then, if you didn't have a conversation with her on the day of the clean-out, that she was in a position to ask as to whether or not she could take any equipment home?---That was later in the evening, around 4 o'clock. She had no concerns.

40 So you do concede that you had a conversation with her on the day of the clean-up? It was in the evening, though.---We had a conversation about her removing furniture. She could take it to her house. She never once asked – if anything, everyone was saying it was a great initiative to get the Land Council clean. There was no, no negative remarks made whatsoever that day, certainly not to me, anyway.

Ms Anna, this is just being made up as you're going along, aren't you?

MR RAMRAKHA: I object. Where does this - - -

THE COMMISSIONER: Ms Nolan, you've put the proposition to her. She's firmly rejected it. You've drawn issue. You are both at issue on that topic. Putting it a second, third, fourth time, again and again, doesn't improve it in any way. You're putting a positive proposition. She's rejected it twice. Why continue?

MS NOLAN: Why continue?

10 THE COMMISSIONER: On that line.

MS NOLAN: I'm not. I'm now, I'm putting, I'm putting to her - - -

THE COMMISSIONER: Yes, well, move on, please.

MS NOLAN: - - - that this witness is lying.

THE COMMISSIONER: Move on.

20 MS NOLAN: Well, it's a credibility issue and I'm putting to her that she's lying.

MR RAMRAKHA: Well, Your Honour, Commissioner, I object. Credibility is, as I apprehend the evidence in this inquiry, an allegation has been made about the disposal of certain documents, the contents of which – even if the Commission was to make a finding – the contents of which are unknown.

30 THE COMMISSIONER: Well - - -

MR RAMRAKHA: In the sense that where does this go?

THE COMMISSIONER: Well, Mr Ramrakha, I'm waiting at some stage to be told what the relevance of this matter is.

MR RAMRAKHA: Yes.

40 THE COMMISSIONER: I agree with you that there is a question yet to be determined, and that is whether or not what occurred in relation to the throwing out of whatever was thrown out has got anything to do with what I'm investigating.

MR RAMRAKHA: Yes, and credibility, yes, and credibility issues go to matters in dispute, matters which are relevant, facts in dispute which go to the issues in dispute. If this is not an issue really in dispute or really which is going to occupy the Commission, then it's just a, it's improper in my submission to you.

THE COMMISSIONER: Mr Ramrakha, I hear what you say and I have already flagged that I will be carefully examining as to what the relevance of this whole matter about the skip and so on.

MR RAMRAKHA: Thank you, Your Honour. Thank you, Commissioner.

THE COMMISSIONER: Yes, Ms Nolan. Yes, Ms Nolan.

10 MS NOLAN: In the week ending 19 August, you ordered all the staff to stay at home and not to come into work because you told them that the auditors were coming in, didn't you?---No, that's incorrect.

Are you aware that, well, you are aware, aren't you, that Ms Bakis makes allegations that you had been defaming her to the Awabakal Aboriginal - - -

THE COMMISSIONER: I reject that. If you've got something specific, put it to her.

20 MS NOLAN: Pardon me?

THE COMMISSIONER: I'm not going to repeat myself.

MS NOLAN: I didn't hear. I reject that?

THE COMMISSIONER: I said I'm not allowing a question in that form. If you've got some specific allegation to put to her, put it in specific terms so the witness can understand what you're alluding to.

30 MS NOLAN: I hadn't finished the question, I was coming to it.

THE COMMISSIONER: Yes. Well, Ms Nolan, stop querying me.

MS NOLAN: I don't, I - - -

THE COMMISSIONER: Move on. If you've got another question, put it.

MS NOLAN: Well, I was in the middle of it.

40 THE COMMISSIONER: Yes, yes, that's - - -

MS NOLAN: I don't understand the basis upon which it was being rejected.

THE COMMISSIONER: Well, if you don't understand it I'm afraid I'm not here to try and assist you.

MS NOLAN: Well, all right. I'll put the question – I'll finish the question and then maybe that will cure the problem.

THE COMMISSIONER: No, don't finish the question, I've already ruled that you cannot approach a matter like that in globo. If there's some particular allegation you want to put to this witness or some specific contention about a defamation matter, identify the occasion, what the alleged defamation was, the conversation, the occasion. This is all matters that counsel learn as primary instruction in terms of how to go about cross-examination. If you want to put something to a witness, you identify the occasion that you're talking about, the specific allegation. I'm not going to say any more.

