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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 2.15PM

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

<SOPHIA ANNA, on former oath

[2.17pm]

THE COMMISSIONER: Yes.

MR RAMRAKHA: Commissioner, just one small matter.

THE COMMISSIONER: Yes, Mr O'Brien.

10 MR RAMRAKHA: My client is suffering from a migraine and she just wishes to wear her sunglasses to alleviate the - - -

THE COMMISSIONER: Of course.

MR RAMRAKHA: Thank you.

THE COMMISSIONER: Yes, yes, feel free.

THE WITNESS: Oh, thanks.

20

MR RAMRAKHA: And no discourtesy obviously.

THE COMMISSIONER: It's the glare, is it?

MR RAMRAKHA: Yes.

THE COMMISSIONER: The glare of bright lights.

30 THE WITNESS: Yeah, I've lost my vision and it takes a while to come back.

THE COMMISSIONER: Yes.

MR RAMRAKHA: Thank you, Commissioner.

THE COMMISSIONER: Well, you let us know if you have any difficulty continuing.

THE WITNESS: Thank you.

40

MS CURTIN: Commissioner, just one matter. Mr Broad received a further email from Ms Bakis I think shortly after we adjourned for the luncheon break. I don't propose to do anything other than just to have this email marked for identification at this point.

THE COMMISSIONER: Okay. Thank you. Hand it up. Thank you. Yes, very well. The letter or the email 31 August, 2016, the emails, plural, 31 August, 2016 will be marked for identification MFI 41.

**#MFI-041 – EMAIL CHAIN FROM KNL ADMIN TO PATRICK  
BROAD RE: YOUR CONTINUING MALICIOUS LIBELOUS  
STATEMENTS – NOTICE TO CEASE AND DESIST, DATED 19  
SEPTEMBER 2018**

10 THE COMMISSIONER: Thank you.

MS CURTIN: Thank you, Commissioner.

THE COMMISSIONER: Now, Mr Lonergan.

MR LONERGAN: Thank you, Commissioner. Ms Anna, I represent – let me start that again. I represent the interests of Mr Green.---Mmm.

20 So you joined the Land Council as the acting CEO on 8 August, 2016. That’s right, isn’t it?---Yes.

Now, I was just trying to understand. Did you address the board on 5 August before you were appointed or not?---Not really. I was, I was asked to come and address the board at 11.30, I think around 12.30 I said to Theresa, “I think I’m going to go,” ‘cause it was, Richard was rather angry and aggressive and because I was down that end she’s like, “Just come in now.” I said, “Okay.” I was feeling very overwhelmed and anxious at that stage and sat down in between Ray and Richard and just said, didn’t really give a presentation as such, I spoke, said I’ve got some experience, this is the experience that I have, I’m just in Newcastle . In the meantime I  
30 wouldn’t call it a presentation, I wasn’t in there very long, and then I left.

THE COMMISSIONER: Could you just move closer again to that microphone. We’re having a little trouble hearing you at times.---Sorry.

MR LONERGAN: And if I understand your evidence, you attended the presentation at the Croatian Club, and that was before or after the - - -? ---Presentation?

40 Yes. At the Croatian Club and it was a presentation to the members I believe was your evidence.---I don’t know if there was a presentation.

The members’ meeting.---Oh, members’ meeting, yes. I went to the members’ meeting.

That was at the Croatian Club, right?---Yes.

Yes. And was that before or after - - -?---That was prior.

That was prior.---Yep.

All right. And at that meeting, did you know any of the board members of the Awabakal Land Council before you attended on 5 August, to be introduced to the board?---Yeah. I was familiar with a couple of the board members, yes.

Now, your evidence was, at that meeting of members that – sorry, why were you there?---What's that sorry?

10

Why were you at that meeting?---Well, I was under the impression, one, that I was a member, my father lives in an Aboriginal Land Council house, so my sister and cousin and I thought it would be appropriate to go and find out the situation with the Land Council, and also as members just to get updated of what was happening.

20

Now, your evidence was at that meeting that you thought, as a member, that Nick Petroulias was the lawyer for the Land Council, is that right?---Well, I didn't think, I just, there was an article in the paper, that's how I found out about the members and that's the impression that I got, and I think what was going around at the, at the meeting that night was that the Awabakal Land Council's lawyer and accountant were going to address the members and answer questions.

30

Answer questions in relation to what?---Well, I'm guessing the ongoing issues in the paper. There was a lot of newspaper articles. A lot of people – from my understanding, there was not a meeting for a very long time so a lot of people weren't understanding what was happening, what was going on. That was the impression. I hadn't lived in Newcastle for a long time, I'd only just come home. So - - -

Now, just going to the meeting on 5 August. You said Mr Green was angry, was he angry at you?---No, he was frustrated. I wasn't in the room, I could just hear him, he was, he was demanding to get someone on the phone. He, he stated I didn't know anything. I had no ties to the community or I had no relevant knowledge of the Land Rights Act. So, he was against me, I believe. That was the impression I got, yes.

40

Was it an impression or what you heard?---Well, I could hear him swearing, you know, and he was frustrated and that was why I walked out to Theresa because I didn't want to go into a room that clearly I wasn't, he didn't see me as somebody to be in that position or that role. So, I didn't want to be a part of it and I was starting to get, become rather anxious.

And that was based on your lack of ties to the community and your lack of experience? That's what you heard him say?---No, not lack of experience. He, he didn't know if I knew the Land Rights Act. He wanted someone that knew the Land Rights Act. He didn't know me, he didn't know me at all to

know anything about me. So, I, that I believe caused some frustration but he wanted someone by the name of Manton in the role and they were trying to get him on the phone but apparently he was in a doctor's meeting or something. They couldn't get him on the phone and, so that, that's my memory of it.

Now, so shortly after that, so three days later, around 8 August, you started working as the acting CEO, that's correct?---Yes.

10 Now, when, when you started working, I believe your evidence was that there were documents everywhere. Is that right?---I wouldn't say, like, documents just lying around. The Land Council, it was dark, lights were off, there was unused rooms, there was the CEO room. It looked like it have just been left like that, just needed tidying up, so I as far as I felt, like, there was papers on tables and stuff that needed to be all brought into the boardroom and just organised.

20 So documents were not organised. Is that a fair summation of - - -?---It was just, so a lot of the papers were printouts and photocopies, that kind of stuff. I wouldn't call them documents as, like, there was no legal documents if that's what you're suggesting. It was photocopies of the same type of papers. There was loose papers on the CEO table, photocopies. There was just that kind of stuff. It wasn't documents.

30 So, Ms Anna, was there to your – so when you went in and you started working on or around 8 August, was there a filing system for the documents that were in the possession of the Land Council?---Well, when I, well, from, from my understanding I did ask Candy what, what's the process here? Because there's a lot of, like, there's no, it's all disorganised. You know, you've got folders in the CEO room, folders in the front room. I asked what the, the rooms were, what the, you know, the folders and that were, and I, and she said, you know, policy folders, things like that from several years. And I said, well, let's get them all into the one room. Let's get them into the secure room, the one that had the lock. She said, "There's a lock. That's where we keep all our documents." And I said, "Well, let's get them all into the one room."

40 But at that point in time the documents weren't all in the secure room, were they?---What's that, sorry?

The documents were not all in the secure room, were they?---Well, not, the folders weren't in the room. The folders were in the CEO room. There was folders.

MS CURTIN: Commissioner, I object.

THE COMMISSIONER: Just a moment. Yes.

MS CURTIN: Mr Green gave some quite precise and concise evidence on this topic about the paperwork that he saw in the Land Council's office.

THE COMMISSIONER: Yes.

MS CURTIN: And has given evidence that he didn't see any documentation in the skip bin. I'm just not sure where Mr Lonergan is going with this particular line of questioning.

10 THE COMMISSIONER: Have you got a page reference to the evidence?

MS CURTIN: Yes, I do. It's transcript page 1658.

THE COMMISSIONER: 1658.

MS CURTIN: Yes.

20 THE COMMISSIONER: So what you're suggesting is there may be some  
disconformity with what's being put to the witness based on Mr Green's - - -

MS CURTIN: It's just not clear where Mr Lonergan is going given the evidence that his client has already given on this particular topic.

THE COMMISSIONER: The evidence was, again, to the effect - - -

MS CURTIN: That Mr Green didn't see any paperwork in the bin, and furthermore that he never took any documents of any sort into the Land Council for filing.

30 THE COMMISSIONER: Yes. Well, that's true. Well, Mr Lonergan, I think the issue's been flagged again, as I raised with Ms Nolan, as to the relevance of this line of questioning. Apparently your instructions, or the evidence certainly of your client is as Counsel Assisting has just stated.

MR LONERGAN: Yes.

THE COMMISSIONER: So what are you exploring? What do you want to explore?

40 MR LONERGAN: Commissioner, I'm not going anywhere near the skip bin. Let's start there. And I am certainly not addressing Ms Towers in relation to documents – I am certainly not addressing Ms Towers in relation to documents going into the skip bin or being destroyed. All I am exploring with Ms Towers is whether there is any capacity for the Land Council at any point in time to pull out documents if they were requested.---I'm not Ms Towers.

THE COMMISSIONER: Sorry, whether there is any - - -

MR LONERGAN: Capacity, right, for the Land Council to identify documents that were in their possession at any point in time. Right? Because in part the questions that have certainly been put to Mr Green were in relation to whether documents that he signed were in the possession of the Land Council. And my position is simply, well, firstly that Mr Green was never given copies of any documents that he signed, but, secondly, that even if the Land Council had those documents, well, there's no security around them and it's the question I'm exploring as to whether they could have even identified that they had them or not.

THE COMMISSIONER: All right. I'll allow you to continue.

