

ROYAL COMMISSION INTO TRADE UNION
GOVERNANCE AND CORRUPTION

Public Hearing

(Day 7)

Level 5, 55 Market Street, Sydney

On Tuesday, 17 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 THE COMMISSIONER: Yes, Mr Stoljar.

2

3 MR STOLJAR: Commissioner, there is at least one
4 application for authorisation to appear.

5

6 THE COMMISSIONER: Yes.

7

8 MR C DOWLING: Good morning, Commissioner, my name is
9 Dowling, initial C. I seek authorisation to appear on
10 behalf of Mr Craig McGregor.

11

12 THE COMMISSIONER: Yes. That is granted, Mr Dowling. Do
13 you just want to attend during his evidence or do you want
14 to attend on a wider basis?

15

16 MR DOWLING: At this stage, I just expect to attend during
17 his evidence.

18

19 THE COMMISSIONER: Very well.

20

21 MR L JAMES: Commissioner, my name is Liam James from
22 Konstan Lawyers. I seek leave to appear for Mr Peter Mylan
23 and Ms Kerrie Seymour. I will be instructing
24 Ms Patricia Lawson for Mr Mylan and Mr Evan James of
25 counsel for Ms Seymour. We seek leave on that basis.

26

27 THE COMMISSIONER: Yes. That's granted. Yes, Mr Stoljar?

28

29 MR STOLJAR: Commissioner, one other housekeeping matter.
30 During the course of evidence yesterday, you asked about a
31 set of rules for HSU. Mr Irving has a tender to make in
32 that regard.

33

34 MR IRVING: Commissioner, if I could provide you with this
35 bundle of documents which I provided to counsel assisting
36 and briefly explain the contents of them.

37

38 Tab 1 contains the rules effective from 12 November
39 2009. I am instructed that between about 2000 and 2009,
40 the rules relating to the use of branch funds, the duties
41 of branch secretaries and branch presidents, which is set
42 out in rules 52 through to 60, remain the same.

43

44 Tab 2 contains the rules effective from 24 May 2010
45 which are the rules which gave effect to the merger of HSU
46 East.

47

Tab 3 sets out the rules after the demerger and after

1 the first tranche of new financial accountability rules
2 were introduced.

3
4 Tab 4 through to 5 deal with the current situation.
5 We're not in a position to tender an authorised version of
6 the rules at the moment for this reason: from about
7 October 2013, an application was made to amend the rules of
8 the union. It was quite a substantial rule change which
9 was advanced. Those rule changes could only take effect on
10 the approval of the Fair Work Commission. Pursuant to
11 section 159 of the Act, an application was made. It was
12 granted on 29 May of this year. The decision granting
13 those rule changes is in tab 4. The Commission is in the
14 process of creating a consolidated version of the rules
15 which we understand will be completed in the next week or
16 so. When it's available to us, we shall make it available
17 to the Commission.

18
19 THE COMMISSIONER: Thank you, Mr Irving.

20
21 MR IRVING: One question that arose yesterday related to
22 the timetable for the elections.

23
24 THE COMMISSIONER: Yes.

25
26 MR IRVING: They are governed by the rules which are
27 behind tab 5 which contain the approved rule changes by the
28 Commission but in a marked up version. Rule 23, which is
29 on page 44, governs elections.

30
31 THE COMMISSIONER: Yes, I've got that.

32
33 MR IRVING: Rule A covers branch elections which are the
34 direct elections by members of the branch to those officers
35 identified in subparagraph (a). Nominations commence under
36 Rule (d)(ii) on page 45. The opening date for nominations
37 will be 1 June; the closing date 14 June. Under Rule (xv)
38 the ballot will be open on 7 July and shall close on
39 7 August.

40
41 The Act provides that the AEC, who conducts these
42 elections, can make directions as to the conduct of the
43 elections which are inconsistent with the rules. The
44 practice has been that the AEC will determine a date for
45 the opening of nominations. We understand that they're
46 likely to choose a date probably in three or four weeks
47 time and then there will be, in accordance with the rules,

1 a period of a fortnight in which the nominations are open
2 and then a break and then a period of a month in which the
3 ballot is open. That's the time frame.

4
5 THE COMMISSIONER: Good. Thank you very much. Should we
6 mark that exhibit 1?

7
8 MR STOLJAR: Yes, Commissioner.

9
10 THE COMMISSIONER: That will be known as exhibit 1.

11
12 **EXHIBIT #1 BUNDLE OF DOCUMENTS, TABS 1 TO 6, BEING VARIOUS**
13 **HSU RULES**

14
15
16 MR TEMBY: At a convenient time I could provide
17 information in relation to the defined benefits scheme.

18
19 THE COMMISSIONER: Is it convenient for you to do so now?

20
21 MR TEMBY: Certainly.

22
23 THE COMMISSIONER: Yes.

24
25 MR TEMBY: Union officials who became employed by the
26 union in its earlier manifestations, up until April 1992,
27 belong to the State Authorities Superannuation Scheme which
28 is a defined benefits scheme. All officials and other
29 employees who have joined since that date, that is to say,
30 April 1992, 22 and half years ago, have become members of a
31 different and standard superannuation fund, usually run by
32 First State Super. I'm pleased to advise that of the 14
33 people who were identified in the report which is in
34 evidence before you, as at about June 2012, all but five
35 have left the union by virtue of dismissal or resignation,
36 and the amount which is owing with respect to the remaining
37 five is a greatly reduced amount as against that which was
38 contained in the report. I can't give you, at this moment,
39 the precise amount to which it has been reduced but it has
40 been very markedly reduced.

41
42 Of the three individuals who were mentioned yesterday,
43 namely, Messrs Williamson, Mylan and Hayes, they were
44 members of the defined benefits scheme. Mr Williamson left
45 the union by, as I understand it, resignation, although not
46 a happy resignation, and was paid out. The amount I do not
47 have precisely, but he was sued by the union. He consented

1 to judgment for an amount greater than the amount of the
2 superannuation benefits which were due to him and
3 subsequently declared bankruptcy.
4

5 Mr Mylan, his deputy, who acted as secretary of the
6 union after Mr Williamson stood down has left the union,
7 and the instructions I have is that there is a judgment
8 being made with respect to his exit salary which is not yet
9 determined and that will determine the amount to which he
10 is entitled, although I can tell the the Commission he also
11 is being sued by the union.
12

13 Mr Hayes, the third individual mentioned, lost his
14 elected office as a result of orders made by Flick J in the
15 Federal Court. He left the union - the date I have is
16 19 November 2012 - as I say, as a result of the orders made
17 by Flick J. When he was elected as secretary, which was in
18 the subsequent elections, he became entitled to
19 superannuation but, at that time, joined the less
20 advantageous scheme to which all other employees belong,
21 which is a distinctly less advantageous scheme.
22

23 I hope that's sufficient, Commissioner.
24

25 THE COMMISSIONER: Yes, thank you, Mr Temby.
26

27 MR TEMBY: We can provide more detail if it is needed but
28 it may not be necessary..
29

30 THE COMMISSIONER: Thank you. Yes, Mr Stoljar.
31

32 MR STOLJAR: Commissioner, the first witness this morning
33 is Ms Katharine Wilkinson.
34

35 <KATHARINE ROSEMARY WILKINSON, affirmed: [10.10am]
36

37 **EXAMINATION BY MR STOLJAR**
38

39 MR STOLJAR: Q. Your name is Katharine - with a K -
40 Rosemary Wilkinson?

41 A. Yes, known as Kate.
42

43 Q. Known as Kate. You are a resident of Victoria?

44 A. Yes.
45

46 Q. You're a radiation therapist by profession?

47 A. Correct.

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Q. You've prepared a witness statement in these proceedings dated 13 June 2014. Do you have a copy of that with you?

A. I do. Yes, I do.

Q. Is the content of that statement true and correct?

A. Yes, it is.

MR STOLJAR: Commissioner, I would ask that that statement, together with the attachments to that statement, be received into evidence.

THE COMMISSIONER: Yes. Ms Wilkinson's statement will be received into evidence.

#STATEMENT OF KATHARINE ROSEMARY WILKINSON DATED 13/06/2014

MR STOLJAR: Q. I just wanted to ask you some questions about the matters that you cover in your statement. In paragraph 5, you say that you were the vice-president of the No 3 Branch?

A. Yes.

Q. Is that a voluntary position?

A. Yes, it is.

Q. What are the duties of a vice-president?

A. Really to simply take over from any gaps that might be appearing if somebody is away from branch committee, that you would step into their position to assist the secretary or the president.

Q. You were continuing to work as a radiation therapist as your main occupation?

A. Yes, I was full-time, yes.

Q. And you say that you were also on the audit and compliance committee of the HSU East Branch from the time of the amalgamation until June 2012?

A. Yes.

Q. Is that until about the time of the de-amalgamation?

A. Yes, that's right.

Q. You have some paragraphs under the heading, "How the BCOM operated the Victoria No 3 Branch." The BCOM is the

1 Branch Committee of Management?
2 A. Yes.
3
4 Q. How many people are on the BCOM from time to time?
5 A. The No 3 Branch in Victoria, look, I'm not sure of my
6 numbers, but it was approximately 10 to 15 people.
7
8 Q. The BCOM met about once a month?
9 A. Yes. Either that or - certainly every three months as
10 required and sometimes more frequently, depending on need
11 with regard to matters of importance such as EBAs or
12 campaigns like that.
13
14 Q. The secretary of the branch would report to the BCOM,
15 I take it?
16 A. Yes.
17
18 Q. But the BCOM made decisions affecting the branch?
19 A. Yes. Yes.
20
21 Q. You say that you had these regular meetings and you'd
22 sometimes be provided with agenda, and you also would
23 receive financial statements and the like?
24 A. Yes, most frequently we would either once - every
25 meeting we would have financial statements to look at.
26
27 Q. You say in 14 you've recently retired and you haven't
28 retained any of the documents from those meetings?
29 A. No.
30
31 Q. You mean such as the minutes?
32 A. Minutes, the financial statements, the list of
33 members, those sorts of - no documents from that time.
34
35 Q. What did you do with them? You just threw them out
36 or --
37 A. Yes, I think so, in the clean out of things, yes.
38
39 Q. I just wanted to show you some minutes. The
40 convenient way of doing that is if I take you to a folder
41 that I'll be tendering in due course, Commissioner. I'm
42 handing you a volume which is marked "Health Services Union
43 provided by John Agostinelli".
44 A. Yes.
45
46 Q. Mr Agostinelli was the auditor of the branch, at least
47 for the years 2009-2010?

1 A. I'm not sure. I'm only familiar with Mr Iaan Dick as
2 being auditor.
3
4 Q. If I suggest to you that - I don't think there's any
5 controversy about it - that Mr Dick ceased at a certain
6 point and Mr Agostinelli took over?
7 A. Right, thank you.
8
9 Q. What I'm showing you is the first volume of documents
10 from the audit file for the years 2009 and 2010?
11 A. Mmm-hmm.
12
13 Q. If you could go to tab D1, page 172 in the top
14 right-hand corner.
15 A. Yes. Right.
16
17 Q. This is an example of the minutes. This one happens
18 to be for 19 August 2008?
19 A. Mmm-hmm.
20
21 Q. The attendees included Ms Jackson and yourself?
22 A. Yes.
23
24 Q. Come through to the final page, 175.
25 A. Yes.
26
27 Q. You can see that there was a finance report given?
28 A. Yes.
29
30 Q. The secretary is Ms Jackson?
31 A. Yes.
32
33 Q. If you come to D.2, page 176, that's the meeting for
34 25 September 2008 and, again, you attended that meeting.
35 At 178 there's a record of the secretary giving a report on
36 branch finances?
37 A. Yes.
38
39 Q. It says:
40
41 *That the Financial Report including Profit*
42 *and Loss be received and noted.*
43
44 A. Yes.
45
46 Q. Would that financial report, including the P&L, be
47 created by Ms Holt?