MS NOLAN: You're aware that Ms Bakis was, was, had, was, had indicated to you that she was going to bring proceedings for defamation against you. Correct?---Did she what, sorry?

You are aware that Ms Bakis had told you that she was going to bring proceedings for defamation against you?---No, she never told me.

And she told you that the basis for it was is that you had told members of the staff of the Awabakal Aboriginal Land Council that she had stolen \$300,000 from the Land Council. Are you aware of that?---No, that's incorrect. She never said anything like that.

Are you aware, are you aware – pardon? Well, Ms Bakis, Ms Bakis – are you aware that Mr Jaye Quinlan has sworn an affidavit in support of those threatened proceedings?---What's that, sorry?

Are you aware that Mr Jaye Quinlan swore an affidavit in support of those threatened proceedings?---No, I'm not, but it's not true.

Are you aware that Tamara Towers swore an affidavit in support of those threatened proceedings?---No.

Are you aware that Candy Towers swore an affidavit - - -

THE COMMISSIONER: Ms Nolan, what has this got to do with this investigation? Threats of defamation or bringing defamation proceedings. What issue does that go to?

MS NOLAN: It goes to the fact that there is an animus.

THE COMMISSIONER: I think that's pretty obvious, that there was tension between these two ladies for whatever reason.

THE WITNESS: Can I just say it was a one-sided. I didn't have an issue with Despina. I had no aggression towards Despina.

THE COMMISSIONER: All right.

THE WITNESS: I simply asked Despina in relation to who the people is she's paying and from then it was pretty much her, her attack on me was through constant emails, constant letters, she, and I seeked a solicitor. She only wanted communication via solicitors which she continued to send me emails.

THE COMMISSIONER: All right.

10 THE WITNESS: She never spoke, nothing was ever, it was a one-sided, I didn't have an issue with her.

THE COMMISSIONER: All right. Yes. Next question?

MS NOLAN: In response to a threat that Ms Bakis made to you by email with respect to the defamation proceedings that I've outlined, you engaged solicitors, Osbornes Solicitors.

20 THE COMMISSIONER: I reject the question. I reject the question.

MS NOLAN: Pardon?

THE COMMISSIONER: What's the relevance of the defamation proceedings got to do with this investigation?

THE WITNESS: I didn't know there was a defamation case.

30 MS NOLAN: In the week that you've -- do you accept that there was a week where staff were not present, the week following 19 August, 2016?
---No, that's incorrect. They never took a week off work.

At or around that time, 19 August, you authorised people -- whether it be yourself or someone else I can't identify -- to dispose of documents emanating from Knightsbridge North Lawyers, didn't you?---No.

You authorised someone or yourself in fact threw out documents that related to all the property transactions that had been entered into by the Land Council, upon which Knightsbridge North Lawyers - - -

40 MS CURTIN: I object, Commissioner.

MS NOLAN: I haven't finished.

THE COMMISSIONER: Ms Nolan, if you're going to be making grave allegations like this to a witness, you must do it specifically. You're talking about Awabakal documents, what does that mean? I mean, if you've got instructions about some particular documents that have gone missing or destroyed or there's other information you're indicating, documents were

discarded, you should put grave allegations like that in specific terms. Now, you're talking to Ms Bakis while I'm trying to talk to you. Ms Nolan, you'd better become more focussed because I'll be intervening more than I would like to if I have to keep you on track, and in a moment we're reaching the stage where I'm going to demand that you identify how this witness's evidence affects your client's interests, either promoting it or defending it. At the moment I don't see it's at all relevant, but the onus will be on you in a moment to identify how any of this line of questioning or any other line of questioning is relevant to a matter that affects your client's specific interest and is relevant to this inquiry. I have made this point so many times, I am becoming extremely repetitive. You don't seem to get the message, with respect. It's time now you did. I am not here to hear squabbles about defamation proceedings and whether or not somebody was directed not to come to work. I am concerned to investigate the various transactions that are now the subject of a great deal of evidence and the conduct of relevant persons, which include your client, it includes Mr Petroulias, it includes Mr Green, it includes Ms Dates and others who have been mentioned in the scope and purpose for this inquiry. That's what I'm interested in investigating and nothing else. So, please give it some thought as to how your questioning or line of questioning is relevant to such issues.