MR LONERGAN: So, Ms Towers, you've just heard - - -?---No, I'm not Ms Towers, please.

Sorry, my apologies, Ms Anna.---That's okay.

You've just heard what I was saying to the Commissioner, and let me put it to you in direct terms.---Yeah.

At the point in time that you attended the Land Council- - -?---Ah hmm.

- - - as the acting CEO, if you were asked to find a particular document, you wouldn't have been able to, would you?---No, we were told to ask Despina, Despina on any relevant documentation and Despina said to me, "I have access to the CEO so any documents that auditors need or anyone needs, they can get it through me." So I had no, that was, that was my instructions by Candy.

Right. But based on your first-hand experience of the documents and where they were and any filing systems if they existed, if you were asked to identify a document or locate a document - - -?---Yeah.

- - - you wouldn't have been able to do so, would you?---No.

Sorry, just hold on for a second while my computer lets me back in. Now, you said in evidence that you didn't have access to the CEO email.---I did, but it wasn't every, every time. Every time I went to log on it would say, "Incorrect password," so I'd have to get that information from Candy and she would come in and log in for me and then there was a virus, I think there was two viruses maybe and apparently, I was told by the IT that the CEO hard drive, they couldn't get back some of the information on the hard drive.

Right. So was it your understanding that what, that information that was contained in the CEO email - - -?---Yes, and - - -

- - - was lost?---Yeah, and there was no, the phone lines, the phone bills weren't paid, the internet wasn't paid, we had no communication in the Land Council.

Now, you gave evidence regarding a request that you made of Ms Bakis for a service agreement.---Yeah.

Do you recall that?---Yes.

10 Did you, was it your understanding when you came in as the acting CEO that Knightsbridge North Lawyers had an agreement with the Awabakal Land Council to act as their lawyer?---It wasn't my understanding. I just assumed. Despina said that she comes down from time to time and she'll be coming down time to time to deal with accounts and legals and I never saw anything formally, I didn't go into the job knowing that was their specific role. That's the reason for the meeting, to get a clearer understanding of who is who, who is what and what roles are played.

20 Right. So did you ever ask any board members who was the lawyer for the Land Council?---Yes.

Who did you ask?---I'm pretty sure I asked Debbie and Richard.

Right. What about Jaye Quinlan or Theresa, did you ask them?---No.

30 Right. So Theresa came to you, on your evidence it was a Sunday, and said that she wanted to resign from the board.---No, Theresa never said she wanted to resign. Jaye – Theresa sent me a text message and called me up worried and she said, "Aunty Jaye's been ringing me. Can you meet me at the Land Council?" The bank accounts, Jaye has noticed that Despina has transferred around \$300,000 to her calculations and she wanted me to look at it because they were concerned and Jaye Quinlan wanted her name taken off as signature on the account because she didn't want to be accused or tied to any indiscretions regarding this money being transferred.

All right. And was this something that you ever raised with the board of the Land Council?---Yes, I did, with Ray Kelly.

40 Right. But did you address the board of the Land Council in relation to that?---I wasn't given the opportunity to address the board. I, I spoke to State Land Council. I tried to address the board.

Did you ever ask any of the employees of the Land Council who worked under you what the status of Knightsbridge North Lawyers was?---Yes.

And what was the answer that you got?---Candy said, "They're our lawyers for the litigation regarding the Minister, State Land Council and the Registrar."

I have no further questions, Commissioner.

THE COMMISSIONER: Yes, thank you. Yes, is there anything - - -

MR RAMRAKHA: I have just a few questions.

THE COMMISSIONER: Yes, Mr Ramrakha.

10 MR RAMRAKHA: Unless there's somebody else, obviously.

THE COMMISSIONER: I don't think there's anybody else wanting to cross-examine.

MR RAMRAKHA: Thank you, Commissioner. Just a few questions, Ms Anna. You've given some evidence about receiving a telephone call from Theresa on a Sunday.---Yes.

20 When was that Sunday relative to the clean-up on the Friday?---So, the clean-up was the Friday and it was the Sunday following the Friday.

Thank you. Now, just about that Friday before I move onto something else. You gave evidence about the people who were there. Can you confirm, if you can, whether or not Mr Green was present on the Friday?---Yeah. He was there in the morning and when I come back at around, at lunchtime.

30 Yes. Now, you also gave evidence that you gave some instructions not to throw any papers out and to put them effectively all in the boardroom, correct?---Yes.

And then when you came back to the Land Council, you observed the papers had been taken to the boardroom?---Yes.

And subsequently, within the week or two, you started the process of going through some of those papers, correct?---Yes.

And in that context you asked Candy to purchase some folders for you? ---Yes.

40 So that was so you could sort of try to put those papers in some sort of order, correct?---Yes, yeah.

Now, did you go through the documents?---Yeah. So, we just put them in piles and like I said a lot of photocopies of previous, like, things that had obviously been in the Land Council prior to me coming in.

Now, did you personally come across any document with a Knightsbridge Lawyers letterhead on the top?---No.

Did you come across any document which referred to the entity Advantage?  
---No.

You were only in the position for two months, is that correct?---Pretty much, yes.

10 And you would agree that in that two months it would have been quite a big ask or very difficult for you to bring some order in terms of the document management?---Say that again, sorry.

That it would have been quite difficult for you, given that you were only there for two months, to put the papers, which appeared to have been in some disarray, to put them into order. That would have been something you couldn't really do in two months, correct?---Yeah, it wasn't, it wasn't happening very, no, it was very difficult to get it organised, yes.

20 And you also gave some evidence about a second bin being present at the offices of the Land Council, a document bin?---Yes.

Do you remember giving some evidence about that?---Yes.

Now, to your knowledge, when was that bin at the premises having regard to your period of employment there?---I become, Candy brought it to my attention coming towards the end of my first, like, four to six weeks.

So, would that be, so if you started in August, that would be sometime in September?---Yeah, most probably. Mid-September, end September.

30 I don't have any further questions.

THE COMMISSIONER: Yes, thank you, Mr Ramrakha. Are there any other questions? All right.

MR RAMRAKHA: Might she be released?

THE COMMISSIONER: Yes, indeed. Yes, thank you Ms Anna, you may step down.---Thank you.

40 And you're released.

**THE WITNESS EXCUSED**

**[2.39pm]**

MR RAMRAKHA: Your Honour, I'll stay for the next witness.

THE COMMISSIONER: Yes, Mr Ramrakha.

MR RAMRAKHA: Just so long as I have leave to do that.

THE COMMISSIONER: Yes.

MR RAMRAKHA: Thank you.

THE COMMISSIONER: Yes.

10 MS CURTIN: Yes, Commissioner. I call Ms Dargin.

THE COMMISSIONER: Just take a seat there for a moment, Ms Dargin.

MR CRAWFORD-FISH: Commissioner. My name is Crawford-Fish and I seek leave to appear for Ms Dargin.

THE COMMISSIONER: Yes, I grant leave to appear.

20 MR CRAWFORD-FISH: She'll be taking an affirmation and will be seeking a section 38 declaration.

THE COMMISSIONER: She's had the provisions of that section explained to her?

MR CRAWFORD-FISH: Yes, they have.

30 THE COMMISSIONER: Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare all answers given by Ms Dargin and all documents and things produced, or may be 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. Accordingly, there is no need for her to make objection to any particular answer given or document or thing produced.

40 **PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE ALL ANSWERS GIVEN BY MS DARGIN AND ALL DOCUMENTS AND THINGS PRODUCED, OR MAY BE 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. ACCORDINGLY, THERE IS NO NEED FOR HER TO MAKE OBJECTION TO ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.**

THE COMMISSIONER: Ms Dargin, would you mind standing while we administer the affirmation.

THE COMMISSIONER: Thank you, Ms Dargin. Just take a seat there. If you wouldn't mind trying to talk reasonably close to the microphone, thank you.---Yeah, yeah.

Yes.

10 MS CURTIN: Ms Dargin, could you tell the Commission your full name.  
---Theresa Anne Dargin.

Do you sometimes go by the name Towers?---Yeah, that was my maiden name.

What is your current occupation?---Stay-at-home mum.

You're a member of the Awabakal Local Aboriginal Land Council, is that right?---Am I a member?

20

Yes.---No, not a member.

Were you - - -?---I was.

You were once a member?---Yeah.

And you also served on the board of the Land Council?---Yeah.

30 That was just for a short period prior to the administrator being appointed to the Land Council, is that right?---Yes, that's right.

You were appointed the chairperson of the board on 28 July, 2016?---Yeah, well, I don't know the exact date but yes.

Around about the end of July 2016?---Yeah, around about the end of July, yeah.

And you're related to Ms Debbie Dates, is that right?---Yeah.

40 How are you related to Ms Dates?---Niece.

You're her niece?---Yeah, I'm her niece, yeah.

Are you related to anyone else on – were you related to anyone else on the board of the Land Council?---Yeah, Jaye Quinlan. That's my aunty. My uncle was Gary Dates. I think that's all we had that was family on the board.

THE COMMISSIONER: How long were you chairperson?---From the end, sorry, I think it was from the end of July and then until the administrator come in, so around September I think when he come in.

MS CURTIN: The administrator was appointed in mid-October 2016. ---Mid-October. Yeah, could have been October, then. Yeah.

THE COMMISSIONER: Thank you.

10 MS CURTIN: When you were appointed to the board of the Land Council, you played a role in hiring Ms Sophia Anna as the interim CEO, is that right?---Yeah.

And did you initially have a good relationship with Ms Anna?---It was okay at, at the start but, or we seemed to get along very well, yeah.

Who were the lawyers for the Land Council when you were appointed to the board?---I, I didn't more or less understand business when I first got in because everything was new to me, so I more or less didn't realise who the  
20 solicitors and all those other people that was connected to business at the Awabakal until maybe a week or two as being the chair. So I realised that Knightsbridge were the solicitors.