1 A. That's my understanding, yes. Ms Holt did all of the
2 bookkeeping for the branch.
3
4 Q. The next meeting is at 12 October 2008, page 179.
5 Without going through that in detail, we then have minutes
6 of 11 December 2008, page 182.
7 A. Yes.
8
9 Q. If I come to the finance report, page 184 --
10 A. Yes.
11
12 Q. -- the secretary gave a report on branch finances?
13 A. Yes.
14
15 Q.
16 *That the Financial Report including Profit*
17 *and Loss be received and noted.*
18
19 *That the Secretary be authorised to spend*
20 *up to \$15,000 on printing & postage, in the*
21 *event an account can't be set up in time*
22 *the Secretary will be reimbursed.*
23
24 Do you remember - you may well not - offhand what that
25 was about?
26 A. Look, I don't remember, no.
27
28 Q. But it looks as though, does it, when it says "In the
29 event an account can't be set up in time", that the
30 secretary might pay that money and be reimbursed in due
31 course?
32 A. Yes.
33
34 Q. That was a typical occurrence?
35 A. Yes, that did happen sometimes, yes.
36
37 Q. You may not remember, but did that money come out of
38 the Peter Mac fund?
39 A. I don't know if it did. It could well have, yes.
40
41 Q. Then the next minute is 11 February 2009?
42 A. Yes.
43
44 Q. Page 185. I'll take you to page 187 which is the
45 minute of 27 March 2009. If you come to the finance
46 report --
47 A. Yes.

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Q. -- which is page 187.

A. 187, yes.

Q. It says that:

The Accounts were circulated and there was some discussion.

A. Page 187 --

THE COMMISSIONER: It doesn't say that on my page 187.

MR STOLJAR: Q. It's actually page 191 I meant to take you to. My mistake. So that's the finance report for the meeting of 27 March 2009. It says:

The Accounts were circulated and there was some discussion.

So the BCOM had some debate about whatever was in the accounts?

A. Yes.

Q. But at the end of the day they were received and noted?

A. Yes.

Q. So the BCOM wasn't rubber-stamping whatever was being put?

A. No. No, we would go over the accounts very carefully at all meetings that I was there, that I was present at.

Q. You were present at nearly all the meetings?

A. Yes. Well, we would take a strong interest, let's say, in all our financial records and details.

Q. You took?

A. All of the members on the committee did, yes.

Q. These are reports that Ms Jackson was giving?

A. Yes.

Q. Likewise, perhaps just confirming that, there's the minutes of the meeting 12 May?

A. What page is that?

1 Q. Page 192. If you come through to 194, it says:
2
3 *The Accounts were circulated ...*
4
5 And again there's some discussion?
6 A. Some discussion, yes.
7
8 Q. And, at the end of the day, they're received and
9 noted?
10 A. Yes.
11
12 Q. And likewise, 24 June 2009, 196. Just taking you
13 quickly to the financial report on page 198 --
14 A. Yes.
15
16 Q. -- again there's discussion about those accounts?
17 A. Yes.
18
19 Q. I just note for the record again I won't ask this to
20 be marked for identification, but I'm showing you volume 1
21 of what will be in due course a three volume tender
22 provided by Mr Agostinelli. Those are the minutes of the
23 BCOM?
24 A. Yes.
25
26 Q. Is it the case that throughout the period you were on
27 the BCOM, minutes of that kind were kept?
28 A. Yes, it was.
29
30 Q. And the finance reports were dealt with in the way
31 that we've just described?
32 A. Yes.
33
34 Q. I want to show you some other documents that I'm going
35 to be tendering in due course.
36 A. Shall I hold on to --
37
38 Q. Yes, just put that to one side for the minute, thank
39 you, Ms Wilkinson.
40 A. Thanks.
41
42 Q. I just note for the record I'm going to show you some
43 documents from a bundle of documents marked "Jane Holt
44 MFI1". If you could come, please, to tab 3, page 3 in the
45 top right-hand corner.
46 A. Page 3, under tab 3?
47

1 Q. Yes.
2 A. Top right-hand corner? Yes.
3
4 Q. This is a profit and loss. Is it likely that was
5 prepared by Ms Holt?
6 A. Yes. It's similar to the statements I've seen at HSU
7 No 3 Branch meetings.
8
9 Q. This is the sort of thing you would be given?
10 A. It's similar, yes. Yes.
11
12 Q. Come about halfway down the page. There's an entry
13 "Honorarium"?
14 A. Yes.
15
16 Q. For a figure of \$1,813.37?
17 A. Yes.
18
19 Q. Is that about payments that were made to or in
20 relation to meetings of the BCOM, or are you not sure?
21 A. I'm not sure but I imagine it would be, because we did
22 receive sitting fees to cover car parking and expenses from
23 Kathy at meetings, yes.
24
25 Q. If you come over to the next page, page 4, at the
26 bottom of the page there's reference to the Peter MacCallum
27 settlement. Do you see that?
28 A. Yes, I do.
29
30 Q. A figure of \$250,000?
31 A. Yes.
32
33 Q. It says "Payment to NHDA". Do you see that?
34 A. Yes, I do.
35
36 Q. The Peter MacCallum settlement was the Peter Mac money
37 that I made reference to before?
38 A. That's right.
39
40 Q. It was a settlement - well, you tell me. The
41 settlement was against litigation involving the union
42 and --
43 A. And Peter MacCallum Cancer Centre or cancer institute
44 as it was known then, in the research division there were a
45 number of divisions across the hospital and the research
46 division apparently had some problems as far as employees'
47 entitlements. Those employees fell under the remit, if you

1 like, of the HSU No 3 Branch, and in discussion and - yes,
2 with the union, to sort that problem out, I understand that
3 the management of Peter Mac chose to reimburse employees
4 outstanding amounts and entitlements, but the extent of the
5 backlog, if you like, was extensive and I understand that
6 the union and Peter Mac reached an agreement to settle with
7 the union for an amount of a couple of hundred thousand
8 dollars.

9

10 Q. In fact, you were the delegate that Peter Mac --

11 A. I was the delegate at the Peter Mac but not in the
12 research division. I only knew about the things happening
13 in the research division because I was on branch committee
14 as well as being - I happened to be at the same hospital
15 but not in the same division.

16

17 Q. So the position is you're a radiation therapist,
18 you're employed by the Peter Mac Cancer Centre but you had
19 nothing to do with the research?

20 A. Absolutely. I was in the radiation oncology division,
21 yes.

22

23 Q. Would you come back to page 4.

24 A. Yes.

25

26 Q. NHDA is - well, those initials stand for the
27 National Health Development Account?

28 A. Mmm-hmm.

29

30 Q. That account received, according to these records, in
31 February 2004 an amount of 80,000 out of the settlement
32 moneys?

33 A. Mmm-hmm.

34

35 Q. And that was something that went to the BCOM?

36 A. Yes.

37

38 Q. Would you come over to the next page, page 5.

39 A. Mmm-hmm.

40

41 Q. There is again a figure for "Honorarium" about seven
42 or eight lines from the bottom?

43 A. Yes.

44

45 Q. That's come up in that year, that is, the period July
46 2005 through to April 2006 from the previous reporting
47 period?

1 A. Yes.
2
3 Q. If you're not sure just say so, but as you understand
4 it that relates to sitting fees paid to BCOM?
5 A. Yes, I believe so.
6
7 Q. Could you come, please, to page 7. You might have to
8 swing your folder around.
9 A. Yes.
10
11 Q. Before you do, I'm reminded if you come back to
12 page 6 --
13 A. Yes.
14
15 Q. -- you're in the middle of the P&L statement for 2005
16 through to April 2006. The heading is "Expenses" or
17 "Employment Expenses"?
18 A. Yes.
19
20 Q. I'm sorry, no, this is just I think sundry expenses.
21 We have "Employment Expenses" at the top and then some
22 other expenses that don't seem to have a separate heading,
23 "Postage & Shipping", and the like, about the middle of the
24 page. Then if we come down, we have NHDA again?
25 A. Yes, I see.
26
27 Q. So that's payments which were being made to NHDA on
28 that occasion in the amount of \$10,000?
29 A. Mmm-hmm.
30
31 Q. That, in all likelihood, came out of the Peter Mac
32 moneys?
33 A. I would imagine so, yes. I believe so.
34
35 Q. And that is a matter that, as best you can recall,
36 went to the BCOM meeting?
37 A. Yes.
38
39 Q. We come to page 7. This is when you do need to flip
40 the folder around. We're now looking at a profit and loss
41 for July through December 2007.
42 A. Mmm-hmm.
43
44 Q. There's an entry "honorarium" in the left-hand column
45 under the heading "Expenses"?
46 A. Yes.
47

1 Q. And then we have another, on the right-hand side,
2 entry for the NHDA, 16,000?
3 A. Yes.
4
5 Q. In this period, it looks like a figure of 16,000 came
6 out of the Peter Mac moneys and went across to NHDA?
7 A. Mmm-hmm.
8
9 Q. And then come to the next page, page 8. It is a
10 profit and loss statement for July to March. I'm just
11 drawing your attention to the honorarium on the left-hand
12 column?
13 A. Right, yes.
14
15 Q. And then on the right, NHDA?
16 A. Yes.
17
18 Q. And it looks as though nothing came out in the period
19 July to March 2007?
20 A. Mmm-hmm.
21
22 Q. Then at page 9, another profit and loss statement.
23 These were all prepared, I take it, by Ms Holt?
24 A. Yes, I believe so.
25
26 Q. We have the honorarium on the left-hand column and
27 then again NHDA?
28 A. Yes.
29
30 Q. And then page 11, this seems to be July through April
31 2010?
32 A. Yes.
33
34 Q. There's the honorarium, at the bottom of the column on
35 the left-hand side, NHDA suggesting that in 2010 a figure
36 of 45,500 went across and in the previous period, 75,000?
37 A. Yes, in the NHDA.
38
39 Q. In the NHDA, yes.
40 A. Yes.
41
42 Q. Then come to tab 4. Have a look at page 12, in the
43 middle of the page, it's an email from Ms Holt to
44 Ms Jackson, heading "BCOM Reports"?
45 A. Yes.
46
47 Q. If we work through some of these documents, you report

1 in respect of cash at bank on page 13?
2 A. Yes.
3
4 Q. You'll just have to flip the folder around. At
5 page 14, we have the honorarium again and again information
6 about the NHDA in the right-hand column?
7 A. Yes. That's the same as that previous page we looked
8 at, isn't it?
9
10 Q. Yes.
11 A. Yes.
12
13 Q. If you come back to your statement, I was asking you
14 about paragraph 14 and you said you haven't retained any
15 more documents, but we've looked at some minutes and we've
16 now looked at least at a couple of financial reports, but
17 those are the sorts of reports that Ms Holt would prepare?
18 A. Yes.
19
20 Q. And Ms Jackson would bring to the meetings?
21 A. Yes.
22
23 Q. And they would be discussed at the meetings?
24 A. Yes.
25
26 Q. And approved?
27 A. Yes.
28
29 Q. That was the position throughout the period you were
30 on the BCOM?
31 A. Yes.
32
33 Q. In fact, you really describe this in paragraph 16.
34 You say:
35
36 *I would loosely describe these financial*
37 *statements as profit and loss statements.*
38 *The BCOM would examine the statements and*
39 *get advice on what they saw.*
40
41 A. Yes.
42
43 Q. I won't take you through your next page in detail, but
44 at 23 you refer to Ms Jackson. She was the branch
45 secretary at that time?
46 A. She was the branch secretary. She was the only
47 official on branch committee, we only had one paid

1 official.
2
3 Q. Ms Holt is referred to in paragraph 24. She was the
4 bookkeeper?
5 A. That's right.
6
7 Q. For the whole period you were on the BCOM?
8 A. As I understand it, yes.
9
10 Q. You say that she was sometimes available to ask
11 questions although she wasn't available in person at the
12 BCOM meeting. She didn't come to the BCOM?
13 A. She didn't come to the BCOM but we could ask questions
14 of Kathy and she would then get back to Jane, if necessary.
15 I can't remember that happening in recent times.
16
17 Q. You in fact say in paragraph 25.
18
19 *... I do not recall the BCOM ever being*
20 *concerned by any mismanagement or*
21 *anomalies.*
22
23 A. Absolutely not.
24
25 Q. In fact, in 26 you make the point that you were an
26 employee of Peter Mac in the radiation oncology division?
27 A. Yes.
28
29 Q. And the settlement was in late 2003?
30 A. I think so, yes. It was sort of early 2000s.
31
32 Q. In 29, you say settlement was reached whereby
33 Peter Mac paid the No 3 Branch in the order of a couple of
34 hundred thousand dollars?
35 A. Yes.
36
37 Q. If I suggest to you it was in all likelihood the
38 250,000 in the P&L that we looked at earlier, does that
39 sound about right?
40 A. That sounds about right.
41
42 Q. In fairness to you, you didn't have the minutes or the
43 P&L statements when you were preparing your statement?
44 A. No, I did not. No, no.
45
46 Q. In 31 you say that was an unexpected windfall for No 3
47 Branch?