MS NOLAN: I'm grateful for the clarification because I am struggling to understand why, then, if the scope of this inquiry only deals with the matters that you've outlined again that this witness is even here, because I don't understand her relevance to that scope of inquiry at all except to the very issue that I'm trying to question her about. And I accept that the specificity of the documents might be somewhat impoverished, but I am endeavouring to ask my client to give me the specifics because I accept you need to know that.

THE COMMISSIONER: All right. Well, let's deal with - - -

MS NOLAN: But, Commissioner - - -

THE COMMISSIONER: I'm sorry to interrupt you but let's come to the matter you've just mentioned, the documents, if there were any documents that were in that skip and thrown out. How do you propose to, in final submissions, address this issue? What's the relevance of the issue as to whether there was documents in that skip or not? How does it affect your client's position? Firstly, we start from the point of view what documents, and then how – if they've been thrown out or destroyed or lost – how does that affect your client's interest in relation to the various transactions that this Commission is investigating? They're the sort of questions I think you have to ask yourself so that you can be cross-examining on issues that are relevant to the investigation. Now, perhaps you might address those issues now as to how this line of questioning about the skip and what was in it and whether there were any documents in it can be in any way relevant to your client's interest. Start from the proposition, what documents are you

contending were thrown out or destroyed or removed, either by this lady or anybody else?

MS NOLAN: I am instructed that the documents that were thrown out were anything that Ms Bakis was storing on the site. So, that included all of the documents that had been collated with respect to each and every single one of the property transactions with which this Commission is concerned, all documents with respect to the Minister's litigation, and all documents prepared in respect of board meetings which were put before the board.

10

THE COMMISSIONER: All right. You've referred to a large number of classes of documents. Which documents are missing? Which documents are suggested were thrown out or destroyed?

MS NOLAN: Well - - -

THE COMMISSIONER: Let's get down to tin tacks. Which ones?

MS NOLAN: The, the - - -

20

THE WITNESS: Excuse me, Commissioner.

THE COMMISSIONER: No, just pardon me.

MS NOLAN: The, I'm instructed it's a very long list.

THE COMMISSIONER: Don't you know?

MS NOLAN: Well, I'm only, I'm - - -

30

THE COMMISSIONER: I see that Ms Bakis is holding up a couple of pages in front of you, but you should be instructed by now to undertake this cross-examination as to specifically what documents are we concerned with that affects your client's interests. Which ones? You must know. You've risen to cross-examine this witness. Which ones?

MS NOLAN: I'm not in a position to say because my client's taking, having a discussion with someone else. I have - we can prepare a list.

40

THE COMMISSIONER: But, Ms Nolan, you as counsel must have some idea what the allegation is that your client's making and wants to propound through cross-examination of this witness. As I understand it you're focussing on this day when there was a skip and furniture and such was thrown out, and the imputation is that the witness has undertaken some sinister task in relation to that, i.e. throwing out relevant documents. My question to you is, what documents are you concerned to establish were thrown out with this witness and which of those documents affect your client's interest in this investigation?

MS NOLAN: I've heard - - -

THE COMMISSIONER: Now, you've risen to cross-examine this lady on the basis of that imputation that she's done something - - -

MS NOLAN: Mmm.

10 THE COMMISSIONER: - - - that has affected your client's interest, i.e. got rid of some documents. Now, before you started your cross-examination, and I see Ms Bakis keeps talking to you, when you started this cross-examination you were bound as counsel to have instructions to be able to put to this witness anything in relation to any suggestion that the documents, whatever they are, were thrown out on this day in the skip. Do you have those instructions?

MS NOLAN: (No Audible Reply)

20 THE COMMISSIONER: Are you in a position to inform me as to what your client's interest is in wanting you to cross-examine this witness on this question of documents?

MS NOLAN: I'm instructed that Mr Lawler when he came in as administrator said there was not a single document emanating from my client.

30 THE COMMISSIONER: Yes, well, I know your client's saying these things, now come back to my point of my question. I'm not going to repeat it a third time. What are your instructions?

MS NOLAN: Well, I can't, I can't assist you in any, any broader than that which I already have because I am not furnished with the list.

THE COMMISSIONER: Well, that means you have no instructions to cross-examine this lady to propound or to support the proposition that she was responsible for documents being thrown into the skip and that that action or actions by her has detrimentally affected your interest in some way.