Knightsbridge North Lawyers, is that right?---Yeah, yeah.

And who from Knightsbridge North Lawyers in particular?---I, I first off thought that Nick was the solicitor and Despina was - - -

30 When you say Nick, do you mean - - -?---Well, I don't know Nick's last name. I can't remember his last name.

Is it the gentleman in the courtroom that you see behind you?---Yes, yeah.

Mr Petroulias?---Yeah. And I thought Despina was the accountant but ended up realising that she was a solicitor also, a bit later down the track, so about maybe a few weeks later.

40 So your understanding shortly after joining the board was that Ms Bakis and Mr Petroulias were both solicitors for the Land Council?---That, yeah, solicitor and accountant. Yeah. Until I realised a couple of weeks later that she was a solicitor also, so - - -

I see. But you understood that Mr Petroulias was the solicitor for the Land Council?---Yeah. Yeah.

And you came to understand that Ms Bakis acted as both the accountant and the solicitor for the Land Council?---Oh, well, like I said, I, I thought she was the accountant at first and then realised she was both, yeah.

I see.---A couple of weeks later.

And did you have cause to communicate with Ms Bakis after you were appointed as the chairperson?---Yeah, yes, I had, yeah, cause with Despina, yeah.

10 But about six weeks into your appointment as chairperson, the board resolved that Ms Bakis would no longer act for the Land Council, is that right?---There was conflict within the board from day one regarding Knightsbridge. It did come to the maybe the five or six weeks of being in the role of chair that the board members no longer wanted Despina and Nicholas to be the, the solicitors for Awabakal.

And so a resolution was made by the board on around 9 September, 2016. Do you recall that?---Don't recall the date.

20 Sorry, more precisely do you recall the resolution was to the effect that - - - ?---Yes, yes.

- - - Knightsbridge - - -?---Yeah, yeah, not quite sure of the date though.

Sorry, I'll just finish my question.---Mmm.

30 You recall that on 9 September a resolution was made on the board, by the board that Knightsbridge North Lawyers would no longer continue to act as the lawyers for the Land Council. Is that right?---Well, like I just said, I don't know what date it was, so if you put a document in front of me I'll be able to understand that a bit more so - - -

40 Sure. You do know, don't you, that at some point a decision was made by the board that - - -?---Oh, yes, yes, yes.

- - - Knightsbridge North Lawyers - - -?---Yeah, yeah.

- - - would no longer be retained?---Yeah.

40 And was the decision made to retain another set of lawyers in their place? ---Yes, yes.

And who was that?---I remember his name being Nick. I'm not quite sure of his last name.

Does Nicholas Dan - - -?---Yeah, that's it.

- - - sound right?---Yeah, yeah, that's it.

And do you recall that Knightsbridge North Lawyers served a notice of ceasing to act for the Land Council in connection with the proceedings that had been brought by the Land Council against the Minister and the Registrar?---Sorry, repeat that question.

Do you recall that Knightsbridge North Lawyers served a notice of ceasing to act on behalf of the Land Council in connection with the proceedings that had been brought by the Land Council against the Minister and Registrar?  
---Yes, I do, yeah, yeah, I understand that, that question, yeah.

10

And after they had done that and once you had retained Mr Dan from Bilbie Dan, is it right to say that any issues that the Land Council had, any legal issues, were brought to his attention for him to address?---I can't, see, I don't think we as a board met Dan. I can't recall myself and the rest of the board meeting Dan. We actually appointed, I think it was Sophie at the time being acting CEO to take care of that.

Okay.---Yeah.

20

But you do know that in around September 2016 the proceedings against the Minister and the Registrar were discontinued and the Land Council discontinued those proceedings?---I don't know what that word means.

They decided that they would no longer continue with the proceedings against the Registrar and the Minister?---I can't recall that, sorry.

30

Okay. Well, perhaps if I just take you to the minutes from the board meeting where that was resolved. So it will appear before you on the screen. It's volume 17, page 155. And do you recognise those minutes as the minutes of the board meeting on 9 September, 2016, Ms Dargin?  
---Yeah, I can recognise the, I can recognise the, the page, yes.

Yeah.---Yeah.

You'll see that you're listed there as one of the attendees?---Yeah.

Do you recall attending that meeting?---I can't recall every meeting, but yeah, if it says I was there, I was there.

40

Okay. And if you just scroll down a couple of pages, sorry, perhaps the next page, right. So you'll see about halfway down the page, item 11, there's a motion there to cease litigation matters concerning the Registrar, Minister of Aboriginal Affairs, representatives to be notified immediately. Do you see that?---Yeah, I see that.

Do you recall a motion being moved and passed to that effect?---Well, by memory I don't recall too much, but yeah, if that says that, that's what's happened.

Okay.---Mmm.

But in any case, you also do recall the motion on top of that one, namely item 10, Sophia to engage Nicholas Dan to make Nicholas Dan our new representative. Sorry, that's just – can you see that?---Yes, yep, I see that.

And after that point is it right to say that you had no further dealings with Ms Bakis?---Further dealings?

10

Yes.---Is that Despina?

Yes.---I can't recall. Sorry.

But you can't recall asking any advice of Ms Bakis?---If she was our solicitor at the time I may have, yeah, asked her a question or - - -

I'm talking about after this point. After you've appointed Mr Dan you no longer had any cause to speak to Ms Bakis about legal issues to do with the Land Council, did you?---Well, by the looks of it, like I said, not many, the board never ever met Nicholas in the boardroom to be introduced to or anything like that so that was given, that was actually given to Sophie to get, more or less meet with Nicholas Dan to see if he was available for - - -

20

I'm not asking about. I'm just asking you whether you, in your position as chairperson, had any reason to communicate with Ms Bakis after this date in connection with any legal issues that the Land Council might have?---Yeah, I can't recall. Sorry.

Are you aware, Ms Dargin, that a letter was written by Ms Bakis to the Registrar in September 2016 making a complaint against Ms Anna?---Not aware. Sorry.

30

And can I take it - - -?---I can't recall any letter.

And can I take it from that answer that you never gave any instructions to Ms Bakis to write a letter to the Registrar complaining about Ms Anna?---In my role as the chairperson I, it's not up to me to give that decision. It's, it's the board that actually gives that decision so I can't recall.

40

But I'm asking you whether you – I accept that you might think that's - - -? ---I can't, I can't recall. Sorry.

You can't recall giving those instructions to Ms Bakis?---No.

I'll just show you the document if I may. It's volume 17, page 185.---Yeah.

Do you see there on the screen before you, Ms Dargin, is a letter dated 16 September, 2016?---Yeah.

Addressed to Registrar Stephen Wright and Ms Ridge. Have you seen that letter before, Ms Dargin?---I've never seen that letter before, only earlier when it was on the screens today.

And you will see there that it appears to be a letter complaining about the alleged conduct of Ms Anna. Can you see that?---Yeah, I can see that.

10

Can I take it then that you never gave instructions to Ms Bakis to write this letter?---I can't recall. I don't think so.

Well, you've just said that you've never seen that letter before, Ms Dargin. ---I've seen it on the screen earlier.

Yes.---Yeah.

But that was the first time that you've ever seen it?---Yeah.

20

So it stands to reason then that you never issued instructions to Ms Bakis to write this letter.---No.

Ms Dargin, Ms Bakis has given evidence to this Commission that you attended the Land Council's offices on the weekend and called her on the Monday to instruct her to write a letter of complaint to the Registrar, namely this particular letter. You've said you've never given those instructions to Ms Bakis and so can I take it then that evidence Ms Bakis gave is false to your mind?

30

MS NOLAN: I object. It's not for the witness to determine whether or not something is false or not and I would like a transcript reference, please, because I can't recall precisely the evidence my friend is referring to.

MS CURTIN: Yes, I've got the transcript reference. It's 2527.

MS NOLAN: Is there a line number or - - -

MS CURTIN: Ms Dargin, is it true or correct – sorry, is it true that you gave those instructions to Ms Bakis?---I can't remember.

40

Well, Ms Dargin, Ms Bakis wasn't the solicitor for the Land Council by that point. You accept that, don't you?---I don't know. I don't know who the solicitor was. It was just all over the place.

Well, it's not all over the place, Ms Dargin. I took you just moments ago to board minutes on 9 September, 2016, where you saw that there was a motion that had been resolved by the board that Mr Dan was to become the

solicitor for the Land Council. Do you remember that?---Yeah, I've just seen that, I've just seen that minutes, yep.

Yes. And so this is seven days later.---Yep.

10 After the board has resolved to retain Mr Dan, and this is a letter being written by Ms Bakis, who is no longer acting as a solicitor for the Land Council.---Like I said, there was so much going on. I wouldn't be able to give you the right answer because I can't remember doing that or making any instruction to that.

You're aware, Ms Dargin, that early on in the period of Ms Anna's time as acting CEO that she organised a clean-up of the Land Council's offices?  
---Sorry, say that again, please?

You're aware, are you not, that early on in the period of Ms Anna's employment as interim CEO that she organised a clean-up of the Land Council's offices?---Yes.

20 Did you attend the clean-up that she organised?---I think so. I'm not quite sure. I'm trying to remember actually. I don't know if I was, it was a couple of days of clean-up and if I was there one day or maybe two, I don't, can't recall.

And did you see any documents being thrown out?---No.

30 THE COMMISSIONER: Where were you working that day, do you know? In any particular location? That is, the day the clean-up occurred.---I, I, I remember the bin being full but I can't recall being there, like, for, like, throwing things out and stuff, so, yeah. That's my memory.

MS CURTIN: So, you've just told the Commissioner that you saw a skip bin on the premises around this time.---Yep.