1 A. Yes, it was, a very nice one.

2

3 Q. Yes. Then in 32 you say:

4

5 *The BCOM discussed the settlement*
6 *[moneys] ...*

7

8 Just tell us about what BCOM decided it would do with those
9 settlement moneys?

10 A. I remember having a discussion at BCOM about using
11 that money for members' interests, that it was above and
12 beyond our normal income, if you like, from members' dues,
13 and that we discussed with Kathy, Kathy Jackson, that we
14 would use it, the union would use it, as she recommended
15 and saw fit to advance members' causes.

16

17 Q. The way you put it in your statement is.

18

19 *... as a fund that could be expended by*
20 *Ms Jackson on a discretionary basis for*
21 *union purposes ...*

22

23 Is that right?

24

A. Yes.

25

26 Q. Is that what BCOM decided?

27

A. Yes, it is.

28

29 Q. You say in your statement:

30

31 *For [those purposes] including advancing*
32 *the industrial and political interests of*
33 *the union.*

34

35 I'm looking at the third last line on paragraph 32?

36

A. Mmm-hmm.

37

38 Q. What sort of things were the industrial interests of
39 the union?

40

41 A. They would be things like working perhaps at
42 workplaces, providing assistance for people to undertake
43 courses, that sort of thing. I know that we did send
44 people on travel scholarships associated with industrial
45 relations matters, members from the union.

45

46 Q. And political interests of the union, what does that
47 encompass?

1 A. Look, yes, that was in the case where we would look at
2 things like assisting people in other branches to ensure
3 that they were able to continue with their union
4 involvement in industrial matters.
5
6 Q. That could extend to electioneering?
7 A. Yes. The branch committee would like to be informed
8 about those sorts of things, yes.
9
10 Q. Yes.
11 A. Yes.
12
13 Q. And then you say:
14
15 *I also recall that Ms Jackson was also*
16 *authorised to spend [certain moneys] for*
17 *her personal purposes ...*
18
19 A. Yes.
20
21 Q. Tell us about that, what did BCOM decide there?
22 A. Well, with our experience with Ms Jackson, there were
23 sometimes times where she needed to spend money on things
24 associated with the union, such as before, when you pointed
25 out things like if we needed to or she needed to spend
26 money on mail-outs or something like that, then she might
27 do that with her own money and then get that back, say,
28 from the Peter Mac money.
29
30 Q. Although that might be - what you seem to be talking
31 about here is that would be a spending for union purposes,
32 wouldn't it, a mail-out?
33 A. Yes.
34
35 Q. Unless it is a mail-out for a campaign, possibly --
36 A. Yes.
37
38 Q. -- but what you seem to be saying there - but please
39 tell me whether this is right or not - that she was
40 authorised to spend for her own personal purposes because
41 she had not been receiving sitting fees?
42 A. Yes.
43
44 Q. Is that something different?
45 A. Well, she did not get any - unlike the branch
46 committee members, she did not receive any sitting fees for
47 attending meetings and that sort of thing, so, yes.

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Q. And then you say:

It was separated from the normal financial dealings of the union and put into a separate account. I do not recall what the account was called ...

That's your understanding, is it?

A. That's my understanding. We always referred to it as the Peter Mac money, yes.

Q. You didn't look at specific account statements yourself to see how it had been recorded?

A. No. No, I did not.

Q. If I was to say to you, just for your comment, that in fact the money only went into a separate account when paid into the NHDA, you wouldn't be sure about whether that was how it was dealt with at the time?

A. No, no.

Q. It's just not something you were familiar with?

A. No, that's right.

Q. In 34 you say that Ms Jackson raised with BCOM her intention to spend some of the Peter Mac money for a particular purpose. Formal resolutions weren't passed:

... because we proceeded on the basis that the original resolution continued to operate ... These occasions were more a case of Ms Jackson keeping the BCOM informed and consulting with us about decisions she proposed to make ...

A. Yes.

Q. Just tell us a bit about that. Would Ms Jackson raise it at a meeting other than by way of formal resolution?

A. Yes. Absolutely. Yes, she would indicate to us a particular thing that may have required a certain amount of money and would suggest that we use the Peter Mac money to cover that, and it was always accepted and well aboveboard and always, yeah, there were no suspicious circumstances whatsoever.

1 Q. And then if money did come out of the Peter Mac
2 settlement and go across to NHDA, it would appear in the
3 accounts, in the P&Ls that we have been looking at?

4 A. Yes.

5

6 Q. Then you give some instances of use of the Peter Mac
7 money in paragraphs 35 and following?

8 A. Mmm-hmm.

9

10 Q. In paragraph 41 you say you don't recall it being used
11 to fund candidates in parliamentary elections, and don't
12 recall it funding candidates in other union elections. Is
13 the position that that might have happened but you don't
14 remember one way or the other?

15 A. It could well have happened but I'm not sure, yes.

16

17 Q. And 44, tell us about that example. That was an
18 example of Ms Jackson's proposal getting --

19 A. Oh, yes. As I say in my statement, I can't really
20 recall the exact details. I think it might have been
21 before 2007. Ms Jackson proposed an advertising campaign
22 against the Howard Work Choices legislation and we felt in
23 the branch committee that that was supporting the
24 Labor Party against the Liberal Party. We knew that our
25 membership is quite conservative, I suppose, and would not
26 be very happy about union money being spent on what may
27 have been seen as a Labor Party campaign.

28

29 Q. So is this the position - well, the upshot of it was
30 that Ms Jackson's proposal was not approved?

31 A. That's right, yes.

32

33 Q. Then you say in 45 the proposals Ms Jackson made were
34 made orally but not put into written proposals?

35 A. Not necessarily, no. It was sort of a side bar
36 conversation, if you like.

37

38 Q. In 48 you say:

39

40 *I was not aware of the National Health*
41 *Development Account until I read*
42 *recent media reports ...*

43

44 We've seen that it does get a reference in the P&Ls. Had
45 you just forgotten that when you did your statement?

46 A. Yes. I was recently, through the media and through
47 media reporters, asked about the NHDA, and I didn't have a

1 clue, I did not remember anything like that, so I denied
2 all knowledge of the NHDA. However, we always knew about
3 the Peter Mac money and I think that's probably our
4 shorthand, how we always referred to it.

5

6 Q. So you always called it the Peter Mac money?

7 A. Yes.

8

9 Q. Is it that - you tell me, tell me if this is correct
10 or not, that you had just forgotten that there was this
11 separate account, the National Health Development Account?

12 A. Yes.

13

14 Q. And now that you look at those P&L sheets I've taken
15 you to, does that refresh your memory?

16 A. Yes, that does. That reconciles my, yes, gap.

17

18 Q. And the NHDA was something that the BCOM discussed
19 from time to time?

20 A. I don't recall specifically, but --

21

22 Q. It was certainly in the P&Ls, you accept that?

23 A. Yes, and also noting that the members of branch
24 committee were very particular in questioning anything that
25 we did not understand, yes.

26

27 Q. Then you talk about the members of the BCOM receiving
28 sitting fees?

29 A. Yes.

30

31 Q. The amount received was usually \$100 cash per meeting?

32 A. Yes.

33

34 Q. Was that per person?

35 A. Per person, yes.

36

37 Q. In 52 you say that the balance, which represented
38 donation portion of the sitting fees, was retained by
39 Ms Jackson?

40 A. Yes.

41

42 Q. And that was something the BCOM approved?

43 A. Yes.

44

45 Q. What was the understanding that those funds would be
46 directed towards?

47 A. Again, to matters associated with the best interests

1 of the union and the members.

2

3 Q. But in any event, that was not - that was a matter
4 well known to the BCOM?

5 A. Yes.

6

7 Q. Could you come, please, to the parts of your statement
8 that deal with the audit and compliance committee.

9 A. This is with the HSU East amalgamated --

10

11 Q. Yes, after the merger. After the merger, you became a
12 member of the audit and compliance committee?

13 A. Yes.

14

15 Q. You went to meetings of the audit and compliance
16 committee?

17 A. Yes, I did.

18

19 Q. Were they run in a similar way to the BCOM meetings?

20 A. Definitely not, no.

21

22 Q. Tell me about that. What was one of the differences?

23 A. In the first days of the meetings of both council and
24 the audit and compliance committees, I think that
25 Victorians felt that they were run on a very regimented
26 basis; they were very, let's say, strict.

27

28 As far as the audit and compliance committees were
29 concerned, we were taken through the profit and loss
30 statements and whatever other financial documents that we
31 were given and then - it was very slick, and then at the
32 end of each of those meetings all of the documents would be
33 collected, which was surprising. Prior to that, our
34 experience, or certainly my experience and the Victorian
35 health professionals experience, was that we kept all
36 pieces of paper with the understanding that we wouldn't
37 flash them around, but here everything was collected.

38

39 Q. Was Mr Williamson in attendance at these meetings?

40 A. Yes, he was.

41

42 Q. Mr Mylan?

43 A. Look, I do have that in paragraph 58 that Mr Mylan was
44 at those meetings. He only - I'm pretty sure he only
45 started attending the AC meetings after Mr Williamson stood
46 aside. So I just want to make that clarification.

47

1 Q. You deal with the first AC committee meeting in
2 October 2010 in paragraph 62 and you say that was the first
3 time you were asked to hand back documents at the end of
4 the meeting?
5 A. That was the first AC meeting that I had attended and,
6 yes, I was very surprised at having to hand back the
7 financial documents at the end of that meeting.
8
9 Q. Can we come to the meeting of 7 February 2011 which
10 you deal with on page 8.
11 A. Yes.
12
13 Q. Before the meeting you didn't get any documentation;
14 is that right?
15 A. No.
16
17 Q. Was that typical?
18 A. Yes.
19
20 Q. During the meeting, you received some --
21 A. We would be presented with the various documents that
22 were coming up --
23
24 Q. Would this be the position, and tell me if this is
25 right or not, you would be asked to hand them back at the
26 end of the meeting?
27 A. Yes. The documents were numbered and usually
28 Iris Knight, who was the other vice-president, would come
29 around and collect them all and make sure she had the right
30 numbers.
31
32 Q. And then you noticed something in the document you
33 were handed in the meeting of 7 February?
34 A. Yes.
35
36 Q. Tell us about that?
37 A. This was - I can't recall what it was called. It was
38 a report about 10, 15 pages in length. It wasn't discussed
39 in detail, it was different from the usual sort of profit
40 and loss statements, and it was outlining a number of
41 things, but I was sitting next to Kathy and she was delving
42 into the document and she pointed out to me, without saying
43 anything, a paragraph about a company - it was I think
44 United Edge, I can't be sure, and in there was a
45 declaration by Mr Williamson that he was a stakeholder or a
46 shareholder, or had some interest in this particular
47 company, and it was the supplier of IT services to the HSU

1 East.
2
3 Q. What was your reaction when that was pointed out to
4 you?
5 A. I said to Kathy, you know, "This is a conflict of
6 interest. Has he declared this?", and she said, "No", you
7 know. Also, "I don't think it's gone out to tender". She
8 wasn't sure. Neither was I. So our eyebrows went right up
9 and thought it very strange. One of the comments I think
10 Kathy said, "He's shown us this so that he can say that he
11 has declared his involvement in this particular company."
12
13 Q. Were you able to keep that document at the end of the
14 meeting?
15 A. I did not, no.
16
17 Q. Did someone ask you for it?
18 A. I don't recall. I imagine it was taken up along with
19 the usual process. I'm not sure about that.
20
21 Q. You deal with some further meetings of the AC
22 committee, I won't take you through those in detail. You
23 talk in paragraph 79 about a meeting in Sydney on
24 13 November 2011?
25 A. Yes.
26
27 Q. By this stage, of course --
28 A. It had all gone a bit pear-shaped.
29
30 Q. Yes. It had all become public.
31 A. Yes.
32
33 Q. You then asked to see certain documents and you were
34 advised by the bookkeeper, Mr Gibson, they had been removed
35 by Mr Temby and his associates?
36 A. Yes.
37
38 Q. Then you say you asked his assistant. Then you said:
39
40 *I asked Mr Gibson for copies of the missing*
41 *items to be provided ...*
42
43 That removal was simply so that Mr Temby could prepare the
44 report that he had been asked to prepare?
45 A. I imagine so, yes.
46
47 Q. And then:

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I asked Mr Gibson for copies of the missing items to be provided to me.

