

ROYAL COMMISSION INTO TRADE UNION  
GOVERNANCE AND CORRUPTION

**Public Hearing**

**(Day 6)**

Level 5, 55 Market Street, Sydney

On Monday, 16 June 2014 at 10.00am

Before the Commissioner: The Hon. John Dyson Heydon AC QC

Counsel Assisting: Mr Jeremy Stoljar SC  
Ms Fiona Roughley

Instructed by: Minter Ellison, Solicitors

1  
2 THE COMMISSIONER: Yes, Mr Stoljar.  
3

4 MR J STOLJAR: May it please the Commission, I appear with  
5 my learned friend, Ms Roughley, as counsel assisting. It  
6 may be appropriate to take appearances.  
7

8 THE COMMISSIONER: Yes.  
9

10 MR M IRVING: If the Commission pleases, my name is  
11 Mark Irving. I appear with my junior, Ms Knowles, for the  
12 Health Services Union.  
13

14 THE COMMISSIONER: Thank you very much.  
15

16 MR I TEMBY: If it please the Commission, Temby for Health  
17 Services Union, NSW, and Mr Michael Seck appears with me.  
18

19 THE COMMISSIONER: Thank you, Mr Temby. Any other  
20 appearances to be announced? Very well, Mr Stoljar.  
21

22 MR STOLJAR: Commissioner, the hearings commencing today  
23 relate to the Health Services Union. The Health Services  
24 Union is an old and well established union. It has existed  
25 in various iterations since 1911.  
26

27 The members of the HSU are health and community  
28 service workers. The HSU is a trade union registered under  
29 the Fair Work (Registered Organisations) Act 2009  
30 (Commonwealth). It was one of the five employee  
31 associations specifically named in the Commission's Terms  
32 of Reference.  
33

34 The supreme governing authority of the HSU is the  
35 National Council. More broadly, the HSU is a federation of  
36 various autonomous State branches. These branches collect  
37 membership fees and operate as financially independent  
38 units. Each branch has elected officers. A Branch  
39 Committee of Management, or BCOM, is responsible for the  
40 management of the affairs of the branch. The BCOM is  
41 comprised of the branch officers and rank and file members.  
42

43 In addition to the federally registered HSU, there  
44 have existed for many years independent but associated  
45 state-registered unions in New South Wales, Tasmania and  
46 Western Australia. These state-registered unions are  
47 "employee associations" within the definition of that term

1 in the Commission's Terms of Reference.

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The hearings commencing today also relate to the Health Services Union of NSW, which is a legal entity distinct from the HSU. I will refer to this as the "NSW Union".

The HSU and the NSW Union have undergone various well-publicised upheavals in recent years.

Among other things, the HSU and the NSW Union implemented major structural changes: -

- in early 2010, the Victoria No 1 Branch, the Victoria No 3 Branch and the New South Wales Branch of the HSU merged, forming the HSU East Branch. Fair Work Australia certified the rule changes necessary to implement this merger on 24 May 2010. In July of that year, the NSW Union amended its rules to permit members of the former Victoria No 1 Branch and No 3 Branch to become members of the NSW Union. Officers of HSU East Branch automatically held the same position in the NSW Union. I will refer to the HSU East Branch and the enlarged NSW Union collectively as "HSU East".

- on 21 June 2012 the merger was reversed by order of the Federal Court of Australia. HSU East Branch and the NSW Union were put into administration. The various branches were "de-amalgamated". The HSU East Branch ceased to exist and was broken into the Victoria No 1 Branch, the Victoria No 3 Branch and the New South Wales Branch. The Victorian members ceased to be members of the NSW Union.

These structural changes took place in the context of other significant events.

First, Mr Michael Williamson was for some years General Secretary of the NSW Branch. After the merger in 2010 he was General Secretary of HSU East Branch and the NSW Union.

As is well known, on 4 October 2012 Mr Williamson was charged with various offences relating to corrupt conduct.

On 15 October 2012 Mr Williamson pleaded guilty to some of those charges. He's presently serving a custodial sentence. Mr Williamson is also party to civil proceedings

1 in the New South Wales Supreme Court brought by the  
2 NSW Union.

3  
4 Secondly, Mr Craig Thomson was formerly  
5 National Secretary of the HSU. He later became a member of  
6 Federal Parliament, after the 2007 elections. Mr Thomson  
7 was charged on 30 January 2013 with a large number of  
8 offences relating to the misuse of his union-issued credit  
9 card. On 18 February 2014 Mr Thomson was convicted by the  
10 Magistrate's Court of Victoria of some 71 counts of  
11 obtaining financial advantage by deception and some  
12 16 counts of theft. Mr Thomson has lodged an appeal  
13 against these convictions.

14  
15 Mr Thomson is also presently a party to pending  
16 proceedings in the Federal Court of Australia brought by  
17 the General Manager of Fair Work Australia in respect of  
18 alleged contraventions by Mr Thomson of the Fair Work  
19 (Registered Organisations) Act 2009. Some of those  
20 contraventions overlap with the criminal proceedings.

21  
22 The hearings starting today will not investigate the  
23 specific circumstances of the conduct leading to the  
24 convictions of Mr Williamson and Mr Thomson - those  
25 circumstances have been or are being canvassed in the  
26 various proceedings referred to above.

27  
28 Rather, these hearings will examine questions relating  
29 to or arising from those circumstances. Questions such as:  
30 How did this corruption flourish? Why was it not detected  
31 earlier? Why wasn't something done about it? What  
32 happened when it was detected? What could have been done  
33 better?

34  
35 Before describing the evidence to be given by the  
36 various witnesses it will be helpful to list some of the  
37 significant dates, to put that evidence into context.

38  
39 Prior to the merger which resulted in HSU East,  
40 Ms Kathy Jackson was the Secretary of the Victoria  
41 No 3 Branch. In due course she became Executive President  
42 of the newly created HSU East and held that position until  
43 HSU East was put into administration into June 2012.  
44 Ms Jackson did not contest the fresh elections held in 2012  
45 for the No 3 Branch.

46  
47 In addition to her roles at branch level,

1 since December 2007, Ms Jackson has been the  
2 National Secretary of the HSU.

3  
4 In early 2008, when Ms Jackson took over as  
5 National Secretary from Craig Thomson, after his election  
6 to Federal Parliament, she happened upon bank statements  
7 for the credit cards which ultimately became the subject of  
8 the criminal proceedings against Mr Thomson.

9  
10 On or about 24 August 2011, the National Executive  
11 resolved to refer the allegations against Mr Thomson to the  
12 NSW Police. That evening Ms Jackson appeared on the ABC TV  
13 program Lateline, during which she publicly confirmed her  
14 belief in the veracity of the allegations against  
15 Mr Thomson.

16  
17 Within 48 hours, someone left a shovel on Ms Jackson's  
18 home porch in an apparent attempt at intimidation. That  
19 same day, Ms Jackson's union phone was cut off. At that  
20 time she continued to hold the offices described earlier.

21  
22 Partially overlapping with the events surrounding the  
23 referral of Mr Thomson's conduct to the police, in or by  
24 early 2011 Ms Jackson had become concerned that  
25 Mr Williamson had also engaged in corrupt conduct. Among  
26 other things, it was clear to Ms Jackson that  
27 Mr Williamson's income, large though it was, was  
28 insufficient to pay for his obvious expenses.

29  
30 Ms Jackson carried out, or caused to be carried out,  
31 various investigations. As time and these investigations  
32 continued, Ms Jackson's concerns began to crystallise.

33  
34 By this time, Ms Jackson had alerted others in the HSU  
35 of her concerns. Some were opposed to her actions. By the  
36 end of August 2011, Ms Jackson began to suffer extreme  
37 stress-related conditions. She was hospitalised on  
38 2 September 2011.

39  
40 On 12 September 2011 Ms Jackson made a formal  
41 complaint of corruption against Michael Williamson to the  
42 NSW Police.

43  
44 On the same day, the NSW Police announced the  
45 formation of Strike Force Carnarvon.

46  
47 Over the next days and weeks, the NSW Police commenced

1 their investigation. At the same time, opposition to  
2 Ms Jackson intensified among other officials and delegates  
3 of the HSU, particularly those from NSW. Mr Williamson and  
4 his supporters remained very much in control of HSU East.

5  
6 A few people were prepared to come forward and raise  
7 their own concerns.

8  
9 Mr Marco Bolano was one. Mr Bolano was Secretary of  
10 the No 1 Branch and then, following the merger, Deputy  
11 General Secretary of HSU East.

12  
13 Another was Ms Katrina Hart, who was elected President  
14 of the Randwick Campus General Sub-branch of HSU East in  
15 August 2011.

16  
17 Ms Katherine Wilkinson, Vice-President of the HSU East  
18 Branch Committee of Management, and a member of the HSU  
19 East Audit and Compliance Committee, was another.

20  
21 Mr Bolano, Ms Hart and Ms Wilkinson are giving  
22 evidence over the next few days. They will describe the  
23 the way they were treated when they attempted to obtain  
24 information on the financial affairs of HSU East and to  
25 bring Mr Williamson's conduct to light.

26  
27 To give one example, after raising certain concerns,  
28 Ms Hart was immediately threatened with defamation  
29 proceedings.

30  
31 On 16 September 2011, a meeting of the Council of the  
32 HSU East Branch took place by teleconference. Ms Jackson  
33 sought the passage of a resolution, calling for an  
34 independent investigation into the activities of  
35 Mr Williamson. This resolution was overwhelmingly  
36 defeated, 46 votes to two. In addition, the council voted  
37 against a resolution that would have prohibited union funds  
38 being spent on Mr Williamson's legal fees in responding to  
39 the police investigation.

40  
41 The Council's decision was received unfavourably in  
42 the media and by some members. The Council was reconvened  
43 less than a week later. At this further meeting of the  
44 Council, on 22 September 2011, again by teleconference,  
45 Mr Williamson rejected the allegations against him but  
46 announced his intention to take leave on full pay.

1           The Commission will hear evidence that during these  
2 Council meetings, or shortly after, the New South Wales  
3 component of HSU East began calling for a demerger. The  
4 amalgamated Branch had been in existence for less than a  
5 year and a half.

6  
7           The HSU's Annual Convention took place over a number  
8 of days beginning on 14 November 2011.

9  
10          It is worth focusing briefly on the conduct of the  
11 Convention. In some ways the events of those few days are  
12 inconsequential. But they do provide a snapshot of  
13 hostility confronting Ms Jackson, Mr Bolano and others who  
14 did not support Mr Williamson. And they reveal much about  
15 the challenges facing those who tried to blow the whistle  
16 on powerful persons in the HSU.

17  
18          To put these events in context, by mid-November some  
19 two months had passed since Ms Jackson had reported  
20 Mr Williamson to the NSW Police. Mr Williamson had not  
21 been cleared of the allegations against him. He was a man  
22 under suspicion of serious misconduct.

23  
24          Mr Bolano and Ms Jackson will describe in their  
25 evidence the first morning of the Convention. They were  
26 both in the audience. The Convention got underway at about  
27 9am. After about an hour and a half, Mr Bolano noticed  
28 that the spotlights illuminating the stage had suddenly  
29 swung around, so the lights were pointing to a side door.

30  
31          All at once, Mr Williamson strode in through the side  
32 door and entered the Convention. As he marched in the  
33 theme from the film "Rocky" began playing over the public  
34 address system. The 600 or so NSW delegates got to their  
35 feet and gave Mr Williamson a standing ovation.

36  
37          Ms Jackson and Mr Bolano watched all this from the  
38 audience. In due course, when they did get an opportunity  
39 to speak at the Convention, they were disparaged and  
40 shouted down, with loud booing and jeering from the NSW  
41 contingent. Ms Jackson describes being abused, being  
42 called "Judas", and being spat at.

43  
44          When Mr Williamson got up to speak, he told the crowd  
45 that the allegations against him had been trumped up and  
46 that Mr Bolano and Ms Jackson should be sacked.

1           Ultimately the Convention passed a resolution  
2 expressing no confidence in Ms Jackson and voting in favour  
3 of a demerger of HSU East.  
4

5           It is telling that the people who had raised serious  
6 and well-founded concerns were treated in this way. Those  
7 events raised questions about how unions such as the HSU  
8 treat whistleblowers and about the duties and  
9 accountability of union officials.  
10

11           In addition to the evidence of Ms Jackson, Mr Bolano,  
12 Ms Hart and Ms Wilkinson on these topics, the Commission  
13 will receive evidence from Mr Mark Hardacre. When  
14 Ms Jackson was still trying to examine the activities of  
15 Mr Williamson, she was warned about what had happened to Mr  
16 and Mrs Hardacre ten years before, when Mr Hardacre and his  
17 wife had tried to challenge Mr Williamson. Among other  
18 things, Mr Hardacre and his wife were sued for defamation.  
19 Mr Hardacre will tell his story this morning.  
20

21           The evidence of this set of witnesses has common  
22 features. The modus operandi used by the then senior  
23 officials of the HSU with respect to whistleblowers or  
24 perceived rivals was largely the same, and involved many of  
25 the following features:  
26

27           - failure of senior union officials to investigate or  
28 act on complaints.  
29

30           - discouraging rivals from contesting elections,  
31 including by amassing large re-election funds out of  
32 contributions made by officials, and refusing to refund  
33 contributions made by the persons who withdrew their  
34 support for an incumbent's team.  
35

36           - intimidation, isolation and harassment of  
37 whistleblowers or perceived rivals. The tactics ranged  
38 from the petty - such as making the whistleblower or rival  
39 sit at a desk facing a wall outside the office of the very  
40 person against whom allegations had been raised - to  
41 unrelenting hostility at meetings and in the workplace -  
42 and marginalisation from the members and any support base.  
43

44           These tactics succeeded because, in addition to the  
45 ringleader's own conduct, he or she also enlisted the  
46 support of many other officials and members.  
47



1           - placing pressure on whistleblowers or perceived  
2 rivals to leave the union on generous redundancy terms, a  
3 condition of which was confidentiality.  
4

5           - accusations of misconduct against whistleblowers and  
6 rivals, in part to deflect attention from the more serious  
7 allegation raised against the incumbents.  
8

9           - threats and the institution of legal proceedings -  
10 including for defamation - against rivals and any of their  
11 supporters. Such proceedings placed financial and  
12 psychological pressure on opponents and further deprived  
13 them of resources and time to progress their positions  
14 within the union. In the case of Mr Hardacre and his wife,  
15 Janice, legal proceedings instituted by Mr Williamson  
16 against them pushed them to financial hardship. A term of  
17 the settlement was a non-disclosure term.  
18

19           - use of union resources to campaign against opponents  
20 standing in contested elections. This ranged from the  
21 unauthorised use of members contact details to the use of  
22 union employees - such as union organisers - to campaign  
23 for the incumbent's re-election in circumstances in which  
24 those employees were persons paid for by members'  
25 subscriptions.  
26

27           - use of external consultants to support restructures  
28 that marginalised opponents and cloaked the restructure  
29 with the veneer of impartial advice.  
30

31           - claims of confidentiality in order to defeat genuine  
32 requests for information that would provide members and  
33 their elected officials with the proper understanding of  
34 the governance and affairs of the union and its officials.  
35

36           Two other topics will also be the subject of the  
37 evidence.  
38

39           The first relates to the funding of union elections  
40 and, specifically, that of Mr Bolano's election campaign in  
41 2009.  
42

43           HSU East was in due course de-amalgamated on 21 June  
44 2012. All officers of the HSU and HSU NSW were dismissed.  
45 Later in 2012, fresh elections were called for the demerged  
46 branches.  
47

1 In the elections for the No 1 Branch, Mr Bolano was  
2 defeated by Ms Diana Asmar for the position of  
3 Branch Secretary. Previously, in 2009, Mr Bolano had  
4 defeated Ms Asmar for the same position. Mr Bolano will  
5 give evidence about the conduct and funding of these  
6 elections.

7  
8 The second concerns certain allegation against  
9 Ms Jackson regarding financial expenditures of the  
10 No 3 Branch during the period in which she was the  
11 secretary of that Branch.

12  
13 In recent weeks, a number of allegations have surfaced  
14 in relation to Ms Jackson.

15  
16 In summary, these allegations are to the effect that:

17  
18 - HSU's No 3 Branch made a number of payments to an  
19 account controlled by Ms Jackson named the "National Health  
20 Development Account". It is alleged these payments were  
21 not authorised by the BCOM and were not properly disclosed  
22 in the financial accounts provided to Fair Work Australia:

23  
24 - Ms Jackson used \$1 million in members' funds to pay  
25 off two personal credit cards between 2000 and 2011:

26  
27 - Ms Jackson withdrew approximately \$220,000 in cash  
28 using HSU bank cheques between 2007 to 2010; and

29  
30 - Ms Jackson had some involvement in a slush fund  
31 account allegedly operating out of or through a company  
32 called Neranto No. 10.

33  
34 Ms Jackson will give evidence responding to these  
35 allegations.

36  
37 The Commission will also hear evidence from the  
38 following people concerning the current allegations against  
39 Ms Jackson:

40  
41 - Ms Katherine Wilkinson. Ms Wilkinson was a BCOM  
42 member of No 3 Branch during the relevant period. She  
43 will give evidence concerning the financial documents  
44 provided to the BCOM, the sitting fees of the BCOM and  
45 their authorised use, and her knowledge of payments made to  
46 the NHDA. The source of the payments made to the NHDA was  
47 a settlement the No 3 Branch received following legal

1 proceedings against the Peter MacCallum Cancer Centre in  
2 Victoria. The Commission will also receive a signed  
3 statement from Mr Reuben Dixon, another member of the  
4 No 3 Branch BCOM in the relevant period.

5  
6 - Ms Jane Holt. Ms Holt was the bookkeeper of the  
7 No 3 Branch from 1988 to 2010. Ms Holt will give evidence  
8 as to the financial material that she prepared for BCOM  
9 meetings, the nature of the financial records she  
10 maintained on behalf of the No 3 Branch, her knowledge of  
11 the payments made to the NHDA and how she recorded those  
12 transactions in the financial records. Ms Holt will also  
13 give evidence concerning credit card expenditure by the  
14 Branch. Finally, Ms Holt will give evidence as to her  
15 recording of cash withdrawals made by Ms Jackson and her  
16 understanding of the purpose of those withdrawals.

17  
18 - Mr John Agostinelli. Mr Agostinelli was the auditor  
19 of the No 3 Branch for the audits conducted for the  
20 financial year ending 30 June 2009 and an exit audit  
21 performed in respect to the No 3 Branch as at 24 May 2010.  
22 Mr Agostinelli will provide evidence from his firm's audit  
23 file as to the nature of the audit undertaken and the  
24 investigations made concerning payments to the NHDA, credit  
25 card expenditure and cash withdrawals.

26  
27 He will also address the reporting of payments to the  
28 NHDA in the audited accounts provided by the No 3 Branch to  
29 the Fair Work Commission. The Commission will also receive  
30 a signed statement from Mr Iaan Dick, the former auditor of  
31 the No 3 Branch for the financial years ending 2004 to  
32 2008.

33  
34 - Mr Craig McGregor. Mr McGregor has been the  
35 Secretary of the HSU No 3 Branch since the elections held  
36 in November 2012 following the demerger. He will give  
37 evidence as to the current state of the financial records  
38 held by the No 3 Branch in respect to the period for which  
39 Ms Jackson was the Branch Secretary.

40  
41 As appears from the above, the evidence which will be  
42 heard over the coming week covers a range of different  
43 facts and issues. However, a number of themes can be  
44 discerned.

45  
46 First, the treatment by officials in the HSU of  
47 whistleblowers who spoke out against corrupt conduct or who

1 were otherwise perceived as threats to those officials.  
2 Some examples of the tactics used against, and treatment  
3 of, whistleblowers, have already been mentioned.  
4

5 The next theme is closely related to the first. It  
6 concerns the scope and content of the duties owed by union  
7 officials to the members. The real question is whether  
8 senior union officials in the HSU or their supporters  
9 deployed some or all of the tactics set out above in order  
10 to entrench their own positions and to shield themselves  
11 from any or adequate scrutiny, rather than acting in the  
12 best interests of the members.  
13

14 The third theme relates to the funding of union  
15 elections and to the solicitation and expenditure of funds  
16 to or from relevant entities established by the HSU and the  
17 NSW Union or officers of those employee associations.  
18

19 The Commission has on Friday, 13 June 2014, released  
20 three issues papers, which address the three themes just  
21 identified.  
22

23 The three issues papers are available on the  
24 Commission's website.  
25

26 The Commission invites submissions from any interested  
27 persons on the issues set out in the issues papers.  
28

29 It is likely that further issues papers will be  
30 released in conjunction with further hearings.  
31

32 The first witness, Commissioner, is Mr Mark Hardacre.  
33

34 **<MARK MUSGRAVE HARDACRE, affirmed: [10.21am]**  
35

36 **<EXAMINATION BY MR STOLJAR:**  
37

38 MR STOLJAR: Q. Your full name is Mark Musgrave  
39 Hardacre?

40 A. That's correct.  
41

42 Q. You live at Picton?

43 A. That's right, yes.  
44

45 Q. You're a registered nurse by profession?

46 A. Correct.  
47

1 Q. You've prepared a statement for the Commission. I  
2 understand you have some corrections to that statement  
3 which I'll just take you through.  
4

5 The first relates to the matters that you describe in  
6 paragraph 31. Is that strategy that you refer to in  
7 paragraph 31, and we'll come back to it, I just want to  
8 make the correction first, that is something that related  
9 to the first election or the second election against  
10 Mr Williamson?

11 A. Actually, it relates to the second election. The  
12 content is fine. It's just that it's in the wrong  
13 sequence.  
14

15 Q. It is under the wrong heading at the top of page 3?

16 A. Yes. I mean, it could be the very end of the first  
17 election because it was issued prior to the second election  
18 but it is related to the second election.  
19

20 Q. And then if you come to paragraph 37, in the final  
21 sentence you say:  
22

23 *We sought redress in the court.*  
24

25 Did the matter actually get to court?

26 A. I'm not too sure about that. It did go to litigation.  
27 We had to engage our solicitors to get that matter  
28 resolved. There were a number of other issues that were  
29 running through into the courts, so I'm just not  
30 100 per cent sure of that. It needs to be addressed.  
31

32 Q. And then paragraph 80, you refer to a letter which is  
33 at tab 16 of the bundle, and you say it is from an  
34 anonymous member. Did you want to make a correction to  
35 that?

36 A. It was from myself. It was a report addressed to  
37 Mr Williamson and it wasn't anonymous, as stated in the  
38 transcript.  
39

40 Q. Save for those matters, is the statement that you've  
41 given dated 5 June 2014 to this Commission true and  
42 correct?

43 A. Yes, it is, yes.  
44

45 Q. Could I just ask you a few questions about the matters  
46 in or arising from your statement. You've set out --  
47

1 THE COMMISSIONER: Could you just pause there, Mr Stoljar.  
2 Do you want that to be treated as evidence?

3  
4 MR STOLJAR: Yes. Thank you, Commissioner.

5  
6 THE COMMISSIONER: The document which is behind tab 20,  
7 paragraph 5, confidentiality agreement, your position is  
8 that the Royal Commission's Act would override that  
9 agreement.

10  
11 MR STOLJAR: Yes.

12  
13 THE COMMISSIONER: Secondly, does Mr Williamson have  
14 solicitors?

15  
16 MR STOLJAR: He does. They have been notified of this  
17 hearing, but, as I understand it, they're not present today  
18 and I'm not certain whether they would have received this  
19 particular document. They would not have.

20  
21 THE COMMISSIONER: It's probably safe enough to proceed  
22 without doing anything special about paragraph 5 behind  
23 tab 20.

24  
25 MR STOLJAR: Yes.

26  
27 THE COMMISSIONER: I will receive that statement of Mark  
28 Musgrave Hardacre into evidence. The annexures too can be  
29 referred to by the letters and numbers given in the  
30 statement itself.

31  
32 **#STATEMENT OF MARK MUSGRAVE HARDACRE DATED 5/6/2014**

33  
34 MR STOLJAR: I'll provide for the Commission's record the  
35 original of the statement, together with the folder of  
36 materials to which the statement makes reference.

37  
38 THE COMMISSIONER: Thank you.

39  
40 THE WITNESS: Can I just go to that document?

41  
42 MR STOLJAR: Q. Which document?

43 A. Tab 20 to the deed.

44  
45 Q. Yes.

46 A. I sought some limited legal advice on this and I was  
47 advised that the parties, you know, are to be advised that

1 this has been presented. I have contacted all those and  
2 they're quite happy for this to be presented at the  
3 Commission. The only person I haven't contacted, of  
4 course, is Mr Williamson.

5

6 Q. I see. So you've contacted Ms McNamee, Mr O'Connor,  
7 Mr Ford and Mr Ivers?

8 A. Mr O'Connor is deceased.

9

10 Q. I see, but you've contacted Mr Ford and Mr Ivers?

11 A. Correct.

12

13 Q. And they, together with Ms McNamee, have indicated  
14 that they have no objection to this document being put into  
15 evidence in this Commission?

16 A. That's correct. There's just one other issue I would  
17 like to address.

18

19 Q. Please.

20 A. I do understand that there is some form of censorship  
21 that occurs. Some of the statements here have got the  
22 phone number of Geraldine Betran, it's in her evidence, and  
23 I certainly would like to have that deleted before it gets  
24 it out to the press.

25

26 Q. We had, yes, contemplated publishing on the website  
27 only a redacted version of your statement and the bundle of  
28 exhibits, MFI1, and had contemplated redacting any personal  
29 details.

30 A. Yes.

31

32 Q. But we can discuss that with you during the course of  
33 the day, Mr Hardacre.

34 A. Yes, thank you.

35

36 THE COMMISSIONER: Q. When you answer counsel's  
37 questions could you speak up a bit, it's a little hard to  
38 hear you?

39 A. Okay.

40

41 MR STOLJAR: Q. Mr Hardacre, could I begin by just  
42 asking you for a bit more information about your background  
43 and training. You trained as a registered nurse, did you?