Did you also see a document, a secure document shredding bin?---Yes, yep.

40 THE COMMISSIONER: Where was that located?---I remember when I first started, that bin actually sat out at reception area and then a couple of weeks, maybe a week or two, it was actually moved out to the boardroom meeting, that same bin. So - - -

MS CURTIN: And did you ever see any documents, did you yourself ever see any documents being put into that bin?---No, no.

Yes. That's the evidence of this witness.

THE COMMISSIONER: Yes, very well. Ms Nolan, do you have any questions?

MS NOLAN: No, Commissioner, I don't.

THE COMMISSIONER: Mr O'Brien?

MR O'BRIEN: Nothing, thank you.

THE COMMISSIONER: Mr Lonergan?

10 MR LONERGAN: No, Commissioner.

THE COMMISSIONER: All right. Do you have any questions of - - -

MR CRAWFORD-FISH: There's just one thing I might clarify, or seek to Commissioner.

THE COMMISSIONER: Yes, sure.

20 MR CRAWFORD-FISH: Ms Bakis, in giving evidence at transcript page 2527, said, Ms Dargin, that she received instructions from perhaps you, perhaps Ms Dates, perhaps Candy Towers to write a letter of complaint to the Registrar regarding Sophie Anna, and in particular reference to the disposal of documents. That was her evidence and you said in respect of that that you don't remember you giving her any such instruction.---No, no.

And you said that, correct me if I'm wrong, that you would only make a request of that sort if it had board approval. It wouldn't be something that you would go to anyone with.---No.

30 Unless it reflected the agreement of the board, is that right?---Yep, yep.

And if that's right, am I right in saying that you would expect then there to be a minute regarding any such request?---Yes.

That suggested that you might have made - - -?---Yes, there should be, there should be something, yep.

Nothing further.

40 MS NOLAN: Well, I object because this should have been explored by Counsel Assisting and I didn't ask any questions on that issue because I thought the issue was straightforwardly dealt with and it was answered - - -

THE COMMISSIONER: All right. Well, I'll grant you leave if you want to put some questions on that to the witness.

MS NOLAN: May it please the Commissioner. You were there on the weekend that the - I don't want to traverse this issue, Commissioner,

because of what went between us when Ms Anna was giving evidence, and I know that you've expressed a very clear view that you consider this issue to have doubtful relevance, so I don't want to waste the Commission's time.

THE COMMISSIONER: No, but I think the last few questions that were put were directed, as I understood them rightly or wrongly, about instructions being given to Ms Bakis to write the letter of 16 September, 2016 to Stephen Wright. Am I right? Your questions were directed to that issue?

10

MR CRAWFORD-FISH: Yes, Your Honour. Yes, Commissioner.

THE COMMISSIONER: Yes. Yes. Thank you. So that seems to be a different issue to the one we had discussion about earlier in the day.

MS NOLAN: But the letter actually traverses the same subject matter.

THE COMMISSIONER: Well, it traverses a number of matters. It does refer to – as you point out in point 3 on page 1 and the second paragraph at page 2 – to that matter. But I'm not stopping you from asking questions about the basis upon which Ms Bakis wrote this letter.

20

MS NOLAN: You were there that weekend. Thank you, Commissioner. You were that weekend where the clean-up, I'm going to call it, was going on, that weekend, I think following 19 August, so 20, 21 August. Is that right?

30

MS CURTIN: I object, Commissioner. It wasn't a weekend. The evidence is that it took place on or around 8 August. Yes, the dates are wrong, I'm sorry, Commissioner.

THE COMMISSIONER: Sorry, sorry, what do you say the evidence was about? On 8 August - - -

MS CURTIN: I think my learned friend just has the dates slightly wrong, Commissioner.

40

THE COMMISSIONER: She started employment – sorry, sorry, I'll withdraw that. That was the date Ms Anna started her employment.

MS CURTIN: She started on 8 August and I believe that was a Monday, and then on that Friday was the clean-up day.

THE COMMISSIONER: That's right. That's my understanding. Is that right?

MS NOLAN: Yes. I have a note that it was on the 19<sup>th</sup> but there may be confusion. So - - -

THE COMMISSIONER: Certainly it was said to be the skip arrived I think on the Friday - - -

MS NOLAN: On the 14<sup>th</sup>.

THE COMMISSIONER: - - - and it was there over the weekend and went on the Monday.

10 MS NOLAN: So the weekend I think is the 14<sup>th</sup> and 15<sup>th</sup>. 14 and 15 August, 2016, you were there at the Awabakal Local Aboriginal Land Council premises on that weekend?---I can't recall being there. I can't remember being there.

Did you receive any phone calls from Ms Debbie Dates or Candy Towers with respect to documents being thrown out?---No. Can't recall.

20 Is it the case that when you say you can't recall whether or not you authorised – or you had a conversation, should I say it – with Ms Bakis about writing a letter to the Registrar, when you've answered you can't recall, that is because you don't remember, is that right?---Well, two years ago, there's not much I can remember.

Thank you.---So - - -

THE COMMISSIONER: Right. Very well. Well, thank you for your attendance, Ms Dargin. You're excused. Thank you.

30 **THE WITNESS EXCUSED** **[3.03pm]**

THE COMMISSIONER: All right. Does that complete the witness list for today?

MR CHEN: No, we have Ms Dates, I think.

THE COMMISSIONER: Oh, Ms Dates.

40 MR CHEN: Ms Dates is here, so - - -

THE COMMISSIONER: Very good. Okay. Yes. Yes, Ms Dates. I take it the message has been given to Ms Keagan and her counsel?

MR CHEN: Yes, Commissioner.

THE COMMISSIONER: Yes, very well. Now, Ms Dates, I can't remember now whether you gave evidence on oath or affirmation. What do you want to do today?

MS DATES: Bible, yeah.

THE COMMISSIONER: Bible. Thank you.

THE COMMISSIONER: Just take a seat. Yes, Mr O'Brien.

MR O'BRIEN: Ms Dates was given the benefit of the application of section 38 in the past. I wonder if that can prevail through to today's evidence.

10 THE COMMISSIONER: Yes, very well. I'll have it noted that Ms Dates, who is about to give evidence, previously has given evidence in this public inquiry, and that evidence was given on the basis of a declaration under section 38 of the Independent Commission Against Corruption Act. I make it clear on the record that that declaration extends to Ms Dates's evidence to be given today as well.

**COMMISSIONER'S PREVIOUS DECLARATION PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT IS REAFFIRMED**

20

THE COMMISSIONER: Thank you.

MS CHEN: Ms Dates, on the last occasion I asked you some questions about some of the background involving Mr Petroulias, in particular whether you knew whether he had a conviction and served a gaol sentence for dishonesty offences. Do you remember me asking you some questions generally about that?---Yes.

30 And I asked you these questions, and I'll just read them to you if you care to listen for a moment, please, Ms Dates, at transcript page 2748. "Did Ms Bakis ever tell you that he," being Mr Petroulias, "was not a lawyer?" Question. "No, she just, she never said, she just said he's here to help the Land Council." Question, "Did she ever tell you that in effect," sorry, "tell you that in fact he was convicted and gaol for serious dishonesty offences?" Answer, "No." "Are you sure of that?" "Yes." Now, Ms Dates, you recall me asking you those questions, do you?---Yes, yes.

40 And did Mr Petroulias ever tell you that he had been convicted and gaol for serious dishonesty offences?---No.

Are you sure of that?---Yes.

Did Mr Richard Green ever tell you at any stage that Mr Petroulias had been convicted and gaol for dishonesty offences?---No.

Are you sure of that?---Yes.

At any time during any board meeting of the Awabakal Local Aboriginal Land Council did anybody ever disclose those matters?---No.

And are you sure of that?---Yes.

Now, Ms Dates, on the last occasion I was asking you some questions about a board meeting on 8 April, 2016. Do you remember me asking you some questions about that?---I think so, yes.

10 And just to assist you in recollecting broadly what we got up to, there were some minutes of a meeting prepared by Ms Nicole Steadman who was then the CEO. Do you remember me showing you those minutes, the handwritten minutes?---Yes.

And I also showed you some other minutes that had been typed up which had been prepared by either Ms Bakis or Mr Petroulias or both of them. Do you remember me showing you the two different sets?---Yes.

Now, I want to ask you some questions about that meeting, Ms Dates.  
20 Would you have a look, please, at volume 11, page 312, and these are, you'll see on the screen now the typed minutes of the meeting of the board on 8 April, 2016. Do you agree?---Yes.

And I want to ask you please to have a look at page 313 and you'll see point 4 and a discussion about further ratification of previous payments and actions. Do you see that?---Yeah.

Now, I'll invite you in a moment, Ms Dates, to read the content of that if you like, but I just want to draw your attention in the short term to the  
30 resolution that apparently is read by Nicole Steadman. Do you see that down the bottom there near where the hand or the cursor is showing that?  
---Yeah.

It might have just gone off the screen. Do you see that now?---Yes.

Would you read that to yourself, please, Ms Dates.---I don't understand what that, it's got "rat" in it, that's all I – I don't understand that word.

THE COMMISSIONER: What don't you understand?---The r-a-t-i - - -  
40 Yes.---"Rat", "rat", yeah, I don't understand that word.

Ratifies. Ah hmm.

MR CHEN: I did ask you some questions about that in the context of a meeting that had occurred on 11 January, 2016 on the last occasion, Ms Dates, and I think your evidence was to the same effect, you were uncertain about what ratifies or ratification meant.---Yeah, I don't know what it is.

Do you know where that resolution came from, Ms Dates?---From the board, it would have come from the board.

Do you know who wrote the resolution, prepared it for Nicole Steadman to apparently read it?---Whoever does the minutes.

Right. Do you have any idea about what this resolution of the board is endeavouring to do?---No.