Who is Mr Gibson?

A. He was the bookkeeper for the HSU East and I believe he was also the bookkeeper prior to that time with the New South Wales branch.

Q. What's Mr Gibson's first name?

A. Barry.

Q. You then wrote to Mr Mylan and that's behind tab 2 on page 8 of the documents attached to your statement. You say:

Just wanting to follow up on an item from the A&C meeting ... re copies of the files I requested through Barry.

That's Mr Gibson?

A. Yes.

Q. You said that Barry had agreed that "copies of the known files be forwarded to me. Grateful if you arrange for copies" - at the bottom:

I would be grateful if you would arrange for copies of these files to be available to me tomorrow at the Council Meeting.

A. Yes.

Q. Did Mr Mylan respond to your letter?

A. No.

Q. Did Mr Hayes?

A. No. I did write an earlier email - again, I've lost all of my emails since retiring from my place of work - asking Peter for, you know, I was making the same request effectively. It would have been a week or so later. Again, I got nothing back at all and so then I wrote this more formal one and copied other people into it.

Q. In 82 you are dealing with what happened after the merger.

A. Yes.

1
2 Q. I think now you're dealing with the period after the
3 allegations concerning Mr Williamson had become public; is
4 that right?
5 A. This is in 82. No. This is really in the first
6 months prior to charges being brought against
7 Mr Williamson.
8
9 Q. You mean in the early part of 2011?
10 A. Yes, in the early part of 2011, correct, yes.
11
12 Q. In 82, at the bottom, you're saying, "Access to", and
13 then come over to the next page, "membership lists and
14 email distribution lists was now denied to Victorian
15 officials and councillors."
16 A. Yes.
17
18 Q. Who denied it?
19 A. Anybody - people from New South Wales.
20
21 Q. Do you mean the leadership of New South Wales?
22 A. Yes.
23
24 Q. Mr Williamson and those supporting him?
25 A. Mr Williamson, Mr Hayes, Mr Mylan.
26
27 Q. Why would they not allow you to have membership lists?
28 A. I don't know. We were on our knees as far as trying
29 to organise our members within Victoria and within our own
30 particular branches and we would - the lists that we were
31 getting earlier in the piece were incorrectly translated
32 across to the New South Wales databases and then as things
33 progressed we, the Victorians, said, "We've always got our
34 new and resigned members at our regular meetings," and this
35 was enormously helpful as far as working out where things
36 were going well, where things weren't going so well, and
37 great for recruitment and also follow-up with people who
38 weren't happy and we were denied those lists. We could
39 only ask the Sydney branch for information about particular
40 members if we had a good and proper reason and I understand
41 that was - that was also happening with the organisers and
42 the officials within Victoria at the office. They were
43 tearing their hair out.
44
45 Q. I won't take you through the next few pages of your
46 statement in detail. You've set out your evidence. Can
47 I just ask you some questions about the matter that you

1 come to at the bottom of page 14, pay rises?
2 A. Yes.
3
4 Q. Pay rises for officials of HSU East were approved in
5 late 2010 or early 2011. In paragraph 112 you're dealing
6 with meeting of council on 8 February 2011?
7 A. Yes.
8
9 Q. You say in the second last line that:
10
11 *The Victorian councillors and Ms Jackson*
12 *were concerned about the huge salary*
13 *increases ...*
14
15 Can I show you a document that was put into evidence
16 yesterday. It is MFI1 of Katrina Hart's materials. I'm
17 taking you to the report that Mr Temby prepared of 3 July
18 2012.
19 A. Can you tell me --
20
21 Q. It is the numbering in the top right-hand corner. It
22 is page 313. You'll find it behind tab 45.
23 A. Okay. Thank you.
24
25 Q. You say in your statement that they were huge salary
26 increases. This is, I take it, just an accurate - this
27 just sets out the order of magnitude of the increases.
28 Have you got page 3 open?
29 A. Yes, I have now, yes.
30
31 Q. Mr Williamson's salary would increase by 25 per cent?
32 A. Yes. However, his salary at 30 September 2010
33 I didn't realise was quite so much as that. I thought it
34 was less than that, but I can't be sure.
35
36 Q. In any event --
37 A. In any event, yes.
38
39 Q. -- it was a large increase?
40 A. It was.
41
42 Q. Ms Jackson was going to get an increase of 66 per cent
43 and Mr Bolano of 70 per cent?
44 A. Yes.
45
46 Q. Were they in favour of that?
47 A. No.

1
2 Q. Who was in favour of the pay increase and who was
3 against?
4 A. Well, it was very difficult to know about the actual
5 pay increases. They certainly weren't listed like that in
6 any of the discussions in council. At the meeting in
7 Sydney in November/December, I think, in 2010, council were
8 asked to approve the pay increases without any
9 documentation or report. So we didn't really know exactly
10 what was happening with regard to, you know - we did not
11 have anything like this chart.
12
13 Q. Let's just take that in steps. Was a report going to
14 be prepared by Ms Jensen?
15 A. Ms Jensen had prepared a report, I believe, for
16 Mr Williamson in the Sydney - for the Sydney meeting in
17 I think November.
18
19 Q. 2010?
20 A. 2010, yes.
21
22 Q. There was opposition to the pay rises, I'm just trying
23 to say this out in summary, and please do correct me if
24 I get this wrong, there was opposition at the November
25 meeting because Ms Jensen's report wasn't available?
26 A. That's right.
27
28 Q. One then comes through to the 8 February 2011 meeting?
29 A. Yes.
30
31 Q. Perhaps the simplest thing is if I give you the
32 minutes of that meeting and you have a look at those.
33 A. Thank you. Just to comment, Mr Stoljar, about the
34 graph that you were showing or the chart that you were
35 showing me, I did not see anything like that until
36 Mr Temby's report came out.
37
38 Q. I see. All right.
39 A. Yes.
40
41 Q. Why don't we take it in steps. As at November 2010,
42 you knew that a pay rise was contemplated?
43 A. Yes.
44
45 Q. But you hadn't seen Ms Jensen's report?
46 A. No, that's right.
47

1 Q. We then come to the next meeting. There's two sets of
2 numbering, but if we look at the first page, it's headed
3 "Minutes of HSU East Council Meeting".

4 A. Yes.

5

6 Q. You are identified in the third line as being in
7 attendance?

8 A. Correct.

9

10 Q. And then there's an entry "Minutes" in the left-hand
11 column:

12

13 *Meeting of 26/11/2010 be received and*
14 *adopted.*

15

16 That was the previous meeting where Ms Jensen's report had
17 not been available?

18 A. That's right.

19

20 Q. Then if we come through to page 6 of the minutes,
21 there's also a number 44 in the top right-hand corner?

22 A. Yes.

23

24 Q. The minutes record that it was requested that further
25 information be provided. That's talking about a meeting of
26 November 2010. I think I might have said October. The
27 previous meeting was 26 November 2010?

28 A. That's right.

29

30 Q. If we come back to page 6, it says "... further
31 information to be provided to Council...":

32

33 *As a consequence Beth Jensen, Management*
34 *Consultant, has provided further advice ...*

35

36 And then a resolution was put:

37

38 *- The General Secretary decide the salary*
39 *point for each individual full time*
40 *Officer.*

41 *- That the President decide the salary*
42 *point for the General Secretary ...*

43 *- The General Secretary to provide an*
44 *Annual report ...*

45

46 That was the resolution passed, was it?

47 A. Yes, it was.

1
2 Q. The general secretary was Mr Williamson?
3 A. Yes.
4
5 Q. It seems to leave it to his discretion as to what --
6 A. Absolutely. Yes, it was.
7
8 Q. Who was the president at that time?
9 A. The president was Mr Pollard, Steve Pollard.
10
11 Q. So he would decide the salary for Mr Williamson?
12 A. Yes.
13
14 Q. In his discretion?
15 A. Yes.
16
17 Q. Just to save time, if I can put it to you this way,
18 and please correct me if I've got this wrong, but was part
19 of the proposal that the Victorian salaries needed to come
20 up?
21 A. Yes.
22
23 Q. Because Victorian officers were being paid, in general
24 terms, less than the New South Wales?
25 A. That's right, yes.
26
27 Q. And part of this was to bring them --
28 A. To reconcile, sort of, yes.
29
30 Q. So it was pretty clear that the Victorians were going
31 to get quite a large increase?
32 A. Yes.
33
34 Q. But it was unclear how much of an increase New South
35 Wales would get?
36 A. Yes.
37
38 Q. Was Ms Jackson present at this council meeting?
39 A. Yes, she was.
40
41 Q. She's not listed as an attendee?
42 A. Oh.
43
44 Q. Yes, she is, she's in attendance. Did she vote on
45 that?
46 A. Well, in the discussion, it - at that stage of the
47 amalgamation and the meetings, all I can say is the

1 Victorians were wet behind the ears as far as the operation
2 of council meetings were concerned. We weren't voting on -
3 well, they called for a vote. The process of presenting
4 resolutions and voting, and that sort of thing, was
5 unfamiliar, let's say, to us and we were still getting
6 our - getting rid of our training wheels, let's say, at
7 that point, and the only people from the New South Wales
8 council who were asking any questions at all seemed to be
9 Ted Hinge and Dr Anthony Llewelyn.

10
11 I tried at that stage, at that point where that was
12 going through, to call an in camera meeting because Kathy
13 and I discussed it prior to, we were worried about these
14 going through. My request was ignored because I wasn't
15 sure of the process and really --

16
17 Q. That's what you deal with in 114 of your statement?
18 A. Yes, that's right.

19
20 Q. In 115 you say:

21
22 *Ms Jackson was beside herself with*
23 *anxiety ...*

24
25 Ms Jackson and Mr Bolano opposed the rises?

26 A. Yes.

27
28 Q. You opposed the rises, yourself?

29 A. Yes. Well, it was - it was - the motions and the
30 resolutions were discussed in a very sort of matter of fact
31 way, as if this was a done deal, already sorted, and we
32 really didn't have any indication as to the amounts of
33 money. It was just very vague from any information that we
34 had. So it was very difficult to make a decision and, as
35 I say, we were still - I think we were blindsided by the
36 simple operation of the way the meetings were conducted.

37
38 Q. Is this the position: Ms Jackson and Mr Bolano
39 opposed --

40 A. Yes.

41
42 Q. -- and you felt yourself blindsided, to use your
43 phrase?

44 A. Well, yes. Yes, it was just, you know, "Those for,
45 aye", "Those against", and, you know, we passed the motion.
46 It was just "vroom", rushed through.

47

1 MR STOLJAR: Commissioner, could the minutes of the
2 meeting of the HSU East council of 8 February 2011 be
3 marked for identification?
4
5 THE COMMISSIONER: Yes. By what?
6
7 MR STOLJAR: It has the --
8
9 THE COMMISSIONER: For example, MFI1?
10
11 MR STOLJAR: Yes, unless the bundle has already been
12 marked. I think it would be MFI2, Commissioner, because
13 the bundle should be MFI1.
14
15 THE COMMISSIONER: Because the statement is relatively
16 short, the number of documents referred to is relatively
17 low, I was just treating that as if it was an affidavit, so
18 there's no MFI. What's wrong with Wilkinson MFI1?
19
20 MR STOLJAR: Nothing.
21
22 THE COMMISSIONER: That's what it will be referred to as
23 MFI1
24
25 THE COMMISSIONER: It is probably convenient to keep it in
26 the folder. People can do what they like with their own
27 folders.
28
29 **WILKINSON MFI#1 MINUTES OF MEETING OF HSU EAST COUNCIL**
30 **DATED 8/02/2011**
31
32 MR STOLJAR: Q. Excuse me just one moment, Ms Wilkinson.
33 A. Yes, sure.
34
35 Q. I asked you some questions about paragraph 58 of your
36 statement, more particularly, who was on the AC committee
37 at different times.
38 A. Mmm-hmm.
39
40 Q. I won't trouble you with that, Ms Wilkinson.
41
42 MR STOLJAR: I have no further questions. Thank you,
43 Commissioner.
44
45 THE COMMISSIONER: Very well. Ms Wilkinson, thank you for
46 attending. It may be necessary for you to return later if
47 anyone wants to question you about your evidence, but

1 subject to that, you can leave.
2 A. Thank you.