44 A. That's right, yes.

45

46 Q. When did you do your training?

47 A. I started in 1995 at the North Ryde Psychiatric

1 Centre. It's now referred to as the Macquarie Hospital.  
2 I finished my training there about 1978. From 1982 I moved  
3 across to Marsden Hospital and completed my mental  
4 retardation qualifications there as well, and finally  
5 resigned in 1987 to take up the position as an organiser  
6 within the Health and Research Employees Association.

7  
8 Q. I thought for a minute you said in 1995. You started  
9 your training in 1975?

10 A. 1975, that's right, yes.

11  
12 Q. You became a registered nurse in 1978?

13 A. That's right.

14  
15 Q. You say you did further training in the area of mental  
16 retardation. You obtained your mental retardation  
17 registration in 1984, was it?

18 A. Yes, it would have been 1984. It was like a sort of  
19 bridging 18 months course. I started Marsden in 1982 and  
20 would have finished it in 1984.

21  
22 Q. Did you say in 1987 you became an organiser?

23 A. That's correct.

24  
25 Q. At that stage it was the HREA. What does that stand  
26 for?

27 A. That's the Health and Research Employees Association.

28  
29 Q. You made reference to that election in paragraph 8 of  
30 your statement. After having been an organiser, you were  
31 elected in due course as assistant state secretary?

32 A. No. Actually, I came in under the Harry White team as  
33 1987 and it wasn't - I think it was just a filling a  
34 vacancy. It wasn't contested. There were elections that  
35 were uncontested after that time.

36  
37 Q. Why don't we come to paragraph 14. This makes  
38 reference to an issues paper you prepared in 1998 in  
39 relation to Mr Williamson. Why did you prepare this?

40 A. By that stage I'd been there for about three years.  
41 All the issues relating to Michael Williamson were ongoing  
42 almost daily. By this stage I just needed to get it all  
43 sorted out in my own head, and that's why this document  
44 went together. It was also for our solicitors with the  
45 defamation. By this stage he was moving towards defamation  
46 and of course with that defamation we cross filed against  
47 Mr Williamson.



1  
2 Q. Let's take that in steps. Why don't we begin by going  
3 to the document itself. It is in tab 2 of the folder of  
4 materials beginning on page 4. It's quite a lengthy  
5 document. Who did you give it to?

6 A. It was mainly for my use. With the defamation, the  
7 four persons that were being defamed would have probably  
8 seen this document as well. The only other persons that  
9 I would be aware that would have it would be our solicitors  
10 and, of course, the Fraud Squad also took these documents,  
11 probably about two years ago, in the Michael Williamson  
12 case.

13  
14 Q. If I take you to the first page, which is page 4 in  
15 the top right-hand corner, this is a document you prepared  
16 back in - it must have been after 24 September 1999, we  
17 know that much. Do you remember the exact day?

18 A. No, I couldn't tell you.

19  
20 Q. It was around about that time anyway?

21 A. Yes. Yes.

22  
23 Q. In the first paragraph you talk about something  
24 described as a "ghost on the association's payroll". Can  
25 you just tell the Commissioner what that is about?

26 A. As a - in the very early stages of my time as the  
27 assistant state secretary, Peter Clapham, who was the  
28 assistant state secretary prior to my success in the  
29 election, was speaking about the fact that Michael  
30 Williamson's wife was on the payroll. He stated that he'd  
31 seen a group certificate for her as well. As this document  
32 states here, Michael Williamson confronted Peter Clapham  
33 about that and stated that he was actually paying it out of  
34 his wages and it was some form of tax avoidance or  
35 something. There was a number of people that tried to  
36 access the financial records. That was part of what was  
37 sought, and the documents that were released by the  
38 association had all the names blacked out so we couldn't  
39 track that down. As I say again, under confidentiality,  
40 that they can't release the names against the list of  
41 employees that were there, so we could never prove that  
42 that was the case.

43  
44 THE COMMISSIONER: Q. Mr Hardacre, was Mrs Williamson  
45 actually working within the union?

46 A. No, she wasn't, no.

1 Q. Was there any description of the job she had?

2 A. No. No.

3

4 Q. When you say that Mr Clapham said he had seen the name  
5 of Williamson's wife on the union's payroll, did you see a  
6 document answering that description?

7 A. No, I didn't, no. This is only from what's come back  
8 to me from Mr Clapham.

9

10 THE COMMISSIONER: Thank you.

11

12 MR STOLJAR: Q. You then deal over the next few pages  
13 with matters relating to various female employees who had  
14 raised concerns about Mr Williamson. I won't go into  
15 detail about those matters, Mr Hardacre, in part for the  
16 reason that you mentioned at the outset. If I take you to  
17 page 9 --

18 A. I've got that.

19

20 Q. -- you're describing there the position of another  
21 assistant state secretary, Ms Vernon. In the paragraph  
22 under that heading in the third line you refer to  
23 "Williamson and his team." Do you see that?

24 A. Can you bring me back to that again? Where's --

25

26 Q. The heading is "Katrina Vernon" and the first  
27 paragraph after that heading refers to, in the third  
28 line --

29 A. Yes I see it.

30

31 Q. -- Williamson and his Team, with a capital T. Who was  
32 Williamson's Team?

33 A. Basically it was everyone. We only contested the top  
34 three positions. Alan Ivers contested Michael Williamson  
35 as the state secretary. Myself and Katrina Vernon  
36 contested the assistant state secretaries and defeated  
37 Peter Clapham and Bill Massey. The rest of the team was  
38 elected unopposed because we only had the three positions.  
39 So we were in an environment where basically the two of us  
40 were facing, you know, the full force of the other team  
41 that was there. That included the council as well.

42

43 Q. I think you then deal with some of that on page 10.  
44 You describe on page 10, under the heading "Number 3", ways  
45 in which that you were isolated or kept away from important  
46 policy decisions. Can you just tell us a bit more about  
47 that?

1 A. Well, when we arrived after the election, the previous  
2 assistant state secretaries, Peter Clapham and Bill Massey,  
3 were still there. They were re-employed in some form of  
4 consultancy. I think Peter Clapham was being paid as, you  
5 know, the national branch assistant secretary which was  
6 unpaid at that stage but of course I couldn't determine  
7 whether they were paid or what they were being paid. But  
8 they had the full conditions of the assistant state  
9 secretaries which is a vehicle, mobile phone, an office and  
10 so on. Katrina and I were basically isolated from that.  
11 We had to then go through to get legal assistance to push  
12 this through.

13  
14 Q. When you say you were isolated, you said that they had  
15 an office and a vehicle and so forth. Did you and  
16 Ms Vernon have an office?

17 A. No, we didn't, no.

18  
19 Q. What was the arrangement you had?

20 A. We were placed in with the other organisers, you know  
21 into a large room with probably three or four desks in that  
22 room. So, effectively, nothing had changed post the  
23 election.

24  
25 Q. In the third paragraph you say that there was a  
26 campaign strategy circulated to team members. That was a  
27 campaign strategy circulated by Mr Williamson?

28 A. Mmm-hmm. That's right, yes.

29  
30 Q. I'll come back to that, if I may. I'll just go  
31 through this document and come back to that issue. You say  
32 at the bottom of that page that at some point, or I gather  
33 that at some point Ms Vernon ceased to be assistant state  
34 secretary; is that right?

35 A. That's correct, yes.

36  
37 Q. What happened there?

38 A. When we first arrived, Michael Williamson wanted to -  
39 when we arrived we were met by Craig Thomson who was the  
40 senior industrial officer at the front desk and he stated  
41 that Michael Williamson wanted to interview us separately.  
42 Katrina had never been actually involved in full-time union  
43 work, she was a branch, you know, delegate.

44  
45 Q. When you say you arrived, you mean on the morning  
46 after the election?

47 A. Yes, after the declaration, probably a couple of weeks

1 later, and I said that's not going to happen, you know,  
2 because she was still very vulnerable and it's her first  
3 day there. Michael Williamson then stated - well, he did  
4 see us together, just stated that we have disobeyed a  
5 lawful instruction from him and you know what the  
6 consequences of that will be. Then what happened was --

7  
8 Q. Did he spell out what the consequences would be?

9 A. Basically it would mean you would be going up to  
10 council for disobeying the instruction which could then see  
11 removal from office, you know, so. They seemed to -  
12 because I had the experience there as an organiser  
13 previously and had a lot of knowledge, they seemed to  
14 target Katrina, she was a lot more vulnerable, and then  
15 there was resolutions coming up from - one was from Albury  
16 sub-branch saying they were concerned about her stand on  
17 privatisation which was just total folly, you know, she  
18 denied it all, but it meant her fronting up to council to  
19 answer these sort of charges. We were then brought up  
20 under rule 19 which is removal from office, that was  
21 brought against us, and we had to then go back and get  
22 legal assistance to deal with that. The charges were  
23 frivolous and, of course, it didn't go anywhere after we  
24 had to engage legal representation, but as assistant  
25 secretaries we had to pay that out of our own pockets of  
26 course.

27  
28 The issue with Katrina, they kept on targeting her.  
29 The issue of not having an office, being placed with other  
30 organisers so they could keep an eye on her. Eventually  
31 she became very stressed and went out on stress leave. She  
32 filed a workers' compensation claim and that claim was  
33 successful and I think she picked up about \$14,000 off  
34 that. All this went back to the state council with this  
35 sort of intimidation and what's happened, but then she  
36 finally - it got a bit more complicated. There was a  
37 restructure through BDO Nelson Parkhill, consultant, to  
38 look at restructuring the union and she accepted a  
39 redundancy which came out of that report. It was quite a  
40 substantial redundancy payment as well. Associated with  
41 that was a confidentiality clause that no-one - she can't  
42 discuss it and he can't discuss it. So again it was  
43 basically another way of stopping information getting out,  
44 yes.

45  
46 Q. Could I take you through to page 12 of the document.  
47 You quote there a campaign strategy theme that

1 Mr Williamson used. It is a quote from Machiavelli,  
2 "The Prince". He says:

3  
4 *It has to be noted that men must either be*  
5 *pampered or crushed because they can get*  
6 *revenge for small injuries but not for*  
7 *grievous ones, so any injury a man does to*  
8 *an enemy must be of such a kind that there*  
9 *can be no fear of revenge.*

10  
11 Was that something that Mr Williamson propounded in his  
12 campaign materials?

13 A. No, that was part of - well, of his campaign material  
14 which was internal to all the organisers and officials of  
15 the union. I managed to get a copy of that and that's  
16 on --

17  
18 Q. Tab 4.

19 A. That's it, page 25.

20  
21 Q. Yes. So page 25 behind tab 4, there's a heading  
22 "Campaign Strategy"?

23 A. That's right, yes.

24  
25 Q. This was a document which Mr Williamson circulated,  
26 did he?

27 A. Yes. Yes, to his team members for how to deal with  
28 us, you know, how to deal with any opponents really.

29  
30 Q. How did you get a copy of it?

31 A. It was handed to me. There were some organisers there  
32 that were concerned about what was going on and they did  
33 leak information across to me, but they would never come  
34 out and openly support me because of what was going on. So  
35 you'll find that's a recurring theme. A lot of the  
36 information through here had been handed to me by other  
37 organisers, other officials.

38  
39 Q. Page 27 was where he deals with things that could be  
40 said or run against yourself and others?

41 A. Where's that?

42  
43 Q. Page 27, top right-hand corner. You are still behind  
44 tab 4. It is in the same document you've just been looking  
45 at.

46 A. What was the question again?

1 Q. These were, to your understanding, suggestions that he  
2 was making to his supporters or organisers about how to, or  
3 lines they could run against you?

4 A. Yes, that's correct. Yes.

5  
6 Q. The second-last dot point on that page says:

7  
8 *They are the puppets of others hard Left*  
9 *who want to get hold of your union.*

10  
11 Was Mr Williamson associated with a particular faction?

12 A. Yes. He was certainly associated with the New South  
13 Wales Right. We weren't and even when we, both Janice and  
14 I, resigned from the union, we wrote to the Law Society  
15 asking for solicitors to help us recoup our funds but on  
16 the basis that we needed a law firm that was actually not  
17 involved in any factions or any sort of, you know, dealings  
18 and we did get a response back from the Law Society and  
19 gave us three solicitors and we chose out of that. So it  
20 shows that, you know, we weren't aligned with the hard  
21 Left, but this was a theme that he pushed all the way  
22 through, that we're there to take over the union and, you  
23 know, sort of basically very hard Left policies and views  
24 which is just, you know, the fear tactics towards the  
25 actual membership.

26  
27 Q. Could I come back to your statement. We've been  
28 discussing the issues paper that you make reference to in  
29 paragraph 14.

30  
31 In paragraph 16 you describe paying a certain amount  
32 of salary into a fighting fund. Was that something that  
33 you and your wife, Janice, did while you were elected  
34 officials?

35 A. That's correct, yes.

36  
37 Q. And what was the purpose of doing that?

38 A. The purpose of that fund is that it's a percentage of  
39 your salary which goes into this fund and it's supposed to  
40 be refunded if there's uncontested elections, but it's  
41 basically a fund that's, you know, to fight any sort of  
42 opposition.

43  
44 Q. Who puts the money in? Is it any elected official?

45 A. Yes, that's right, yes. One of the problems we had  
46 was we couldn't get access to this fund and I was only just  
47 recently talking to one of the - he's now an ex-organiser,

1 this is many years later, and he stated there that they  
2 still haven't been able to access what happens to this  
3 money; where it goes.

4  
5 Q. When you say it is a fund do you mean it's a bank  
6 account or is it --

7 A. Yes, I believe it was originally under Harry White in  
8 the early days here in the Commonwealth Bank, but I don't  
9 know, you know, in recent times.

10  
11 Q. While you were there, let's focus on the time while  
12 you were there, who controlled it while you were there,  
13 that bank account?

14 A. It was normally the state secretary.

15  
16 Q. Is that Mr Williamson?

17 A. It was --

18  
19 Q. After Mr White.

20 A. Yes, Harry White firstly and then Michael Williamson.

21  
22 Q. To your knowledge, that person had sole control of the  
23 fund or were there other signatories?

24 A. I'm not too sure. I mean, the organisers who were  
25 paying into this never got statements or any sort of, you  
26 know, feedback on what was going on with this fund.

27  
28 Q. You describe in your statement that Janice or indeed  
29 yourself left in due course. What happened to the money  
30 that you'd put into the fund?

31 A. Well, the issue was that Janice resigned because of  
32 direct harassment from Michael Williamson. Harry White was  
33 the state secretary at that time. She went to Harry White  
34 and asked him to do something about it and he didn't. You  
35 know, he couldn't. He was very upset about her leaving  
36 but --

37  
38 Q. What do you mean he couldn't?

39 A. Well, he just said he can't do anything. You know,  
40 for some reason, I don't know why, but he didn't seem to  
41 have the ability to control Michael Williamson even at that  
42 stage.

43  
44 Q. This is when, 1995?

45 A. It would be 1994, I think, yes. Prior to the 1995  
46 election, you know, and then what happened is that Janice  
47 asked for her contributions because naturally she was very

1 angry with what's happened and she wasn't going to donate  
2 her money to see Michael Williamson, you know, be  
3 re-elected again so she asked for her money back and what  
4 then happened was that at an officers' meeting they put a  
5 resolution up that they will spend the funds out of that to  
6 fight Janice to stop her getting her money back. And  
7 then --

8  
9 Q. To pay legal fees do you mean?

10 A. Yes, basically to get legal advice and they said  
11 because you're part of the team, you're bound by caucus on  
12 this and that you had to go along with it. I made it quite  
13 clear that, you know, when it comes down to Janice or  
14 Michael Williamson and his team, I'm sorry, but, you know,  
15 I can't accept that and that was part of my resignation.  
16 It was clearly made out in my resignation which I think is  
17 one of the documents here.

18  
19 Q. Yes.

20 A. We were both then in the same situation. I was trying  
21 to get our money back. As I mentioned before, that's when  
22 we then wrote to the Law Society trying to find some  
23 independent legal firm and they gave us the name of three  
24 lawyers and we eventually engaged Taylor & Scott to assist  
25 us and we did get the money back.

26  
27 Q. Could we then come to the first election against  
28 Mr Williamson. I think you have already touched on this to  
29 some extent. This was the election where you and Ms Vernon  
30 were elected to assistant state secretary positions and  
31 Mr Williamson had a narrow win over Mr Ivers; is that  
32 correct?

33 A. That's correct.

34  
35 Q. Did Mr Williamson at that point ascend to the position  
36 of state secretary?

37 A. That's right, yes. Well, I'll go back a bit.

38  
39 Q. Sure.

40 A. Prior to that election, Harry White was rolled. There  
41 was a coup. They met down at the Strawberry Hills Hotel to  
42 put a vote of no confidence. This is the organisers in  
43 Harry White, Peter Clapham and one other organiser, I can't  
44 remember the name of that organiser, went up and told Harry  
45 that "You don't have the confidence and support of your  
46 team." He then stood down on the basis that he would still  
47 be able to attend Labour Council on Thursday nights and



1 that did occur. Michael Williamson then moved up to the  
2 position as state secretary and then the election came up  
3 in 1995.

4  
5 Q. To your knowledge, who organised the coup?

6 A. Michael Williamson.

7  
8 Q. You were then successful and you became an assistant  
9 state secretary, although you had the difficulties that you  
10 describe. In fact, if you come to page 4, this is where  
11 you deal with the events of that first day that I think you  
12 have mentioned already.

13 A. That's right, yes.

14  
15 Q. In paragraph 37 of your statement you describe being  
16 at a desk facing the wall outside Mr Williamson's office.  
17 I think you said before you were in a room with other  
18 organisers?

19 A. Yes. You know, you see it's written I was to have a  
20 desk, that was planned, and I immediately said, "That's not  
21 going to happen, so you'd better sort that out." And he  
22 did back down off that one and I ended up being in an  
23 office with the other organisers basically just to be  
24 observed.

25  
26 Q. I see. What he told you that initially, did he? He  
27 said that to you that you were going to be --

28 A. Yes, that's so.

29  
30 Q. Did he offer you a reason as to why you would be  
31 placed against the wall outside his office?

32 A. Well, one of the problems with that building is that  
33 it was very cramped, there was very little space in 5/11  
34 Elizabeth Street in Surry Hills, and he kept the assistant  
35 secretaries there. There was no room for us really, that's  
36 what it came down to, so --

37  
38 Q. It was because, to your perception, the previous  
39 assistant state secretaries were still on the premises that  
40 there was no room for you and Ms Vernon?

41 A. Yes, that's correct, yes.

42  
43 Q. You had to seek solicitors to try and remedy that  
44 situation, did you?

45 A. That's right, yes.

46  
47 Q. And what happened?

1 A. It took a couple of months but we finally - I put a  
2 document to Michael Williamson listing all the things.  
3 Basically, it was just what the previous assistant  
4 secretaries had had, and that included the car, the mobile  
5 phone, being fully briefed on all important matters in the  
6 union, being involved at conferences, any important  
7 meetings with departmental or government officials; so he  
8 basically conceded to all that, although, you know, the  
9 meetings with, you know, government officials or any sort  
10 of positions like that, he never did that and it was an  
11 ongoing battle all the way through those four years.  
12

13 Q. Did you go to Labour Council meetings?

14 A. No, I didn't, no.  
15

16 Q. Why not?

17 A. Well, he stated through the council that he had the  
18 authority to determine and he put that back to council who  
19 should be delegates to that, to the Labour Council and that  
20 was one of the issues, very much a sore point, is that it  
21 is the peak body for the unions and the assistant state  
22 secretary is a very important position, but he denied us  
23 access to the whole four years that we were there because  
24 he had control of the delegation. Yet, some of those  
25 delegates were the office manager, employees of the union,  
26 yet, the assistant secretaries were denied that sort of  
27 access, yes.  
28

29 Q. Prior to 1995, when you became an assistant state  
30 secretary, do you know whether the previous assistant state  
31 secretaries had gone to Labour Council?

32 A. Yes, they were and I did as well as an organiser.  
33 Yes. I mean it was - I wouldn't say it was compulsory but  
34 it was pretty much very important that the organisers,  
35 assistant secretaries and state secretaries attend those  
36 meetings.  
37

38 Q. You make reference in paragraph 39 to delegations to  
39 the ALP Annual Conference. Did you attend the ALP Annual  
40 Conference as an assistant state secretary?

41 A. No, I didn't, no. We weren't part of that delegation  
42 either.  
43

44 Q. Why was that?

45 A. For the same reasons. Well, if you want my view of  
46 it, he didn't want us to be associated with other  
47 unionists, other peers. It basically was just a lockout.

1  
2 Q. You describe that to some extent in paragraph 40. You  
3 say, "This action was intended." That of course is just  
4 your understanding or belief, but, in any event, putting it  
5 no higher than that, what was your understanding or belief  
6 as to why you were told that you couldn't go to the  
7 ALP Annual Conference?  
8 A. Two things. I think one was he didn't want to be seen  
9 to have someone opposing him present at that forum.  
10  
11 Q. Yes.  
12 A. But it's also to do with the bloc voting that occurs  
13 at those conferences.  
14  
15 Q. Can you just explain that a bit more?  
16 A. Well, it goes back to old factional lines. The  
17 Right Wing union would vote for the Right Wing faction of  
18 the ALP and their voting would be in a line - every single  
19 vote for the members would be represented by the Michael  
20 Williamson delegation, and that delegation was all his, so  
21 it would all be on that basis. So you couldn't vote really  
22 openly. What usually happened - well, the time before when  
23 I was an organiser I was there, you're paired up, so that  
24 there's someone watching how you voted so you wouldn't be  
25 able to vote against the ticket.  
26  
27 Q. What do you mean paired up?  
28 A. Normally they'd put an organiser with you, another  
29 organiser with you, and you had to show each other the  
30 voting to ensure that the vote was secured. It was a bloc  
31 vote.  
32  
33 Q. So you would observe that when you were able to go to  
34 the ALP as an organiser?  
35 A. As an organiser, yes.  
36  
37 Q. Prior to 1995?  
38 A. Yes.  
39  
40 Q. But after 1995, you couldn't get to the conference?  
41 A. I couldn't get on to the delegation to go to annual  
42 conference because Michael Williamson wouldn't include me  
43 in that and it wasn't supported by the council, which is  
44 his council.  
45  
46 Q. What do you mean it was his council?  
47 A. Everyone on council was on his ticket.

1  
2 Q. Who was on council at that time?

3 A. Oh, probably 15 councillors. There was the president,  
4 two vice presidents, and a number of councillors, you know,  
5 so --  
6

7 Q. In paragraph 42, you make reference to something you  
8 adverted to briefly a few moments ago, namely, a report  
9 commissioned by Mr Williamson by an external consultant,  
10 BDO. You say:

11  
12 *Early in my four-year term, Mr Williamson*  
13 *brought in a consultant.*  
14

15 You say:

16  
17 *I knew exactly where it was going to go.*  
18

19 Again, that's just your understanding and belief, but on  
20 that level, what did you understand or believe as to what  
21 would be the outcome?

22 A. Well, to get rid of the assistant state secretaries,  
23 to restructure the association so that it would exclude us.  
24

25 Q. You thought that would be the outcome of the report  
26 before it was commissioned?

27 A. I was confident, very confident, that's exactly where  
28 he was going to go with this and of course the - I did  
29 speak to the consultant as the assistant secretary. He was  
30 quite taken aback by the fact that we were on a different  
31 ticket, he wasn't briefed on that. I put forward my views  
32 and I've made mention I think in some of those documents  
33 there that those views didn't come out in the final report  
34 from BDO and, of course, the final report was that they  
35 found that the assistant state secretaries really didn't do  
36 much work in the place, they weren't really needed, and  
37 that was because we were locked out of everything. We  
38 couldn't go to members' meetings. We couldn't go to any  
39 sort of - anything really. We were just basically kept to  
40 our offices. The other part of the BDO report was that  
41 there would be a motivational pay rise for Craig Thomson  
42 who was the senior industrial officer at that stage.  
43

44 Now, the reasons for that is that there was a  
45 superannuation fund operated by the union and that was  
46 closed down under Harry White and those that were paying  
47 into that converted that across to a 10 per cent pay rise.

1  
2 One of the other contentious points is that Michael  
3 Williamson moved his contributions from 3 per cent to  
4 to 10 per cent after the thing closed and ended up with a  
5 10 per cent pay rise. That created an anomaly in the  
6 structure. So you had some people that were being paid -  
7 you know inflated by 10 per cent over the others and of  
8 course the BDO report then came in and said that Craig  
9 Thomson, who was Michael Williamson's campaign manager,  
10 should get a pay rise. So basically the BDO report, you  
11 know, sort of met the needs of Michael Williamson by  
12 getting rid of us, the two assistant state secretaries, and  
13 giving his campaign manager a pay rise.  
14

15 Q. You say "his campaign manager".

16 A. Yes.  
17

18 Q. Do you mean Mr Thomson?

19 A. That's right.  
20

21 Q. So Mr Thomson actually ran the campaigns for  
22 Mr Williamson, did he?

23 A. They had various, but most of them were employees  
24 which is another issue. You know, as an employee you  
25 should be independent from the political machinations of  
26 the union and of course he wasn't, you know. He certainly  
27 wasn't, yes.  
28

29 Q. Mr Thomson or Mr Williamson?

30 A. Mr Thomson.  
31

32 Q. Mr Thomson. In any event, the report came down and  
33 then Mr Williams (sic) approached you and Ms Vernon, and  
34 what did he say?

35 A. Mr Williamson, yes.  
36

37 Q. Mr Williamson.

38 A. He basically says "Which one of you want to go?"  
39 I told him neither of us, we've been elected here for a  
40 four year term and no matter what happens we're going to,  
41 you know, sit it out. Of course at this stage the pressure  
42 was then really put on Katrina. She was already, I think,  
43 taking some sort of stress leave with it and then she  
44 buckled and accepted the redundancy that was offered to  
45 her.  
46

47 Q. How long had she been working in her position at that

1 stage?

2 A. Not long. Not long. Less than a year. I can't  
3 remember the exact time. Probably 6 months, 7 months.

4  
5 Q. What was the size of redundancy?