10

Did you have any understanding at the time about what this resolution was apparently purporting to do?---Are we talking about number 4, read all that and then that's a resolution?

Not at the moment. What I've just asked you to focus on is that - - -?  
---Well, that's what I'm trying to work, what do you want me to focus on because I just don't get what you're saying.

20

All right. Well, I'll start again, Ms Dates, and you sing out if I'm not making myself clear.---Yeah.

You can see that part of the note that says "Resolution as read by Nicole Steadman."---Ah hmm.

And you can see there, there are two lines there that describes the resolution as read and if you look down a bit further you can see that the motion was carried.---Yeah.

30

Do you see that?---Yeah.

So I'm just asking you to focus on what the resolution states. Do you understand that? What it says.---That it's been passed.

Well, I think we've moved beyond that. I'm asking you just to look at what the resolution says. Do you understand what I'm asking you to do?

40

THE COMMISSIONER: We're just examining and you're going to be asked questions about those two lines, which is the resolution read out by Ms Steadman commencing "that to the extent not already ratified", et cetera.  
That's what you're going to be asked about so if you just - - -?---Yeah, but I just don't understand - - -

The word ratified?---Yeah.

Well, perhaps you could - - -?---And, and what's, some of them words there I don't understand.

Was there any discussion at the board meeting by anyone as to what the word ratified meant?---I don't, I can't recall.

MR CHEN: Well, Ms Dates, let me put it this way to you. This resolution was in fact drafted by Knightsbridge North Lawyers, either Ms Bakis or Mr Petroulias or both of them. Did you know that?---No, they can't do the minutes.

No.---The office staff can do minutes.

10

Just listen to my question if you would, Ms Dates. I want to make sure that you're following what I'm putting to you.---Ah hmm.

What I'm suggesting to you is that the resolution that Ms Steadman read was in fact prepared by Knightsbridge North Lawyers, either Ms Bakis and/or Mr Petroulias. Did you know that?---I wouldn't know that, no, but I can't see how they can do it.

20

Well - - -?---Because to me this looks like a board meeting minutes when I look at it.

I'm putting to you something different at the moment, Ms Dates, that the resolution that Ms Steadman read was not drafted by anyone within the board of the Land Council or the Land Council, it was drafted by - - -? ---Well, I wouldn't know that, no, because I look at this and it looks like a board meeting minutes.

30

THE COMMISSIONER: If you just listen to what's being said now, so that you can understand the question that's all.---Yeah.

MR CHEN: Would you like to see it? I'm putting to you, I'm asking you to assume, you understand that? Just accept for the moment that - - -?---I just accept it?

Yes, just accept for the moment that this has been drafted by Knightsbridge North Lawyers, either Ms Bakis and/or Mr Petroulias. Did you know that? ---No.

40

Did you authorise it?---No.

MR O'BRIEN: Sorry to interrupt, Counsel Assisting. I do apologise. The witness is showing a difficulty in comprehending the question. That is clear. I think it's because of the way in which it's been put, with the greatest respect to Counsel Assisting. It's being put that this document before her has been drafted by whoever.

THE COMMISSIONER: An outsider.

MR O'BRIEN: An outsider. But it is in fact a minute that has been prepared by whoever it is that prepares the minutes.

THE COMMISSIONER: No, no.

MR O'BRIEN: I think that therein lies the confusion.

10 THE COMMISSIONER: I don't think so. I think what Dr Chen was putting in that last proposition which you interrupted was he was asking the witness to assume for the purpose of the question that the facts will be shown to have been - - -

MR O'BRIEN: That the reason - - -

THE COMMISSIONER: - - - that the document was prepared by, call it an outsider, just so she gets the concept of what - I think she should be able to understand that and I don't think it'll be misleading to her.

20 MR O'BRIEN: I'm only raising to assist if I can.

THE COMMISSIONER: Yes, I know you are.

MR O'BRIEN: I suspect that what the witness is seeing is a minute and in saying this resolution has been drafted by someone, that's a document on a page, typewritten notes on a piece of paper that's been written by Knightsbridge Lawyers. That's not how she sees it.

THE COMMISSIONER: No, I understand.

30 MR O'BRIEN: The resolution at the meeting was passed. This is just a reflection of what happened at the meeting.

THE COMMISSIONER: Yes. Look, I detected the difficulty your client's had in understanding the propositions being put to her. I think Counsel Assisting's taking pains to make sure she's got the point.

MR O'BRIEN: Well, that's why I've raised so late, yes.

40 THE COMMISSIONER: Yes. I think she's in safe hands at the moment, Mr O'Brien. Yes, all right. Back to you.

MR CHEN: I'm grateful for my friend's assistance and I will assist the witness a little further to make sure that there can't be any ambiguity. I do think I fairly put it, namely that was what was read, but anyway, I'll do it again, Commissioner. Ms Dates, I just want you to have a look at something else and I'll approach those last questions from a different way if you like. So, would you be good enough just to have a look on the screen at Exhibit 106, page 12, and do you see on the screen in front of you, Ms

Dates, that that is an email addressed to you but only sent to the CEO of the Land Council's email address on 8 April, 2016 at 11.13. Do you see that?  
---Yes, yes.

And you can see that it describes a draft proposed resolutions for this evening. Do you see that?---Yes.

10 And if you have a look at the next page, you can see that is page 13, a number of matters which I'm going to take you to in due course are dealt with in these proposed resolutions, namely matters arising from Larry Slee. If you scroll down a bit further, matters arising from draft qualified audit report and you can see, if you just stop there, do you see the word "resolution"?---Yep.

And you can see there that what's occurred is that a resolution has been drafted for the meeting that is to occur that evening, isn't that right?---Yes.

THE COMMISSIONER: You can understand that?---Yes.

20 So, you now understand where this resolution started and who wrote it?  
---Yeah, but you showed me a, a board - - -

No, let's get to that in a moment. Just looking at the screen where it says "resolution". Do you now understand who drafted this resolution?---Yes.

Who drafted it on - - -?---Knightsbridge.

30 Right. We've got it. Now, we're going to move to the meeting shortly, as to what happened to that particular resolution, all right?

MR CHEN: Now, did you ask for that to be done?

THE COMMISSIONER: Did you ask Knightsbridge to draft this resolution, I think is the question.

MR CHEN: I'm sorry, Commissioner.

THE COMMISSIONER: No, I just want to make sure she's - - -

40 THE WITNESS: But what was my role? Was my role the chairperson?  
Two thousand and - - -

THE COMMISSIONER: No, let's not worry about that. We'll come to that.---Yep, okay. Yeah, yeah.

We're not at the board meeting yet.---Oh, okay.

Just listen again. It will be put to you.

MR CHEN: Did you request a Knightsbridge North Lawyer, either Ms Bakis or Mr Petroulias, to draft those resolutions?---I can't recall.

I mean, do you know why they're being sent to you and to Nicole?---I can't recall. I can't remember.

THE COMMISSIONER: Do you believe that you told them to draft it or do you think that's not likely at all?---I don't think so.

10

You don't think what?---I, I can't recall. I can't remember.

You don't think what, that you would have told them to draft this resolution, is that what you're saying or, or are you saying - - -?---Nicole might have. She's the CEO, it's addressed to the CEO but my name's on it, but - - -

No, do you know who I'm talking about? I'm talking about you. Do you think you - - -?---Yeah, no, no.

20

Do you think you gave instructions to Knightsbridge to draft that resolution?---No.

MR CHEN: Well, let's just turn if we can, back to the minute, Ms Dates, and so that's volume 11, page 312 and specifically at page 313.---So, back to the minutes.

You can see now, do you recognise those as the minutes, Ms Dates?---Yep.

30

And you see what's happened is, this meeting's at 5 o'clock, the draft resolutions are emailed through at 11 o'clock on the morning. Six hours later this meeting happens and the resolution in relation to ratification has been passed. Do you see that?---Yep.

What was it endeavouring to do? Do you know?---No.

What was the discussion that was had, do you know?---No.

Do you know why it was necessary, this resolution to be passed by the board?---I don't know. I can't, can't recall that.

40

All right. Well, you don't know what ratifies means, it just means approved after the event. If you use that as a working definition, Ms Dates, do you know what this resolution's endeavouring to do?---No.

Not at all?---No.

THE COMMISSIONER: It's got something to do with money, hasn't it? ---I wouldn't have a clue.

Well, you read it and see if you think I'm right. See the word "payments"?  
---Yeah.

It's about money, isn't it?---Yeah.

Right. Okay. So it's seeking a decision to confirm or approve after the  
event payments of money in effect. That's the - - -?---Yeah, I know what  
you mean, but that's - - -

10

No, it's all right. I just want to make sure you understand, that's all.  
---Yeah, yeah.

You do understand that, do you? It's directed to money, firstly. You  
understand that, this resolution?---Yeah.

Right. And it's directed to getting the authority of your board to approve  
these payments being made. Do you understand that?---Yeah.

20

Right. That's the business that this resolution is focussed on. It's on money  
and it's on getting board approval for those payments to be approved. Is  
that right? Do you understand that?---Yeah.

Right. Now, if you just hold that understanding in your mind for the  
moment, you'll be asked more questions.

MR CHEN: Why was that resolution necessary, Ms Dates?---I can't recall  
it.

30

Not you can't recall, why?---I don't know. I look at this as a board minutes  
and if it was approved, it was approved.

Well, we've got that, that it was approved, because that's what it says.  
---Mmm.

But what I'm really trying to get from you, Ms Dates, is you as the  
chairperson who is supposed to be charged with the responsibility of  
guiding the board and thus the Land Council - - -?---Well, I asked you that  
question earlier.

40

Just a moment, please, Ms Dates. Why you're putting your approval to the  
passing of this resolution when you don't know really what it's about. I'm  
asking you, can you give an explanation for why you're doing this?---Doing  
what?