40 MS NOLAN: I do have those instructions, I beg to differ, the reason being is I can put that she made a targeted attempt to throw out documents emanating from my client.

THE COMMISSIONER: That's not good enough. You've got to identify what documents you're talking about. I mean if there are documents that have gone missing, by now that position would have been ascertained, that relevant documents were or would have been in existence, and there's no

explanation for showing that those documents are now missing. There's no evidence to support that sort of proposition, as I understand it.

MS NOLAN: There's no - - -

THE COMMISSIONER: So what are you going to put to this lady in terms of this particular matter that I'm going over now, because you have the obligation under the standard directions to state how this cross-examination supports or affects your client's interest.

10

MS NOLAN: Well - - -

THE COMMISSIONER: What are the documents? Which ones have gone missing?

MS NOLAN: I, I can't answer it and I don't understand how then this witness is of any utility to this Commission - - -

THE COMMISSIONER: All right. Well - - -

20

MS NOLAN: - - - in circumstances where there now, as I understand what's fallen from the Commissioner, that there's no allegation that any documents were indeed missing, that there was a deficiency or a paucity of documents.

THE COMMISSIONER: Let's cut to the chase, then. Do I understand, then, that you do not wish to cross-examine this witness on that issue any further?

30 MS NOLAN: No, I don't.

THE COMMISSIONER: Well, what other issues do you want to cross-examine her on?

MS NOLAN: I don't have any other issues. I thought that was the only live issue.

THE COMMISSIONER: Good. All right. Now, does anybody else want to cross-examine? Mr O'Brien.

40

MR O'BRIEN: Yes, Your Honour.

THE COMMISSIONER: You go ahead.

MR O'BRIEN: I do seek leave to cross-examine this witness in particular in relation to the assertion by the witness that my client was lying in relation to the destruction of documents, as she has given evidence about earlier in these proceedings.

THE COMMISSIONER: Well, Mr O'Brien, you get caught up with the same problem.

MR O'BRIEN: Well, I've listened very carefully.

10 THE COMMISSIONER: It might be a very interesting argument as to whether, as you put it, she's lying or she's just inaccurate about documents gone missing. The primary question, as I've just been putting and discussing with Ms Nolan, is what documents are we talking about? Because unless there's some vice here – that is, that documents have gone missing which impact on the evidence and the assessment of the agreements and associated matters – we're not going to spend time here dealing with the allegations when there's no substance to it. Unless you can establish it's really germane to my inquiry, your client is at liberty to come and say, "This witness said I'm lying. I was telling the truth. I believe I was telling the truth." I mean, you know, we've got to deal with matters of substance.

20 MR O'BRIEN: There is obviously that credibility issue, and I don't need to chase that if it's not necessary to do so. It might be not germane to the entire inquiry, I accept that, but what my client can give evidence about is what she saw, and I expect that she will give evidence about what she saw this witness do. I think I should put that, in fairness to this witness.

THE COMMISSIONER: All right. Yes, I agree.

30 MR O'BRIEN: Secondly, Your Honour, this case study is replete, investigation is replete in relation to the nature, the veracity and the legitimacy, if I can put it that way, of documents that have thus far been put before the Commission. That is, there has been question marks raised as to the providence of those documents. And, of course, my client has given evidence that she has signed some, that she may not have read them, that she didn't keep copies of them. Whether there were copies kept within the Land Council or not is a question of some relevance, but I can certainly put some things that my client saw this witness do.

THE COMMISSIONER: Well, I think you should have leave to do that.

40 MR O'BRIEN: Thank you.

THE COMMISSIONER: I'll give you that opportunity now.

MR O'BRIEN: Madam, my name is O'Brien and I represent Ms Debbie Dates. Can you hear me clearly?---Yeah.

You realised as soon as you came into, within a week of coming into the Land Council as the CEO that this was a place which was fraught with feuds and hostility. Is that so?---I thought it was - - -

A place which was fraught with feuds and hostility.---I wasn't aware of the, how grand, yeah, I wasn't aware of the hostility and the feuds prior to coming into the Land Council.

But within a week of taking on the job as the acting CEO - - -?---No, no, no. It, it was, it was, sort of evolved over the eight weeks' duration. The first several weeks were actually quite pleasant.

10 Well, just taking you to two examples. Within a week you were at a members' meeting and you saw the aggression at that meeting, correct?
---Sorry, what was that?