6 A. Well, again, that was bound by confidentiality.  
7 Michael Williamson wouldn't even let the council know. He  
8 basically said it was going to be under normal public  
9 service redundancy arrangements which should only be a  
10 couple of thousand dollars. I did manage to get hold of  
11 the actual stat dec with her termination and there was a  
12 problem there because both the witnesses had different  
13 signatures. I don't know why that is, and it's an issue  
14 that I tried to pursue. The only reason that I was aware  
15 of how much money she actually received was that somebody  
16 mistakenly left a document on the photocopier that  
17 I managed to pick up and it showed a payout figure of  
18 \$88,000.

19  
20 Q. Did that surprise you?

21 A. Yes.

22  
23 THE COMMISSIONER: Q. What was her actual salary at that  
24 stage?

25 A. I couldn't - it's going back 15, 20 years.  
26 I couldn't - I could find that out.

27  
28 MR STOLJAR: Q. Would you go to tab 8, page 51, in the  
29 top right-hand corner. Is that the document which you  
30 picked up off the photocopier?

31 A. Yes, that's correct, yes.

32  
33 Q. The figure in the top of \$1,264.90 per week, would  
34 that reflect salary?

35 A. Yes. Actually it would, yes. That's right, your  
36 Honour, that would be the figure.

37  
38 Q. Coming back to your statement, did Mr Williamson make  
39 an approach to you about taking redundancy?

40 A. Yes, he did.

41  
42 Q. What did he say?

43 A. He said, "Now that Katrina has gone, what about you?"  
44 And I just repeated the same line, that I was elected here  
45 by the members to represent them for a four year period and  
46 I'm not going to walk away from that.

47

1 Q. So then what happened? Did you stay?  
2 A. Oh, yes. Yes.  
3  
4 Q. And what were the working conditions like?  
5 A. Pretty - one of the things I managed to carve out a  
6 bit of a niche was in training and education which is a  
7 fairly - I mean it's important but it's certainly not at  
8 the level of assistant state secretary. So I managed to  
9 keep myself busy by becoming part of the Health Industry  
10 Group Training Company Board and the ITAB as well, the  
11 Industry Training Advisory Board, so I was sort of able to  
12 get something but, again, it kept me away from the  
13 membership, it kept me away from the main policy decisions  
14 that were made in the union and basically just isolated me.  
15  
16 Q. You didn't have contact with members; is that what  
17 you're saying?  
18 A. No. No.  
19  
20 Q. Did he say something to you about that?  
21 A. Well, he just reaffirmed that he's the one that  
22 determines the roles and responsibilities of those under  
23 him and we were under him, and if we breached that, back up  
24 to council again, you know, to face council so --  
25  
26 Q. Did you make any protest to anyone?  
27 A. Oh, yes, yes. I mean, I was raising this all the time  
28 with council. Some of the - I look back on it now and, you  
29 know, there were sort of real screaming matches at the  
30 council meetings over these very issues, about trying to  
31 get access and so on.  
32  
33 Q. Screaming matches involving you?  
34 A. Well, basically the - I'd be there by myself because  
35 Katrina had already gone so I was a lone voice, but I'd get  
36 jeered and, you know, sort of comments being made. I can  
37 distinctly remember, it's in my notes as well, with Craig  
38 Thomson basically trying to shout me down, I'm asking the  
39 President to get him to keep his mouth shut, you know,  
40 which he couldn't control it, and it was a pretty heavy  
41 night that night, you know, so --  
42  
43 Q. About when was that approximately? Some time between  
44 1995 and 1999?  
45 A. Oh, certainly, yes. It was sort of - I think it was  
46 nearly towards the end, around about 1997-98, so yeah, but  
47 I mean the issue with - the real stress point was at every

1 council meeting you'd be going there as a lone voice, so  
2 you never knew what was going to come up, you know. And  
3 the other big issue we had is that we couldn't get access  
4 to the agendas, to the minutes, and that was ongoing all  
5 the way through. We took that to the Industrial Relations  
6 Commission and they made it quite clear that the assistant  
7 secretaries need to be - they are part of council. He  
8 tried to get the rules changed as well and he always  
9 maintained that we were only there as observers, not as  
10 participants in the running of the council, but that was  
11 overturned in the Industrial Relations Commission  
12 supporting us that we were, but we couldn't still get  
13 information, you know, so --

14  
15 Q. Were copies of the agenda of the council meeting  
16 circulated in advance?

17 A. Well, yes, they were, and also the minutes.

18  
19 Q. To you?

20 A. No. No. I would occasionally, you know, when  
21 I really, really pushed and pushed and pushed and pushed,  
22 I would then get the minutes of the last six month but it's  
23 all too late. When things are moving, you know, you need  
24 to be abreast of these things when they're occurring.  
25 You're basically reading history, you know. You're not  
26 really part of what's happening with the union.

27  
28 Q. Yes. Could we come through to the second election.  
29 You deal with that in paragraph 62 and following.

30  
31 In the second election in 1999, you say you were part  
32 of a ticket. You didn't have a full ticket "but we had key  
33 positions", you're saying this in 62. Who was standing for  
34 what? What position did you run for?

35 A. I ran again as assistant state secretary for my  
36 position.

37  
38 Q. Who was running for state secretary?

39 A. Janice. Janice Hardacre.

40  
41 Q. Who was the other --

42 A. Sorry. Her maiden name was being used. It was  
43 Janice McNamee.

44  
45 Q. In any event that's your wife, Janice?

46 A. My wife, that's right.



1 Q. Who was the other assistant state secretary or at  
2 least who was running for that position?

3 A. Actually, I can't quite remember, actually. Yes, it  
4 might have been - it might have been Paul Ford. Sorry,  
5 I take that back. By that stage they'd implemented the  
6 restructure of the union with the BDO report. So when they  
7 got rid of Katrina, they abolished that other state  
8 secretary position, so that's why there was only the one,  
9 myself as the assistant state secretary, running for that  
10 position.

11  
12 Q. You say in 63:

13  
14 *Mr Williamson had changed the rules to make*  
15 *it difficult for anyone to challenge them.*  
16 *He did this by moving that union rules have*  
17 *above-the-line voting and below-the-line*  
18 *voting.*  
19

20 Can you just explain what you perceived to be the problem  
21 there?

22 A. There was a whole raft of rule changes that went  
23 through. Again, I was advised by one of the organisers  
24 that Michael Williamson was down at the Industrial  
25 Relations Commission with a whole bunch of rule changes,  
26 you know. I confronted him about this. He's saying,  
27 "Don't worry about it, nothing's happening, it's not really  
28 that important." The night when they actually rammed it  
29 through was the night that I was sent to Western Australia  
30 to do something with education with the Western Australian  
31 branch. When I came back I asked what was going on. I'd  
32 heard that there had been some rule changes and these rule  
33 changes weren't documented, they were verballed and voted  
34 on as a verbal rule change, but they were quite  
35 significant. It changed the process of the elections and  
36 also brought in the purging rule against members. It  
37 involved the PSA and the Nurses Association when they  
38 exchanged members and of course that was, you know, a big  
39 part of our voting base was in those areas. Yes, that's  
40 what happened there.

41  
42 Q. You say in 63 that he did this by moving that union  
43 rules have above-the-line voting and below-the-line voting.

44 A. Yes.

45  
46 Q. I understand what the difference is or what that  
47 encompasses, but what was the significance of that from

1 your point of view? How does that --

2 A. The original --

3

4 Q. I suppose the specific question is why do you say that  
5 makes it difficult for someone to challenge him?

6 A. Well, originally, what was put up was that to be above  
7 the line you've got to have a full ticket and that's almost  
8 impossible if you're not the incumbent because you've got  
9 to have all positions covered, you know. There was a lot  
10 of documentation that went through to the State Electoral  
11 Office and was actually contested in the Industrial  
12 Relations Commission. Again, we had to engage solicitors  
13 to deal with this. That was struck out as being unfair and  
14 eventually the Industrial Relations Commission accepted  
15 that you can have a ticket of, you know, sort of three or  
16 four to be still above the line. Michael Williamson was  
17 not happy about that being struck out.

18

19 But there's also the issue of - it's fairly complex,  
20 but, you know, there's the whole issue in relation to the  
21 State Electoral Office and the roll and what would happen  
22 is that if you had that above-the-line voting, that only  
23 one would be a full ticket. All it takes is one person to  
24 fall over and then your ticket is invalid for  
25 above-the-line voting. As you see further on in my  
26 statement there, he used tactics to get candidates to  
27 withdraw.

28

29 Q. Paragraph 66 you make reference to some documents that  
30 you prepared and they're in tab 14 of your statement. When  
31 did you prepare these documents?

32 A. This would be after I finally got a copy of the rule  
33 changes. It's probably two months after they went to  
34 council. He only gave them to me after they were pushed  
35 through the Industrial Relations Commission. So what  
36 I did, because this had to go back to our solicitors, I did  
37 a lot of the ground work to save costs and I just went  
38 through line by line against the rules and where the  
39 changes were and that's basically what that document on  
40 page 72 is, and I think page 77 is just a further update on  
41 that, you know.

42

43 Q. Can I then take you to page 9 of your statement. You  
44 say:

45

46 *In the middle of the campaign I was served*  
47 *with documents for legal proceedings by the*

1                    *union's solicitors.*

2

3                    Who actually brought the proceedings?

4                    A.    Well, defamation is personal and it was Michael  
5                    Williamson, and one of the problems we had is that it was  
6                    our union solicitors that were, you know, sort of leading  
7                    the charge with this, you know.

8

9                    Q.    Who were the union solicitors?

10                   A.    McClellands, in particular, Greg Keating.

11

12                   Q.    Do you know who paid Mr Williamson's legal costs?

13                   A.    No, I don't.

14

15                   Q.    In paragraph 72 you identify some other defendants to  
16                   those proceedings. Janice is your wife, and then there's  
17                   Mr William or Bill O'Connor?

18                   A.    That's correct, yes.

19

20                   Q.    You say in 74 he wasn't standing for an elected  
21                   position?

22                   A.    No. Bill O'Connor was a very well respected official  
23                   of the union. He was the assistant state secretary and  
24                   retired as such, and he was also awarded a life membership.  
25                   Of course, one of the things that really upset a lot of  
26                   people was the fact that he was involved in the defamation.  
27                   Now, he was not part of the ticket, he was the campaign  
28                   manager for us then, you know.

29

30                   And I might just add, too, one of the problems with  
31                   defamation is that by its very nature it defames the  
32                   respondents. So Williamson would use that then to show  
33                   "Look, you know, I'm not lying, they're liars" and, you  
34                   know, "I'm right, they're wrong." In a campaign it is very  
35                   difficult then to overcome that. That's another form of a  
36                   barrier and particularly with Bill O'Connor, he used that  
37                   as part of that strategy.

38

39                   Q.    These proceedings were commenced in the middle of the  
40                   campaign?

41                   A.    Yes, that's right.

42

43                   Q.    Who is Mr Paul Form (sic)?

44                   A.    There is a typo there. That's Paul Ford - F-O-R-D.

45

46                   Q.    Who is Mr Ford?

47                   A.    He was one of our candidates standing for an

1       organiser.

2  
3       Q.    I see.   And Mr Ivers?

4       A.    Mr Ivers was a former organiser and he originally ran  
5       against Michael Williamson and was defeated by 151 votes in  
6       the 1995 election and he, along with Bill O'Connor, had  
7       tried to get access to the documents as members and had  
8       great difficulty trying to do that and discovered quite a  
9       number of inappropriate purchases and was basically a thorn  
10      in the side for Michael Williamson.

11  
12      Q.    Did the institution of those proceedings hamper your  
13      ability to conduct your election campaign?

14      A.    Oh, yes.   Yes.   I mean, I think the figure was  
15      \$750,000.   That does sort of weigh on your mind and, you  
16      know, we didn't have the resources.   Really we had to fight  
17      this.   At the same time, we're trying to think about  
18      running a campaign at the same time, and it does sort of  
19      make you question every document you put out, of course,  
20      and, you know, these proceedings and these costs are  
21      sucking up more of your resources, whether it is time or  
22      money.

23  
24      Q.    Who was paying for your legal costs?

25      A.    Basically we did.   We ended up paying - at the end  
26      of - it didn't finish.   Normally, we were advised by our  
27      legal team, was that if you put a cross-claim in after the  
28      election it goes away, you know, they decide to walk away  
29      from it, it is just a tool of campaigning.   It didn't with  
30      Michael Williamson.   We were still, after the 1999  
31      election, we were still in 2003 fighting this issue.   I was  
32      unemployed at the time.   So, you know, the final call, we  
33      had to pay about \$20,000 each to meet the legal costs of  
34      this and we had to borrow against our house to do so.   I  
35      don't know about the others, I don't know where they got  
36      their money from, but I think they were pretty much in the  
37      same position, they're only just individuals.

38  
39      Q.    The proceedings, they didn't go to trial?   They ended  
40      in some sort of agreed settlement, did they?

41      A.    What was happening was it would go into court, into  
42      the District Court and then he'd withdraw and make  
43      amendments.   There was no - you know, it said for  
44      unspecified damages, all this sort of stuff.   I mean we  
45      couldn't nail it, we couldn't get it down, it went on and  
46      on and on.

47

1 Finally our solicitors said, "Look, you can't keep  
2 going on like this". I was pretty sure that the money, all  
3 these issues in our defence lay with Michael Williamson's  
4 wife, the money was in her bank account, and I instructed  
5 our solicitors, "You've got to do what we want. We need to  
6 subpoena her accounts." When that happened,  
7 Michael Williamson wanted to settle. Again, I'm talking  
8 personally here, some of the others wanted to fight on and  
9 some didn't, but my position was that I wanted to fight on  
10 with this and the reality was that we couldn't. We  
11 couldn't keep going.  
12

13 Q. You mean because of the expense?

14 A. The expense, yes. The expense of it all, and we'd  
15 lose our house, you know. What then occurred was the  
16 document at tab 20 which again bound us to confidentiality  
17 and I had great reluctance to sign that because of that  
18 clause, you know, but if we needed to stop it, we had to do  
19 it.  
20

21 Q. You describe some other difficulties you had during  
22 those 1999 elections in paragraph 77 and following of your  
23 statement. Can you just tell the Commissioner a bit more  
24 about that. Organisers came to hospitals when you went  
25 there to campaign, did they?

26 A. Yes. We'd always have - I suppose it's the benefits  
27 of incumbency is that the organisers had all their  
28 hospitals in their areas and they'd go out there and ensure  
29 that we were basically not welcomed; made it very difficult  
30 for us to get around to the various members. Normally what  
31 happened the security would be the ones that would front up  
32 first and he would had right of entry under the Act to  
33 campaign. We'd spend, you know, an hour or two just trying  
34 to talk our way through to get to the members, you know  
35 even to put notices up and stuff. So it was very difficult  
36 and of course, you know, anyone that's a supporter of  
37 Michael Williamson would ring through to head office and  
38 they'd send organisers up there to meet and greet and also  
39 to deal with any of the information that we put up about  
40 our team in the election; so it was very difficult.  
41

42 We eventually moved towards only going out in the  
43 weekends because the organisers only work Monday to Friday  
44 and it sort of gave us a bit of protection.  
45

46 Q. Mr Williamson won that election by a large margin?

47 A. Yes. Yes.

1  
2 Q. Do you know whether anyone challenged Mr Williamson  
3 again over the next few years or do you not know?

4 A. We were going to have another - well, half-hearted.  
5 We didn't actually make a decision on it, whether we would  
6 challenge him again in four years time. The time for the  
7 election came and there was no indication of an election.  
8

9 We rang the State Electoral Office and they said,  
10 "Oh, that's a special case". Now, I think it had something  
11 to do with changing of the name of the union or merging  
12 with the Victorian branch, but whatever happened, basically  
13 the election didn't occur because of this new structure  
14 that was going in; but no, no, we were gone, we were gone  
15 by the 1999 election, yes.  
16

17 Q. You just said by the 1999 election. You meant the one  
18 after? You mean you'd finished --

19 A. By 1999 we were expended. Financially we couldn't  
20 keep going and I think emotionally as well. With this we  
21 couldn't keep going.  
22

23 Q. Excuse me just one minute, Mr Hardacre. You said  
24 something in your evidence about it being made difficult  
25 for other people to stand in elections. Was that - are you  
26 really dealing with that issue in paragraphs 69, 70 and  
27 following?

28 A. 69, 70. Yes. Part of the strategy during that  
29 election was that if someone puts a nomination in for a  
30 position from, say, our team - there were three teams  
31 running but from our team, for example, you've got to have  
32 someone to second and move the nomination, so you've got to  
33 have a couple of names. Normally you put two, three on  
34 there just to make sure in case someone's not financial.  
35 It then goes to the State Electoral Commission who then  
36 send it back to, well, refer to Shaun McMillan as the  
37 independent person, the office manager, which she wasn't,  
38 she was part of the Michael Williamson team, for  
39 verification that they are eligible to stand. Firstly,  
40 that they are a member, a financial member, and secondly  
41 that nomination, the seconders, and so on, are also  
42 members.  
43

44 What would happen is that they would send the  
45 organisers out to that workplace. If they can't get the  
46 actual candidate, they'd normally say, "Look, this is going  
47 to cost this union, you know, sort of \$60,000", or whatever

1 the figure is, you know, this is what it's going to cost  
2 your members. If they don't willingly withdraw, they then  
3 go to the people they've nominated, nominated them in and  
4 withdraw, and quite often we'd suddenly get a notification  
5 from the State Electoral Office to say that they're invalid  
6 because they've decided to withdraw. There is one instance  
7 where - and we have got documentation to that - where  
8 McClellands actually rang the people at night to get them  
9 to withdraw and they went in with stat decs back to the  
10 State Electoral Office. We wrote to the State Electoral  
11 Office about all this saying, you know, it is impossible to  
12 maintain the ticket when you've got that sort of, you know,  
13 undercurrent running, where you've got the other team going  
14 in and wilfully destroying your nominations.

15  
16 MR STOLJAR: Thank you, Mr Hardacre.

17  
18 THE COMMISSIONER: Q. Mr Hardacre, in paragraph 91 of  
19 your statement, in particular subparagraph (c), you speak  
20 of you and your wife being put back approximately \$100,000.  
21 In your oral evidence you said that between you you'd spent  
22 \$40,000 on the District Court defamation case. Do you  
23 remember that?

24 A. Yes.

25  
26 Q. The other \$60,000, what was that spent on?

27 A. It was basically the expenditure for running the  
28 campaign. You know, the legal costs were \$40,000 but it's  
29 just an estimate for the cost of printing and we just  
30 estimated around about \$100,000. We had to borrow that  
31 money to meet those sort of debts.

32  
33 Q. The other thing is this: in tab 12, which is numbered  
34 page 61 at the top, that's an affidavit of Mr Cahill  
35 explaining why he resigned as president and that it was  
36 sworn in proceedings in the Industrial Court of New South  
37 Wales. Did those proceedings ever go to judgment?

38 A. No, they didn't, no.

39  
40 Q. They were settled or something?

41 A. I'm not too sure. You'll have to ask Mr Cahill what  
42 happened with that. He was the initial president with  
43 Michael Williamson and he suddenly resigned and that's one  
44 of the problems we did have, is that rather than coming and  
45 supporting us and bringing the issues to us, we would lose  
46 support from those who were sort of with - or partly with  
47 us on the committee. It's very daunting and a lot of

1 pressure. They'd rather resign rather than get caught up  
2 in this, and I think that's the motivation with Ken Cahill,  
3 he's raised those issues in there about the funds and  
4 particularly about the computers and the deals that were  
5 done, he wasn't happy with that and resigned.

6  
7 Q. Has anyone put on an affidavit answering Mr Cahill's  
8 affidavit?

9 A. I don't know. I don't know.

10  
11 THE COMMISSIONER: What will happen now is that anyone who  
12 wants to cross-examine Mr Hardacre may do so at a time to  
13 be arranged.

14  
15 MR STOLJAR: Yes. Commissioner, Practice Note 1 will  
16 apply, so the provisions in respect of cross-examination  
17 will apply.

18  
19 THE COMMISSIONER: Yes. Mr Hardacre can go for now?

20  
21 MR STOLJAR: Yes, Commissioner.

22  
23 THE COMMISSIONER: Mr Hardacre, you can go for now but it  
24 may be necessary for you to come back if anyone wants to  
25 ask you any questions about your statement. Thanks for  
26 giving your evidence today.

27  
28 THE WITNESS: Yes. Might I just make a point here?  
29 I know we're dealing with a lot of corruption in the  
30 unions, but in my time as a union official and in  
31 sub-branches, there are a lot of good union members out  
32 there very dedicated, including those office in the offices  
33 and I think there are a lot of good unions as well. What  
34 we're seeing here is probably, you know, the belly end of  
35 it all and I still strongly believe in unions and I still  
36 believe there's a lot of good people out there.

37  
38 THE COMMISSIONER: Thank you.

39  
40 THE WITNESS: Thank you.

41  
42 MR STOLJAR: The next witness is Mr Bolano. It may be  
43 convenient to take the break now.

44  
45 <THE WITNESS WITHDREW

46  
47 THE COMMISSIONER: Yes. We will adjourn until 10 to 12.



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**SHORT ADJOURNMENT**

THE COMMISSIONER: Yes, Mr Stoljar.

MR STOLJAR: Commissioner, the next witness is Mr Marco Bolano.

**<MARCO BOLANO, sworn: [11.50am]**

**<EXAMINATION BY MR STOLJAR:**

MR STOLJAR: Q. Your name is Marco Bolano?

A. Yes.

Q. You're a resident of Victoria?

A. Yes.

Q. And you are a disability support worker by profession?

A. Yes.

Q. But you've worked as a union organiser for quite a number of years as well?

A. Yes, organiser-official for about 10 years.

Q. You've prepared a witness statement in these proceedings. I'll give you a copy.

A. Thank you.

Q. You have two corrections to that statement. First of all, if I take you to paragraph 90 - just to put you in context, you're dealing there with a situation in which various persons at the annual convention were being, what's described as "acting up", that is, moving up into more senior positions because one was vacated?

A. Yes.

Q. Did you wish to say something further about paragraph 90?

A. Yes, that's what I actually said in the meeting but I wanted to clarify that the rules only provided for someone to be appointed as acting secretary in the secretary's stead should they be unable to perform their role. There was no requirement in the rules for people to act up in other positions.

Q. In paragraph 151 - or is it --

1 A. Yes - no, I don't think --

2

3 Q. I think it might be 157, actually, I misread it. Did  
4 you wish to make any additional point?

5 A. Yes, there was a fifth applicant.

6

7 Q. Did that person respond to the advertisement?

8 A. No, he didn't respond to the advertisement in

9 The Australian. He'd asked - he'd approached - he was a

10 member of ours who I'd actually represented a few month

11 earlier in a unfair dismissal and he approached Ballarat

12 Trades Hall asking if there was any jobs in unions and

13 Ballarat Trades Hall passed that information on to

14 Stuart Miller, who was an official in the union at the

15 time, and Stuart Miller contacted him and arranged for him

16 to be interviewed.

17

18 Q. Save for those two corrections is the content of your  
19 statement, dated 12 June 2014, true and correct?

20 A. Absolutely.

21

22 MR STOLJAR: Commissioner, I'd ask that that statement be  
23 received into evidence, together with the folder of  
24 materials.

25

26 THE COMMISSIONER: Yes. That statement will be received

27 into evidence and the folder will be marked Bolano MFI1

28 containing the documents referred to in that statement.

29

30 **BOLANO MFI#1 STATEMENT OF MARCO BOLANO DATED 12/6/2014**

31 **TOGETHER WITH FOLDER OF MATERIALS**

32

33 MR STOLJAR: Q. Mr Bolano, it is quite a lengthy  
34 statement and I'm just going to take you through some parts  
35 of it. First of all, your training and experience - you  
36 say in paragraph 3 that you joined the union in mid 2000 as  
37 a disability support worker?

38 A. That's correct, yes.

39

40 Q. Did you have some training in that capacity?

41 A. As a disability support worker?

42

43 Q. Yes.

44 A. Yes, I had a Certificate 4 in community services,  
45 disability.

46

47 Q. You worked for a couple of years as a disability

1 support worker or longer?  
2 A. Yes, and then ultimately before I went to the union as  
3 a house supervisor.  
4  
5 Q. And then in about 2002 you became an organiser?  
6 A. That's right.  
7  
8 Q. With the Victoria No 1 Branch?  
9 A. Yes.  
10  
11 Q. And you did that until 2009?  
12 A. Yes.  
13  
14 Q. In 2009 you ran as a candidate for election and you  
15 became secretary of the No 1 Branch?  
16 A. That's right.  
17  
18 Q. After the merger what was your position?  
19 A. Deputy general secretary, one of. There was two of  
20 them.  
21  
22 Q. Who was the other one?  
23 A. Peter Mylan.  
24  
25 Q. Who are the members of the No 1 Branch?  
26 A. Effectively, pretty much all non-clinical workers in a  
27 hospital, either public or private, aged care workers, with  
28 the exception of registered nurses, residential disability  
29 and youth workers and pathology collectors, and that's  
30 pretty much most of them, anyway, that I can recall.  
31  
32 Q. You say in paragraph 10 of your statement you  
33 contested the 2012 No 1 Branch elections but you were  
34 unsuccessful?  
35 A. That's right.  
36  
37 Q. Do you presently hold any elected office?  
38 A. No.  
39  
40 Q. On page 2 of your statement you deal with the 2009  
41 elections that you were involved in. This is when you - if  
42 I can put it this way - made the transition from organiser  
43 to secretary?  
44 A. After winning the election, yes.  
45  
46 Q. Yes.  
47 A. Yes.