3
4 <THE WITNESS WITHDREW

5
6 THE COMMISSIONER: Who do we have next?

7
8 MR STOLJAR: The next matter is I just wish to tender a
9 statement. I don't have the witness here and it may not be
10 necessary to call him. I can provide you, Commissioner,
11 with a statement of Reuben George Dixon, together with a
12 number of documents referred to in that statement. The
13 statement is dated 5 June 2014. I'd ask that it be
14 received into evidence.

15
16 THE COMMISSIONER: Yes. That will be received into
17 evidence.

18
19 #STATEMENT OF REUBEN GEORGE DIXON DATED 5/6/2014

20
21 MR STOLJAR: Very briefly, Commissioner, the main purpose
22 of the statement is that it attaches a number of further
23 minutes of the BCOM in tabs 1 and following. You will see,
24 Commissioner, that item 4 indicates the finance report be
25 accepted. That's on page 1. I won't take you through the
26 others, Commissioner, but they are in similar terms to the
27 sorts of documents I took Ms Wilkinson to.

28
29 I should, perhaps, just identify one matter. On page
30 42, behind tab 4, Commissioner, you'll see the income
31 recorded for the previous year, so that's the year prior to
32 July 2004, there's a legal settlement of \$250,000. That's
33 the Peter Mac settlement.

34
35 Other than that, the statement really speaks for
36 itself, Commissioner, and I won't go through it.

37
38 The next witness, Commissioner, is Ms Jane Holt.

39
40 <JANE CHRISTINE HOLT, affirmed: [11.15am]

41
42 <EXAMINATION BY MR STOLJAR:

43
44 MR STOLJAR: Q. Your name is Jane Christine Holt?

45 A. Yes.

46
47 Q. You are a resident of Victoria?

1 A. Yes.
2
3 Q. You're a bookkeeper by profession?
4 A. Yes.
5
6 Q. You prepared a witness statement in these proceedings
7 dated 3 June 2014?
8 A. Correct.
9
10 Q. Is the content of that statement true and correct?
11 A. Yes, it is.
12
13 MR STOLJAR: Commissioner, I'd ask that that statement be
14 received into evidence. It may be convenient, since there
15 are a large number of MFIs, if the volume of exhibits to
16 that statement be marked as Holt MFI1.
17
18 THE COMMISSIONER: Yes. The statement will be received
19 into evidence and the exhibits to it will be referred to as
20 Holt MFI1.
21
22 **#STATEMENT OF JANE CHRISTINE HOLT DATED 03/06/2014**
23
24 **HOLT MFI#1 VOLUME OF EXHIBITS ATTACHED TO STATEMENT**
25
26 MR STOLJAR: Q. Ms Holt, do you have a copy of your
27 statement there?
28 A. I do, yes.
29
30 Q. I'll provide you with a paginated copy just in case we
31 need to go to several pages. Would you have a look at the
32 first page of your statement. Paragraph 3(a), you have a
33 certificate 4 in accounting. That qualifies you for
34 bookkeeping activities, I take it?
35 A. Yes. It's a requirement to be a BAS agent.
36
37 Q. How long have you been a bookkeeper?
38 A. Well, back probably mid-80s.
39
40 Q. In 1988 you started to perform bookkeeping services
41 for the Victorian No 3 Branch and, indeed, in paragraph 6
42 you say you were the bookkeeper from 1988 right through
43 to December 2010?
44 A. That's right.
45
46 Q. You described your responsibilities in paragraph 9.
47 You carried out those activities for the whole of that

1 period 1988 through to 2010?
2 A. Yes, I did.
3
4 Q. In paragraph 12 you say you reported directly to
5 Ms Jackson until May 2010, that's when the merger took
6 place between Victoria No 3 Branch and some other branches
7 of the HSU?
8 A. From Kathy's appointment as secretary, I accounted to
9 Kathy. Prior to that, to the previous secretary.
10
11 Q. In paragraph 18 you deal with sitting fees. What's a
12 sitting fee?
13 A. Well, I used to refer to it as the "honorarium",
14 payment to the branch committee members who managed the
15 union, for their time.
16
17 Q. Why would that be paid? For use of time, did you say?
18 A. It's similar to board directors being paid for their
19 time.
20
21 Q. How much was paid per meeting?
22 A. It was usually in the vicinity of about \$8,000.
23
24 Q. How was it paid? Cash or cheque?
25 A. It was paid in cash.
26
27 Q. How much would each BCOM member get?
28 A. I'm not sure of the actual division of the funds.
29 I presume it was equally distributed amongst them, but not
30 Kathy, she wasn't receiving this fee.
31
32 Q. You mentioned that you recorded it as an honorarium.
33 Is that how you coded it in the accounts, is it?
34 A. When I started work with the union, that was the
35 normal practice, that they referred to it as an honorarium.
36
37 Q. That was in place before you even started?
38 A. Yes.
39
40 Q. You just kept the practice going?
41 A. Yes.
42
43 Q. Could I show you a document. You won't have seen this
44 before. This is not a straightforward printout from MYOB
45 because it's had to be --
46 A. It is a collation of data, yes.
47

1 Q. Collation is a good way to put it. It's been prepared
2 by the forensic accountants working for the Commission but
3 it's drawn from the MYOB records that you kept?
4 A. That's right.
5
6 Q. I just wanted to ask you some questions about this.
7 In the ledger that you maintained, you have a heading,
8 first of all, "ID Number", and then the letters "SRC".
9 Does that stand for "source"?
10 A. Yes. They're default headings from MYOB.
11
12 Q. Underneath that source it says "CD". What does CD
13 stand for?
14 A. That's a - CD, "Cash".
15
16 Q. I thought it might be cash disbursement?
17 A. I just - it's one of those things, it's in front of
18 me, I never take any notice of. It must be just cash
19 disbursement because the entry is done as a cash payment.
20 So, yes, it would be a cash disbursement.
21
22 Q. Coming down that column, there is one entry, "GJ"?
23 A. That's a general journal.
24
25 Q. And then "Date" is self-explanatory. "Payee", you've
26 got some - first of all, the account is identified as
27 "6-1580 Honorarium"?
28 A. Yes.
29
30 Q. Is that the sitting fee? Is that how you recorded the
31 sitting fees?
32 A. Yes.
33
34 Q. Did anything else go into that account?
35 A. No.
36
37 Q. I just want to understand the "Payee". For example,
38 many of them are BCOM. Some of them are cash. Is there
39 any particular reason why, for example, 18 July 2006,
40 15 August 2006, it says "cash" rather than BCOM?
41 A. No, it's just me on a day.
42
43 Q. Can I just ask, you've got an entry for 30 May 2006
44 that says "D Asmer". What's that one?
45 A. From memory, I couldn't tell you, but it would have
46 been a payment to Diane Asmer, but without the actual MYOB
47 entry. From that, I can't tell you exactly what it is.

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Q. In any event, the total, if you come to the bottom of the page, \$218,876, that's the total amount that went out by way of honorarium, is it, from 2004 through 2010?

A. Yes, but I'm not - I can't from memory recall what the audited journals there would represent. They're adjustments that I've made under instruction from the auditors.

Q. I see.

A. He may have done a re-allocation, so the amounts next to audited journals are not cash payments as such.

Q. I see. There is in fact quite a large entry for 24 May 2010, \$48,000. Do you know what that's about or do you not remember, as you sit there?

A. He - yes, I do think I know what that's about. When he was doing either the 30 June audit or the exit audit for 24 May, so that looks like it would be the exit audit, he picked up on the fact that in the minutes Kathy had - the branch committee had decided that Kathy should be paid an honorarium for the period that she was not being paid by the Vic 3 Branch, that she was national secretary, and she was being paid by the National Office and therefore, for consistency, she should be paid an honorarium for her paid time in managing the Vic 3 Branch.

Q. I see. So that's what that --

A. So the auditor has picked up on this amount of money that was outstanding and owing to Kathy that she hadn't been paid. So that would - it would be to do with that audited journal. I mean, this is just - it's like, you know, if you're a board director, you give your time to sit on a board, you're paid a nominal amount of money. This is the same sort of process. That \$48,000 would have been over a three year period, not a one year period.

MR STOLJAR: Commissioner, could that document be marked for identification.

THE COMMISSIONER: Yes. That will be Holt MFI2.

HOLT MFI#2 ENTRY FOR 30/05/2006 THAT SAYS "D ASMER"

MR STOLJAR: Q. Would you go to your statement, please, Ms Holt. You say in 24 that from time to time you made what you describe as authorised payments. Who would give

1 you the instructions or the authority?
2 A. Kathy was the authority for payments.
3
4 Q. And then at 28 you refer to regular monthly expense
5 payments such as credit card bills and Telstra accounts.
6 What were the credit card bills that the account was
7 paying?
8 A. Kathy had two - three business credit cards which were
9 only for credit - for union expenses, and they were paid by
10 a direct debit each month.
11
12 Q. Could I show you a bundle of documents that I'm going
13 to tender shortly. I note, for the record, it is the audit
14 file provided by Mr Agostinelli. I'm going to show you
15 volume 2. Could you come, please, in my volume to D69.
16 I will give you a page reference, it's 457. That's a
17 statement for a Citibank credit card?
18 A. Yes.
19
20 Q. It is in the name of Ms Jackson, but if you look in
21 the address, what's that PO box address?
22 A. That's the Vic 3 Branch post office box.
23
24 Q. This was a credit card issued by Citibank, a
25 Mastercard it looks like, in the name of Ms Jackson, but
26 the account was paid each month by the branch, was it?
27 A. Yes.
28
29 Q. And the account statements were received by the
30 branch, it looks like?
31 A. Yes.
32
33 Q. And to your understanding, what were the expenses on
34 the Citibank card?
35 A. On this one? Well, mainly travel and internet related
36 and telephone expenses which would be typical.
37
38 Q. That's typical of the expenses on that card?
39 A. Travel, Australia Post, petrol.
40
41 Q. And there was also a Diners Club card?
42 A. Yes.
43
44 Q. If you go to the next page, page 458, that's an
45 example of the Diners Club card?
46 A. Yes.
47

1 Q. Again, it is in the name of Ms Jackson but the address
2 is that of the --
3 A. Office.
4
5 Q. And account statements, to your knowledge, were sent
6 to the office?
7 A. Yes. They used to come to me.
8
9 Q. They came to you?
10 A. Yes.
11
12 Q. Every month?
13 A. Yes.
14
15 Q. The same with the Citibank card?
16 A. Yes.
17
18 Q. Was that the same with the Mastercard?
19 A. Yes.
20
21 Q. You would check them, would you?
22 A. I would then marry them to receipts and if there were
23 not receipts, I would - you know, Kathy would explain to me
24 what they were, but generally there were receipts. She was
25 a bit inclined to give me the shoebox.
26
27 Q. The what, sorry?
28 A. The shoebox of receipts.
29
30 Q. But these were receipts - what were the expenses in
31 general terms, what sort of things?
32 A. Travel. Diners Club was generally travel.
33
34 Q. And you would organise payment, would you?
35 A. That was again a - I think that one was a direct
36 debit.
37
38 Q. A direct debit. I can see that on the statement, yes.
39 In fact, if we come back to 28 of your statement, you say:
40
41 *For some regular monthly expense payments,*
42 *such as credit-card bills and Telstra*
43 *accounts, payments were made via monthly*
44 *direct debit.*
45
46 A. Yes.
47

1 Q. So you would receive the account statements, you'd
2 get the receipts and then once you'd done that check, you'd
3 enter the transaction in MYOB - I am just looking at 28
4 so --
5 A. Yes.
6
7 Q. -- just correct me if I am getting this muddled - and
8 you say you allocated it to appropriate expense accounts.
9 What sort of expense accounts were you allocating it to?
10 A. Well, in the chart of accounts there would be things
11 for fuel, for telephone.
12
13 Q. Travel?
14 A. Travel, accommodation, meals.
15
16 Q. You say:
17
18 *Ms Jackson provided credit-card receipts*
19 *and if I did not know what the expenses*
20 *were for, I would ask [her] to clarify ...*
21
22 A. Yes, sometimes receipts are a bit vague in that they
23 don't provide enough information.
24
25 Q. In 29 you're talking about Ms Jackson's Mastercard.
26 Again, is that card in respect of which the account
27 statements were sent to the branch's PO box.
28 A. Yes. That was a business Mastercard issued to the
29 business.
30
31 Q. What business?
32 A. Well, it goes back to the State and Health
33 Professionals Association. It had been in place from prior
34 to Kathy working there and there was a term deposit held
35 against the maximum value of that credit card and I think
36 Michael, I can't remember the previous person's name,
37 Michael Maloney, he held a credit card with the
38 Commonwealth Bank prior to that. When he left, that card
39 was chopped up and Kathy was allocated a card and that
40 would have been used for a broader range of expenses,
41 because Mastercard is accepted everywhere.
42
43 Q. But expenses, to your knowledge and understanding,
44 associated with the union?
45 A. Oh, strictly, yes.
46
47 THE COMMISSIONER: Have you reached a convenient breaking

1 time?