THE COMMISSIONER: Approving this, if you didn't know what you  
were approving, if you didn't understand what you were approving, why did

you approve it?---I didn't approve this. This is done at a board level. This comes from a board level, a board minutes from a board meeting.

But you - - -?---If you go back to the front page you'll see everybody was there, not just me.

MR CHEN: No, Ms Dates - - -

10 THE COMMISSIONER: But you were present, weren't you?---Yeah.

And you voted in favour of it?---I'd have to read it properly again.

MR CHEN: Well, look down the bottom. It says four/four and two abstained. Those abstaining were Micky Walsh and Larry Slee. ---Yeah, it was motioned, it was moved.

20 THE COMMISSIONER: You took your responsibilities as chairperson seriously, did you, or did you think it was just a joke?---No, I was very serious. I'm very passionate about my Land Council.

You are. Right.---Still am. I was on the board for seven years.

I don't doubt that for a moment. So why would you approve this resolution - - -?---Don't know.

30 - - - when you didn't really understand what it was all about, why would you as chairperson use your influence, your vote, to approve it when you didn't know what you were approving?---'Cause I had a lot, I had a lot of trust in our solicitor, Despina.

Yes, but you've got a responsibility - - -?---Yeah.

- - - as a trustee in effect, as the chairperson on the board. Isn't that right? ---Yeah.

And you've got to be very careful and diligent in exercising your office as a board member. Is that right?---Yep.

40 Well, if you, do you say that you were conscientious and tried to the best of your ability to carry out your duties as a board member?---Yeah, I tried to move the Land Council forward.

Right. And if you were asked to participate and vote for something in a board meeting you would want to be sure that you understand what you're voting for. Is that right?---Yes.

Now, we're coming to this resolution. Why did you support this resolution when you - - - Because I thought it was - - -

No, let me finish. Why did you support this resolution when you say you didn't understand it?---Because to me it looked like it was going to move the Land Council forward.

MR CHEN: But how do you know that, Ms Dates, when you don't understand?---Because I was left there for nine months by myself.

10 All right.---That's what I'm saying. The Land Council needed to move forward.

Well, that's a noble aspiration, Ms Dates, I accept that, please understand that I do. What I want to find out from you is on what basis you say now that supporting a motion that you don't understand in fact moves the Land Council forward. Please tell the Commissioner what your response to that is.---You used a lot of big words, could you, could you cut that down a little bit?

20 Of course. You keep coming back to this idea, Ms Dates, that you tried to move the Land Council forward, yet on the other hand you're supporting resolutions where you do not understand what the effect of what you're agreeing to. How does that sit together, Ms Dates?---I still don't get what you mean.

Well, Ms Dates, is this right or wrong? You don't know what that resolution means.---I thought it was to move the Land Council forward.

Well, let's - - -

30 THE COMMISSIONER: Ms Dates, the only people that were being moved forward by this resolution was the ones who wanted the money. That's moving them forward if the resolution goes through. You understand that? ---Yes, yeah.

You understand that clearly now, don't you?---Yes.

That the effect of this resolution, if it's going to move anyone forward, it's not the Land Council. It's the people who want the payments, right?

40 MR CHEN: Or, Ms Dates, can I suggest something else? It's actually trying to approve after the event actions by individuals that have been undertaken without the authority of the board. So accepting for the moment those explanations as to what the effect of this is, how could you possibly say it moves the Land Council forward?---Don't know.

Is that the best explanation you have, Ms Dates?---Yes.

And is that the only explanation that you have?---Yes, yes.

And you understand, of course, and you understood at the time, that you as the chairperson were charged with the responsibilities under the Act and the regulations to act honestly? Is that right or not?---Yes.

To act impartially?---Yeah.

To act with diligence and care?---Yes.

10 And to always act in the best interests of the Land Council?---Yeah.

And you say, do you, that simply voting or supporting a resolution that you do not understand achieves those aims, do you?---What was that again?

You say, do you, by supporting a resolution in these terms fulfils your obligations as a board member and as the chairperson?---I don't, I don't understand that question.

20 You see, Ms Dates, by you agreeing – not only on this occasion but on a number of occasions – to resolutions that have been put up by Knightsbridge North Lawyers was simply failing to discharge competently and properly your obligations as a chairperson and board member of this Land Council, isn't that right?

MR O'BRIEN: Well, I object to that. I think Counsel Assisting has established a point but I'm not sure it is the point that is sought to be established. What has been established is that this witness did not understand the resolution, point blank, period.

30 THE COMMISSIONER: Yes, we know that.

MR O'BRIEN: It has also been established that the resolution was not proposed by her but by lawyers who she trusted.

THE COMMISSIONER: Yes.

MR O'BRIEN: Now, she believes - - -

40 THE COMMISSIONER: Well, well, mmm, yes.

MR O'BRIEN: Well, that's the evidence I recorded, "I had a lot of trust in Ms Bakis."

THE COMMISSIONER: But in any event, yes, what's that got to do with the question that's been put? See, there are two other possibilities, and it's going to be put to her very plainly so that she's got an opportunity to respond. One is she voted because she couldn't care less what she was supporting and therefore in breach of the duties that were just put to her as

part of her fiduciary obligations. Second is that she was deliberately acting dishonestly to aid others than the Land Council or the board, that she was being dishonest and she knew it, and she was favouring somebody. That's another possibility and it's going to have to be put to her clearly so that she will have the opportunity of responding to that. And then there's the other possibility that you've flagged. There's nothing wrong with Counsel Assisting's question put to her. Indeed, he'd be criticised if he didn't put it to her because she wouldn't have the opportunity to respond. You understand?

10

MR O'BRIEN: I certainly understand that. I think it - - -

THE COMMISSIONER: Well, what's wrong with the question being put to her then?

MR O'BRIEN: Well, I think that the time's come to put those propositions to her squarely, rather than - - -

20

THE COMMISSIONER: Mr O'Brien, Senior Counsel is highly experienced in these matters.

MR O'BRIEN: I don't doubt it.

THE COMMISSIONER: And there is no flaw or difficulty in him putting in the way he's putting it. So, I'm afraid you'll come second on that one, Mr O'Brien. Yes, put it again.

30

MR CHEN: Ms Dates, what I think I put to you was a proposition to this effect, that by you voting to support this resolution that you were not competently, diligently and impartially discharging your functions as a chairperson and board member of this Land Council. What do you say to that?---What do you mean by that? Like, I really don't understand that question.

Well, by you simply agreeing to something, namely this resolution, without knowing its legal effect, that you were not acting consistent with your duties as the chairperson and board member of the Land Council.---I didn't know what I was signing.

40

Well, you weren't signing anything, Ms Dates. You were agreeing to pass the resolution which, as I understand the effect of your evidence, is you didn't understand what it meant or what its legal effect was.---That's right.

Yes. And by doing that – that is to say, supporting such a resolution – that you are not fulfilling your obligations as a chairperson and board member of this Land Council.---I thought I was.

And that really this is simply an example, Ms Dates, of you agreeing to anything that was put before you by either Mr Petroulias or Ms Bakis, isn't that right?---What are you saying, that Despina and Nick put something in front of me and I signed it or - - -

No, what I'm suggesting to you is that your support of this resolution is but an example of you simply agreeing to do whatever Ms Bakis or Mr Petroulias might have asked you to do.---No.

10 And that you didn't take any step to try and inform yourself or acquaint yourself with what you were doing at any time of which this resolution was an example. Isn't that right, Ms Dates?---What's that mean? Like, what you just said.

You didn't take any steps to try and find out what you were in fact doing? ---No, it was all done in the board room.

20 THE COMMISSIONER: I think what's being put to you about this resolution we're talking about, about the payments, you saw it on the screen a moment ago, that as a diligent board member you'd have to make sure that you understood what the resolution was seeking approval for before you voted in favour of it. You'd agree that you'd need to understand it to be able to properly vote one way or the other?---Was there another, with that, like, that, that thing that was, that they, they passed, we passed, is there another copy to that minutes until where the payments were made to?

You're not listening to me. I'll put the question to you again.---Yeah.

30 Will you listen to it and will you answer it?---Ah hmm.

It's been put to you that as a board member and chairperson on the board, if a resolution is being put up, it's vital that you understand the meaning of the resolution, what it's seeking by way of a decision before you vote. Yes or no?---Yes.

40 Yes. It's being put, in this case, you didn't understand the resolution but you still voted in favour of it and it's being put that that is either negligent by you not performing your duties properly or you were being dishonest because you wanted to support the resolution whether you knew what it meant or not. Now, what do you say to those two possibilities?---No, I was never dishonest.

What do you say to the proposition that this is highly unusual for a board member to vote in favour of a resolution when the board member didn't even know what the resolution was about? Would that be a breach of duty by the - - -?---Yes.

And that's what has been put you did. You didn't understand it but you still supported it. What's your response?---Oh, my response is I, I did it thinking that it was going to move the Land Council forward.

Yes, but it was really moving forward - - -?---I don't know.

Knightsbridge Lawyers or Ms Bakis or Mr Petroulias wasn't it, not the Land Council?

10 MS NOLAN: I object because, you know, now you've brought my client in I think my interest is clearly and squarely engaged. That is not what this resolution did. This resolution corrected an earlier one which related to a requirement by an auditor with respect to a number of related-party transactions. They were all ALAC-related. They related to wages, et cetera, and I understand that there is evidence before the Commission that all this was explained in language that this witness, with the greatest respect to her, would probably better understand.

20 THE COMMISSIONER: I'll put it in a different way. All I'm dealing with is her state of mind at the moment so I'll withdraw - - -

MS NOLAN: I understand your proposition.