Within a week of taking the position, you were at a members' meeting, is that so?---No.

You were at a members' meeting within a very short time of your taking the position of acting CEO, is that the case?---Are you saying prior to me taking the position?

20 No, at the time you've taken the position, after that - - -?---No.

- - - you came to be at a members' meeting, is that the case?---No.

When was the members' meeting in connection, after you'd come to be appointed?---The members' meeting was July. I went to the members' meeting in July.

30 You went to that members' meeting, did you?---Yes.

So at that members' meeting you saw the hostility and the aggression within the members and the board members at that meeting, is that - - -?
---Frustration. I saw frustration, yes.

I think you described in your evidence earlier on, when Counsel Assisting was asking you, you described it as an aggressive type of scenario, is that right?---Certain, certain people were aggressive and hostile to seeking answers.

40 So you knew that that was at least something you'd seen and something you'd observed in relation to how the place was being conducted, correct?
---Is that, sorry, I didn't hear that last bit?

I'll withdraw it. It doesn't matter. Within a short time of taking the job, within weeks, you had a phone call I think from Theresa?---I had several phone calls, so I'm not sure which specific one you - - -

Well, the phone call was a Sunday, it was a short time after you'd been appointed and she said to you that she wanted to get off the board.---In the first week of being chairperson?

Is that so?---No.

Theresa rang you at some stage and said she wanted to get off the board, did she do that?---No, she didn't.

10 I thought you said, and I've written down, "On Sunday, Theresa rang me and said to me that she wanted to get off the board." Is that your evidence or not?---No, sorry. Theresa rang me concerned because her Auntie Jaye had called her saying she wanted to get off the signatures because she saw Despina transferring money and she didn't want to be any part of the, of the signature. She didn't want to get off, Jaye is a board member.

Thank you.---Theresa was a, a chairperson.

20 So, Theresa didn't want to be a signature to the accounts of the Land Council, is that the way you - - -?---No, Jaye Quinlan.

MR RAMRAKHA: I object. That wasn't the evidence.

THE COMMISSIONER: Yes. It's all right. She's made that point.

MR RAMRAKHA: Yes. But pursuing it - - -

30 MR O'BRIEN: I'm asking you to clarify. She was asking or suggesting that she should not be a signatory to the Land Council accounts, is that right?
---Jaye Quinlan?

Theresa.---No. Theresa wasn't a signatory on the council. She had no reason to not what to be one. Jaye Quinlan did not, Jaye Quinlan wanted her name off the signatories of the accounts.

All right. And this was Theresa telling you what Jaye Quinlan wanted, is that so?---They both told me, yes.

40 Thank you. So, within this short time, you realise then that there must have been some problems with the way in which the accounts were being conducted, is that so?---What's that? I'm sorry - - -

The reason that they gave as to why they wanted to be off the signatories to the accounts of the Land Council was because they saw some irregularities with money that had been taken out by Despina, is that the case?---Yeah. They, it was along that lines, yes. There was no board approval payments that Despina had transferred money out and Jaye had seen them and she was

worried and concerned that she would be accused of things that she didn't do.

Thank you. And so it would have been very troubling for you as the interim CEO at that stage that these things had been brought to your attention, obviously?---If anything it was more, I wasn't troubled, I was relieved because I knew there was a situation going on and I wasn't quite sure what it was. So, when the accounts come to light and come to presence, things were starting to make sense and it made, made, made it easier to sort of go
10 in the right direction. I was aware the Land Council was non-functioning prior to going into the Land Council but I wasn't sure why. So, when Jaye come forward with the bank accounts, she was concerned and I said, "Well, thank you, Jaye," and I showed those bank accounts to Ray Kelly. I had no relationship with anyone on the board, it was a Sunday, so I contacted Ray, I contacted State Land Council, the CEO there and spoke with him and they both suggested an insisted that I get a second independent legal opinion and that's exactly what I did. I never ever told anybody that it was Jaye because Jaye asked me not to tell anyone. She was very concerned - - -

20 THE COMMISSIONER: Just pause there I think.---Sorry.

Just wait for the next question.

MR O'BRIEN: What eventually came about was an audit, correct?
---What's that, sorry?

What eventually came about was an audit?---An audit of what?