2

3 MR STOLJAR: Yes, I have.

4

5 THE COMMISSIONER: We will adjourn until five to 12.

6

7 **SHORT ADJOURNMENT.**

8

9 MR STOLJAR: Q. Do you still have the document which has
10 been marked Holt MFI2 in front of you, the large sheet?

11 Yes. I didn't ask you about the document on page 2 of
12 MFI2. That's a screen-shot. It relates to an amount of
13 \$8,400. If one looks at the account details, that's been
14 divided up, such that \$3,200 was allocated to honorarium
15 and then \$3,000 to professional fees. What was that about,
16 do you know?

17 A. One of the branch committee members would advise me as
18 to the break up of the payment as it was deemed. Some of
19 this was to be allocated for their own professional
20 development and attendance at conferences and seminars,
21 et cetera.

22

23 Q. Is that the monthly figure of \$8,400?

24

25

26 Q. If you come back to page 1 of MFI2, the very last
27 entry, "Cash: \$3,200", that's the honorarium which is the
28 first entry on page 2?

29

30

31 Q. So that's been allocated to the honorarium account?

32

33

34 Q. Just keep MFI2 there for a minute and I'll show you
35 another document. I asked you about what looked to be an
36 entry in relation to Diane Asmer of 30 May 2006 and you
37 said you'd need to see the screen-shot or more information?

38

39

40 Q. This is the screen-shot for that entry. Does that jog
41 your memory at all as to what that payment was about?

42

43

44

45

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MR STOLJAR: Could that document be marked for identification, Commissioner?

THE COMMISSIONER: That will be Holt MFI3.

HOLT MFI#3 SCREEN-SHOT OF ENTRY RELATING TO DIANE ASMAR DATED 30/05/2006

THE COMMISSIONER: The figure in MFI3 is 8,636.36. This figure is 9,500 but a tax figure has been taken out.

MR STOLJAR: Yes.

THE COMMISSIONER: If you take out the tax figure, you end up with \$8,636.36.

MR STOLJAR: Yes, as I understand the 9,500 is inclusive of GST.

THE COMMISSIONER: Yes, thank you.

MR STOLJAR: Q. Ms Holt, could you come back to your statement, please. I had reached paragraph 31. You say there that you maintained both electronic and hard copy files?

A. Yes.

Q. The electronic files were the MYOB files?

A. That's right.

Q. You also kept hard copies of documents, and you deal with that in paragraph 37 and following. In particular, in paragraph 39 you say:

*I kept the accounting paperwork in folders.
I had folders labelled:*

And then you set out a number of things. The Commission has received this morning, in answer to a notice to produce, some folders. I don't have copies but I'll just show you, for example, a folder headed "Creditors: July-October 2008". If you just open that up and have a look at it, I just want to understand, is that --

A. That's my work.

Q. That's your work?

1 A. Yes.
2
3 Q. So you arranged the documents in that folder into the
4 order in which they appear? Just have a glance through.
5 A. Assuming no-one has altered the contents since I've
6 seen it in the many years that have gone.
7
8 Q. You keep the invoices behind that and the various
9 receipts and so forth?
10 A. Yes.
11
12 Q. You kept all those hard copy documents?
13 A. Pardon?
14
15 Q. You kept all the hard copy documents --
16 A. Yes.
17
18 Q. -- as well as maintaining an electronic record?
19 A. Yes.
20
21 Q. We've only got the three folders, but can I take it
22 there were many such folders?
23 A. Most years - in fact I would say all years, there were
24 two folders for creditors. Basically six months of
25 payments would fit in a folder, and then there was a
26 separate folder for payroll, and then I had a folder for
27 bank reconciliations. I then had a folder that covered
28 things like BAS, GST, taxes, payroll taxes, superannuation
29 payments, et cetera.
30
31 Q. What about the credit card records?
32 A. That was kept in another folder.
33
34 Q. Another folder as well?
35 A. Yes.
36
37 Q. There would be sets of folders like these folders that
38 I've been showing you?
39 A. That's right, yes.
40
41 Q. And they would all be maintained in more or less the
42 same way, were they?
43 A. All my records were always kept in date order which is
44 why these tabs you see, the coloured tabs.
45
46 Q. Are they your coloured tabs?
47 A. Yes, and they are a date. So 0909 is 9 September. So

1 if the auditor is looking for a file, or I'm looking for a
2 file, I just flick to the date. It just made it easy;
3 quick to find things.
4

5 Perhaps I'll just provide you with the other two
6 folders and just satisfy yourself that those two folders
7 are also folders that were maintained by you for the
8 purposes of maintaining the branch's accounts. Just have a
9 look.

10 A. I'm just making sure that they are actually what
11 they --

12
13 Q. Take a moment. Don't rush.

14 A. Yes.

15

16 Q. Just while you have those folders, did the folders
17 that pertained to the credit card records, did they
18 maintain both the credit card receipts and any invoices?

19 A. Yes, the receipts were normally - I think I used to
20 put them in a plastic wallet behind the payments.

21

22 MR STOLJAR: Commissioner, could those three folders be
23 marked for identification?
24

25 THE COMMISSIONER: Yes. Could I just have a look at them
26 so I can identify them precisely? Can I ask whether any
27 other folders of the same kind were produced this morning?
28

29 MR STOLJAR: No, Commissioner.
30

31 THE COMMISSIONER: The folder stamped on the back "Vic
32 No 3 Branch Expense Vouchers" will be Holt MFI4.
33

34 **HOLT MF1#4 FOLDER STAMPED "VIC NO 3 BRANCH EXPENSE**
35 **VOUCHERS"**
36

37 THE COMMISSIONER: The folder with the words "Electronic
38 Transfers March-June 2008" will be Holt MFI5.
39

40 **HOLT MF1#5 FOLDER STAMPED "ELECTRONIC TRANSFERS MARCH-JUNE**
41 **2008"**

42 THE COMMISSIONER: And the folder marked "Creditors Jul-Oct
43 2008" will be marked Holt MFI6.
44

45 **HOLT MFI#6 FOLDER STAMPED "CREDITORS JUL-OCT 2008"**
46

47 MR STOLJAR: Q. You've dealt in your statement with what

1 happened to your hard copy records and you say at 42 there
2 was a flood at some stage, but in fact no accounting
3 documentation was destroyed in that flood, is what you're
4 saying?
5 A. No, my office wasn't affected by flood.
6
7 Q. The folders that you were maintaining, including the
8 credit cards, they weren't affected by the flood?
9 A. No.
10
11 Q. So what happened to those folders?
12 A. During the amalgamation - post the amalgamation,
13 24 May, and after the audits were completed, I would - upon
14 request I sent documents to the Sydney office. I don't
15 recall exactly when. Incrementally they were sent up over
16 the following 12 months.
17
18 Q. You deal with that in paragraph 43 of your statement.
19 A. Yes.
20
21 Q. I see. In June 2011 you say "Mr Gibson" - is that
22 Mr Barry Gibson?
23 A. Yes.
24
25 Q.
26 *... requested all outstanding paperwork be*
27 *sent to Sydney.*
28
29 A. Yes.
30
31 Q. At that point had you just sent out all your hard copy
32 files, had you?
33 A. At that point I instructed one of the admin staff to
34 send whatever was in my office via courier to Sydney, and
35 I think at that stage I didn't hold anything myself.
36
37 Q. And that included all of the folders that you have
38 made reference to this morning?
39 A. I think at that stage it was actually only a few bank
40 reconciliation files at that stage. This type of material
41 that you've just looked at had already been sent to Sydney
42 prior to that.
43
44 Q. Is this the position, Ms Holt: to your knowledge all
45 of the folders that you had maintained, of which we just
46 looked at the three examples --
47 A. Yes.

1
2 Q. -- were sent up to Sydney?
3 A. Absolutely.
4
5 Q. To what at that stage was the HSU East office in
6 Sydney?
7 A. Yes.
8
9 Q. Could I take you to paragraph 46 of your statement.
10 You're dealing there with a document that you've included
11 at page 3 in the top right-hand corner of your statement -
12 tab 3.
13 A. Yes.
14
15 Q. That's a profit and loss statement for the period July
16 '04 through to February 2005?
17 A. (Nods).
18
19 Q. Is that the statement you prepared?
20 A. It is, yes.
21
22 Q. Why did you prepare it?
23 A. Those reports were only ever prepared for the branch
24 committee meetings.
25
26 Q. On page 4 you've included at the bottom reference to
27 the Peter MacCallum settlement?
28 A. Yes, because I - as this report is a comparison of one
29 year to the next, I actually took those figures out of the
30 P&L so that they weren't distorting the year-to-date
31 comparison and then highlighted them separately at the
32 bottom.
33
34 Q. There is the Peter MacCallum settlement. What was
35 that?
36 A. That was a legal settlement - my understanding is that
37 it was a legal settlement from Peter MacCallum cancer
38 hospital to the union.
39
40 Q. Then you say:
41
42 *Payment to NHDA.*
43
44 To your understanding what was that?
45 A. National Health Development Account. It was an
46 account that was opened. The Branch Committee of
47 Management had decided to utilise these funds from Peter

1 MacCallum, this windfall, to specifically use this for the
2 promotion of the union campaign exercises, et cetera.
3
4 Q. Reading this, do I understand that \$80,000 came across
5 from the Peter MacCallum settlement and went into the NHDA?
6 A. Yes.
7
8 Q. Just glance through pages 5 through to 11 inclusive.
9 Were they all documents prepared by you?
10 A. Yes, that's all my work.
11
12 Q. For what purpose?
13 A. They again would have been information for the branch
14 committee management meeting.
15
16 Q. And then come over to page 12 which is behind tab 4.
17 A. Yes.
18
19 Q. In the middle of the page there's an email from
20 yourself to Ms Jackson, 17 May 2010. The subject heading
21 is "BCOM Reports". The documents that begin on page 13 and
22 continue through to 15, are they BCOM reports that you had
23 attached to that email?
24 A. They are, yes.
25
26 Q. Prepared by you?
27 A. Yes.
28
29 Q. And again, what was the purpose of your preparation
30 for those documents? To whom were they to be given?
31 A. Kathy would have requested them for a branch committee
32 meeting.
33
34 Q. If you come to page 14.
35 A. Page 40?
36
37 Q. 14, you'll have to flick the folder over.
38 A. Oh, sorry.
39
40 Q. You're looking at a profit and loss statement July
41 through April 2010. On the right-hand column, the last
42 entry above the heading "Total Expenses" is "NHDA". As
43 I read this P&L, is it indicating that during the period
44 July through April, an amount of \$45,500 had been
45 transferred across to the NHDA from the Peter Mac
46 settlement money?
47 A. That's right.