THE COMMISSIONER: I will withdraw the question now. Ms Dates, I'm trying to give you a fair opportunity to explain yourself. It's being put that you should never have voted in favour of this resolution. The reason, you didn't understand it. Do you understand what's being put?---(No Audible Reply)

30 It's being put square to you, you voted for this resolution and you didn't even understand what the resolution was about. Is that right or is that wrong?---Like the payments, I don't know what the payments are there for. What, what, are they wages - - -

Don't you worry about that. You said already you didn't understand what the resolution was about. You didn't understand what the word ratify meant.---No, I don't understand what ratify means but - - -

40 You still vote in favour of - - -?--- - - - if they're payments they're made by, well, at a board level.

Even though you didn't understand the resolution you supported it. Why? ---Don't know.

That's not a very good answer.---I thought it was going to move the Land Council forward.

You keep using that phrase as if that will answer every question that's put to you.---I've only said it three times.

You keep saying moving the Council forward.---Three times I've said it.

Yes, but if you didn't understand the resolution, why did you support it?---I don't know.

10 It might be said that a board member who supports a resolution they don't even know what it's really saying is either negligent or dishonest. That's being put to you. Were you negligent in going ahead and supporting this because you didn't even understand what it was about?---Don't know.

Hmm?---Don't know.

You don't know whether you were negligent in not - - -?---I think I was, yeah, yes.

20 You think you were?---Yes.

It might be one view of it said your actions in supporting it would indicate that in supporting it you were acting dishonestly as a board member and chairperson. What do you say?---Yes.

What do you say?---No, I wasn't dishonest.

All right.---I still say that.

30 Yes.

MR O'BRIEN: Thank you, Counsel Assisting. Commissioner, can I intervene to assist the Commission. I'm just a little bit concerned with the presentation of my client in the witness box at the moment. It's been suggested to me that I might seek the indulgence of just five minutes to have a word with her as to - - -

THE COMMISSIONER: Suggested by whom?

40 MR CHEN: I think, Commissioner, could my learned friend just have an opportunity to speak to his client just about an issue that Mr Broad has raised with me. I just want to make sure that there isn't anything that requires Mr O'Brien to deal with.

THE COMMISSIONER: Very good. Five minutes.

MR O'BRIEN: Thank you.

THE COMMISSIONER: Very well. I'll adjourn.

**SHORT ADJOURNMENT**

**[3.39pm]**

THE COMMISSIONER: Yes, ready to resume?

MR O'BRIEN: Yes, thank you. Thank you, Commissioner.

10 THE COMMISSIONER: Yes. All right.

MR CHEN: Now, Ms Dates - - -

THE COMMISSIONER: I'm sorry to just interrupt you. I understand you're unlikely to finish with Ms Dates this afternoon?

MR CHEN: Absolutely I won't.

20 THE COMMISSIONER: So I just thought for the convenience and the information of others I propose, subject to anything you and anyone else wants to raise, that we adjourn at 4 o'clock rather than go through to 4.30.

MR CHEN: I think that's suitable, Commissioner, because I won't finish by 4.30 in any event.

THE COMMISSIONER: No, and resume tomorrow 10 o'clock then.

MR CHEN: Yes, Commissioner.

30 THE COMMISSIONER: All right. Okay. We'll do that. Yes, sorry, I interrupted you.

MR CHEN: Now, Ms Dates, I want to ask you some other questions about these minutes of 8 April, 2016. Do you understand?---Yep.

Now, so I want to ask you some questions about part 5 of those minutes which are on page 314 of volume 11. And you'll see there's a heading, number 5, Summary of Proposals for Development of Awabakal Lands. Do you see that heading?---Yeah.

40

Now, I asked you some questions about this topic generally on the last occasion. Do you remember me asking you some questions about what is recorded in these minutes at these points?---No, I can't recall.

All right. Well, I did ask you some questions about whether the Land Council had sold all of its lands, et cetera, et cetera. You don't remember that?---No.

All right. Well, I just want to ask you some questions about what appears down near the bottom of the page, just before the resolution or just before what you can see is a rejection of the Sunshine Group. Do you see that down - - -?---Yeah, yeah.

Now, you'll see at a point just above that, that the minutes record, "The Sunshine Group's agreements were discussed." Do you see that?---Yeah.

10 What is your recollection about what was discussed at this meeting in relation to the Sunshine Group agreements, Ms Dates?---I can't recall.

Well, what did you know about Sunshine as at April of 2016 and about agreements that they had apparently proposed?---I think I can recall 'em coming to a board and doing a proposal but that's about it.

Well, Ms Dates, was there any placing before the board any agreements, so far as you can recall, that dealt with Sunshine?---No.

20 Did you disclose to the board at this meeting that you had in fact met with Mr Zong on 23 October, 2015 in the offices of the Land Council with a number of other individuals such as Mr Green, Mr Say, Mr Petroulias and Mr Zong?---At a board meeting, yes, I remember.

No.---I can recall at a board meeting.

No, Ms Dates, please listen to my question.---I am.

30 Well, I'll try again, Ms Dates, and what I'm asking you is, at this meeting on 8 April, 2016, did you disclose that you had met with Mr Zong, Mr Petroulias, Mr Say and Mr Green and that documents had been signed? ---No.

Did you disclose to the board at this meeting on 8 April, 2016 that you had signed a document called a surrender and release agreement with a company called Gows Heat?---Did I tell the what, the board?

Yes.---No, I never told the board 'cause it never, they come to a board meeting - - -

40 Well, can I suggest - - -?--- - - - and done a proposal.

Sorry, you keep going. What did you say? That they'd come to - - -? ---They'd come to the board meeting and done a proposal.

Well, Ms Dates, can I suggest to you that that is simply not so, and that neither Sunshine nor Mr Zong ever attended to present a proposal to the board and you know that.---Yes, they did.

No. Well, can I suggest that they never did Ms Dates, and your recollection is at the very least wrong.---No, I'm not. I'm not a liar.

And on the last occasion, you suggested that if they did such a proposal, we'd be able to find it in the minutes.---Yep.

Well, Ms Dates, I'm going to suggest to you that the first reference to the Sunshine Group – and the only reference to this point in time – in the minutes of the board of the Land Council is on this date, 8 April, 2016.

10 Now, if you accept that proposition, Ms Dates, you must be wrong, mustn't you?---No. Because they, they done a proposal to the board and they were going to come back and, and do a presentation to the members and they didn't come back. I remember that.

You knew, Ms Dates, that on 23 October, 2015, that Mr Zong had attended the Land Council with Mr Green, Mr Petroulias and Mr Say to actually sign agreements, isn't that right?---No, to do a proposal to the board. They come to the board meeting.

20 Can I suggest to you that you knew full well that's what was occurring on 23 October, 2015, namely you were signing agreements with Sunshine and Mr Zong?---No.

And that's in fact what you did, Ms Dates.---No, I never.

Well, if you move a bit further down, Ms Dates, you can see that there's a reference to Salamander offer. Do you see that?---Yep.

And David He. Do you see that?---Yep.

30 Now, they did come to the Land Council, did they not, to do a presentation and proposal?---I can't recall. I don't know.

Well, do you know what was discussed in terms of their proposal on 8 April, 2016?---No.

I'm sorry, I should have asked you these questions about Sunshine. Ms Dates, it would seem that the board resolved to reject the Sunshine Group agreements. Do you see that?---No, I can't see that. Where's that at?

40 Well, you can see the Sunshine Group agreements were discussed below that, "Rejected, Sunshine Group".---Yeah, that's when then come to, at the  
- - -

No, no.---I don't think it was that meeting, it was another meeting but they come to a board, board meeting.

We've moved past that, Ms Dates. Please just focus on my question if you would. These are the minutes of a board meeting on 8 April, 2016. Do you understand that?---I've got, on here I've got 14 November, 2014.

No, no. Please, please. We'll just go back to the beginning. Have a look at page 312, do you see that? These are the minutes of the board meeting - - - ?---In April.

- - - that you chaired on 8 April 2016. Is that clear?---Yep.

10

All right. Let's go back to page 314. Keep going down the bottom, please. Now, you can see, can't you, on the screen in front of you, near where that hand is showing on the screen, the Sunshine Group agreements were discussed. Do you see that?---Yes.

And this is a discussion that occurred on 8 April, 2016. You understand that?---Yes.

20

And you can see beneath that, that their agreements were rejected. Do you see that?---Yep.

And you supported, did you not, the rejection of this agreement, isn't that so?---Well, if it says that, I must have.

Well, I'm not sure that it says it in terms, but the implication seems to be that it's been unanimously carried.---If it says that.

30

Well, it doesn't say that, I'm saying that's the implication.---Yes, it does. After Lenny Quinlan it says, "Carried."

All right. So, do you accept by the recording of the word "carried" that you supported it?---I can't recall.

Well, do you have any understanding about why you would take a position one way or the other in connection with the Sunshine Group agreements?---I can't, I can't remember it, can't remember that far back.

40

Well, was there any discussion about what the nature of these agreements were and what benefits if anything they might bring the Aboriginal community?---Just help them to move the Land Council forward.

All right.---That's about it.

Are you just saying that or are you saying that's a recollection that somebody said that in the meeting?---I can't recall.

This is a very important meeting, as you can probably imagine, Ms Dates, in the sense that a number of property transactions or proposed transactions

involving the Land Council are put before it for consideration by the board. Isn't that right?---Yes.

And you would accept surely that you as the chairperson would be duty-bound to familiarise yourself with what was to be put before the board so that you could consider it properly before making a decision on it.---That's my role as the chairperson, to um, do the agenda for the meetings, so that's how I can recall having a proposal done by Sunshine.