1  
2 Q. I'll come back to this. Could we just go through 16  
3 and following. You say:

4  
5 *Based on my knowledge, approximately*  
6 *\$150,000 was spent on my campaign ...*  
7

8 That's your campaign for secretary?

9 A. Yes.

10  
11 Q. And then:

12  
13 *Aside from the funds raised by my*  
14 *ticket ...*  
15

16 Do you mean by that the persons who were joined with you in  
17 the campaign?

18 A. Yes. People that were on my ticket and staff that  
19 supported me contributed some money, yes.  
20

21 Q. And then you say --

22 A. And I did myself as well.  
23

24 Q. You say.

25  
26 *... the fundraising also was done ... by*  
27 *Senator David Feeney ...*  
28

29 And then at the top of the next page you say:

30  
31 *My campaign manager was [Mr Donnelly] ...*  
32

33 A. Correct.  
34

35 Q. Let's take Mr Donnelly first. Did you know  
36 Mr Donnelly before this?

37 A. I'd met him once or twice at Labor functions but just  
38 being in the group, having a conversation with him.  
39 I didn't really know him until he managed my campaign.  
40

41 Q. How did he come to be, as you say in 18, managing and  
42 administering your election campaign finances?

43 A. I believed Mr Feeney asked him to.  
44

45 Q. Did you know Mr Feeney before then?

46 A. Yes, I did.  
47

1 Q. How did Mr Feeney come to be assisting you with your  
2 campaign?

3 A. I believe that came about through his relationship  
4 with Ms Kathy Jackson.

5  
6 Q. You say, just going back a bit, paragraph 14:

7  
8 *At the time, the Victorian ALP seemed to be*  
9 *in a state of civil war and the warring*  
10 *factions were throwing money at candidates*  
11 *in the HSU elections.*  
12

13 Can you just expand on that? What do you mean they were in  
14 a state of civil war?

15 A. My knowledge of it was that the Victorian Right of  
16 Labor Party had split had split and there were two camps.  
17 There were what they called the ShortCons, which was the  
18 the Bill Shorten-Stephen Conroy camp, and I don't know what  
19 they called the others, but to the best of my knowledge the  
20 other camp was made up of the NUW, the SDA, I believe the  
21 CFMEU and David Feeney was in that camp.  
22

23 Q. You called them ShortCons. Were they representing the  
24 Right faction?

25 A. I think both sides were from the Right faction.  
26 I believe it was the Right faction that split. The  
27 Right faction that had been called Labor Unity - this is my  
28 knowledge of it - that they'd split.  
29

30 Q. Why were they throwing money at the candidates in the  
31 HSU elections?

32 A. My assumption - well, my considered assumption is it  
33 was all about votes on the floor of the ALP. The unions  
34 had so many - the HSU, including other affiliated unions,  
35 had so many votes per member, I believe it was so many  
36 votes per thousand members, I believe, on the floor of the  
37 ALP. I believe the HSU No 1 Branch was worth 14 or  
38 15 votes on the floor of the Victorian ALP.  
39

40 Q. How many members, roughly speaking, did the  
41 Victoria No 1 Branch have at that time?

42 A. At the time of the 2009 election it was approximately  
43 14,500 towards 15,000, somewhere in between those two  
44 numbers.  
45

46 Q. The New South Wales component of the union, if I can  
47 call it that very loosely, it had much larger membership?

1 A. Oh, yes.

2

3 Q. How large was it?

4 A. Michael Williamson claimed over 40,000. When we  
5 merged, as least when we merged with them, the reality  
6 seemed to be closer to 35,000.

7

8 Q. Was the No 1 Branch the largest branch in Victoria?

9 A. Yes.

10

11 THE COMMISSIONER: Q. Is this the position, if you take  
12 the Victorian ALP, the votes you're talking about are on  
13 the floor of the Victorian ALP Conference?

14 A. Yes.

15

16 Q. An annual event?

17 A. Yes.

18

19 Q. It's like the American Electoral College, is it? If  
20 you win a State by a small margin, the whole of the votes  
21 for the President from that State are cast one way. In  
22 other words, if, for example, the Feeney faction had won  
23 the election, the Feeney faction would control the totality  
24 of the votes, the 14 or 15 votes on the floor of the  
25 Victorian ALP conference?

26 A. Well, technically the secretary of the union would  
27 control them or No 1 Branch would control them, but  
28 I suppose it was an assumption that if you were aligned to  
29 Mr Feeney, that you would send those votes in his  
30 direction, but at the end of the day I believe it was the  
31 choice of the secretary. It never came to fruition.  
32 I can't recall us ever actually voting before the merger,  
33 so it never actually happened.

34

35 MR STOLJAR: Q. Did anyone talk to you about the way, if  
36 you became secretary, you'd cast your vote?

37 A. No. I would have taken a dim view of that.

38

39 Q. In any event, Mr Feeney organised some fundraising for  
40 your campaign, did he?

41 A. Yes.

42

43 Q. Mr Donnelly was a staffer to Mr Feeney?

44 A. I believe he was the chief of staff.

45

46 Q. How did it actually work, Mr Bolano? Just talk us  
47 through it. Did you oversee what was going on, or did you

1 leave it to them, or how did it work?  
2 A. The administration of the campaign I left to them. I  
3 was campaigning. It was - we campaigned - myself and the  
4 other candidates campaigned with an attitude. We were very  
5 disciplined in 2009. Our attitude was, "Imagine if at the  
6 end we lose this election by 10 or 20 votes." Our attitude  
7 was be out there, you know, talking to as many members as  
8 possible. All day we were in workplaces either walking  
9 around talking to members or having members' meetings and  
10 then in the evening we'd come back to the telephone room  
11 and be on the phones to members for several hours, and then  
12 you'd go home, go to bed, wake up and the cycle would start  
13 again.

14  
15 We were effectively doing that seven days a week  
16 during the election campaign. I really didn't have time to  
17 focus on that aspect of the campaign. I had a say in the  
18 messaging obviously. My main interest - and I had a - and  
19 the majority of the say I had was in the messaging for the  
20 campaign, but in regards to the finances, how much money  
21 was coming in, it was just constantly coming in during the  
22 campaign, it was not that it all came in before the  
23 campaign and we had a budget based on what we had, the  
24 money just kept coming in. It appeared to me as needed.  
25 It would be if we needed to do another mail-out or print  
26 more posters, the money seemed to be coming in as needed.

27  
28 Q. How did you form that understanding? Did you have a  
29 conversation with Mr Donnelly?

30 A. I had conversations with Mr Donnelly and all I got is,  
31 "Yeah, we're getting - people, you know, friends of ours  
32 are donating money." I'd ask more specifics. He did tell  
33 me about the SDA, although initially at the time he didn't  
34 give me an amount and obviously I knew the NUW were  
35 providing their phone rooms because I was in there doing  
36 telephone calls and I heard some names that I've mentioned  
37 in my statement.

38  
39 Q. You deal with that in paragraph 20. Why don't we work  
40 through some of those names. First of all, Mr Williamson  
41 made some donations. Why was Mr Williamson donating to  
42 your campaign?

43 A. My understanding is that Mr Williamson or the New  
44 South Wales Branch was an ally of the Victorian No 1 Branch  
45 and the Victorian No 3 Branch. Beyond that, I didn't know  
46 what his interest was. I only found out - I found out  
47 about his donations when the first few mail-outs that we

1 sent out were going from a Sydney mail house and I was a  
2 bit perplexed, so I asked, I think I asked Mr Donnelly,  
3 "Why are they being mailed from Sydney?" And he said,  
4 "Because Michael Williamson have donated these four  
5 mail-outs."  
6

7 Q. In 18 you say it was Mr Donnelly's responsibility to  
8 manage and administer the election campaign finances.

9 A. Yes.

10  
11 Q. His responsibilities went further, did they? He  
12 actually organised mail-outs?

13 A. Yes, he organised mail-outs, he got them to the  
14 printer, made sure they were printed properly. He arranged  
15 for them to be printed and then obviously arranged for them  
16 to be actually mailed out to members. He arranged people  
17 for the telephone room; he sort of kept a roster.  
18

19 Q. At 20.2 you say you asked Mr Donnelly not to use the  
20 Sydney mail house for further mail-outs.

21 A. Yes.

22  
23 Q. Was that because it hadn't gone so well?

24 A. It was just disastrous. I remember one particular  
25 mail-out, there was one mail-out supposed to hit mailboxes  
26 and then a second one three or four days later. There was  
27 a strategic reason for that. I can't remember the  
28 strategic reason. But they both - both of the mail-outs  
29 hit on the latter day and some of them had material from  
30 the separate mail-outs mixed up in different - so it was  
31 just an absolute - members - one would arrive a lot later  
32 than we wanted it to arrive and then when it did arrive  
33 late, effectively, what should have been two separate  
34 mail-outs in some cases mixed up in the one envelope.  
35

36 Q. You say in 20.2, although you asked Mr Donnelly not to  
37 use the Sydney mail house for further mail-outs, "I don't  
38 know if this subsequently occurred." Who is giving the  
39 directions? Is it you or is it Senator Feeney?

40 A. With the benefit of hindsight, I don't know. My  
41 concern about the mail-outs coming from Sydney was that it  
42 hadn't been effective, there had been muck-ups basically.  
43 I said, "We just can't use this mail house any more. It's  
44 just proven to be unreliable." I don't recall then.  
45 I have no recollection of any further mail-outs coming from  
46 that Sydney mail house, but I don't know - I don't know how  
47 that worked. I don't know if - I wouldn't know and I'd



1 only be speculating. I don't know if Mr Williamson just  
2 handed over the money out for the mail-out and we did it  
3 from Melbourne. I don't know for 100 per cent - I'm not  
4 100 per cent sure if indeed they'd stopped going out from  
5 Sydney. From then on the mail-outs arrived on time and  
6 properly, so I wasn't worried about it.

7  
8 Q. In 20.2 you also made reference to Mr Williamson -  
9 I'm sorry, it's only a suggestion, but you say there was a  
10 suggestion that Mr Williamson donated money from his  
11 re-election slush fund. What's that?

12 A. In Victoria in the No 1 Branch we had a  
13 Returnees' Fund where staff voluntarily donated putting a  
14 weekly amount, I used to put in \$20 a week, I think, into a  
15 fund which was called in the No 1 Branch the Returnees'  
16 Fund and the intention of that fund was to fund, you know,  
17 any elections or any other staffing matters, or you know  
18 factional matters. I assumed that Mr Williamson - when  
19 Mr Williamson, when we had coffee once and he spoke about  
20 it, I assumed that was the same - he was talking about a  
21 similar sort of fund.

22  
23 Q. You described that coffee meeting in some of the  
24 subparagraphs following 20.2.

25 A. Yes.

26  
27 Q. At the top of the page, page 4, 20.6, you say:

28  
29 *Mr Williamson set up an election fund ...*

30  
31 A. Mmm.

32  
33 Q. In 20.6 you say:

34  
35 *Mr Williamson set up an election fund which*  
36 *was, by that time, well-resourced due to*  
37 *the fact that he had not had a contested*  
38 *election in over a decade.*

39  
40 Did he say that to you?

41 A. The words he used were, obviously, yes, he hadn't had  
42 a contested election for a long time, it was over a decade,  
43 and that his staff contributed \$30 a week to it, so  
44 I extrapolated that there would have to be a fair bit of  
45 money in there.

46  
47 Q. Further down the page you're talking about the

1 Australian Workers Union. You say that the AWU donated  
2 money to your campaign. In 20.14 you say you were  
3 surprised to learn that.

4 A. Mmm.

5  
6 Q. Why were you surprised?

7 A. I hadn't been told they donated money. At the time I  
8 was aware and I'd been told that they were supporting  
9 Ms Asmar and they were in the ShortCon faction, obviously,  
10 the AWU, so I had the assumption that they were funding  
11 Ms Asmar's campaign, but then in late 2012, during my 2012  
12 election campaign, I was contacted by Royce Millar, a  
13 journalist at Fairfax, who put to me that - I think that  
14 Fairfax had uncovered the Industry 22 slush fund and he put  
15 to me claims by Mr Cesar Melhem that he contributed money  
16 to both sides in the 2000 election and he contributed  
17 30,000 to my campaign.

18  
19 Q. Why would they contribute money to both?

20 A. The only logical thing I can think of personally is  
21 they were just having a bet both ways. They would have  
22 some sort of - they could have some sort of relationship if  
23 I won the election; but that's only sheer guesswork.

24  
25 Q. In 20.15 of your statement you're talking about the  
26 National Union of Workers. That's the NUW that you made  
27 reference to earlier?

28 A. Yes.

29  
30 Q. You say that they provided 10 telephone lines?

31 A. That's right.

32  
33 Q. How did that actually work? You mean they provided --

34 A. We went to the office. We'd go - we would assemble at  
35 their office after hours. Myself and the two other  
36 candidates for assistant secretary and president would be  
37 out campaigning in hospitals or workplaces all day and then  
38 we would go back to the NUW's office, as would supporters  
39 of mine, whether they be HSU staff or friends. I think it  
40 would be about four or five o'clock in the afternoon most  
41 of their people, all their staff had gone, there was just a  
42 couple of people around, and we'd start. We'd be allocated  
43 10 lines and we'd, you know - sorry, with desktop computers  
44 with spreadsheets on them, our spreadsheets on them for  
45 people to call and we'd start calling and I think we'd do  
46 that through to 8.30 or 9pm.

1 Q. That was on a daily basis for those --  
2 A. Seven days a week. Sorry, on the weekends, on the  
3 Saturdays and Sundays we'd go in during the day, not in the  
4 evening.  
5  
6 Q. Then you mentioned the Shop Distributive Association,  
7 the SDA?  
8 A. Mmm-hmm.  
9  
10 Q. To your understanding, they made a contribution to  
11 your campaign?  
12 A. Yes.  
13  
14 Q. Why did they do that?  
15 A. I could only assume because of the factional ALP  
16 politics as a favour to Mr Feeney. I think they had a  
17 friendship with Ms Jackson too. I assume that's why they  
18 helped out.  
19  
20 Q. Then you say that Mr Shorten made a donation to your  
21 campaign?  
22 A. Yes. I considered it extraordinary.  
23  
24 Q. How much did he contribute to your campaign?  
25 A. I was told \$5,000.  
26  
27 Q. Who told you that?  
28 A. Stephen Donnelly.  
29  
30 Q. When did he tell that you?  
31 A. During the campaign, in the phone room one night, as  
32 it says in my statement, I walked in. There was a bit of a  
33 buzz around the place. I heard people saying, "Shorten's  
34 given us money." As soon as I heard that I went to find  
35 Mr Donnelly and found him and when I found him he was  
36 actually relaying that story to somebody and I asked him  
37 straight out, "Do you mean to tell me Shorten has donated  
38 money to us?" He said, "Yes," sort of half-laughing.  
39 I said, "How much?" He goes, "5,000." I said, "Why on  
40 earth would he do that? You know, he's our enemy." And he  
41 said, his words were, "He's having a bet both ways."  
42  
43 Q. Those were Mr Donnelly's word?  
44 A. They were Mr Donnelly's words.  
45  
46 THE COMMISSIONER: Q. When you say Mr Shorten gave you  
47 the money, it must have come out of some fund, presumably,

1 it wasn't Mr Shorten's personal money?

2 A. I couldn't say that, your Honour. I wouldn't know,  
3 your Honour.

4

5 MR STOLJAR: Q. In paragraph 20.21 you make reference to  
6 a tobacco company making a donation to your campaign.

7 A. Mmm.

8

9 Q. When did you find out about this?

10 A. Probably some time last year, around the middle of  
11 last year. I was just having a social conversation with  
12 Robert Elliott who is a friend of mine and was the  
13 national secretary prior to Craig Thomson and we were  
14 talking. We were sort of debriefing or just having a chat  
15 about what had gone on in the 2012 election and he just  
16 made an off-the-cuff remark. He said, "Didn't Feeney" - we  
17 were talking about how I was outgunned financially in 2012.  
18 He said, "Didn't Feeney get your tobacco money again?"  
19 I said, "What?" He said, "Well, he got it for you in  
20 2009." I was surprised to hear that. Shortly after I  
21 spoke to Kathy Jackson and I told her about the  
22 conversation with Rob Elliott and she said, "Yes, didn't  
23 you know?" And then we had subsequent conversations about  
24 it and she said, "I recall you being at this lunch." And  
25 when she told me the name of the restaurant, who was there,  
26 I do recall being at a lunch, but that's further on in my  
27 statement, but not even knowing it was from Philip Morris.

28

29 Q. Is this fair to say, that you, as you sit here now,  
30 don't know precisely whether or not Philip Morris made that  
31 donation?

32 A. I can't say it precisely, no.

33

34 Q. You wouldn't know how much or anything like that?

35 A. No.

36

37 Q. It is just something you've discovered or that was  
38 suggested to you later?

39 A. Yes.

40

41 THE COMMISSIONER: Q. You said you were surprised by  
42 this revelation?

43 A. Well, your Honour, I couldn't see what interest  
44 Philip Morris would have in supporting a candidate in the  
45 Health Services Union. It's not that I could convince  
46 employers to allow smoking in their workplace. I just  
47 couldn't think what I could offer, what would be in it for

1 Philip Morris, what would motivate them. Yeah, I could not  
2 think of any logical reason.

3  
4 MR STOLJAR: Q. Then you identify some other persons on  
5 page 7. I'll perhaps take you through each of those. I'll  
6 just ask you perhaps about the person identified in  
7 paragraph 20.37. Do you know why Nazih Elasmr made a  
8 donation to your campaign?

9 A. No. All I got told was, because I remember, I got  
10 told this Nazih Elasmr had made contributions and I got  
11 told he was Diana Asmar's uncle, or related to Diana Asmar,  
12 and so I asked, "Well, why would he be giving me money?",  
13 given she's - and I got told there was a family feud; he  
14 didn't like his relative. I don't know. I can't recall  
15 specifically what sort of a relative she was, so I'm  
16 assuming - and I think - and I assume, again, I'm assuming,  
17 he was involved in the factional ALP politics.

18  
19 Q. In your statement you then move to dealing with  
20 Mr Williamson and his supporters and you make the point  
21 that in August 2011 there was prominent media coverage  
22 concerning allegations against Mr Thomson and a bit later  
23 allegations against Mr Williamson. You describe the  
24 National Council Meeting in April 2010.

25 A. Yes.

26  
27 Q. That's in paragraph 24. In fact, that was your first  
28 National Council Meeting.

29 A. Yes.

30  
31 Q. I'm not sure whether the timing is quite right here,  
32 Mr Bolano, because it says in April 2010. You're dealing  
33 with a meeting, but that was a meeting attended by someone  
34 from Slater & Gordon --

35 A. Yes.

36  
37 Q. -- who talked about Mr Thomson, so that must have been  
38 a later meeting, was it?

39 A. April 2010 - sorry, that was April 2011.

40  
41 Q. Oh, I see. I'm sorry, I may have --

42 A. Is that a typo or is that - no, it was April 2011.  
43 I'm sorry about that, I didn't pick that up.

44  
45 Q. No. It may be that that meeting --

46 A. No, no, it was 2010.

1 Q. I'm sorry, although that appears after paragraph 21,  
2 you're dealing with an earlier time when the allegations  
3 hadn't become public; is that right?  
4 A. Oh, they were out in the - they were out in public,  
5 the allegations against Thomson. I think they had been  
6 since 2009 or 2008.  
7  
8 Q. In any event, this is a meeting that took place in  
9 April 2010. Representatives of Slater & Gordon were there.  
10 Who had asked them to be there, do you know?  
11 A. I don't know who asked for them to be there.  
12  
13 Q. Who were they acting for? Which branch --  
14 A. I think for the union. I believe they were acting for  
15 the national union and Mr Fowlie had come along to give a  
16 briefing on the Thomson matter.  
17  
18 Q. You say what Mr Fowlie said in paragraph 28 and then  
19 in paragraph 29 you say you thought something to yourself.  
20 Did you say that to anyone?  
21 A. No, I didn't say that to anybody, no.  
22  
23 Q. In 32 you're coming to the period January 2011, but  
24 did you have any conversation with anyone from the credit  
25 union about Mr Williamson that caused you concerns at about  
26 this time?  
27 A. Yes. There had been things arousing the suspicion of  
28 Ms Jackson and I, you know, unusually high expenditure,  
29 et cetera, but somewhere between the middle of 2010 and  
30 maybe spring 2010, a lady from the SGE Credit Union, I just  
31 remember her Christian name being Fiona, Fiona Dunn I think  
32 her name is, rang me up and I had a relationship with her  
33 and she rang up and said, "Oh, our deputy CEO," and his  
34 name was either Paul Wills or Paul Willis, "is in Melbourne  
35 in the next few days. He wants to catch up and have a  
36 coffee." So I said, "Yes, fine" and we made a date. I met  
37 him at --  
38  
39 Q. You were the secretary at this stage?  
40 A. I was the deputy general secretary. The merger had  
41 just been ratified by Fair Work Australia.  
42  
43 Q. Yes. Did you go to coffee?  
44 A. Yes, went to coffee.  
45  
46 Q. Who was there?  
47 A. Myself, Fiona and this Paul Willis or Wills.

1  
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47

Q. Do you remember where it was?

A. It was at a cafe in Clarendon Street in South Melbourne. I can't - I remember we were sitting at a table outside on the pavement. I can't remember the name of the cafe but it was near the corner of Clarendon Street and Park Street in South Melbourne.

Q. Did Mr Wills or Willis say something to you?

A. Yes. He initially said the reason he wanted - you know, he congratulated me and the reason he wanted to talk is that SGE had this idea. Every year the union would send out new membership cards to its members and they'd be plastic cards similar in dimension to a credit card and obviously this cost the union money in postage and the making of the actual cards and he offered a proposal from SGE where they were offering - they'd purchased the machine that printed these cards and he was offering to print the cards for us and cover the cost and mail them out to our members if SGE could put their logo on the cards and effectively advertise their brand. I said to him, "That's sounds like a good idea but I'm no longer the secretary. The merger's gone through. Michael is now the secretary. You need to talk to him." And he said to words to the effect - he lamented it. He goes, "Oh, so you're telling I have to talk to Michael about this?" And I said, "Yes." And he goes, "Every time" - well, he swore and then he said, "Every time I go to Michael with something like this he always says, 'What's my cut?'" He actually gesticulated with his hand like this.

Q. You're cupping your hand and pulling your fingers together?

A. Yes.

Q. I'm just noting it for the transcript.

A. Yes. And I was stunned and I --

Q. Someone might want to put something into the hand?

A. Yes. And I just sort of made him believe it went over my head, I didn't react to it, and then I immediately went back and had a meeting or advised Ms Jackson of what I've heard, what I'd heard.

Q. In paragraph 32 you say that:

*In about January 2011, after earlier doubts*

1                   *and suspicions, Ms Jackson and I became*  
2                   *almost certain that there was systemic*  
3                   *corruption ...*  
4

5           Et cetera. And in part your doubts and suspicions were  
6           founded upon the conversation that you had had in the cafe?  
7           A.    Yes.  
8

9           Q.    In 33 you say you were aware that Mr Williamson  
10           "had in the past fabricated 'financial irregularities' to  
11           get rid of an official or employee who did not submit to  
12           his will." You say that Mr Williamson and Mr Gerard Hayes  
13           had said something to you about that. Can you just tell me  
14           about that conversation? Where were you?

15          A.    We were at a restaurant in the Crown Casino. It was  
16           an Italian restaurant. I don't remember the name of it.  
17

18          Q.    Who was present?

19          A.    There were a few officials from the HSU. I don't  
20           recall Ms Jackson being there. It was all the New South  
21           Wales officials and there was myself from Victoria and then  
22           there was a group of people from the SG - I think it was  
23           the SGE Credit Union. He'd had some sort of I suppose  
24           you'd call it a team-building day in Victoria that day and  
25           then invited some of us out for dinner, including myself,  
26           and we were at the bar having a drink, having a  
27           conversation, waiting for a table, and Mr Williamson was  
28           telling a number of anecdotes and then he talked about - a  
29           name of a person came up, I can't remember the name,  
30           I don't know if it was a staff member or an official, and  
31           they started talking about how problematic he was and it  
32           was apparent to me that he was problematic because he  
33           didn't toe the line. And Mr Williamson - and he told this  
34           as a humorous anecdote - told me this fellow was being sent  
35           by the union to the United States. I can't remember if it  
36           was to do work with another union or for a conference or  
37           something, it may have been to do work with another, to  
38           sort of be a guest of one of the US unions, and  
39           Mr Williamson had a meeting with this fellow, this is what  
40           Mr Williamson said, that he had a meeting with this fellow  
41           to advise him he was going over and that he could use his  
42           union credit card for personal expenses while he was over  
43           in the United States. And he, you know, emphasised how  
44           clever he was because this was a verbal assurance; it was  
45           never put in writing. The fellow subsequently went off to  
46           the United States, came back, Williamson hauled him in and  
47           said, "Please explain all this expenditure." This fellow



1 said, "Well, you said I could use my union credit card."  
2 Williamson said, "I never said anything of the sort." He  
3 was removed from the union. I don't know if he was sacked  
4 or there was a - if there was a settlement but he was  
5 basically - he departed shortly after and Hayes was  
6 standing next to Williamson laughing along and giving the  
7 impression and filling in the gaps, so to speak. I got the  
8 impression that Mr Hayes knew the story.

9  
10 Q. What was Mr Hayes' position at the time?

11 A. He was a divisional secretary.

12  
13 Q. And then skipping over a few pages, as you know, on  
14 12 September 2011 - you mention this on page 11 of your  
15 statement - Ms Jackson made a formal complaint to the New  
16 South Wales Police and then about a week later, in fact,  
17 four days later, there was a meeting at the councils of  
18 HSU East and HSU East Branch and you set out who was in  
19 attendance on page 12?

20 A. I want to clarify. That's who was on the council at  
21 the time. I can't say with precision whether they were  
22 actually at the meeting.

23  
24 Q. Were you there in person or --

25 A. I was - Ms Jackson and I were in the Melbourne office  
26 on teleconference.

27  
28 Q. Had Ms Jackson distributed a set of resolutions prior  
29 to that?

30 A. Yes, she had.

31  
32 Q. What were the general terms of them?

33 A. The general terms were that he should be stood down  
34 and that we shouldn't pay his legal fees and there were  
35 others too.