1
2 Q. And in the previous financial period, 2009, the amount
3 of \$75,000 had come across?
4 A. For the same period of time, yes.
5
6 Q. Could you come back to your statement, please. You
7 say in 50 there was an obligation that the accounts to be
8 audited. Prior to the 2009 audit, Mr Dick was the auditor?
9 A. That's right.
10
11 Q. And then Mr Agostinelli took over for the 2009 audit?
12 A. That's right.
13
14 Q. Was that a more detailed or more thorough audit than
15 Mr Dick had undertaken?
16 A. Well, he probably spent more time in the office. Iaan
17 would work more from home, from his home office, so whether
18 or not he spent more or less time is a bit hard for me to
19 say.
20
21 Q. In any event, you say in 56 that Mr Agostinelli and
22 his assistant attended the office, worked on site,
23 et cetera?
24 A. Yes.
25
26 Q. And then you provided Mr Agostinelli or his assistant
27 from time to time with information as and when required?
28 A. They would come to the office, occupy a room, I would
29 put all the folders on the table and they would ask me
30 questions. If they needed clarification, I would answer
31 them. They would take copies, do their thing, and then
32 over the coming, you know, week or so, they may have
33 queries and they would email me or ring me.
34
35 Q. When you say "the folders", did you mean the hard copy
36 folders of the kind that --
37 A. Yes.
38
39 Q. The red folders I showed you today.
40 A. Yes.
41
42 Q. You provided all of those to the auditor?
43 A. That's right.
44
45 Q. Across the different topics that you mention in your
46 evidence?
47 A. Yes.

1
2 Q. Credit cards?
3 A. Yes.
4
5 Q. Creditors, payroll, et cetera?
6 A. That's right.
7
8 Q. You also provided, I presume, the MYOB records or made
9 them available to the auditor?
10 A. They had a copy of the file.
11
12 Q. And then once the auditor's report was completed, it
13 would be presented to the BCOM?
14 A. Yes.
15
16 Q. Could you come, please, to paragraph 72. You're
17 dealing there with an email that you sent to Mr Williamson
18 and Ms Jackson on 1 July 2010. If I take you to that,
19 you'll find it behind tab 11, it is page 319.
20 A. Yes.
21
22 Q. The subject line is "Budgets" and you say:
23
24 *I have reworked the Victoria 1 budget.*
25
26 You then make some comments, but the short point is you
27 reworked the budget for that year?
28 A. The Victoria 1 budget had been put together in such a
29 way that it included costs that were not pertinent to what
30 the budget requirements, so I just amended things, changes
31 in staff numbers and --
32
33 Q. I see. If you come to 320, there is the 2011 budget.
34 A. Yes.
35
36 Q. And 321, there's an entry for NHDA. That had been
37 budgeted for, had it?
38 A. Yes.
39
40 Q. You are agreeing it had been budgeted for?
41 A. I would have used that figure based on historical
42 data. I mean, that's all I can do.
43
44 Q. Would you come through to page 338.
45 A. What's that in the tab?
46
47 Q. It's an email you sent to --

1 A. Page --
2
3 Q. Page 338. It is behind tab 15.
4 A. Yes.
5
6 Q. You were having some email exchanges, it looks like,
7 with Mr Barry Gibson. You wrote to him in the morning on
8 Thursday, 20 January, the bottom third of the page, and
9 then he writes back:
10
11 *Yes. These are EFT payments but we require*
12 *supporting invoices. Thanks.*
13
14 And you responded:
15
16 *Barry, there's no documentation for these*
17 *NHDA payments. Please discuss with Kathy*
18 *and Michael.*
19
20 A. That's right.
21
22 Q. Do you recollect what the question being raised by
23 Gibson was about the NHDA?
24 A. He was expecting there to be an invoice but there
25 weren't invoices. It wasn't for goods. These were
26 transfers I made at the request of Kathy Jackson into that
27 account. They weren't for a supply of goods for which
28 I had an invoice.
29
30 Q. All right. That question is asked and you said just
31 discuss it with Kathy or Michael?
32 A. Yes.
33
34 Q. Just before you leave those pages, if you come back to
35 320, I think I asked you some questions about that, tab 11.
36 A. Yes.
37
38 Q. That's a budget for the No 3 Branch?
39 A. Yes.
40
41 Q. Would you have a look at tab 16 which is page 339.
42 A. Yes.
43
44 Q. That's a screen-shot from MYOB. The payee is
45 described as "AB HINC" - two words - and it says "10 dinner
46 tickets", and you've recorded it as "Donation to political
47 party" in the amount of \$5,000?

1 A. That's correct.
2
3 Q. If you come over to tab 17, page 340, in the top
4 right-hand corner, it is an email:
5
6 *Hi Jane,*
7 *KJ asked me to give you this to pay for 10 tickets*
8 *please ...*
9
10 *Thank you. Frances.*
11
12 Who is "Frances"?
13 A. Frances is the admin officer for Vic 3 Branch.
14 I don't understand if that's actually an email because it
15 doesn't appear to me to be an email.
16
17 Q. It might just be a note?
18 A. It looks to me like I would have been in the office
19 and she's typed up that note and attached - with the
20 attachment and put it on my desk, I would suggest.
21
22 Q. The invitation itself is page 341?
23 A. Yes.
24
25 Q. Mr Pakula, the request is that the cheque be made to
26 AB HINC. If you come over to the next page, 342, this is a
27 CBA --
28 A. Transaction.
29
30 Q. -- transaction record, is it?
31 A. Yes.
32
33 Q. Did you fill out the details on that?
34 A. Yes. You can see by that, it's got my name on the
35 status, confirmed by me. I was the only one who did the
36 CommBiz entries.
37
38 Q. That's under the heading "Status History"?
39 A. Yes.
40
41 Q. Down the bottom of the page, two accounts, and you see
42 the account name "AB HINC"?
43 A. Yes.
44
45 Q. If we come back to 339, you were treating that as a
46 donation to a political party because you'd drawn that from
47 the fact that it seemed to be a fundraiser?

1 A. I've looked at that obviously and interpreted that as
2 a political dinner, campaign of some sort.

3

4 Q. Yes.

5 A. I don't actually remember it, but I've typed it based
6 on that information.

7

8 Q. So you typed in the words "Donation to political
9 party" based on that information?

10 A. Yes, because it is necessary to separate out those
11 donations from other donations.

12

13 Q. In fact you deal with that, I think, in paragraph 85
14 of your statement?

15 A. Yes, that's right.

16

17 MR STOLJAR: Nothing further. Thank you, Commissioner.

18

19 THE COMMISSIONER: Very well. Ms Holt, you can leave the
20 witness box now. It may be that some of the people
21 represented may wish to ask you some questions at a later
22 date but that will be sorted out in due course. Thank you
23 for attending.

24

25 THE WITNESS: Thank you.

26

27 <THE WITNESS WITHDREW

28

29 MR STOLJAR: The next witness is Mr Agostinelli. There
30 are three volumes of material. Commissioner, just while
31 Mr Agostinelli is making his way to the witness box, there
32 is a statement which I will be tendering in a moment which
33 is marked. It is a folder, if you separate the statement,
34 and it has three tabs and then there's a separate three
35 volumes of material.

36

37 <JOHN AGOSTINELLI, sworn: [12.23pm]

38

39 <EXAMINATION BY MR STOLJAR:

40

41 MR STOLJAR: Q. Your name is John Agostinelli?

42

43 A. Yes.

44

45 Q. You're a resident of Victoria?

46

47 A. Yes, I am.

48

49 Q. You're a registered company auditor?

1 A. Yes.
2
3 Q. You've prepared a statement in these proceedings dated
4 13 June 2014?
5 A. Yes.
6
7 Q. Is the content of that statement true and correct?
8 A. Yes, sir.
9
10 MR STOLJAR: I'd ask that that statement be received in
11 evidence, Commissioner.
12
13 THE COMMISSIONER: Yes. That will be received in evidence
14 and shall I mark for identification the others?
15
16 MR STOLJAR: Yes.
17
18 THE COMMISSIONER: The three volumes to which
19 Mr Agostinelli refers to in his statement will be
20 respectively Agostinelli MFI1, Agostinelli MFI2 and
21 Agostinelli MFI3.
22
23 **AGOSTINELLI MFI#1 VOLUME 1 TITLED "HEALTH SERVICES UNION**
24 **PROVIDED BY JOHN AGOSTINELLI"**
25
26 **AGOSTINELLI MFI#1 VOLUME 2 TITLED "HEALTH SERVICES UNION**
27 **PROVIDED BY JOHN AGOSTINELLI"**
28
29 **AGOSTINELLI MFI#1 VOLUME 3 TITLED "HEALTH SERVICES UNION**
30 **PROVIDED BY JOHN AGOSTINELLI"**
31
32 MR STOLJAR: Commissioner, I can provide a copy of
33 Mr Agostinelli's statement or do you have one?
34
35 THE COMMISSIONER: I have one.
36
37 MR STOLJAR: Thank you.
38
39 THE WITNESS: I've got one, thank you.
40
41 MR STOLJAR: Q. Mr Agostinelli, you did the audit for
42 the HSU No 3 Branch for the financial year ending 2009?
43 A. Yes.
44
45 Q. And you also did an exit audit partway through 2010?
46 A. Yes.
47

1 Q. That was when the No 3 Branch was merging?

2 A. That's right. Around about May 2010.

3

4 Q. In paragraph 10 of your statement you say:

5

6 *We performed a substantive audit for*

7 *No 3 Branch.*

8

9 What did you mean by a substantive audit?

10 A. A substantive approach to an audit is where you don't
11 rely on the internal controls of the organisation.
12 Therefore, you substantiate the balance sheet items and you
13 sample test income and expenditure items for their
14 accuracy.

15

16 Q. How did you physically do that in this case?

17 A. We would write to third parties, such as banks and
18 solicitors, to verify bank accounts. We would sample test
19 the expenses and income areas against records of the
20 organisation, such as member records, transactions that go
21 into the bank account, invoices, and various other
22 authorisations.

23

24 Q. Did you contact previous auditors?

25 A. Yes, we did.

26

27 Q. In fact, you deal with that in 14 of your statement.

28 You asked if there were any outstanding matters and you
29 didn't receive any response?

30 A. That's correct.

31

32 Q. In paragraph 31 and following, you deal with selecting
33 a sample. For example, there you are dealing with
34 donations. Can you just talk me through that process? How
35 did that work? This is in relation to what you describe as
36 "testing"?

37 A. Sorry, paragraph 31, did you say?

38

39 Q. 31, yes.

40 A. So in - there are some items under the Fair Work Act
41 that require specific categorisation, and the one I mention
42 is donations but the other one is the salaries of the
43 officials. So, under those categories, we would actually
44 specifically look to make sure that the category given to
45 them was correct and, generally speaking, we would allocate
46 items according to the category of expense, not who it was
47 paid to. So, for example, if there was a payment to

1 Telstra, it would go under "Telephone", not under
2 "Telstra".

3

4 Q. You say in 34:

5

6 *I do not recall a category in the No 3 ...*
7 *accounts called National Health Development*
8 *Account (NHDA) ...*

9

10 But you then say:

11

12 *I have since reviewed the 2009 and the 2010*
13 *exit audit files and note this expense*
14 *account does exist in the MYOB file of the*
15 *HSU No 3 Branch provided by Ms Holt and has*
16 *been disclosed under Campaign costs ...*

17

18 Could I take you to tab 1.

19

A. Sorry, I don't have tab 1 in my notes.

20

21 Q. I will just provide you with the folder.

22

A. Thank you.

23

24 Q. For example, page 7, you're looking at an interim
25 statement for the year 30 June 2009 and there's a heading
26 "Campaign Expenses". Is that where you've recorded the
27 NHDA expense account?

28

A. Yes.

29

30 Q. And in tab 2, if you come to page 24, you're looking
31 at an income statement for the period ending 24 May 2010.
32 The entry next to "Campaign Costs", is that likewise the
33 entry for NHDA?

34

A. Yes, it is.

35

36 Q. Just while we're there, page 38, you're dealing with
37 donations and you put in an entry Australia Bringing Hope
38 Incorporated and an amount of 5,000. Do you recollect now
39 where you got the name Australia Bringing Hope Incorporated
40 from?