10 Well - - -?---And inviting them into a meeting.

My question's a bit more specific than that, Ms Dates, namely that you as the chairperson and a board member are charged with the responsibility to find out whether this agreement or what the terms of it are and whether it's good and bad for your community. Isn't that right?---It's up to the board to do, to decide that as well.

20 Well, I understand that, Ms Dates, that the board has to make a decision about it, but you as the chairperson and board member also have a responsibility to understand the information that is to be put before the board before making a decision on it.---No, everything goes to a board, goes to the board.

THE COMMISSIONER: We're talking about your responsibility, madam, as a board member. It's your responsibility to make sure that you understand - - -?---Yes.

- - - what's being discussed before the board.---Yes.

30 MR CHEN: And you're not able to say now what it is that informed your own personal decision to reject these Sunshine Group agreements, is that the position?---I don't get what you mean.

THE COMMISSIONER: Okay. Why did you join in rejecting the Sunshine Group agreements, why did you?---Well, the, the board mustn't have wanted to, to go along with it so - - -

40 What about you though, did you want to go along with it?---No. Well, I must have carried it too 'cause it's been carried.

Okay. You say you didn't want to go along with these agreements. Is that - - -?---I can't recall.

That's your personal position?---I can't recall. Yeah, but I wouldn't have, if that's been carried I must have followed 'em, but I can't recall.

Why did you follow them?---Well, it mustn't have been a good proposal for the Land Council.

Don't you know?---Can't recall.

It's pretty important - - -?---Can't remember.

- - - business, isn't it, pretty important subject, selling some of the Aboriginal property, it's a pretty serious matter, you'd remember that, madam, wouldn't you?---No, can't recall it.

10 You don't recall it?---I've got too much happening.

You don't even recall it?---No.

Are you trying to give honest and straight answers?---Yes.

MR CHEN: What information, Ms Dates, were you given to assist you in coming to a position as to whether this agreement should or shouldn't be rejected?---Could you recall, could you say that again?

20 What information did you have - - -?---What do you mean?

- - - to enable you to make a decision one way or the other?---What do you mean?

Well, what did you base your decision on?---Are we going by this minutes?

No, I'm just asking you. You've accepted the proposition as I understand it, Ms Dates, that you joined in in rejecting the Sunshine Group agreements. That's clear, isn't it?---Yeah, looks like it, it's been carried.

30

And you've accepted the proposition that you, independently of the board, need to familiarise yourself with the information to enable you to come to your own view as to whether something is good and bad and whether you should support it or not. Is that fair?---Yes.

So I'm asking you, what did you base your decision on?---I don't get what you mean. I really don't.

40 THE COMMISSIONER: Are you deliberately not answering the question?  
---No, I don't get what he means because what's he saying, this, I'm trying to say to him this has been carried so I must have been with it to - - -

MR CHEN: We've accepted that, Ms Dates.---Yeah. So what are you going on about now?

Well, what I'm going on about is I'm trying to understand what it is, what information you had, what processes you undertook to enable you to agree to reject the Sunshine Group agreements.---Don't know. I might have

worked with the CEO. That's my role. Then you take it to the board. But I, I don't know. I don't know what you mean.

Well, the other thing I think you said on the last occasion, Ms Dates, is that if something is tabled before the board, it's always noted that something is tabled, isn't that right?---Yes.

10 And so the fact that the Sunshine Group agreements do not appear to have been tabled seems to suggest, does it not, from these minutes that they certainly were not tabled, isn't that right?---I can't say that because I remember having a board meeting with Tony Wong and Sammy Say, at a, at a board level.

Commissioner, that's probably a convenient time.

THE COMMISSIONER: Yes. All right, then.

MR CHEN: Mr O'Brien has a folder I think to produce. I think on the last occasion, Commissioner – anyway, I'll see whether Mr O'Brien's in a  
20 position to - - -

THE COMMISSIONER: Mr O'Brien, do you have something to produce?

MR CHEN: If not, I can deal with that after if you'd prefer.

MR O'BRIEN: There is no doubt that this folder would be ordinarily a privileged document. It was provided to a lawyer, not me but a previous lawyer for Ms Dates, in the course of her obtaining advice and giving instructions. However, my client is prepared to waive privilege to assist the  
30 Commission, and that waiver is pursuant to section 37(5) of the Act, and so the folder can be produced.

THE COMMISSIONER: All right. Thank you, Mr O'Brien. Well, perhaps if, perhaps, yes, if you wouldn't mind handing it to my associate, then.

MR CHEN: Commissioner, I accept, obviously, what my friend's saying, that the documents are privileged, but could we to the extent necessary form our own judgement about that? I don't wish by not saying anything that I accept - - -  
40

THE COMMISSIONER: Yes, yes. Yes, well, you'll have to look at the documents.

MR CHEN: Thank you.

THE COMMISSIONER: I'll have the folder marked for identification, I think, at this stage. It will become, then – what number are we up to? 42. MFI 42. That's the folder of documents which is marked by Mr O'Brien.

**#MFI-042 – FOLDER OF DOCUMENTS PRODUCED BY DEBBIE DATES**

THE COMMISSIONER: Very good. Nothing further?

MR CHEN: No, Commissioner.

10

THE COMMISSIONER: Now, Ms Dates, we're - - -

MS NOLAN: Sorry, there is one matter further but I just wanted to say that I wish to raise one small matter of an administrative nature when the Commission is in a position to deal with it.

THE COMMISSIONER: I'm sorry?

20

MS NOLAN: I haven't raised it with my friends because it's only just been brought to my attention, but I wish to deal with one small administrative matter.

THE COMMISSIONER: Well, you can deal with it now, if you like.

MS NOLAN: If you wanted to let Ms Bakis - - -

THE COMMISSIONER: Yes, all right, then.

30

MS NOLAN: Sorry, Ms Dates.

THE COMMISSIONER: Ms Dates, so we're going to continue tomorrow at 10 o'clock, so you're free to go today and we'll see you in the morning. ---Thank you.

Thank you.

**THE WITNESS STOOD DOWN**

**[4.08pm]**

40

THE COMMISSIONER: Yes, Ms Nolan.

MS NOLAN: I've just been instructed because my client's only just learned of this, is that tomorrow in the Supreme Court bail hearing at which Mr Petroulias is required to attend, she also is required to attend because she has put on an affidavit with respect to security that she will offer, and she's been told that she'll be required to attend for the purposes of cross-examination, and as the Commission would well know, that may take all

day. And I just wanted to flag that if we were to commence cross-examination of Ms Dates, I would be in a position where I probably wouldn't be able to do terribly much without my instructor here. So I raise that only for timetabling purposes, and then if there is a need for her to be brought back – Ms Dates, I mean – may I ask that I be given an opportunity to cross-examine at a later date when Mr Petroulias - - -

10 THE COMMISSIONER: Well, I understand, firstly just so I make sure I understand this, Mr Petroulias has got a commitment in another court, or in a court, to deal with an application, is that right?

MS NOLAN: Tomorrow, yes, in the Supreme Court.

THE COMMISSIONER: Yes. But that's Mr Petroulias. Now, what's the position with Ms Bakis?

MS NOLAN: It's an application for bail.

20 THE COMMISSIONER: Yes, I know it is, yes.

MS NOLAN: And Ms Bakis is – providing surety and evidence about, she'll be providing evidence with respect to the couple's children, and so she's put on an affidavit and has been told that she may be required for cross-examination and that she needs to attend.

30 THE COMMISSIONER: Well, look, I'll try and accommodate Ms Bakis's position as much as I can, but I'm not going to hold up the evidence of Ms Dates more than is absolutely necessary. We want to complete her evidence tomorrow, including cross-examination. So, I think what I suggest be done is that there is normally fairly long lists in the Supreme Court bail applications. I think there's need to speak with the Crown who's dealing with the list tomorrow and explain the situation here. The Crown, I'm sure, will be able to indicate whether Ms Bakis is required to attend or not, and if she is required for any purpose it will probably be for a matter of minutes, and I would ask that you try and arrange a time with the Crown for her to attend to give evidence. It's only up the road after all.

MS NOLAN: No, we'll do that but I just wanted to flag it - - -

40 THE COMMISSIONER: I just want to be able to accommodate both situations.

MS NOLAN: Absolutely. And I just wanted to flag it with you before you rose so my friends hear it as well and - - -

THE COMMISSIONER: But I'm accommodating Mr Petroulias so as to say he doesn't have to be here tomorrow at all unless he wants to or is able to be here, so that he can attend to his bail application. But that doesn't, as

it were, give licence to Ms Bakis to take the day off as well and attend to the bail application. She's either here to instruct you or she's not. But I want to complete the evidence of Ms Dates tomorrow, is the point I'm trying to make, and I'm prepared to exercise some flexibility to the extent possible.

MS NOLAN: You appreciate that my application is only in respect of the fact that she has sworn an affidavit in that court.

THE COMMISSIONER: Yes, I understand.

10

MS NOLAN: And may be required by the Crown for cross-examination. But an arrangement should be made with the Crown noting your remarks and that's helpful. Thank you.

THE COMMISSIONER: Sure. I think in my experience, if there's any cross-examination, Ms Bakis, it's likely to be a matter of minutes. It won't take long.

20

MS NOLAN: It's just a question as to where Mr Petroulias may fall in the list.

THE COMMISSIONER: Yes. Well, again, those arrangements, in my experience, can usually be worked out with the Crown.

MS NOLAN: Your remarks today help.

30

THE COMMISSIONER: And the judge of course. But I'm sure that if the judge is given information to understand the situation, I wouldn't anticipate any difficulties. All right. Well, we'll see how we go tomorrow but I just underline the point, we want to finish Ms Dates tomorrow. All right. I'll adjourn until 10 o'clock.

**AT 4.12PM THE MATTER WAS ADJOURNED ACCORDINGLY**

**[4.12pm]**