An audit of the Land Council accounts, correct?---I think that was set up
30 prior to me coming in. I think that audit was - - -

In any event, there was an audit that took place whilst you were the interim CEO, am I right?---Yes.

And within the period of the audit being commissioned, whether it had occurred or whether it was about to occur or whether in any event, you determined that there should be a clean-up?---Can you just say that again for me?

40 Whilst the audit had been commissioned, was about to occur or had occurred, you determined that there would be a clean-up of the Land Council, is that so?---Yes.

And we've heard about the mini skip coming to the place and being placed on the premises of the Land Council. Is that right?---A mini skip?

A skip bin.---Yes, a skip bin was there.

Now, was there also a document bin, a yellow document bin, that was commissioned by you or someone else and taken to the Land Council?
---Not to my knowledge.

See, I want to suggest to you that there was a yellow document bin that was placed in the boardroom and it was locked but had a hole in the top for documents to be placed inside of it. What do you say to that?--- Yes, there was.

10 And that document bin obviously contained, at the time of this clean-up, documents which were taken away from the Land Council premises, didn't it?---No, that bin wasn't at the Land Council at the time of the skip bin.

Well, I'm suggesting that it was there at the time of the skip bin and that it was there to take away documents from the Land Council premises.---No.

I want to suggest to you that there were papers, as you've said, that were all over the boardroom table and had been placed there by you, correct?---Well, placed there by me and everyone else. I had asked everyone if they found
20 documents to put them on the board table, yes.

Now, you've said that you arrived at the Land Council at about 9.30 or 10.00am on the day of the clean-up, correct?---Yes.

You then left and didn't come back until 1.30 or 2.00pm. Is that so?---Yes.

So as the CEO of an office in the circumstances you've described, you thought it was a good thing to do to leave the Land Council whilst this clean-up took place. Is that your evidence?---I was pregnant at the time and
30 had a substantial bleed and I felt, I popped into the Land Council and checked to make sure everyone was okay and did what I had to do and then I came back.

Obviously if it weren't for that personal difficulty, that significant personal difficulty – I don't mean to be in any way disrespectful to you about that – it would have been desirable for you to have been there for the whole time, correct?---Yes, I would have been there. And, and, and I went there and I made sure everything was in order and I made sure everyone was okay.
40 And, as I said, when I arrived the bin was pretty much full, and I had left and I had come back when I finished, and, and I stayed there till the end.

Thank you. Now, you've said that there was a document bin in the Land Council but you've disagreed with me that it was the same day of the clean-up. When was it, do you say?---I became aware of the, the bin. Candy said we have a bin that shreds and gets rid of things that we don't need, and I said, well, we don't need to shred anything, and I believe it was in the, in the front room with Tamara and that it was brought into the Land Council.

But I didn't shred any papers. I'm not sure if the other girls did, but there was no direction to shred any papers. There was no need to.

You haven't actually answered the question as to when you say that bin was in the Land Council office.---I became aware of it towards the end, when everyone was getting upset about an administrator coming in.

Whenabouts in time was that?---Towards the end of my four to six week first appointment in the Land Council.

10

I want to suggest to you that that bin was in fact present on the day of this clean-up.---Well, not to my knowledge.

And that you were going through the documents on the boardroom table, taking some documents out, leaving other documents on the boardroom table, and then placing documents within this shredder bin.---No.

And that my client, Debbie Dates, saw you did this and complained about it to you.---No, Debbie Dates did not say one single thing to me.

20

That she said to you something to the effect of, "You shouldn't be throwing out documents. They might be important," or something to that effect. ---No, actually, weeks later after the clean-up Debbie and Candy said to me, "Soph, what's the reason? We're confused why you're keeping all the papers." Because I was aware of the situation of the Land Council being non-functioning, the most important thing you need is documents for evidence, so I was very adamant at keeping anything that would be used for evidence, if need be, regarding for the, the Land Council. I had been in constant conversation with the State Land Council CEO - - -

30

THE COMMISSIONER: All right. Just stop there. Just stop there. I think that's enough.

MR O'BRIEN: You said to her in response to her concern, you said, "This place needs to be cleaned out."---Sorry?

You said to her, in response to her concerns about your throwing documents out, you said, "This place needs to be cleared out," something to that effect. ---No. The Land Council was very dirty, very, very dirty and in respect to the Land Council it was an embarrassment, broken chairs, folders everywhere, they needed to be placed in the boardroom, everything needed to be secure, everything needed to be available. That wasn't the case when I went in there so my priority was to get all documents secure, all documents priority and readily available. There was nothing destroyed.