36  
37 Q. Did those resolutions get up?

38 A. No.

39  
40 Q. Was there a vote?

41 A. Yes.

42  
43 Q. Did you speak in favour of the resolution?

44 A. I spoke against - in favour of Ms Jackson's  
45 resolution?

46  
47 Q. Yes.

1 A. I believe I did.

2

3 Q. You address this in paragraph 56 and elsewhere, but  
4 what happened if you or Ms Jackson contributed to the  
5 meeting?

6 A. It was just screaming on the other end. We  
7 obviously - there was a conference phone on the table where  
8 we were and it was on loudspeaker. Any time we opened our  
9 mouths there'd be screaming and jeering and there was no  
10 way we could be heard at the other end, I don't believe.

11

12 Q. Were people saying things?

13 A. Oh, the tenor of - the main gist of what they were  
14 saying was, "You should have come to us first. You've got  
15 ulterior motives. You want to take over." Any time  
16 I spoke there were inferences or word to the effect that I  
17 was Kathy's puppet. I think there was a reference made to  
18 a string coming out of my back which Kathy was pulling, but  
19 I can't remember what was precisely said, aside from, you  
20 know, "Dogs", you know, "You pricks," "You bastards."  
21 There was swearing and basically that we'd betrayed  
22 Mr Williamson and we had ulterior motives.

23

24 Q. A resolution was passed. I suppose, firstly, council  
25 declined to pass a resolution standing Mr Williamson down?

26 A. That's right.

27

28 Q. You deal with this in paragraph 59, but there was talk  
29 of an internal investigation, was there?

30 A. Yes, to be conducted by John Murphy who had been used  
31 as a barrister by Mr Williamson who I was informed often  
32 enjoyed a drink with Mr Williamson, but they were friendly,  
33 yes.

34

35 Q. When you say that he was friendly with Mr Williamson,  
36 you don't know that for yourself; you only know that you  
37 heard that from someone else?

38 A. Kathy Jackson told me, yes.

39

40 Q. You deal with the convention on page 16 of your  
41 statement. I think you touch on this in 88. Tell us about  
42 how many delegates went to the convention?

43 A. I estimated 800 to 900.

44

45 Q. There was a dinner the night before.

46 A. That's right.

47

1 Q. On the 13th. In fact, we're now at the point - this  
2 is one of the corrections you made at the outset - when  
3 certain people who were "acting up" to the positions or a  
4 position --

5 A. The council meeting - did you say the dinner? The  
6 council meeting was before the dinner, yes.

7  
8 Q. Okay.

9 A. Yes.

10  
11 THE COMMISSIONER: Q. Can I just query whether a  
12 correction should be made to paragraph 85. In paragraph 89  
13 you talk about Sunday, 13 November 2011. In paragraph 85  
14 you talk about late October 2010. Should that be 2011?

15 A. Yes, your Honour.

16  
17 MR STOLJAR: Q. In paragraph 97 you're dealing with  
18 things that were said to you at the dinner the evening  
19 before by New South Wales delegates?

20 A. Mmm-hmm.

21  
22 Q. I just wanted you to tell us a bit about the  
23 proceedings the following morning. You were actually in  
24 the audience at the convention?

25 A. Yes, they didn't put us on the stage; the Victorian  
26 contingent that is. Me and Ms Jackson were in the  
27 audience.

28  
29 Q. You deal with this in 99 and 100 of your statement.  
30 What did you notice at about 10.30?

31 A. The spotlight which was on the stage swung to a side  
32 door and it opened. You know, it was obviously - whoever  
33 was on the spotlight knew he was coming. I actually  
34 believe his son was on the spotlight but I could be wrong  
35 about that. And the door opened and Mr Williamson walked  
36 in. He was leaning on his wife and immediately  
37 organisers - I remember Mr Williamson's brother,  
38 Daryl Williamson standing up and cajoling the members in  
39 the front. All the New South Wales contingent had been put  
40 in the front of the theatre or the conference room and they  
41 all stood up and cheered enthusiastically and then the  
42 'Rocky' theme came on and Williamson just waved, my  
43 observation was it looked like the Queen when she's  
44 passing, sort of that, and looking ahead with a smile on  
45 his face and waving to his adoring supporters.

46  
47 Q. And then there was some debate the following day.

1 That was about a resolution and the particular resolution  
2 was called "Item 68".  
3 A. Mmm-hmm.  
4  
5 Q. I'll just try and track down a copy of that. Yes. If  
6 you go to tab 2, page 8, in the bottom right-hand corner.  
7 A. Page, sorry?  
8  
9 Q. Page 8 in the bottom right-hand corner of your bundle,  
10 in your folder of materials.  
11 A. Oh, right. Yes.  
12  
13 Q. That's item 68 and then at the top of page 9, it was a  
14 resolution condemning the actions of the  
15 executive president?  
16 A. You say in tab 8?  
17  
18 Q. Sorry, tab 2 --  
19  
20 THE COMMISSIONER: Tab 2, page 8.  
21  
22 MR STOLJAR: Q. Page 8. There's page numbering in the  
23 bottom right-hand corner.  
24 A. Yes.  
25  
26 Q. If you come over to page 9, the short point is that  
27 the resolution was to the effect of that set out in the  
28 penultimate paragraph before item 69:  
29  
30 *We endorse a vote of no confidence in*  
31 *Kathy Jackson ... as Executive President.*  
32  
33 And in addition, a demand that the union council demerge  
34 and create an ACT/New South Wales Branch, et cetera, so  
35 unwind the merger that had been put into place a year or so  
36 before.  
37 A. Yes, basically, yes.  
38  
39 Q. Coming back to your statement, there's a debate about  
40 item 68 on 15 November 2011. How long did the debate go?  
41 A. Three and a half to four hours.  
42  
43 Q. Did people speak for and against?  
44 A. Yes.  
45  
46 Q. Did you speak?  
47 A. I spoke against.

1  
2 Q. Against? What happened when you spoke? What was the  
3 reaction of the New South Wales delegates?

4 A. Well, I got up - as soon as I stood up and walked  
5 towards the microphone there was booing and jeering and  
6 actually when I got up to the microphone I was even heckled  
7 by Michael Williamson. He stood up and he called me  
8 "Sunshine" for some reason, I don't understand why, and  
9 I proceeded to speak and they just kept saying, "Bullshit",  
10 "Bullshit", you know, and someone would ask a question or  
11 make an assertion from the crowd, I'd go to answer it and  
12 my microphone would be turned down. I later found out -  
13 I thought it may have been technical problems because  
14 I think the sound engineers were independent, but I later  
15 found out that Mr Pollard, the President and the Chair of  
16 the meeting, had a volume control within his reach and he  
17 was --

18  
19 Q. That's just something someone's told me?

20 A. Yes, someone's told me.

21  
22 Q. Just concentrating on what you actually heard and saw,  
23 paragraph 126 and following of your statement, these are  
24 things that you actually heard people calling out or saying  
25 when you were --

26 A. There was one fellow - people were calling me  
27 Carl Williams because one of the members from New South  
28 Wales who was speaking in favour of the motion kept - in  
29 his - when speaking for the motion he kept referring to me  
30 as Carl Williams and then it caught on. It seemed to have  
31 caught on. And Carl Williams - I assumed he was speaking  
32 about Carl Williams the gangster from Victoria who had been  
33 murdered in prison a week or two earlier and there was  
34 speculation in the media that he'd been murdered because he  
35 was a police informant. Carl Williams was a common theme.  
36 You know, "You've thrashed the union." "You've brought  
37 your Victorian shit to this union." When I said, you know,  
38 that substantial evidence had been given to the police,  
39 I was just laughed at and accused of being a liar.

40  
41 Q. In paragraph 138 and following of your statement, you  
42 describe some difficulties you began to experience in  
43 accessing information. Can you give - I know you've set  
44 this out in a bit of detail over the next few pages - some  
45 examples of the sorts of things you're talking about there?

46 A. The major thing is to write to a number of members,  
47 whether you need to send a newsletter to members at a

1 certain workplace about EBA negotiations, whether it is  
2 something you need to tell all the membership, you would  
3 access the membership system or the clerical staff would do  
4 it. My understanding how it worked is the data of the  
5 members you wanted to send the mail to would be shifted or  
6 put - by the membership system - put on an Excel  
7 spreadsheet by the membership system and then -  
8 automatically I think, and then there would be a mail merge  
9 and that mail merge would print out address labels and then  
10 it's a matter of just sticking them on and sending them.  
11 They cut that off. We could not look at data - we could  
12 only look at data for one member at a time. We could put a  
13 member's name in and see their data but we could not get  
14 group data, names of members in the workplace, names of  
15 members overall, their addresses, and we obviously  
16 couldn't - we didn't have, they took away any authorisation  
17 in Victoria to trigger the sort of mail merges you need to  
18 do to a mass mail-out or a mail-out to a number of members  
19 that. That, of course, effectively meant that you could  
20 not communicate with members.

21  
22 If you went out to a member - for instance, if you had  
23 a members' meeting in a public hospital where we had a lot  
24 of members, a good turnout, a really good turnout for a  
25 members' meeting would be 10 per cent of the total  
26 membership there; usually it was 2 to 5 per cent. Even a  
27 well-attended mass members meeting you would only be  
28 talking 10 per cent of the people in the workplace. You  
29 had to communicate by mail. Email wasn't effective, even  
30 though we couldn't do that either, but to get a message  
31 through to the wider membership it had to be done by mail  
32 or some sort of written communication and we were just  
33 absolutely unable to do that after - yes, after this  
34 period.

35  
36 Q. Why couldn't you do that? What stopped you?

37 A. We couldn't actually - one, we couldn't actually  
38 generate address labels, generate a mail-out to all those  
39 people.

40  
41 Q. Because you couldn't access --

42 A. We didn't have access, we didn't have the passwords.  
43 They changed the access codes and then --

44  
45 Q. Who is they?

46 A. Peter Mylan in New South Wales and then there was a  
47 directive that all mail, that any mail we sent out had to

1 go through, had to be sent, a draft had to be sent to  
2 Sydney and they would okay it and they would sign it and  
3 they would send it out. So they obviously weren't going to  
4 send out anything that was adverse to them and I actually  
5 wonder, given feedback I was getting from members, if they  
6 actually even ever sent out straightforward industrial  
7 emails about industrial matters, because more and more  
8 members said, "No, I didn't get that newsletter, no."

9  
10 Q. Can you come to page 26. You're dealing there with  
11 events of December 2011, the National Council Meeting of  
12 the HSU. Had you been yourself engaged in any negotiations  
13 with respect to an EBA at that time?

14 A. Yes. Kathy Jackson and I attended initial meetings  
15 with the Department of Health and the VHIA and then after  
16 the initial meetings, our senior industrial officer took  
17 carriage of the negotiations.

18  
19 Q. Can you remember roughly when they started?

20 A. Informal talks probably started in the middle of -  
21 probably the middle of 2011, the initial talks,  
22 discussions, started.

23  
24 Q. Had those discussions reached fruition in a general  
25 sense by December 2011?

26 A. By November 2011, yes.

27  
28 Q. By November 2011?

29 A. Yes, I think by late November 2011.

30  
31 Q. An EBA had been agreed in substance?

32 A. It was an in-principle agreement.

33  
34 Q. Who was covered by the NBA (sic)?

35 A. The EBA?

36  
37 Q. The EBA, I'm sorry.

38 A. It covered public hospitals. It was a multi-employee  
39 agreement, so it covered pretty much all non-clinical  
40 workers in public hospitals, managers, administrative  
41 officers and health professionals.

42  
43 Q. It covered the members of what?

44 A. What were formerly the No 1 and No 3 branches.

45  
46 Q. Yes. The agreement had been reached. Did you regard  
47 it as a beneficial EBA?

1 A. Yes. We actually got around the government wages  
2 policy and got a better outcome for our members than what  
3 the government wages policy was at the time, I don't know  
4 if it still is, without giving up any conditions which  
5 initially the government said, "If you want to go beyond  
6 the wages policy, you've got to give something up." So we  
7 felt we were quite successful, we hadn't given anything up,  
8 particularly for our lower-paid workers covered by the  
9 agreement, we got a resulting pay rise that went well  
10 beyond the government wages policy.

11  
12 Q. Did the EBA have the support of the members?

13 A. Certainly.

14  
15 Q. How do you know that?

16 A. Well, in the first week in December we convened a  
17 meeting of members, two meetings in fact, one for the  
18 health professionals, the former No 3 Branch members and  
19 one for the rest which were the former No 1 Branch members  
20 at Trades Hall. The VHIA on behalf of the Department of  
21 Health agreed to release staff affected by the agreement  
22 for a couple of hours to come to the meeting and  
23 Peter Mylan in fact agreed in providing what - we ran  
24 buses, either coaches or minibuses from the major hospitals  
25 for anyone that wanted to come along and Mr Mylan actually  
26 agreed to cover the costs of those, because Kathy and  
27 I couldn't authorise it at that stage, and so I think the  
28 health professionals meeting - and I estimate this, I know  
29 the capacity of the room is about 600, so I estimate that  
30 about 500 came to the health professionals meeting and the  
31 room was almost full for the No 1 Branch meeting, so  
32 I could safely estimate about 600 for that.

33  
34 Q. Are these the meetings you refer to in paragraph 173  
35 and following of your statement?

36 A. Yes.

37  
38 Q. You say in 176 that the members across the two  
39 meetings overwhelmingly endorsed the EBA?

40 A. Yes. Only three members voted against it. I know it  
41 was three members because they approached me after the  
42 meeting and apologised for voting against it. They  
43 understood our pragmatic position, but the only reason they  
44 voted against it was a protest against the government's  
45 wages policy. Go figure. I don't know what the effect of  
46 that was, but yes, it was overwhelmingly endorsed.  
47



1 Q. Would you come back to the meeting I was asking you  
2 about at 159. You say there was a National Council  
3 Meeting. At 162 you say that the secretary of the Victoria  
4 No. 2 Branch, which was not part of the HSU East Branch,  
5 said that health professionals working in mental health  
6 should be included in membership of No. 2 Branch?

7 A. That's correct.  
8

9 Q. Just explain that. What was your understanding -  
10 let's take it in steps. Health professionals working in  
11 mental health, you had treated them as part of No 1 Branch,  
12 had you?

13 A. No, number 3.  
14

15 Q. Number 3. The suggestion was, in effect, that they  
16 should come across to number 2; is that right?

17 A. Yes, he was claiming them - he claimed - under his  
18 interpretation of the rules of the union, he claimed they  
19 were his.  
20

21 Q. Don't speculate, but do you know any reason why that  
22 proposal was made?

23 A. I'd just be speculating, yes.  
24

25 Q. At 165 you say that the acting general secretary of  
26 the HSU East Branch agreed with the proposal?

27 A. Yes.  
28

29 Q. And you say, "I thought this was extraordinary." Why  
30 did you think that was extraordinary?

31 A. A union secretary or any official just doesn't give up  
32 its members willy-nilly. I mean, there are always  
33 demarcation disputes. There have been within the HSU and  
34 in other unions. In fact, Mr Williamson years earlier had  
35 claimed that the disability workers in No 1 Branch, and I  
36 was one of them, were his and made claims on them and they  
37 weren't just handed over to him. He was vigorously  
38 resisted and it never happened. Whether it's a few hundred  
39 members, my estimate was 1,000. I've never heard of a  
40 union secretary in a demarc, or a demarcation dispute, just  
41 handing them over without debate, without argument, without  
42 a fight: "Yes, all right, I agree with you, you can have  
43 them." That's effectively what happened.  
44

45 Q. Was there a vote?

46 A. There was a vote of the National Council.  
47

1 Q. Which way did you vote - against?  
2 A. Against the proposal.  
3  
4 Q. Which way did New South Wales vote?  
5 A. For the proposal.  
6  
7 Q. There's a lot more New South Wales --  
8 A. Yes.  
9  
10 Q. -- representatives on the council, so it went through?  
11 A. Yes.  
12  
13 Q. What effect did that have on the EBA that had been  
14 negotiated?  
15 A. Well, at that time, on the day this resolution went  
16 through, we didn't think it would have an impact on the  
17 EBA. They ordered Kathy - part of that resolution was  
18 ordering Kathy to read out some statement at the end of  
19 those members' meetings the following day, basically  
20 saying, "The members don't belong to you - to us." And she  
21 was clearly told that if she didn't do that it would be  
22 considered misconduct and she could be removed from office.  
23  
24 She ultimately did read the statement but at the end  
25 of the meeting when everybody was walking out, but the  
26 effect - we went and had those meetings the next day. The  
27 EBA was overwhelmingly endorsed and obviously the VHIA  
28 Department of Health were told, "Our members accept the  
29 deal." All that needed to be done from there on was for the  
30 agreement to be properly drafted and then circulated  
31 amongst affected employees for a period of time, I believe  
32 it was either two weeks or 21 days, and then there would be  
33 a ballot and we would recommend members vote in favour of  
34 the agreement.  
35  
36 Q. But that didn't happen?  
37 A. No. Not long after that meeting Mr Mylan wrote - in  
38 his capacity as the acting general secretary, wrote to  
39 Mr Djoneff, who was the CEO of the VHIA who were  
40 representing the Department of Health.  
41  
42 Q. Is that letter behind tab 15 and on page 378 of the  
43 bundle? Just have a look at tab 15.  
44 A. I think that's the second letter. He did send one on  
45 1 December which I couldn't locate, but the gist of the  
46 letter was that Ms Jackson didn't have authority or he's  
47 taken away her authority to agree to the agreement.

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Q. Because members had moved out of, in effect, No 1 Branch and --

A. Yes, because we weren't seeking to cover those mental health professionals in the agreement. My recollections are that initially the employers, or the employer group and employers said, "Well, on your bike" and intended to proceed.

Q. I just want to understand something a bit more about the letter, if you've still got it.

A. I've got the second one, the 16th.

Q. The second one?

A. Yes.

Q. In the penultimate paragraph beginning "As the Acting General Secretary"?

A. The penultimate one, yes.

Q. The paragraph beginning "As the Acting General Secretary"?

A. Yes.

Q.

*... and the authorised Officer to conclude an agreement on behalf of HSU East ...*

Just pausing there, the practical consequence of the resolution passed at the National Council Meeting in December 2011 was that the mental health workers had moved across from HSU East to No. 2 Branch?

A. Yes, but they weren't actually transferred across. The way it was done in the end was that Mylan just wrote to them all and said, "You need to be members," words to the effect of, "You need to be members of the No. 2 Branch, so I've resigned you off our system. Here a membership form to the No. 2 Branch. You need to join them." It wasn't a clean transfer. They were sort of dumped and told, "You need to join No. 2 Branch."

Q. What was being put was that there would need to be an amendment to the EBA expressed so as to "expressly and unambiguously exclude employees engaged in or in connection with mental health services"?

A. Yes.

1 Q. Would that have required a renegotiation of the EBA?  
2 A. From the employer's perspective, they would have had  
3 to go back to the table in regards to this group of people,  
4 which I don't think - which I imagine wasn't desirable for  
5 them.

6  
7 Q. Would you come back to your statement. You say in  
8 181:

9  
10 *The Department of Health decided to proceed*  
11 *in accordance with the terms which had been*  
12 *agreed with Ms Jackson.*

13  
14 When you say "agreed", you mean agreed in principle?  
15 A. Yes.

16  
17 Q. And then No. 2 Branch took the matter to Fair Work  
18 Australia?  
19 A. That's right.

20  
21 Q. And then the short point is they lost at first  
22 instance but then were successful on appeal?  
23 A. That's correct.

24  
25 Q. And the effect was that you say, in 184, "... the  
26 agreement was delayed for a period of nine months after  
27 Ms Jackson and I had already informed members ...",  
28 et cetera, "... that they would have their pay rises, and  
29 back pay ..." What effect did that have on the attitude of  
30 members, that delay?

31 A. Because we a - we were confident. We said to them at  
32 this meeting, "You may have your pay rises and back pay  
33 before," because they were getting two separate pay rises  
34 and the first of those two separate pay rises would be  
35 back pay for a substantial period of time, and we told them  
36 at the meeting, "You'll have your pay rises and back pay  
37 maybe before Christmas, but just after Christmas at the  
38 latest." I remember my words were, you know, "In time to  
39 pay off your credit cards for your Christmas expenditure."  
40 They were quite excited about that obviously. As time went  
41 on they grew increasingly agitated, more and more agitated,  
42 to the point where it was just outright hostility, that we  
43 lied to them, that we didn't have a deal, and I can  
44 understand why they thought that, and our telephone centre  
45 were getting calls and members were becoming abusive,  
46 aggressive, loud, and the tenor of it was that they'd been  
47 duped by the union, been lied to, that there was no deal,

1 they didn't have their pay rises and other, you know -  
2 whereas, in their view, they were seeing the nurses in  
3 negotiations and other unions' negotiations in advancement.  
4 Even though ours was concluded, they weren't getting the  
5 results of it. They didn't have their new agreement. Yes,  
6 it increasingly grew hostile to the point of venom.

7  
8 Q. Were a large number of workers affected?

9 A. About 7,000 or 8,000 of our members were affected, but  
10 it would have affected 50,000 workers overall.

11  
12 Q. How long was the delay?

13 A. Nine months. An agreement they should have had in  
14 January 2012 they didn't get until October 2012, I think.

15  
16 Q. In 188 you set out your view as to what the intentions  
17 were of certain persons in achieving that, but that's just  
18 your belief and understanding. Those persons may well have  
19 a different account, of course?

20 A. Yes. I don't think they could argue they were acting  
21 in the interests of the members and I think - that's a  
22 major objective of the secretary of the union, to act in  
23 what's in the best interests of members. I don't believe  
24 you could argue --

25  
26 Q. Why do you say that?

27 A. Well, it's in the rules.

28  
29 Q. Quite, they couldn't argue that, yes.

30 A. Yes.

31  
32 Q. Could I then ask you about Ms Glen who you have some  
33 evidence about on page 31. What were Ms Glen's - what was  
34 her position?

35 A. Prior to the merger she was the president of the No 1  
36 Branch and then after the merger she was made - she became  
37 one of the divisional secretaries.

38  
39 Q. She was in Victoria?

40 A. Yes.

41  
42 Q. Was she, as it were, seen as an ally of yourself and  
43 Ms Jackson?

44 A. Oh, yes, my word. She ran - she ran on my ticket in  
45 2009 and she socialised with Ms Jackson and I; I mean  
46 visited our respective homes. We considered her a friend.

1 Q. You say in 194 you received an email saying that  
2 Ms Glen had resigned. Was she, to your knowledge, made  
3 redundant or resigned?

4 A. She resigned. She sent Ms Jackson and I a text  
5 message saying she was resigning. I don't see how she  
6 could have been made redundant. I mean, her position was  
7 an elected position, divisional secretary. She wasn't made  
8 redundant, she was replaced. She'd only had about two  
9 years service, she wouldn't have been eligible for much of  
10 a redundancy, but the position was not made redundant.

11  
12 THE COMMISSIONER: Is that a convenient time?

13  
14 MR STOLJAR: Yes, Commissioner.

15  
16 THE COMMISSIONER: We will adjourn until 2pm.

17  
18 **LUNCHEON ADJOURNMENT**  
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1       **UPON RESUMPTION**

2  
3       THE COMMISSIONER:    Yes, Mr Stoljar.

4  
5       MR STOLJAR:   Just one housekeeping matter, Commissioner.  
6       I think I neglected to provide the original of Mr Bolano's  
7       statement and Bolano MFI1 and I do that now.

8  
9       THE COMMISSIONER:    Thank you.

10  
11       MR STOLJAR:   Q.   Mr Bolano, I was asking you some questions  
12       about Ms Glen that you deal with at page 31 of your  
13       statement. You told me just before the break that Ms Glen  
14       resigned her position.

15       A.   Yes.

16  
17       Q.   Do you know from your own knowledge whether Ms Glen  
18       received any payment from the HSU upon her resignation?

19       A.   I suspected at the time, but I found out for certain  
20       some time later that she continued to receive \$15,400  
21       a month for a year after her resignation, so from  
22       December 2011 to December 2012.

23  
24       Q.   How did you find that out?

25       A.   A staff member at the union last - sorry, at the end  
26       of 2012 provided me with the cashflow projections.

27  
28       Q.   Is that the document that you have at tab 18,  
29       page 387?

30       A.   Yes, and if you go down to page - I think it's on the  
31       first page, yes, "Payments under agreement Carol Glen",  
32       I think the date indicates it's payable until the  
33       31 December 2012, and they seem to have budgeted for  
34       further payments until that date.

35  
36       Q.   Where do you get the budgeting figure? You mean just  
37       in the columns to the right of the --

38       A.   I think this document was produced in about  
39       August 2012 and if you see the Carol Glen line, I don't  
40       know why one payment in August is 10,444, but then there's  
41       subsequent payments due of 15,418 in September, October,  
42       November and December 2012, which were prospective at the  
43       time this document was prepared.

44  
45       Q.   It was prepared during the course of all this, was it?

46       A.   It was prepared when the union was in administration  
47       subsequent to all this.

1  
2 Q. But you are extrapolating, are you, that if those  
3 payments were made in September, October, or budgeted  
4 for for September, October, November, et cetera, that they  
5 would have commenced about the time of the resignation?

6 A. Yes.

7  
8 Q. And that's your evidence for the proposition that she  
9 received about - I think you say in your statement around  
10 about 180,000?

11 A. Yeah, the total, being the sum total of those monthly  
12 payments which was her - basically, her annual salary. Her  
13 annual salary was around \$180,000-odd.

14  
15 Q. I see. You're drawing the conclusion or inference  
16 that in rough terms the salary just continued?

17 A. For 12 months.

18  
19 Q. For 12 months. And you express the conclusions in  
20 paragraph 210?

21 A. Yes.

22  
23 Q. Did you have any more information about the  
24 circumstances in which Ms Glen had resigned?