40

You yourself have said that you went through the documents on the boardroom table. Is that the case?---What's that, sorry?

10 You went through the board, the documents on the boardroom table. Is that the case?---Eventually at the end, going through the weeks we started sorting out, there was like papers, old, lots of old papers like the minutes, scrap paper and I just put them in piles. So if there a pile of old anything from board meetings or miscellaneous I just put them literally in piles and I asked Candy to order me some folders so we could start putting, whether it was relevant documentation or not, to me what was important was to get all paperwork in a folder and stored and available if need be, but over time the papers just kept going and going and it was hard for me to do one job with such a lot of paperwork. I was completely shunned by the Land Council and the board so I was trying to eminently get papers in order in folders. State Land Council kept saying, "Just get it in order."

THE COMMISSIONER: All right. Just pause there.---Sorry.

Just pause there.

20 MR O'BRIEN: Is it your evidence, Ms Anna, that you never threw out any paperwork at all - - -?---No, I didn't.

- - - on this clean-out day. Is that, is that your evidence?---That's my evidence.

Even old newspapers, old pieces of paper, advertising material. You didn't throw out one single document?---No.

Is that what you say?---That's exactly right.

30 So the place conducted a clean-out of the premises and not one single sheet of paper, not one single document was thrown out. Is that your evidence? ---Well, was not thrown out by me.

THE COMMISSIONER: Mr O'Brien, how much longer will you be?

MR O'BRIEN: Just one further area, maybe five minutes. Two minutes.

THE COMMISSIONER: Sorry?

40 MR O'BRIEN: Two minutes.

THE COMMISSIONER: All right. You can finish.

MR O'BRIEN: I want to suggest to you that two, two days after the clean-up or thereabouts Ms Dates approached you again in the, in, in your CEO room. Do you recall a meeting of that type?---No, because from day one I moved myself and the staff into the boardroom and I never used the CEO room.

I want to suggest to you that she saw a number of boxes, perhaps four in number, under the CEO desk.---No, that's incorrect.

And that she asked you what was in those boxes. Do you recall a conversation of that type?---Not at all.

I have nothing further. Thank you.

10 THE COMMISSIONER: All right. Now, does anybody else want to cross-examine this lady? Mr Lonergan.

MR LONERGAN: Commissioner, I won't be long but I do note that - - -

THE COMMISSIONER: Leave it till after lunch now I think, Mr Lonergan. Before I adjourn though, Ms Nolan, in your absence Ms Keagan gave evidence. You weren't here. Have you got anything to say about Ms Keagan?

20 MS NOLAN: Do I have anything to say about Ms Keagan?

THE COMMISSIONER: Well, about her evidence. Do you want to do anything about it?

MS NOLAN: Oh, do I want to do anything about - - -

30 THE COMMISSIONER: I've sent her away. I've sent her barrister away, because you weren't here there was nobody, and Ms Bakis has volunteered to question her, which she did, and everyone's left hanging waiting because of your absence as to whether these people have to come back, that is her barrister as well as Ms Keagan, they're waiting for a phone call to know what they should be doing, they're just hanging at the moment.

MS NOLAN: I wasn't aware of that and I didn't know that I was to do anything. What was I supposed to do about - I don't have any questions for her.

40 THE COMMISSIONER: All right. I just wanted to make sure of that. Ms Nolan, I have to say I'm flabbergasted that counsel just doesn't turn up, no message is given as to whether you intend to appear and cross-examine a witness which your client had to in the end cross-examine because you weren't here.

MS NOLAN: That, that was my client's choice. I indicated to her that I wouldn't be available today.

THE COMMISSIONER: Is there not such a thing as courtesy to the Tribunal court or Commission these days, practice at the bar?

MS NOLAN: Well, yes, there is, and I have on every occasion and my client informed you that I had to go to an urgent matter.

THE COMMISSIONER: Yes. All right. Thank you. Now, Ms Anna, I'm going to let you go for lunch. We'll resume, I think we'll resume at 2.15 and we'll finish your evidence this afternoon. So if you'll be back here ready to resume at 2.15, would you. Okay. I'll adjourn.

10 **LUNCHEON ADJOURNMENT**

[12.45pm]