25 A. Aside from thinking her sudden resignation was unusual  
26 and that there was - subsequent to her resignation there  
27 were meetings between herself, Mr Mylan and Mr Hayes, there  
28 was - one of our staff has contacted her, she was  
29 a Facebook friend of Ms Glen's, and there was  
30 a conversation on Facebook within a few days of her  
31 resignation between her and her partner, I believe, talking  
32 about picking up a cheque.

33  
34 Q. What I'm getting at I suppose is what was your  
35 position at this time?

36 A. My position within the union?

37  
38 Q. Yes.

39 A. I was the deputy general secretary.

40  
41 Q. And Ms Glen's position?

42 A. Divisional secretary.

43  
44 Q. And did the divisional secretary report to you?

45 A. Yes.

46  
47 Q. And who had entered into these negotiations, to your



1 knowledge?

2 A. Well, I think it was Peter Mylan and Gerard Hayes  
3 because they acknowledged at a subsequent council meeting  
4 they had met with her, although they wouldn't tell us why  
5 they'd met with her. Post - a few days after her  
6 resignation they met with her. They came down to Melbourne  
7 and met with her. Ms Glen had told that to her friend,  
8 which was a staffer of ours, and she'd relayed that to us.  
9 In the council meeting, I think of 14 December 2011, we put  
10 that assertion to Mr Hayes and Mr Mylan. They conceded  
11 that they had met with her but they refused to explain why.  
12

13 Q. Can I come to the 2012 election and you deal with this  
14 on page 34 of your statement. I think you say in 228 that  
15 you had - that there were three tickets in the 2012  
16 election - your ticket, Ms Asmar's ticket and Mr Lovell's  
17 ticket?

18 A. That's correct.  
19

20 Q. But Mr Lovell didn't have a great deal of campaign  
21 money, so it was really a struggle --

22 A. Well, I deduced that he didn't have a great deal of  
23 campaign money because he never sent a mail-out. There was  
24 I think one newsletter and a how-to-vote that was  
25 circulated in hospitals, in a couple of hospitals, so there  
26 was no mail-out that I know of, so I assumed he had little  
27 money.  
28

29 Q. Who was funding your campaign?

30 A. Initially, we started off - we were going to self-fund  
31 it but we ran out of money pretty quickly, so David Feeney  
32 assisted in getting a donation from the SDA.  
33

34 Q. You deal with this I think in paragraph 249. In  
35 subparagraphs (a) through to (g) you identify some  
36 relatively small payments?

37 A. Yes. What I refer to as relatively small payments  
38 were contributions of staff that supported me which was  
39 most, if not all, of the staff in Victoria, when we knew  
40 there was going to be an election, started putting money  
41 into a bank account on a weekly basis or in lump sums as  
42 they had it, and that money ranged from \$50 per deposit to  
43 on the odd occasion \$1,000.  
44

45 Q. On the next page you identify in subparagraphs (h) and  
46 (j) respectively two cheque deposits?

47 A. Yes.

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Q. From a Westpac account named Friends of Democracy?

A. I didn't know that was the name of the account at the time. I've discovered that more recently.

Q. But do you understand that that is, in effect, a donation from the SDA?

A. I knew the first \$20,000 to be - I'd been told that the SDA had contributed \$20,000, so recently when I was going through the bank account we had for that election, I identified that \$20,000 payment being a cheque payment, so I knew that was - must have been the one from the SDA but I ultimately checked with the Commonwealth Bank recently and they confirmed it was from Friends of Democracy and who the signatories were.

Q. And that was the same for the --

A. The \$10,000 one that came later.

Q. Why did the SDA contribute to your campaign?

A. Well, the reason I was told was that they were friends of Mr Feeney and they were going to be friends of mine.

Q. How did you come to have Mr Feeney helping you in this campaign?

A. It was a conversation - there was a conversation between me and Feeney where it was acknowledged that we were running out of money and Mr Feeney said he would try and talk to the SDA, to Michael Donovan specifically.

Q. In subparagraph (k), you refer to another transfer of \$20,000-odd?

A. Yes.

Q. Do you know how that money came to be paid in?

A. I didn't at the time and obviously when I saw it on the bank account, I had no idea where it came from. Melissa Butler, who was depositing the money and taking it out, couldn't remember, so I rang the Commonwealth Bank on 23 May this year and they advised me it was transferred from another Commonwealth Bank account. For some reason the fellow from the bank on the phone to me couldn't identify which bank account it came from, but said it was recorded as a donation from Liberty Sanger.

Q. Do you understand that to be coming from Maurice Blackburn?

1 A. No, not necessarily.  
2  
3 Q. Well, in --  
4 A. I've known Ms Sanger for a few years.  
5  
6 Q. I see.  
7 A. Yes. It might have been - I took it from being from  
8 her personally.  
9  
10 Q. That's how you funded your campaign. Perhaps just  
11 before we leave that, you say in 251:  
12  
13 *My campaign in 2012 was not as well*  
14 *organised ...*  
15  
16 There is a Mr Maxfield who helped you out?  
17 A. Yes.  
18  
19 Q. How did you come across Mr Maxfield?  
20 A. Through Mr Feeney. I'd known Mr Maxfield from around  
21 the traps. He'd come to HSU functions and I'd met him here  
22 and there, but he assisted - look, he was recommended by  
23 Mr Feeney.  
24  
25 Q. And so he helped you organise your campaign?  
26 A. Yes.  
27  
28 Q. Could you come back to paragraph 228. I've asked you  
29 about the three tickets.  
30 A. Yes.  
31  
32 Q. You then go on to describe some mail-outs. You say  
33 that Ms Asmar sent out official mail-outs which identified  
34 her campaign. For example, one mail-out comprised a black  
35 and white envelope, et cetera. That is behind tab 24,  
36 page 454.  
37 A. Yes.  
38  
39 Q. It says:  
40  
41 *Got your ballot paper?*  
42  
43 And then you have some more pages from the mail-out. Then  
44 you have the envelope in which the mail-out was sent on  
45 page 458?  
46 A. That's right.  
47

1 Q. On that envelope is a set of numbers 001805024?

2 A. Correct.

3

4 Q. Is that mail merge information?

5 A. I'm assuming that. The mail we sent out - what you  
6 got from the Electoral Commission was an Excel - or the  
7 Australian Electoral Commission, an Excel spreadsheet with  
8 a list of names and members in alphabetical order. There  
9 was no numbering on it, just in alphabetical order, their  
10 surnames first, Christian names and then their postal  
11 addresses, that's it. We obviously fashioned, our team,  
12 a spreadsheet from that and we had no numbers on our  
13 spreadsheet and obviously I imagine, you know, it would be  
14 given to a mail house who would do a mail merge and  
15 generate or print envelopes.

16

17 Ms Asmar's mail I noticed had this number for  
18 different members in the top right-hand corner here. On  
19 this one it's 1805. Obviously, we wanted to get her  
20 mail-outs, you know, as soon as we could and  
21 I wasn't - even though I was a member, I wasn't receiving  
22 Ms Asmar's mail-outs and so members - and some of them  
23 staff, and particularly this member, Ms Hovey, who lived  
24 near one of my staffers, would hand over the mail as she  
25 got it and someone would scan it or photograph it and send  
26 it to me, so we had a lot of Ms Hovey's mail. So  
27 I noticed - but I'd notice these numbers on other - you  
28 know, the recipients of our mail-outs from Ms Asmar and  
29 I came to the assumption that they must have been using the  
30 spreadsheet with the members numbered 1 through to 12,000,  
31 or whatever the specific number was, but this number was  
32 always consistent for Ms Hovey.

33

34 Q. In 232 you deal with an anonymous mail-out?

35 A. Yes.

36

37 Q. And you say:

38

39 *... one mail-out comprised.*

40

41 *a. a blue and white envelope with the*  
42 *words "Voting is Compulsory."*

43

44 A. Yes.

45

46 Q. And a letter at 232(b):

47

1           *"If you do not follow these steps when*  
2           *voting, your ballot will not be valid ..."*

3  
4       233 says:

5  
6           *The letter does not identify who the sender*  
7           *is. There is also a reply paid envelope to*  
8           *the Electoral Commission.*

9  
10          Now, was voting compulsory in the union elections?

11       A.   Certainly not.

12  
13       Q.   And what is the problem with sending out, apart from  
14       the fact that that proposition is false, that is, voting is  
15       compulsory, what is the problem with sending out a letter  
16       like this, what happens?

17       A.   Well, firstly, it's dishonest, as you've mentioned,  
18       but what happens, Ms Asmar - when the ballot papers are  
19       drawn up by the AEC, they virtually draw lots to decide who  
20       is first, second, third and apparently the science suggests  
21       that if people feel compelled to vote, a lot of them  
22       donkey-vote and they'll just tick the first box, and that's  
23       what happened in practice. That's what my scrutineers when  
24       the ballot was eventually counted reported. One scrutineer  
25       reported seeing 200 or approximately 200 ballot papers  
26       where people had just ticked the first box in each  
27       candidate and then later on when they had to pick the  
28       branch committee and ordinary members of the branch  
29       committee and management, there was 30-odd candidates,  
30       they - for the vote to be formal, they had to pick eight of  
31       those and a lot of, you know, my scrutineers reported  
32       hundreds where they just ticked the first eight boxes, so  
33       the first box "secretary", first box "assistant secretary".

34  
35           My candidate for assistant secretary was successful,  
36       and she was on the top, and every candidate from either me  
37       and Ms Asmar's ticket that were in the first eight on the  
38       ordinary membership of the branch committee and management  
39       all were successful. So there were two from my ticket and  
40       about five from Ms Asmar's and I think the people assisting  
41       Ms Asmar and indeed assisting me are well versed in  
42       elections and I imagine well versed in human behaviour  
43       around what they do when they don't, when they have no  
44       interest in voting but they think they're compelled to.

45  
46       Q.   It certainly wasn't sent out as part of your campaign  
47       mail-out; that's your evidence?

1 A. Sorry, I missed that.  
2  
3 Q. There were three tickets?  
4 A. Yes.  
5  
6 Q. So there's yours?  
7 A. Yes.  
8  
9 Q. You didn't send out this mail-out?  
10 A. Certainly not, no.  
11  
12 Q. And the third person, as far as you know, only sent  
13 one or two mail-outs or perhaps no --  
14 A. None by mail, just a few documents handed out in  
15 workplaces and put on notice boards.  
16  
17 Q. And so that left Ms Asmar?  
18 A. Yes.  
19  
20 Q. In 232 you mention the identifying number 1805.  
21 A. Yes.  
22  
23 Q. If I take you to tab 25, page 459 is the first page of  
24 the materials that were sent out by somebody, "Voting is  
25 Compulsory"?  
26 A. Yes.  
27  
28 Q. It quotes the Commonwealth Electoral Act. It suggests  
29 that a penalty may be imposed if the person doesn't vote?  
30 A. Hm-mmm.  
31  
32 Q. And then propounds the proposition that the HSU  
33 election is an election conducted by the AEC?  
34 A. Hm-mmm.  
35  
36 Q. And gives instructions. And then if one looks at the  
37 envelope - well, if you go to page 460, is that a copy of  
38 the envelope?  
39 A. Yes.  
40  
41 Q. So it had that, "Voting is Compulsory" in large  
42 letters on the envelope, did it?  
43 A. Yes.  
44  
45 Q. And the number 1805?  
46 A. Yes, the one that was Ms Hovey.  
47

1 Q. Ms Hovey again and she handed this over to you?

2 A. Or one of my team, not to me personally.

3

4 Q. And you've drawn the inference that --

5 A. I've drawn the conclusion --

6

7 Q. -- that the database that was being used by --

8 A. It came from the same database. The odds of that  
9 happening coincidentally without doing the mathematics  
10 I think would be extremely remote.

11

12 Q. Did you put to anyone, including Ms Asmar, that she'd  
13 sent out this anonymous mail-out?

14 A. I didn't put it to Ms Asmar personally, we didn't have  
15 any communications, but I did put it to the press. I don't  
16 know - I can't remember if the story actually ran and then  
17 I got feedback from members that had been called by  
18 Ms Asmar's team campaigning that when they put to her their  
19 displeasure at receiving this, she just suggested that  
20 I did it.

21

22 Q. At 235 of your statement, page 36, you say Ms Asmar  
23 publicly denied the second anonymous mail-out was sent by  
24 her campaign office. On what occasion, to your  
25 information --

26 A. By "publicly" I meant when she was in phone calls but  
27 also when she was out talking to members in the workplace,  
28 I was getting feedback around that time coming back through  
29 staff from members that Ms Asmar was going around saying,  
30 in public I meant - I don't know if she ever said it in the  
31 press, I can't recall, but in public, when meeting with  
32 members, she made the allegation that it was me.

33

34 Q. You didn't hear any of that, that's just something  
35 that was reported to you?

36 A. I can't recall hearing it other than it being reported  
37 to me.

38

39 Q. In paragraph 252 you have an estimate of what Ms Asmar  
40 would have, you say, received. I think you really mean  
41 funds that might have been deployed by her in campaign  
42 funding. Now, how have you come up with that figure?

43 A. Based on the mail-outs that I've had in my possession  
44 which I've given to the Commission and based on the  
45 estimate at the time we had - the elections in 2012, we had  
46 a shade under 12,000 members and mail-outs in an envelope,  
47 from my experience, would cost approximately around 10 to

1 \$12,000, in the vicinity of \$1 per member, and then there  
2 are also DL cards, which are like postcards, that weren't  
3 sent in an envelope and they were cheaper obviously because  
4 there was no envelope and they cost in the vicinity of 8 to  
5 \$10,000. So knowing for sure that she had at least 23 or  
6 24 mail-outs, because I was in possession of them, you  
7 know, I could extrapolate that on mail alone she spent  
8 about \$200,000 and then there were huge posters, or posters  
9 of various sizes, many very big, just plastered over  
10 throughout every public metropolitan hospital, stickers  
11 just on walls everywhere and outside the public hospitals  
12 and expensive stickers. I say expensive because they were  
13 the type that they were extremely hard to remove and when  
14 hospitals - obviously, when they went up, hospitals would  
15 send their cleaning staff around and take them off and when  
16 they were putting parking meters outside the hospitals, the  
17 council would send people to clean them off and almost  
18 instantaneously they were back up, so she seemed to have a  
19 never-ending supply.

20  
21 Now, I know there was a DVD mailed out and I know that  
22 is a bit more expensive than just sending regular mail; you  
23 know, it could be 20,000, 30,000. So I was able to - you  
24 know, it's beyond the guesstimate. I was able to, you  
25 know, reasonably estimate, you know, in my view, at least  
26 300K. I just want to - in regards to the "Voting is  
27 Compulsory" letter in 2012.

28  
29 Q. Yes.

30 A. I am also pretty confident it was Ms Asmar because she  
31 did the same thing in 2009 and admissions were made. That  
32 matter ended up in the Federal Court and her husband  
33 admitted that he'd caused ballot papers to be redirected to  
34 a post office box in his name.

35  
36 Q. But that's just something - you're really drawing an  
37 inference there from matters that you're familiar with  
38 about Federal Court proceedings?

39 A. Yes.

40  
41 MR STOLJAR: There's nothing further, thank you,  
42 Commissioner.

43  
44 THE COMMISSIONER: Yes, very well.

45  
46 Q. It may be that you'll be called back here because some  
47 people may want to ask you questions about your statement,



1 but subject to that you're free to go for today.  
2 A. Thank you, your Honour. Can I say a few words before  
3 I go.  
4

5 Q. Yes.

6 A. I welcome this Royal Commission. I think, for the  
7 sake of working people across Australia, we have an economy  
8 in transition and they need unions like they've never  
9 needed them before, but they need unions that they control,  
10 that aren't beholden to the Labor Party or indeed any other  
11 political party, without the members choosing that, and  
12 I hope this Royal Commission addresses the issue of  
13 election funding because the reality is as a rank and file  
14 member I could not have won the election in 2009 without  
15 the funding I received. I understand there's groups of  
16 members in Victoria and New South Wales wanting to  
17 challenge the incumbents in forthcoming elections. I wish  
18 them well but I don't think they've got a chance because of  
19 their lack of financial resources.  
20

21 I'd also finally like to add that I believe it's no  
22 wonder whistleblowers don't come forward, whether it be in  
23 the union movement or elsewhere, after the treatment I've  
24 been subjected to and particularly Kathy Jackson, what I've  
25 seen happen to Kathy Jackson. I want to note that  
26 Kathy Jackson has been placed under far greater scrutiny  
27 that Michael Williamson or Craig Thomson were for blowing  
28 the whistle. I knew Kathy Jackson to run an effective  
29 union and there was no negative press about her before she  
30 went to the police and I hope after this Commission that  
31 there is something done to protect whistleblowers and stop  
32 them being marginalised and attacked and I thank you for  
33 your time.  
34

35 THE COMMISSIONER: Thank you.  
36

37 <THE WITNESS WITHDREW  
38

39 THE COMMISSIONER: Who is next, Mr Stoljar?  
40

41 MR STOLJAR: The next witness is Ms Katrina Hart.  
42 Commissioner, it may be that Ms Hart has just popped  
43 downstairs. It might be worth adjourning for a few minutes  
44

45 THE COMMISSIONER: If you wish to.  
46

47 MR STOLJAR: I am in your hands, Commissioner. Oh, she's

1 here.

2

3 <KATRINA-ANNE PATRICIA HART, sworn: [2.30pm]

4

5 THE COMMISSIONER: Q. Have a seat. Is it Ms Hart?

6 A. Yes, Ms.

7

8 <EXAMINATION BY MR STOLJAR:

9

10 MR STOLJAR: Q. Your full name is Katrina-Anne Patricia  
11 Hart - H-A-R-T?

12 A. Yes, it is.

13

14 Q. And you are a resident of New South Wales?

15 A. Yes, I am.

16

17 Q. And you are a clinical support officer?

18 A. Yes.

19

20 Q. You are also president of the Randwick Campus General  
21 Sub-branch of the Health Services Union New South Wales?

22 A. Yes, I am.

23

24 Q. You have prepared a statement in these proceedings?

25 A. Yes, I did.

26

27 Q. Being your statement of 3 June 2014?

28 A. Yes.

29

30 Q. Is that statement true and correct?

31 A. It is.

32

33 MR STOLJAR: I'd ask Commissioner that Ms Hart's statement  
34 be received into evidence together with a bundle of  
35 documents which has been marked "Katrina Hart MFI1"

36

37 THE COMMISSIONER: The statement will be received into  
38 evidence and the accompanying documents will be  
39 collectively called Hart MFI1.

40

41 **HART MFI#1 STATEMENT OF KATRINA HART DATED 3/6/2014**  
42 **AND ACCOMPANYING DOCUMENTS**

43

44 MR STOLJAR: Q. Ms Hart, can you just tell me a little  
45 about your training and experience. Do you have any  
46 qualifications?

47 A. I do as a clinical support officer and I have a lot of

1 experience as a president. I represent a lot of members.

2

3 Q. Just tell me about your qualifications as a clinical  
4 support officer. Where did you do your training?

5 A. I did the training through the hospital, an  
6 administration certificate, which was part - it was  
7 compulsory for me to hold that position.

8

9 Q. When did you do that training?

10 A. Through the hospital. So I mean we went to training  
11 courses and there was actually a contracted - what do you  
12 call it - contracted education firm that actually trained  
13 us.

14

15 Q. When did you obtain that qualification?

16 A. 2010.

17

18 Q. You've been a member though of the union since 2004?

19 A. Yes, around that time, yes.

20

21 Q. And when did you become the president of the Randwick  
22 Campus Sub-branch?

23 A. Actually 2011. I was on the committee but I actually  
24 became president when my predecessor died.

25

26 Q. You became president in 2011 and it was in that year,  
27 as you say in your statement, that Mr Williamson stood down  
28 and then Mr Mylan, Mr Hayes acted up, to use that  
29 expression, as did Ms Seymour and Mr Hull?

30 A. That's correct.

31

32 Q. And you've got a copy of your statement in front of  
33 you in the witness box?

34 A. I do.

35

36 Q. In fact, you say in paragraph 12 it was August 2011  
37 you became president and it was the next month that  
38 allegations concerning Mr Williamson became public  
39 knowledge?

40 A. That's correct. It was only a couple of weeks from me  
41 becoming president to the actual allegations.

42

43 Q. Were members coming to you and asking?

44 A. Oh, they were furious.

45

46 Q. And what were they saying to you?

47 A. They wanted to know if it was true. They wanted to

1 know if their money had been wasted. I had - like, we've  
2 got domestic services, so the cleaners, porters, they don't  
3 earn much money and they're paying \$22.20 a fortnight to  
4 a union and there's allegations out there that Williamson  
5 had actually misused their money; they were furious.

6  
7 Q. Did you try and find out some more information about  
8 what had happened?

9 A. Constantly.

10  
11 Q. Let's go to tab 1, first of all. This is an email.  
12 This is page 1 of your statement, it's behind tab 1, and  
13 when I say page 1, I am looking in the numbering in the top  
14 right-hand corner. Is this an email that you sent to  
15 Mr Mylan on about 5 October 2011?

16 A. Yes.

17  
18 Q. Why were you asking for the minutes of union council  
19 meetings?

20 A. There were allegations of misuse of money,  
21 Communigraphix, I think it was Access Focus, all those  
22 companies. It had all come out in the Sydney Morning  
23 Herald through Kate McClymont. So all those financials  
24 would have been in those council meetings and I also wanted  
25 to know who were responsible for voting it through. That  
26 would have been the documents that would have approved  
27 everything and I mean they refused to give them to me.

28  
29 Q. Did you ever get them?

30 A. I got some from 2010 to 2009 from an ex-councillor,  
31 his name was Mark Hanran, and in the 2010 elections when it  
32 all merged, because he started asking questions, Williamson  
33 bumped him off the ticket, but he was the one that gave me  
34 all the minutes.

35  
36 Q. This email on page 1 is addressed to Mr Mylan and  
37 Mr Hayes?

38 A. Yes.

39  
40 Q. Did they respond to this email?

41 A. Never.

42  
43 Q. Did they give you the minutes you'd asked for?

44 A. No.

45  
46 Q. Could you come please to tab 4 of your statement and  
47 it's a bundle of documents beginning on page 7. I'll take

1 you first of all to an email or to page 10 of that bundle.  
2 On page 10, that is the beginning of the email chain, if  
3 you look down the bottom, Wednesday, 5 October 2011, that's  
4 the email I just took you to?

5 A. That's correct.

6  
7 Q. So you got no reply to that email?

8 A. Never.

9  
10 Q. Then come through to page 9. You sent another email  
11 on 16 December 2011?

12 A. That's correct.

13  
14 Q. It is addressed to Mr Mylan and you've copied in  
15 Ms Jackson, Mr Hayes and Mr Bolano?

16 A. That's correct.

17  
18 Q. And the subject matter is "Grave Concerns of the  
19 Direction of HSUEast", and you raise in summary in the  
20 first paragraph the fact that there are important issues  
21 relating to members that in your view weren't being  
22 addressed?

23 A. It wasn't being addressed. What was being addressed  
24 is slandering Kathy and Marco and the Victorians instead of  
25 actually representing the members, and the members have  
26 some really, you know, important issues, but none of that  
27 was addressed.

28  
29 Q. You make that point in your email. You say that the  
30 New South Wales HSU East officials and councillors are  
31 consumed with eliminating Victoria and then you talk about  
32 item 68.

33 A. Yes.

34  
35 Q. Was that the resolution debated at the annual  
36 convention that had taken place a few weeks before?

37 A. That's correct.

38  
39 Q. Were you at that convention?

40 A. Yes, I was.

41  
42 Q. I'll come back to that. Coming down a couple of  
43 paragraphs, you say:

44  
45 *In late September, 2011 I wrote to you*  
46 *regarding accessing the Union Council*  
47 *minutes. To date I have not received*

1           a reply ... It is my understanding this  
2           request has not been to Union Council.

3  
4           And you asked Mr Mylan to attend to this matter  
5 immediately. Did you get any reply to your email?

6           A.    Never. There was one he did reply on and I can't  
7 remember, and he wanted to know - because I was signing it  
8 off as president of the Randwick Campus General Sub-branch,  
9 he wanted to know - he was saying that I wasn't allowed to  
10 sign it off because it'd never gone to a sub-branch meeting  
11 which was untrue, I was allowed to do that, but he never  
12 actually answered any of the questions. I was told  
13 I wasn't allowed to have them. I was told that council had  
14 to - union council had to vote whether they were going to  
15 give them to me or not. I was told by Peter Mylan once  
16 that it was going to the next council meeting but, of  
17 course, it never did. Everything virtually I was told was  
18 a lie.

19  
20          Q.    When you say you were told, did you make verbal  
21 requests as well as the written requests?

22          A.    Verbal, yes.

23  
24          Q.    Were they by telephone or in person?

25          A.    Both.

26  
27          Q.    If you have a look at page 66 of the bundle, it's  
28 behind tab 13, is that the email to which you were just  
29 referring from Mr Mylan of 20 March 2012?

30          A.    Yes, it was.

31  
32          Q.    His response is to say that you've signed off as the  
33 sub-branch president and wants to know when the branch  
34 committee and sub-branch met to endorse your actions?

35          A.    Mmm.

36  
37          Q.    But save for that response, there was no email  
38 addressing the substance of your requests?

39          A.    No. I think that was actually hypocritical of that  
40 email when prior we had actually sent resolutions through  
41 at sub-branch meetings to not pay for Michael Williamson's  
42 legal fees, to access the union council records, and to  
43 have guarantee that not one of our, like, members' money  
44 would be wasted, and for them to cooperate with the  
45 independent investigation. Now, they were all endorsed at  
46 sub-branch meetings and they were never acted on.

1 Q. Just come back to page 9 for me. This is your email  
2 of 16 December 2011. At the bottom of the page, the  
3 second-last paragraph, you say:  
4

5 *It is my belief the Union Council voted and*  
6 *carried motions [relating to merging*  
7 *members]. Twelve months later [they] are*  
8 *voting and carrying a motion to de-merge*  
9 *... This could be construed, as effectively*  
10 *admitting their initial decision to merge*  
11 *was wrong ...*  
12

13 Then you talk about the use of members' fees. Is that  
14 also information you were after when you were trying to get  
15 the minutes?

16 A. Yes. I'd also said it could have been perceived, too,  
17 that it was retaliation for the whistleblowers for actually  
18 exposing corruption.  
19

20 Q. What was retaliation?

21 A. The merging of New South Wales and Victoria.  
22

23 Q. When you say "the whistleblowers", who are you  
24 referring to?

25 A. Marco and Kathy.  
26

27 Q. On page 10, in the fourth last paragraph in that email  
28 you say:  
29

30 *When are the NSW HSUeast officials going to*  
31 *concentrate on the real issues ...rather*  
32 *then dividing and destroying this great*  
33 *union for what one could perceive as their*  
34 *own ... agenda or an attempt to conceal the*  
35 *alleged ...corruption. There are grave*  
36 *concerns within the rank and file ...*  
37

38 Et cetera. Did you receive any response to that?

39 A. Never.  
40

41 Q. Did you receive any response at all from Mr Mylan and  
42 Mr Hayes to this email?

43 A. Never. I even asked Gerard Hayes why he wouldn't  
44 respond. He said it wasn't his place. I disagreed. He  
45 was meant to be the divisional secretary of New South Wales  
46 which meant he was meant to be looking after New South  
47 Wales, but he refused to even respond. I only got "read"

1 receipts.

2

3 Q. And then on page 7, this is your next email, so the  
4 one I was taking you to on page 9 was 16 December. The  
5 following month, 22 January 2012, this is on page 7, about  
6 the middle of the page, you say:

7

8 *Dear Mr Peter Mylan ...*

9

10 And so on and then you make reference in the  
11 paragraph beginning:

12

13 *It has been reported the General*  
14 *Secretary's salary is approximately*  
15 *\$380,000 per annum.*

16

17 Did that come as a surprise to you?

18

A. Absolutely. I was shocked.

19

20 Q. You were shocked by the size of it?

21

A. Yes.

22

23 Q. Had that information not come out, as far as you were  
24 concerned, only as far as you were concerned, prior to  
25 that?

26

A. Never.

27

28 Q. Did the members of the sub-branch express any --

29

A. They were furious.

30

31 Q. About the size of the salary?

32

A. Yes, definitely, absolutely furious.

33

34 Q. The Randwick Campus Sub-branch, that is a large  
35 sub-branch in New South Wales, is it?

36

37 A. I should explain this. On the Randwick campus there's  
38 actually three sub-branches because of the size of the  
39 membership there. I'm in charge of the general sub-branch  
40 which is one of - probably the largest, second-largest  
41 sub-branches in the HSU and it was in HSU East when we were  
42 there.

42

43 Q. It was in?

44

45 A. It was either the largest or second largest. It could  
46 also be the largest now because I know a lot of members  
47 dropped out with the corruption that went on. I managed to  
save a lot of my members, to stay. Then we've got the



1 PAICT sub-branch, which is the professionals, and then  
2 we've got the HSMS which is the managers; so there's  
3 actually three sub-branches.  
4

5 Q. And this is all in Randwick?

6 A. Yeah. I'm probably the only president that has to  
7 deal with - I've got four hospitals on one. I've got  
8 a mental health. I have health share. I've got pathology.  
9 No other sub-branch has what I have.  
10

11 Q. In any event, the short point is this is a large  
12 sub-branch and expressing concerns about information?

13 A. Mmm, and I have to say so did the HSMS and the  
14 professionals, so they were very concerned as well.  
15

16 Q. How successful were they in getting information?

17 A. No, neither, none of us got any information. I even  
18 had emails from other members, not even on our sub-branch,  
19 that still never got any information.  
20

21 Q. Just continuing to look at the email chain that's  
22 behind tab 4, beginning on page 7, I was asking you about  
23 the email beginning about the middle of the page on page 7,  
24 22 January 2012. Over the next page, page 8, you say:  
25

26 *Since October, 2011 I have written to you,*  
27 *Mr Peter Mylan numerous times to access the*  
28 *Council Minutes ...*  
29

30 You actually set out a series of resolutions that have  
31 been passed?

32 A. Yes.  
33

34 Q. You received no reply to that either?

35 A. Never, and those resolutions never went to union  
36 council and they should have.  
37

38 Q. At the top of page 7, yet another email, 14 February  
39 2012:  
40

41 *Dear Peter*  
42

43 *I note I still have not received an*  
44 *acknowledgement or reply to my emails*  
45 *below.*  
46

47 You make reference there to a union council meeting

1 when rank and file members refused to leave and your  
2 failure to answer questions and you said that your  
3 perception was that there'd been an attempt, as you put it,  
4 to cover up decisions made. Did you ever receive a letter  
5 denying that proposition?

6 A. Never.

7  
8 Q. Then you say:

9  
10 *Considering rank and file members have been*  
11 *requesting an open and transparent Union,*  
12 *it is my perception your decision not to*  
13 *even acknowledge my emails or answer*  
14 *questions ... you are deliberately*  
15 *displaying an attitude of contempt towards*  
16 *members. This behaviour is deplorable.*

17  
18 *May I remind you it is the RANK AND FILE*  
19 *MEMBERS who are this Union ... I*  
20 *therefore insist on an acknowledgement to*  
21 *my emails ...*

22  
23 What was Mr Mylan's position at that time?

24 A. Acting secretary.

25  
26 Q. And Mr Hayes?

27 A. Acting deputy secretary.

28  
29 Q. Going back to your statement, paragraph 17, you deal -  
30 just to put you in context, you are dealing here with your  
31 attempts to get information when all of this is coming out  
32 and you say:

33  
34 *The executives of HSUeast office, including*  
35 *Mr Mylan ... informed me that it simply*  
36 *wasn't my place to ask questions.*

37  
38 Do you see that?

39 A. Yes.

40  
41 Q. Did you have a conversation with Mr Mylan where he  
42 said that to you?

43 A. Via telephone.

44  
45 Q. And where were you?

46 A. I was at work.

1 Q. Approximately when was this?  
2 A. Oh, it was just before the convention, so --  
3  
4 Q. The convention was about mid-November 2011?  
5 A. Yes, it was just a couple of weeks before then.  
6  
7 Q. Just tell me what happened in that conversation? What  
8 did you say to Mr Mylan, what did he say to you?  
9 A. He was actually quite short with me. I rang him on  
10 his mobile and I used a blocked number because then he  
11 wouldn't know it's my number obviously. I told him it was  
12 Katrina Hart. I asked him if when he's going to answer my  
13 emails, when I'm going to get copies of the documents that  
14 I had actually asked for. I also said to him that under  
15 the union rules that my request had to go to union council.  
16 I have asked when the next council meeting was so that  
17 could actually go to union council, so I could get access  
18 to it, and basically he just listened for a while and then  
19 he said it wasn't my place, that I was stirring up trouble,  
20 and I said, "No, I'm trying to get information for my  
21 members. They're asking questions."  
22  
23 They just - he just basically accused me of stirring  
24 up trouble, really, and the conversation didn't go for that  
25 long and he said, "Oh, I've got to go to a meeting now",  
26 and hung up. But if I had used my normal phone, he  
27 wouldn't have answered the call.  
28  
29 Q. In paragraph 24 you describe ringing Mr Brown. When  
30 did that conversation take place?  
31 A. Shortly - I think it was shortly after I rang  
32 Peter Mylan. It was the first time I'd actually contacted  
33 Chris Brown. I'd never spoken to him before. I asked him  
34 why I couldn't get access to the documents. He was  
35 supposed to be, what was it, the acting president of the  
36 national council, the national branch. He basically said  
37 it was deplorable that I couldn't get access and I wasn't  
38 getting any - like, even an acknowledgement to my emails,  
39 but then he started rambling on and, you know, slandering  
40 Kathy and saying that she shouldn't have gone to the media  
41 and that she was, you know, bringing the union in disrepute  
42 and all that, and I got angry and I said, "Look, I'm not  
43 here about Kathy Jackson. I'm here about getting the  
44 information I've requested", and I asked him to speak to  
45 them. I don't think he ever did.  
46  
47 Q. Then you say in your statement that you sent an email

1 to Ms Jackson and that's behind tab 2. It is at page 3 of  
2 your bundle. The gist of your email is that, you say:

3  
4 *... I have some questions I need answering*  
5 *as soon as possible. Members of our*  
6 *sub-branch are asking multiple questions*  
7 *daily ... [and we can't answer them.]*  
8

9 Had you written to anyone else, I mean someone local,  
10 before writing to Ms Jackson?

11 A. Yes, I did.

12  
13 Q. Who did you write to?

14 A. I wrote to Peter Mylan, Gerard Hayes, Kerrie Seymour  
15 and Michael Williamson. That letter there was just copied  
16 and pasted to Kathy about a week later. They saw it.

17  
18 Q. Are you able to find that email that you sent?

19 A. I've been trying to go through most of them at work  
20 because it was sent from my work email address, so I am  
21 trying to find it.

22  
23 Q. In any event, to your recollection, you sent an email  
24 about a week before to Mr Mylan and company?

25 A. That's correct.

26  
27 Q. Asking, in essence, in very similar terms to the email  
28 to Ms Jackson?

29 A. That's correct, and I only discovered Kathy's email  
30 address via an article in the paper.

31  
32 Q. Did you get any response to your email to Mr Mylan?

33 A. Never.

34  
35 Q. So you wrote to Ms Jackson and you said, "Look, I'm  
36 trying to" - well, you tell me. You were trying to deal  
37 with your members' questions at this point, were you?

38 A. Definitely. They were angry. Some were quite  
39 abusive, actually. They wanted to know what was going on.  
40 I'd looked at the rules of the union and that's when  
41 I found - like you can see in that email where I found it  
42 was top heavy in New South Wales. I was trying to get  
43 confirmation about how everything was supposed to run and  
44 the structure and also like, eventually, I was trying to  
45 get the union minutes and all that. Kathy rang me probably  
46 a week after I sent the email.  
47

1 Q. Yes. Just before we come to that, I just want to ask  
2 you about the top of page 4 and you said:

3  
4 *I understand there is a police*  
5 *investigation underway ...*  
6

7 How did you know about that?

8 A. It was in the paper.

9

10 Q.

11 *... [that] members need to be told*  
12 *something from HSUEast, we cannot leave*  
13 *them hanging like this. Just like myself,*  
14 *our members pay their fees and really*  
15 *should not be left in the dark.*  
16

17 A. That's correct.

18

19 Q. And you had put that to the New South Wales senior  
20 officials and got no response and so then you went to  
21 Ms Jackson?

22 A. That's right.

23

24 Q. I think you were saying that she rang you about a week  
25 later?

26 A. About a week later.

27

28 Q. And what did she say to you?

29 A. I was surprised that - I answered the phone, "Hello."  
30 She said, "Hello. This is Kathy Jackson" and I went,  
31 "What?" I was surprised she actually rang. We had  
32 a discussion.

33

34 I went through the email and I said am I correct in  
35 what I'm seeing or am I wrong in the union  
36 council minutes - sorry, the union rules and how New South  
37 Wales was top heavy and that's how they were pushing  
38 resolutions through, and I questioned where the 20  
39 representatives were and she said, "You get it. Finally  
40 someone that gets it. You get it", and I said, "Yes, I do  
41 get it." Then I said to her, "A lot of our members are  
42 quite angry, they're confused. They're asking a lot of  
43 questions. I can't answer the questions." I said, "Would  
44 you like to come and address my members on the sub-branch?"  
45 She was quite happy to do that, and I arranged for her to  
46 come and actually speak to our members and allow our  
47 members to ask her questions, and I believe I was the only

1 sub-branch that managed to do that.

2

3 Q. When did that meeting take place?

4 A. About mid-October.

5

6 Q. So Ms Jackson came. Where was the meeting, by the  
7 way?

8 A. At the Randwick campus. It was in the old Edmund  
9 Blacket building.

10

11 Q. How many members came along?

12 A. Oh, stacks. It was standing room only.

13

14 Q. Did Mr Mylan or others come along?

15 A. Yes, and they weren't invited.

16

17 Q. Well, who came? Mr Mylan came?

18 A. Kerrie Seymour came and Graham Conroy.

19

20 Q. So Ms Jackson spoke, I take it?

21 A. Yes, she did.

22

23 Q. Did members ask questions?

24 A. They did, they really did, and she answered every  
25 single question.

26

27 Q. Did Mr Mylan say anything?

28 A. He spoke. When members asked him questions, he just  
29 went around in circles. He wouldn't directly answer the  
30 question. I had members that were actually heckling him.  
31 I was chairing the meeting and I was telling members just  
32 to, you know, "Sit down. Behave. Just listen to  
33 everybody." I was giving everybody a fair chance of  
34 speaking and after that meeting, my members just said - you  
35 know, they actually believed Kathy.

36

37 Q. Did Mr Mylan say anything to the members or Ms Jackson  
38 about the way she'd conducted herself?

39 A. Yes. Yes.

40

41 Q. And what did he say?

42 A. He was slandering Kathy and saying that these  
43 allegations should not have gone to the media, "We want to  
44 deal with this internally. There's an investigation. None  
45 of this should be spoken about now. Let the investigation  
46 go through", that kind of thing, and just bagging Kathy  
47 because the media was always interested.

1  
2 Q. You say in your statement that there was some  
3 discussion about legal fees at that meeting,  
4 Mr Williamson's legal fees. What was that discussion?

5 A. There were two meetings with the legal fees, by the  
6 way. This was an informal meeting, so nobody actually  
7 signed to come. It was just so the members could actually  
8 meet Kathy and Marco and just see what they had to say.  
9

10 One of the members - actually, it was me. I asked  
11 Peter Mylan, "Why are we paying for Williamson's legal  
12 fees?", and he said, "Oh, he's a member of the union. He's  
13 entitled for us to pay for his legal fees and he should"  
14 and I said, "Well, hang on a minute, this is a criminal  
15 matter, it's not industrial. So, yes, a member is entitled  
16 to industrial legal representation, but this is a criminal  
17 matter and they're investigating him as to stealing money  
18 from us, so why are we paying for the legal fees?"  
19

20 Q. What did Mr Mylan say?

21 A. They stuck to the story and it just went on and on,  
22 "He's a member. He's entitled to have his legal fees paid  
23 by us", and that's all they kept saying.  
24

25 Q. You describe council meetings on 16 September 2011 and  
26 again on 22 September 2011.

27 A. Yes.  
28

29 Q. Did you go along to those council meetings?

30 A. I wasn't allowed.  
31

32 Q. Who told you you weren't allowed?

33 A. Kerrie Seymour and Sam Shao. He was the councillor,  
34 New South Wales councillor on our sub-branch.  
35

36 Q. What did they say to you?

37 A. I wasn't allowed. Members don't go.  
38

39 Q. But were you proposing to go and - well, you obviously  
40 can't go and vote, but what were you proposing to do at the  
41 meetings?

42 A. To observe; to see how it was run.  
43

44 Q. And did you ask them whether you could go?

45 A. Yes. They actually didn't even tell me where it was.  
46

47 Q. The outcome of that was you weren't in attendance on

1 16 or 22 September 2011?  
2 A. No.  
3  
4 Q. But in February 2012, early the next year, you decided  
5 that you would go to a council meeting?  
6 A. Yes, I did.  
7  
8 Q. Did you ask Ms Seymour about going?  
9 A. I told nobody.  
10  
11 Q. Well, in 63 you say that you did have a discussion  
12 with Ms Seymour, it looks like?  
13 A. Where is it? That was the next council meeting.  
14  
15 Q. Yes.  
16 A. Yes.  
17  
18 Q. When you say, "I flew to Victoria." Did others from  
19 New South Wales come?  
20 A. No. I was the only one.  
21  
22 THE COMMISSIONER: Mr Stoljar --  
23  
24 THE WITNESS: When it says:  
25  
26 *"I said words to the effect of: "I can go.*  
27 *It's in the rules" ...*  
28  
29 That was actually in Melbourne. What they did was they  
30 opened the meeting and they saw that there were members  
31 there, so they passed - first of all, they passed this  
32 resolution to have us removed and then we refused to leave  
33 and we just sat there. So they adjourned the meeting for  
34 about half an hour to an hour so everyone went outside  
35 because it was adjourned and that's when, you know, I was  
36 told I wasn't allowed to be there, I can't go, and I'm  
37 saying, "It's in the rules."  
38  
39 MR STOLJAR: Q. So when you said you didn't tell anyone,  
40 you meant in the period leading up to them?  
41 A. No. I found --  
42  
43 MR STOLJAR: Commissioner?  
44  
45 THE COMMISSIONER: Do we have a copy of the Rules that  
46 Ms Hart has been referring to?  
47



1 MR STOLJAR: Excuse me just one moment.

2 A. They were the old HSU East rules. I think some have  
3 been changed since the demerge.

4

5 MR STOLJAR: We don't have them in Ms Hart's statement but  
6 I can certainly get them.

7

8 THE COMMISSIONER: I think it would be a good idea to have  
9 them in evidence as background to what she has been saying  
10 in her statement

11

12 MR STOLJAR: Q. So the conversation you describe between  
13 yourself and Ms Seymour at the meeting occurred actually at  
14 the meeting, not in advance?

15 A. In the adjournment.

16

17 Q. And you'd gone with - I'm sorry, you flew to Victoria,  
18 you were the only intended observer from New South Wales,  
19 but there were five Victorian members who were also going  
20 to be observers; is that right?

21 A. Well, I didn't know that until I got there but, yes.

22

23 Q. I see.

24 A. When I arrived, the hotel was just opposite the  
25 airport. So I went over to the airport and I had to wait  
26 because I couldn't see anybody that I knew there. So  
27 I sort of waited down a bit and then I saw Kathy and Marco  
28 and I was a bit nervous about going because I knew I'd be  
29 treated with hostility. So Marco introduced me to  
30 a gentleman by the name of Rob Morrey, who was a Victorian  
31 member, so I sat with Rob and I just felt a little bit more  
32 comfortable that way.

33

34 Q. Mr Stephen Pollard was the president chairing the  
35 meeting?

36 A. Yes.

37

38 Q. At paragraph 72 he said something to Ms Jackson. Tell  
39 us about that?

40 A. When he opened the meeting up, basically he said, "Oh,  
41 isn't it lovely Kathy's got all the Victorian members  
42 here", and I just put my hand up and said, "New South  
43 Wales", and he just went, "Oh, shit", and then he was  
44 accusing Kathy of staging this sort of - staging having the  
45 members there which I know - I was sitting sort of behind  
46 and on a diagonal, and I know that she didn't because one  
47 of the members actually had come up and she didn't even

1 know who they were, and introduced himself and actually  
2 congratulated her and it was the first time she had  
3 actually met him. How can she stage something if she  
4 doesn't know the members?

5  
6 Q. But you were proposing just to observe, were you?

7 A. Yes.

8  
9 Q. What happened then? Did Mr Pollard invite you to stay  
10 or did he say something else?

11 A. They went quiet for about 10 minutes. They rustled up  
12 some resolution. They put the resolution through to  
13 council. I call them "sheep". All the little sheep were  
14 sitting there and they were just going "Yeah" and agreeing  
15 to whatever Peter Mylan put through, and that was to get us  
16 to be removed. When we refused to be removed, we just  
17 said, "We're not going. We have every right to be here.  
18 We're sitting at the back, we're only observing, we're not  
19 saying anything, we're not interfering with the way you're  
20 running your meeting", and that's when he adjourned.  
21 Steve Pollard adjourned it. He asked about five or six  
22 times for us to go, and we refused.

23  
24 Q. Did the meeting continue or was it just simply  
25 adjourned?

26 A. It was adjourned. We went back. He said, "Are you  
27 going to leave?" We said, "No", so he closed the meeting  
28 and it never took place.

29  
30 Q. This was at a time when you were trying to get  
31 information?

32 A. Yes.

33  
34 Q. What was your purpose in going to the meeting?

35 A. To see how a union council was run. I mean you can  
36 see how - like, I'd spoken to councillors like  
37 Clarrie Smith, Ted Hinge from New South Wales. Even Sam  
38 had mentioned certain things about the way a council  
39 meeting was run. But I don't rely on what people tell me.  
40 I like to see it for myself. So that was one of the  
41 reasons I went there, to actually see how they were  
42 conducted, and it was true, they were sheep.

43  
44 THE COMMISSIONER: Q. Ms Hart, if you could go to tab 2  
45 which Mr Stoljar has taken you to before, page 3 of Hart  
46 MFI1, that is your email of 21 September. Down the bottom  
47 you've got a recording of the fact that the rule provides

1 the council consists of 76 members, and then they're all  
2 set out.

3

4 When you talk about it being top heavy in New South  
5 Wales, you are talking about 21 councillors from New South  
6 Wales and 20 general representatives of New South Wales?

7 A. That's correct.

8

9 Q. So that bloc was really the sheep?

10 A. Yes.

11

12 Q. So if they were all there or enough of them --

13 A. Yes.

14

15 Q. -- everything would pass? Thank you.

16 A. And all those 20 general representatives were actually  
17 organisers. So they were actually union organisers.

18

19 Q. The significance of that is what? That they're --

20 A. The significance is they're paid employees.

21

22 Q. Of the union?

23 A. Of the union.

24

25 Q. Whereas you, for example, weren't?

26 A. No.

27

28 Q. Right.

29 A. Oh, and by the way, they were only from New South  
30 Wales, not from Victoria.

31

32 Q. So you are saying in Victoria there were no equivalent  
33 of these organisers who were employees of the union?

34 A. That's correct, and I needed to know who the 20  
35 general representatives were at first. I sat there one  
36 day, it was funny, doing stick figures trying to work it  
37 out in my head which is how then I came to this conclusion,  
38 and then I realised that any resolution that was put  
39 forward, if it was a problem like what was actually  
40 starting to happen, Victoria had no chance of winning any  
41 vote because of these 20 representatives who happened to be  
42 paid employees of the union. So, in my interpretation, if  
43 you're a paid employee of the union under New South Wales,  
44 your vote is actually compromised because your managers,  
45 your bosses, are the people that you are actually voting  
46 with. So can you imagine if they tried to vote against  
47 them? It's compromised.

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Q. Just above that group, we've got one general secretary, et cetera, et cetera. Were they all employees too?

A. They're elected officials.

Q. But once elected, they're paid by the union?

A. Yes. So you've got the two general secretaries, deputy general secretaries. One is from Victoria, one is from New South Wales. The same with the divisional and the same with the acting divisional, that's why there's two.

THE COMMISSIONER: Thank you.

MR STOLJAR: Q. Can I just clarify. You said "they're all organisers". Did you mean --

A. New South Wales organisers.

Q. Yes, but the general representatives?

A. Yes.

Q. And the councillors?

A. No, the general representatives.

Q. And who are the councillors?

A. They're elected so they're throughout. They could be presidents of sub-branches, secretaries, anything like that.

Q. I see.

A. And they're asked to go on a ticket.

Q. To come back to your statement, in paragraph 86, you say:

*... at a general sub-branch meeting in front of all the members I represented Ms Seymour communicated that she was commencing legal action against me for defamation?*

A. That's correct.

Q. First of all, when was that meeting, roughly? I mean the end of - well, you tell me?

A. Well, it's actually in there because if we go to the email that was sent to Peter Mylan.

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Q. Is that at tab 8?

A. It could be tab 8. Yes.

Q. It is page 22.

A. Because that was - that email was sent virtually two days, three days afterwards. It would have been about March, I think. Yes.

Q. So you are talking about an email that you sent to Mr Mylan and others, it's about the middle of page 22?

A. If you go to page 30, it was 13 March.

Q. This is --

THE COMMISSIONER: Q. That seems to be part of an email sent by you to Mr Mylan and others on 15 March.

A. That's right.

Q. We see that on page 28. This is a long email?

A. It is a very long email, yes.

Q. And that summarises the meeting of the 13th.

MR STOLJAR: Q. So your email was sent two days after the meeting but you weren't present on 13 March, were you?

A. No, I had to actually have a facts day, it was unfortunate, so my vice president chaired the meeting.

Q. And she said - well, someone told you about what had occurred?

A. Yes. I had the emails. I was told by two committee members what she - that she claimed that I'd defamed her and that she was seeking legal advice to sue me.

Q. The emails to which she was referring, are they in evidence, 8 March?

A. I don't know.

Q. In any event --

A. What had actually happened was the week prior, we'd had a sub-branch meeting where I tried to pass resolutions not to pay Michael Williamson's legal fees. Whenever I had sub-branch meetings, they brought the big guns out. So there was Kerrie Seymour and Andrew Lillicrap there. So they were arguing for us to pay legal fees; I was arguing against.

1  
2 After that meeting I was furious because I had four  
3 members who desperately needed legal help with industrial  
4 issues on the campus, and they weren't getting anywhere,  
5 but yet here we are paying Williamson's legal fees. So  
6 I had written a letter complaining about that, and Marco  
7 Bolano was the only one that answered that letter. So it  
8 was actually - in the letter, in the email, I was sort of  
9 saying, you know, why are we paying for his legal fees and  
10 why aren't my members getting legal representation and,  
11 "Kerr, you should know that, you're the organiser here", so  
12 I was virtually asking questions. About a week later she  
13 comes out with I'm defaming her, and she mentioned Marco  
14 Bolano too in that, that she was going to sue him.

15  
16 Q. Just so I'm clear. Ms Seymour is an organiser based  
17 where?

18 A. In the Randwick campus.  
19

20 Q. I see. So she would have known, you thought, that  
21 legal fees weren't being paid for four members who had some  
22 industrial issues?

23 A. They weren't even getting appointments with  
24 a solicitor, and she knew about it because I was requesting  
25 it.  
26

27 Q. Why weren't they getting appointments? Because the  
28 solicitor wanted to be paid?

29 A. I don't know.  
30

31 Q. So you sent that email and then Ms Seymour, as you say  
32 on page 30, said that you defamed her and she was referring  
33 emails to her solicitor?

34 A. That's right.  
35

36 Q. So your email is responsive to that?

37 A. That's correct.  
38

39 Q. This is the email, as the Commissioner said, which  
40 begins on page 28.

41 A. It is quite a long email.  
42

43 Q. You respond to that. Did you ever get a response from  
44 Mr Mylan or Mr Hayes rebutting what you were saying?

45 A. Never.  
46

47 Q. Did Ms Seymour commence any proceedings for

1       defamation?

2       A.    Never.  I also sent that email and complaint to the  
3       HSU Ombudsman.  I didn't even get an acknowledgement from  
4       him

5

6       THE COMMISSIONER:   Q.  The HSU Ombudsman, what, is an  
7       official within the union whose job it is to try and  
8       resolve complaints about maladministration, is it?

9       A.    Yes

10

11       MR STOLJAR:   Q.   Excuse me just one minute.

12       A.    No, that's fine.

13

14       Q.    You've included "read receipts".  These are at  
15       page 34, tab 9.  You started asking for "Read" receipts on  
16       the emails?

17       A.    Yes, I did.

18

19       Q.    So page 34 indicates that your email was read by  
20       Mr Hayes?

21       A.    That's correct.

22

23       Q.    And likewise for the next few pages.

24       A.    Peter Mylan.  They all read the email.  I think I just  
25       became a thorn in their side.

26

27       Q.    Can I take you to --

28

29       THE COMMISSIONER:   Q.  Just before you leave that.  
30       Mr Sam Shaw - S-H-A-W - he was an organiser?

31       A.    No, he is a New South Wales councillor and it's  
32       S-H-A-O.

33

34       Q.    Yes.  And what relationship did he have to your  
35       responsibilities on the Randwick campus?

36       A.    He was part of the committee and he did run against me  
37       for president and vice president and lost both.

38

39       Q.    So he's not an employee of the union?

40       A.    No.  But I must say at that stage councillors were  
41       given a nice allowance to be councillors.  I even asked how  
42       much that was and I was never told, and when I actually  
43       asked did he get paid to be a councillor, he denied it.

44

45       Q.    Do you know now what it was?

46       A.    No.  I still don't.  They loved it.  They got flown  
47       everywhere.  Everything was paid for, hotel rooms, the lot.

1  
2 MR STOLJAR: Q. On page 8 of your statement, you  
3 describe an incidence when you went to Mr Mylan and had  
4 a discussion about Ms Seymour. Just tell us what  
5 Mr Mylan's reaction was?

6 A. I came out of the lifts and there was meant to be  
7 a union council meeting.  
8

9 Q. When was this, by the way?

10 A. April.  
11

12 Q. April?

13 A. April 2012, and that council meeting was canned  
14 because we'd written and said we were going. There were  
15 two Victorian members that had flown up and stayed - like,  
16 just met me at my house and I took them in to head office  
17 and into their hotel room. Their names were Loretta Hanson  
18 and Sherida Jacks. It was the first time I'd met  
19 Sherida Jacks and I'd taken them into the HSU head office  
20 because they wanted to get information because there was  
21 AGMs coming up in sub-branches. So I walked in and  
22 Peter Mylan was actually out in reception. His face just  
23 sort of went, "Oh my God", like that. So they had gone  
24 straight to the reception to get their AGMs things and I;  
25 bee-lined Peter Mylan and I said, "Peter, when are you  
26 going to actually answer any of my emails? I want  
27 Kerrie Seymour taken off my side. If she's claiming she's  
28 suing me, then you're putting me in an awkward situation  
29 and we can't work together." And he said, "I've made  
30 a decision, she stays", and I said, "No, she's got to go".  
31 We were sort of raising our voices at this stage, and  
32 I stood my ground and I said, "She has to go. She cannot  
33 turn around and say to my sub-branch that she's going to  
34 look at legal action against me and be an organiser there,  
35 it can't be done", and he just clenched his fists like this  
36 (indicating) puffed his chest out and came inches to my  
37 face and said, "I've made my decision, she stays", and  
38 I just laughed at him. I said, "You're not scaring me.  
39 I have three brothers, you're not scaring me." He was just  
40 frustrated because I was not going to back down.  
41

42 THE COMMISSIONER: I am just having a bit of trouble  
43 picking this up in the statement, Mr Stoljar.

44 A. It is at 93 to 94, 95.  
45

46 MR STOLJAR: It is 93 to 96 inclusive.  
47



1 THE COMMISSIONER: Yes, good. Thank you.

2

3 MR STOLJAR: Q. I want to come to the events of the  
4 annual convention of 2011. You say it was on  
5 14 November, but just before it you had a barbecue at your  
6 home and Ms Jackson came. It was a social occasion, was  
7 it?

8 A. It was.

9

10 Q. You say at 100:

11

12 *On Thursday, 10 November 2011, a meeting of*  
13 *the Randwick Campus General Sub Branch*  
14 *Committee was held.*

15

16 A. I'll just - they're committee meetings. So every two  
17 weeks, because my sub-branch is so big, we have committee  
18 meetings and discuss union matters like how are we going to  
19 represent a member, et cetera.

20

21 Q. And does Ms Seymour come to those, or came to those?

22 A. She did, yes.

23

24 Q. So she was in attendance. Well, you tell me about the  
25 conversation you had with her on that occasion?

26 A. I was completely taken back and shocked. That meeting  
27 was supposed to - we were supposed to go through the  
28 resolutions. I think there was about 200 resolutions.

29

30 Q. Did that include item 68?

31 A. Yes. But Sam Shao and Kerrie Seymour only wanted to  
32 talk about item 68 which was annoying me. I was the voting  
33 delegate and on the floor, I had a lot of votes. I think  
34 it was something like 56 votes which was a lot in HSU.  
35 They started carrying on about, "We have to get rid of the  
36 Victorians. Kathy Jackson has, you know, brought our union  
37 in disrepute", and I was arguing against it and I'm saying,  
38 "Look, let the investigation go through", all that kind of  
39 thing, and then all of a sudden Kerrie Seymour said, "When  
40 are you going to tell me about your secret meeting?" and  
41 I said, "What?" I was really thrown back. I'm saying,  
42 "What are you talking about?", and she goes, "On Saturday  
43 you had a secret meeting and you had it with Kathy Jackson  
44 there." I said, "I didn't have a meeting at all, it was  
45 a barbecue, it was just a barbecue", and she just kept  
46 carrying on about it being a secret meeting and that's when  
47 I got angry and I said, "Look, what I do in my own time, in

1 my own residence, is my own business. It's nothing to do  
2 with you. I did not have a secret meeting, nor did we  
3 discuss any resolutions or anything about the conference or  
4 anything."

5  
6 Q. Then you describe some further events in your  
7 statement. I won't take you through them in detail, but  
8 you then come to the annual convention itself. It began,  
9 as you say in paragraph 129, on 14 November 2011. You were  
10 there on the morning, were you, the first morning?

11 A. We were there the night before. It was a Sunday  
12 night, I think it was. I had just sent - I'd gone to work  
13 and sent the email on the Sunday because I was still  
14 stewing about what Kerrie had done to me. So I sent an  
15 email to her.

16  
17 That night there was a dinner for all the delegates.  
18 I was there. I decided there was no way in the world I was  
19 going to have a drink. I had Andrew - not Andrew, Randall  
20 Millington, he was an organiser at the time - no,  
21 industrial officer/organiser. He obviously was quite  
22 intoxicated. So when I walked in to the meeting - like,  
23 walked into the actual dining room area, I was looking for  
24 Ted Hinge and I was standing there and I found Ted and he  
25 said, "Are you going to have a drink?" and I said, "No, I'm  
26 not going to have a drink", and he said, "Oh, okay." Next  
27 thing Randall Millington, who was quite intoxicated, was  
28 coming up and slurring his words and going, "You've got to  
29 vote to get rid of the Victorians, we've got to get rid of  
30 them", and I was just like "Go away", and he just kept  
31 going and going and going, and Peter Mylan had actually  
32 seen it and seen me asking him to go away and eventually  
33 Peter Mylan moved him away.

34  
35 Q. The following day was the first morning of the  
36 convention?

37 A. That's right.

38  
39 Q. Were you in the audience that day?

40 A. Yes, I was.

41  
42 Q. Where were you sitting?

43 A. Right down the front. The arena was like on a slope  
44 and I was right down the front, probably two or three rows  
45 up from the stage.

46  
47 Q. Tell me about what happened when Mr Williamson

1 arrived. What did you see?  
2 A. It was disgusting. All of a sudden music was playing.  
3  
4 Q. What was the music?  
5 A. "Rocky". The theme to "Rocky", and everybody was  
6 standing up. So I actually stood up and I didn't know why  
7 they were standing up, and I couldn't see at first because  
8 obviously people were in front of me, and I said - turned  
9 around and I said to Kerrie Seymour, "What's going on?",  
10 and she said, "Oh, Michael Williamson has just arrived" and  
11 I said, "What the hell is he doing here?", and she said,  
12 He's got every right to be here", and I said, "No, he  
13 doesn't, he doesn't have any right, it's disgraceful that  
14 he's here", and I argued with Kerrie about it, and then all  
15 these New South Wales people were standing up clapping and  
16 cheering him, and I'm just thinking, "Oh, my God, there's  
17 an investigation going on and that they're cheering that  
18 he's there". I just thought it was really inappropriate.  
19  
20 Q. And the debate for item 68 took place the next day?  
21 A. Yes, and again that was deplorable.  
22  
23 Q. Why was it deplorable?  
24 A. First of all there were 200 resolutions to go through.  
25 A lot of them were issues relating to members, issues  
26 relating to their workplaces, all that kind of thing.  
27 Nothing of those were really discussed.  
28  
29 The convention started. This gentleman got up, right  
30 from the back, put this resolution to the floor that we  
31 deal with item 68 first. That was passed, and then all of  
32 a sudden for four or five hours it was all about item 68.  
33  
34 Q. Which was the no confidence in Ms Jackson?  
35 A. That's right, and yet we had no increases of  
36 membership fees. We had workplace issues, all that;  
37 resolutions, and it just wasn't addressed.  
38  
39 To me, I'm sorry, I just think that this is union,  
40 members pay their fees, we are meant to support members and  
41 look after their best interests. At that convention, they  
42 looked after their own interests.  
43  
44 Q. Who is "they"?  
45 A. Peter Mylan, Steve Pollard, all the New South Wales  
46 people.  
47

1 Q. And did the New South Wales people vote as a bloc to  
2 your observation?

3 A. Yes.

4  
5 Q. Except for you?

6 A. A couple didn't. A couple didn't

7  
8 THE COMMISSIONER: Q. Could I just ask you this,  
9 Ms Hart. Early in your oral evidence, you mentioned that  
10 members had to pay \$22.40 per fortnight deducted out of  
11 their pay, presumably?

12 A. Yes.

13  
14 Q. What was the basis on which fees were levied? I mean  
15 some of your members would have quite a high income and  
16 many of them would have very low incomes, presumably?

17 A. That's correct.

18  
19 Q. Is it a percentage, a flat percentage?

20 A. It's a flat rate, \$22.20.

21  
22 Q. I see. It's just a dollar figure? It's not  
23 a percentage of anything? All right. Thank you.

24 A. You can understand why members pulled out.

25  
26 MR STOLJAR: Q. I asked you - I think all I said --

27  
28 THE COMMISSIONER: Q. I'm sorry to interrupt one more  
29 time. Some would be full-time employees?

30 A. And some would be part-time.

31  
32 Q. And the part-timers had to pay \$22.40 as well?

33 A. I started as a member working three days a week and  
34 I still had to pay the full-time rates.

35  
36 MR STOLJAR: Q. I think I said to you did New South  
37 Wales vote as a bloc. Do you know what the actual  
38 votes - how the votes played out in the end; what the  
39 voting was, roughly?

40 A. No. All I know, it was just - like, the hands that  
41 went up basically in favour of the resolution was - there  
42 was just a sea of them and then against, there wasn't that  
43 many. I really couldn't tell you the votes, I really  
44 couldn't.

45  
46 Q. But you voted against?

47 A. I voted against.

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Q. And you were exercising a number of votes?

A. Yes, 56. I'd like to actually point out that I voted against not because of my own principles. We had five delegates there. We had decided that everybody was to listen and then afterwards they would be sitting with me and saying - if four against one said vote for it, I would have to vote for it but it was unanimous. Like, all of us said, "No, you've got to vote against it." So that vote I put forward was in consultation with the other four delegates that were there.

Q. Delegates from the sub-branch?

A. Yes.

Q. You said you decided you would listen to the debate?

A. Yes.

Q. Did you listen to Ms Jackson and Mr Bolano speak?

A. Yes, I did.

Q. How easy was it to hear what they were saying?

A. At times you couldn't hear what they were saying, there was that much heckling going on, or yelling or screaming. I heard bits and pieces of it. I've got to say I was actually ashamed. I was ashamed to be a member of HSU that day. It was awful. The behaviour was childish, it was deplorable. Yeah, I was ashamed.

THE COMMISSIONER: Q. What was the precise method of voting? Was it a show of hands?

A. Yes, it was but - no, sorry, it was and it wasn't. Everybody had a paddle. On my paddle it had 56; some had 1, and so it went, and then you just raised your paddle.

Q. So whoever was in charge would try and make a quick guess as to where the majority lay?

A. No. In that particular instance they had people going through and counting.

Q. Right. So it was a sort of non-secret ballot, but it was mathematically precise?

A. That's right. It was interesting because normally when you put a resolution through - normally - two people speak for it and two people speak against. This went for four hours because I think they had something like 60

1 people, 30 for, 30 against. I can't remember the precise  
2 amount of speakers. They were supposed to only have  
3 two minutes. Some of the New South Wales people went on  
4 for 40 minutes just - and none of what they were actually  
5 saying made sense to me anyway, and I just - as I said  
6 I felt ashamed, the name calling, the heckling, the  
7 childish behaviour, even when they were actually speaking  
8 against or for the actual resolution.

9  
10 There was one lady, though, I have to give her  
11 credit - and I wish I could have shaken her hand - got up  
12 there, I'll never forget it. I think she was from Victoria  
13 and she turned around and pointed to Williamson and  
14 said - well, first of all she said to Steve Pollard, "Can I  
15 ask Mr Williamson a question?", and Mr Pollard said,  
16 "I don't know about that", and Williamson said, "Yes, yes,  
17 you can ask me a question." So she said, "Did you use  
18 those credit cards?", and that was it, everybody was in an  
19 uproar because that question was asked, and he never  
20 actually answered the question.

21  
22 Q. Was Mr Pollard the person who was chairing the  
23 meeting?

24 A. Yes. He's the president

25  
26 MR STOLJAR: Q. He's New South Wales?

27 A. Yes.

28  
29 Q. Did Mr Williamson speak at any stage?

30 A. Yes.

31  
32 Q. What did he say?

33 A. He spoke in retaliation against Kathy and Marco and he  
34 got up and started yelling and screaming and then, to my  
35 recollection, he basically said, "Once this is all over,  
36 you guys are going to be fired, we're going to get rid of  
37 you." It was something along those effects, and he was  
38 yelling and he was quite aggressive. I felt - he had his  
39 wife sitting next to him and Gerard Hayes' de facto sitting  
40 next to him. The spotlight, of course, was on him when he  
41 said it.

42  
43 I have to point out that convention was one of the  
44 first conventions I'd been to, and I felt they followed me  
45 everywhere. I couldn't even go to the toilet without an  
46 organiser or a union councillor being there. Even to go up  
47 the road to get a cappuccino, because I'm a cappuccino

1 junkie, I'd turn around and there would be some official  
2 there.

3

4 Q. Official from where?

5 A. New South Wales. They were following me everywhere.  
6 I couldn't go to the toilet. I couldn't go out to have a  
7 cigarette. I couldn't go up to the shops. It was like  
8 they were frightened that I was going to speak to the  
9 media. I don't know why. I had - you know, I was  
10 surrounded, absolutely surrounded, in the actual  
11 convention, like, sitting there, with union councillors,  
12 union organisers. It was like I was being kept. I was  
13 trapped.

14

15 Q. Can I ask you some questions about the defined benefit  
16 scheme that you deal with in paragraph 146 of your  
17 statement. At 146 and following, you describe some emails.  
18 You really come to it at 155. What is the defined benefit  
19 scheme and who does it apply to? This is a super scheme,  
20 I take it?

21 A. It is a super scheme that I knew nothing about until  
22 basically the Temby Report, just prior to the Temby Report.  
23 From my knowledge - and I've asked for information about it  
24 and still haven't received it, but from my knowledge, this  
25 scheme includes probably about maybe 10 to 14 employees.  
26 It's a very generous scheme.

27

28 I'm under the understanding - like, obviously  
29 Mr Williamson, Mr Mylan, Gerard Hayes, they're all part of  
30 this scheme. I've actually sent emails requesting  
31 information about the scheme, who is part of this scheme,  
32 only to be told it's confidential and I'm not allowed to  
33 know that kind of stuff. But I just don't think that - if  
34 we're paying for a superannuation scheme, I think I have a  
35 right, I'm a member, to have a right to know where my  
36 money's going and who it's going to.

37

38 THE COMMISSIONER: Q. Ms Hart, you said it was very  
39 generous?

40 A. It was extremely generous.

41

42 Q. In what respect is that so or what was the --

43 A. Well, Ian Temby had actually recommended that that  
44 scheme be stopped, and it's still going. In the financial  
45 records that I've actually just seen of HSU - and I think  
46 they're in here somewhere in the evidence - but it's a huge  
47 liability for the actual union.

1  
2 Q. But it involved the members after they retired, that  
3 class you mentioned getting, what, a certain percentage of  
4 the final average salary or a percentage of --  
5 A. Again, they will not give me any information.  
6  
7 Q. But can we find it in Mr Temby's report?  
8 A. No, it wasn't in Mr Temby's report. He just - he  
9 quickly glazed over it. I think it was about --  
10  
11 MR STOLJAR: Q. It's page 315, Commissioner.  
12 A. There you go. What tab?  
13  
14 Q. Tab 45. The report begins on page 250.  
15 A. That's the financial - yeah.  
16  
17 THE COMMISSIONER: It's page 315 in the top right-hand  
18 corner. It's about 20 pages from the end of Hart MFI1.  
19  
20 MR STOLJAR: Mr Temby summarises at paragraph 8.10:  
21  
22 *A small number of executives and employees,*  
23 *approximately 14, are members of two older*  
24 *type defined benefit schemes.*  
25  
26 THE COMMISSIONER: So is the witness correct in saying it  
27 doesn't actually disclose, for example, whether it was  
28 going to be 60 per cent of the salary of the general  
29 secretary from time to time, or whether it was going to be  
30 75 per cent of Mr Williamson's retirement salary?  
31  
32 MR STOLJAR: That's correct. I don't think there's an  
33 explanation. Mr Temby is here, but I don't think there is  
34 an explanation of precisely how the defined benefit is  
35 calculated with respect to each of the 14 employees to  
36 which it refers, or to whom it refers, but we do know that  
37 it's underfunded or at least it was as at 30 September 2011  
38 by just over 3 million.  
39  
40 THE COMMISSIONER: Yes. Of course if BHP Billiton had  
41 such a scheme and it was under-funded by 3 million or  
42 1.7 million, it wouldn't matter much. You need to know  
43 more things.  
44  
45 MR STOLJAR: Yes  
46  
47 THE COMMISSIONER: At all costs we must keep Mr Temby out



1 of the witness box. Maybe you could ask him afterwards  
2 where we might find some documents.

3  
4 MR STOLJAR: Yes.

5  
6 THE WITNESS: I think in the financial --

7  
8 MR TEMBY: We'll certainly provide more information, but  
9 can I say, Commissioner, what you have just said outlines  
10 the essence of a defined benefit scheme as you would know.  
11 It did relate to a small number of the senior officers of  
12 the union, and I'll have to obtain more information before  
13 I can provide it to the Commission as to the present  
14 situation.

15  
16 THE WITNESS: It's actually in the financial report.

17  
18 MR TEMBY: I have a strong impression that the position has  
19 been changed during the course of the administration, but  
20 we'll have to advise that.

21  
22 THE COMMISSIONER: It would be useful to know what the old  
23 position was and what the new position is.

24  
25 MR TEMBY: Precisely. We'll provide that information.

26  
27 THE COMMISSIONER: Thank you.

28  
29 Q. You wanted to say something, Ms Hart, when  
30 I interrupted you?

31 A. In the current financials that were actually put on  
32 the website about March 2014, this year, there is mention  
33 of a defined benefit scheme and the funding, et cetera, in  
34 there. I just can't find those documents at the moment.  
35 So that's outlined in the financials.

36  
37 MR STOLJAR: Q. Is the short point that I draw from  
38 paragraphs 146 and following, and please stop me if this  
39 isn't correct, but is the short point that you have made  
40 attempts to get more information about the defined benefit  
41 scheme and the fact that it's underfunded by  
42 \$3.3 million --

43 A. That's correct.

44  
45 Q. -- or so and you haven't been able to obtain that  
46 information?

47 A. And I haven't even been able to obtain actually who is

1 in that defined benefit scheme.

2

3 Q. So you have no information about who are the 14  
4 employees?

5 A. No.

6

7 Q. To whom reference is made in paragraph - I think it  
8 was 8.10 that we just had a look at?

9 A. That's right. I believe that scheme is a huge  
10 liability for the union.

11

12 Q. Well, you say at 156:

13

14 *I understand there are twelve people*  
15 *covered by the Scheme, including*  
16 *Mr Williamson, Mr Mylan and Mr Hayes.*

17

18 A. That's right.

19

20 Q. How did you come by the thought that it was  
21 Mr Williamson, Mr Mylan and Mr Hayes, among others?

22 A. Kathy Jackson told me.

23

24 Q. You've described your election campaign on page 14 of  
25 your statement. This is a campaign in 2012. Was that for  
26 the position of president of the sub-branch again or were  
27 you running for some other position?

28 A. No, it was secretary of the union.

29

30 Q. Oh, secretary of the union.

31 A. New South Wales.

32

33 Q. And then you are, I suppose in substance, comparing  
34 your campaign to that of Mr Hayes which begins at 173?

35 A. Yes.

36

37 Q. Did Mr Hayes have access to a call centre?

38 A. Yes, I believe he did.

39

40 Q. Where was the call centre located?

41 A. I've been told by Bob Hull's team or people  
42 campaigning for Bob Hull that it was the CFMEU call centre  
43 he used. I had members complaining constantly about phone  
44 calls. I think the administrator had complaints as well,  
45 and I also complained to the administrator about how  
46 organisers were taking all this time off to campaign when  
47 they should have been looking after members' interests, and

1 we're in a situation where we've got a New South Wales  
2 government that's Liberal and I was trying to say to the  
3 administrator, "Members' issues need to come first", and  
4 all these organisers were getting time off and just  
5 campaigning, and some were actually campaigning while they  
6 were working.

7  
8 Q. You have set out some further matters in your  
9 statement. I perhaps don't need to take you through them,  
10 they speak for themselves, I think. Yes.

11  
12 MR STOLJAR: I have nothing further, Commissioner.

13  
14 THE COMMISSIONER: Very well.

15  
16 Q. Thank you for coming today, Ms Hart. You are free to  
17 go back to Victoria but --

18 A. I'm from New South Wales.

19  
20 Q. I'm sorry, I do apologise, I remember. You are free to  
21 leave, but it may be that people will want to ask you  
22 questions about your statement at a later date and you'll  
23 be informed of when that is when it's known.

24 A. Can I actually say something?

25  
26 Q. Certainly.

27 A. I'm very happy a Royal Commission has actually now  
28 been called. I'm concerned about - we're due to have an  
29 election soon in HSU East - sorry, HSU New South Wales.

30  
31 Now, what I'm concerned about is that in that  
32 election, people will be potentially voting for persons of  
33 interest in this Royal Commission and I don't know how to  
34 have that election delayed until this is finished.

35  
36 Q. Well, there's not much that can be done about it, but  
37 when is the election due?

38 A. It was due to be called a couple of weeks ago and  
39 Gerard Hayes hasn't called it yet, or I think the AEC has  
40 to call it.

41  
42 Q. When it is called, when is it likely to be?

43 A. It should be now so I don't know, I really don't.

44  
45 Q. Do you know what the normal period of time is between  
46 it being called and actually happening?

47 A. It should have been concluded probably mid-August.

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Q. And that date isn't fixed under the rules, is it?  
A. No.

Q. What does its selection depend on?  
A. Beg your pardon?

Q. What does the selection of the date for an election depend on?  
A. I'm not quite sure. I think it's the AEC.

MR STOLJAR: Commissioner, Mr Irving may have some more information about that election.

THE COMMISSIONER: Yes.

MR IRVING: Commissioner, the timing of the rules - the timing of the election is set in accordance with the Rules. Pursuant to Rule 29 there is a nomination period that usually starts - I think it's about the first week in June that nomination is called. Ultimately the timing of that election is in the hands of the AEC. The AEC acts, after it has received a request from the Fair Work Commission as to the holding of the election.

Due to recent changes of the union rules, the request for the Fair Work Commission has not been communicated as yet to the AEC, but we understand that will occur some time this week.

The AEC will then set the timetable for the election. We anticipate that nominations will be called by about late this month, early next month, and then there's a period of approximately three weeks for nominations to be closed. If more than one candidate nominates for a position, then an election is held.

That timetable is set in accordance with the rules and we will organise the rules as they currently are and as they previously were to be provided to the Commission, and we'll make further inquiries with the Fair Work Commission and the AEC to nail down that period if that will be of assistance.

THE COMMISSIONER: Yes. Thank you very much for that information.  
Q. Thank you for raising it, Ms Hart?

1 A. I'm just a bit concerned about it.

2

3 Q. Yes.

4 A. I will say I am running again.

5

6 Q. I see the difficulty.

7

8 THE COMMISSIONER: Is there anything more to do this  
9 afternoon?

10

11 MR STOLJAR: No, Commissioner.

12

13 THE COMMISSIONER: We will resume at 10 o'clock tomorrow  
14 morning.

15

16 <THE WITNESS WITHDREW

17

18 AT 3.45PM THE COMMISSION WAS ADJOURNED TO TUESDAY, 17 JUNE  
19 2014 AT 10AM

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