41

A. No. No recollection, sorry.

42

43 Q. What sort of donation was that that you were looking
44 at there?

45

46 A. I've actually looked at that entry. It was some 10
47 tickets for \$500 each, and the abbreviation in the records
was AB HINC and I don't know how the Australia Bringing

1 Hope Incorporated came into it.
2
3 Q. You don't know?
4 A. No, I don't.
5
6 Q. Was it a charitable donation or for a political
7 purpose, to your knowledge, or do you not know?
8 A. No, I don't know.
9
10 Q. If you don't know, don't worry.
11 A. It was listed under "Donations".
12
13 Q. In paragraph 37, you say:
14
15 *I was not given any instructions to change*
16 *how the accounts looked or on how different*
17 *items were to be categorised or presented.*
18
19 Do you mean you weren't given any instructions from anyone
20 at No 3 Branch?
21 A. Those specific instructions to categorise something
22 that wasn't obviously categorised in the same way that we
23 put into the financial statements.
24
25 Q. But when you say "I was not given any instructions",
26 you mean by anyone at No 3 Branch?
27 A. Yes, correct.
28
29 Q. Could I take you to volume 1, which has now been
30 marked Agostinelli MFI1. I will just hand you a copy of
31 that. Just to begin, in volume 1, if you open it up, at
32 the outset there's a heading:
33
34 *DIRECTORY OF DOCUMENTS AND WORKPAPERS*
35
36 Is this, in effect, your audit file, the three volumes of
37 material?
38 A. Yes, it is.
39
40 Q. It is your audit file for the two audits that you
41 conducted at the No 3 Branch for the 2009 year and the exit
42 audit for 2010?
43 A. It is the audit file and every document that we've got
44 on record.
45
46 Q. I want to take you through some of these documents.
47 Firstly, if you come to C.3, I'll give you a page

1 reference, 170, that's a file note. Did you prepare this?
2 A. One of my staff would have prepared this.
3
4 Q. It records a meeting between Ms Jackson, yourself and
5 Mr Perlen --
6 A. Yes.
7
8 Q. -- on 2 March 2009?
9 A. Yes.
10
11 Q. Mr Perlen is your partner?
12 A. Yes, he is, yes.
13
14 Q. There's a heading "Audit":
15
16 *The view is that an auditor is required of*
17 *high standing. The role of auditor should*
18 *be one that is assistance to the committee*
19 *of management ...*
20
21 Is this something that Ms Jackson was telling you?
22 A. Yes, it would have been, I think so. This is in
23 regard to the National Office, so this is a file note
24 regarding back in March 2009, not for the HSU No 3 Branch
25 and we weren't appointed the auditors for the
26 National Office.
27
28 Q. That was about some other work that might have come
29 up?
30 A. Yes.
31
32 Q. Could you then come please to D1, page 172. There's a
33 whole series of minutes of meetings at the No 3 Branch.
34 That's at the BCOM, I take it. These were provided to you
35 for the purposes of your audit, were they? I'm sorry, I'll
36 take that in steps. The first one, page 172, is the
37 meeting of 19 August 2008?
38 A. Yes.
39
40 Q. Was it the case that you were provided, for the
41 purposes of your audit, with a series of minutes of
42 meetings of the BCOM?
43 A. Not specifically with regard to this minute, but we
44 were given a number of minutes. I presume this falls
45 within the '08-09 year, so we would have been provided
46 this, yes.
47

1 Q. Could you come, please, to volume 2. Do you have that
2 there?
3 A. No.
4
5 Q. Could we start with a document which is behind tab
6 E.1.1, 475 in the top right-hand corner. It is a document
7 headed "2009 Audit Queries"?
8 A. Yes.
9
10 Q. Is this a document that you or your staff prepared?
11 A. Yes, it is.
12
13 Q. Did you give it to someone at No 3 Branch?
14 A. Yes, we would have.
15
16 Q. Would that have been Ms Holt?
17 A. Either Ms Holt or one of the administrative staff;
18 more than likely Frances. Well, sorry, I don't know which
19 one, but it would have been to one of the staff members.
20
21 Q. In any event, you're raising some questions for the
22 purposes of completing your audit?
23 A. Yes.
24
25 Q. You say:
26
27 *The following invoices were unable to be*
28 *found.*
29
30 And then coming down to the entry for 4 September 2008,
31 "National Health Development Account"?
32 A. Yes.
33
34 Q. And then the next page, page 476, you raise questions
35 about the honorarium and then paragraph 10:
36
37 *What are your policies on the use of credit*
38 *cards?*
39
40 How many have been issued, what's the limit, et cetera?
41 A. Yes.
42
43 Q. And then you ask at 11 for a copy of the minutes for
44 the year?
45 A. Yes.
46
47 Q. You mean the BCOM minutes?

1 A. Yes.

2

3 Q. Could you then come to E1.17, page 512. Is this a
4 work paper that you or your staff prepared for the purposes
5 of the audit?

6 A. Yes, it is.

7

8 Q. The subject is "Diners Club".

9 A. Yes.

10

11 Q. You say:

12

13 *Obtained the client Diners Club statement*
14 *to determine as to why there is an amount*
15 *owed to HSU from Diners at year-end.*

16 To perform certain tests. The finding is:

17

18 *HSU Vic have one Diners Card held under*
19 *Kathy Jackson's name. There is no limit.*
20 *The Diners Card expenses are direct debited*
21 *from the CBA cheque account.*

22

23 For the purposes of your audit, are you treating that as a
24 card held by HSU No 3 Branch?

25 A. Yes, we are.

26

27 Q. But in the name of Kathy Jackson?

28 A. Yes.

29

30 Q. The ultimate finding was that there needed to be a
31 reversal to the journal entry for one particular matter:
32 that's at the bottom of the page.

33 A. Yes.

34

35 Q. You then come to page 514. You or your staff are
36 drawing a conclusion:

37

38 *There is no debt due from Diners Club*
39 *therefore, there should not be a*
40 *receivable ...*

41

42 You say:

43

44 *Amounts allocated to Travel & Accommodation*
45 *as expenses incurred of this nature.*

46

47 Can you just explain what that means?

1 A. That the Diners Club would have been used for travel
2 and accommodation for expenses of the HSU No 3 Branch.
3
4 Q. Could you come please to E1.32, page 558. This is
5 another work paper that you prepared or your staff prepared
6 in the course of the audit?
7 A. Yes.
8
9 Q. The subject is "Expenditure Testing" and you say:
10
11 *Obtained the clients Cash Disbursement*
12 *report and selected 30 items to test.*
13
14 Did you select the items at random?
15 A. At random, but over and above a certain material
16 amount.
17
18 Q. Could you come, please, to B1.36, page 571. There's a
19 heading - this is another work paper - "Honorarium":
20
21 *Reviewed the clients Honorarium account*
22 *6-1580 ...*
23
24 You performed certain tests. What did you understand the
25 honorarium account to be, or do you not remember?
26 A. No, I wouldn't remember actually. Obviously,
27 honorarium would be payments for sitting trustees or the
28 like, but no, I don't recall.
29
30 Q. If you note under the heading "BCOM" as "Creditor",
31 does that suggest to you to whom some payments were being
32 made?
33 A. They'd be members of the Branch Committee of
34 Management. Sorry, where's that heading please?
35
36 Q. About the middle of page --
37 A. Yes, "Creditor. BCOM". Yes.
38
39 Q. Could you come please to E1.42, page 601. This is a
40 handwritten note. Do you remember the circumstances in
41 which this was prepared?
42 A. Yes. They're my handwritten notes whilst discussing
43 these various items with Frances the office manager and
44 Kathy Jackson - no, no, Frances the office manager, sorry.
45
46 Q. Were you raising questions?
47 A. Yes, raising questions about those various items and

1 requiring substantiation.

2

3 Q. One of them was the NHDA and one was it looks like
4 Committee of Management minutes?

5 A. Yes.

6

7 Q. Could you come then to E1.44, page 61. Are these your
8 handwritten notes?

9 A. Yes, they are.

10

11 Q. With the greatest respect, I don't find it easy to
12 read the first word in the "Subject" but is that
13 "Minutes Review"?

14 A. "Minutes Review" - Branch Committee of Management".

15

16 Q. You did a minutes review of the BCOM?

17 A. Yes.

18

19 Q. Could we go to volume 3. In volume 3 could you come
20 to E2.22, page 709. You're now doing an exit audit, is
21 that right, May 2010?

22 A. Yes, correct.

23

24 Q. This is a work paper that you prepared for the
25 purposes of the exit audit?

26 A. Yes, it is.

27

28 Q. The subject is "Credit Cards". The work done is:

29

30 *Obtained a listing of all credit cards held*
31 *and ensured either paid pre 24 May 2010 or*
32 *taken up as a creditor ...*

33

34 When you say "listing of all credit cards", who was holding
35 the credit cards?

36 A. Held on behalf of the HSU No 3 Branch.

37

38 Q. There were three identified in the findings. There's
39 the Citibank Mastercard, Diners Club and CBA Mastercard.
40 You have described them as being held under Kathy Jackson's
41 name. What did you mean by that?

42 A. She was the authorised user of the card.

43

44 Q. Was the card a branch card or Kathy Jackson's card?

45 A. I'd have to check. A lot of the cards don't issue in
46 the name of the organisation. They issue in the name of an
47 individual, I think Diners in particular, but more than

1 likely it would be under a personal name, but we've taken
2 it as being used for the branch purposes. The purpose of
3 this work paper is as an exit substantiation of the
4 liabilities of the organisation on 24 May.

5
6 Q. Could you come to the third page of that, page 711.
7 I see. In the conclusion you've set out on page 711,
8 you're reflecting what you've just said to me. You were
9 dealing with what was outstanding as at 24 May 2010?

10 A. Yes, a creditor.

11
12 Q. Could you come to E2.24, page 714. That's another
13 work paper, subject "Honorarium". In "Work Done" you say:

14
15 *[Ms Jackson] receives a yearly payment for*
16 *her Honorarium duties of \$21,000.*
17 *Kathy has not been paid this Honorarium*
18 *since her employment began in 2008 ...*

19
20 Can you just explain a bit more about what that work
21 relates to?

22 A. Again, it's quantifying a liability or potential
23 liability of the organisation as of the exit audit date and
24 confirming that there haven't been three years of
25 honorarium payments to Ms Jackson and taking up that as a
26 liability.

27
28 Q. The final balance is a figure of \$48,501.37?
29 A. Yes.

30
31 Q. Could you come, please, to tab E1.32, page 741.
32 Subject, "Minutes Review". This relates to the minutes
33 review you did that I asked you about a few moments ago?
34 A. This is in regard to the next year, the 2010 year.

35
36 Q. You did a minutes review for both years?
37 A. Yes.

38
39 Q. The materials you've set out in the findings is an
40 analysis of the minutes for the period up to 24 May 2010?
41 A. Yes, it is.

42
43 Q. Towards the bottom of page 741, just above the heading
44 "HSU No 1 Branch", it says that:

45
46 *BCOM also reminded the Secretary that she*
47 *had not claimed the \$21,000 Honorarium that*

1 *she has been entitled to ...*

2

3 That's under the heading "Staffing". And that:

4

5 *... she should arrange payment.*

6

7 That relates to that figure of \$48,000 I just asked you
8 about?

9 A. Yes, it does.

10

11 Q. And there's a heading "HSU No 1 Branch". No. I see.
12 That relates to bills being paid for the No 1 branch?

13 A. Yes.

14

15 Q. Could you come over to the next page, page 742. There
16 is a heading "Other Notes". It says:

17

18 *That the Vic No 3 Branch fund the NHDA up*
19 *to \$90,000 for the next financial year.*

20

21 A. Yes.

22

23 Q. That was something you drew from the minutes of the
24 BCOM?

25 A. Yes, it is.

26

27 Q. And you've just summarised it in your work paper?

28 A. Yes.

29

30 Q. You've also noted:

31

32 *That the Honorarium and training/conference*
33 *allowances to be paid up to \$9,800 per*
34 *meeting to the BCOM, this would be paid by*
35 *cash at every meeting that was attended.*

36

37 A. Yes.

38

39 Q. That was also something that was recorded in the
40 minutes of the BCOM?

41 A. That's correct.

42

43 Q. You've set it out in your work paper?

44 A. Yes. Could I add - they'd more than likely be
45 extracts out of the minutes: that's similar wording.

46

47 Q. I see. You might have cut and pasted it or it might

1 be a summary?
2 A. Yes.
3
4 Q. In any event - I just want to be clear about this -
5 the information under the heading "Other Notes" on page 742
6 was drawn from the minutes of the BCOM?
7 A. Correct.
8
9 Q. Could you come please to E2.40, page 774. This is
10 another work paper and it is a review of general expenses?
11 A. Yes.
12
13 Q. Next to account 6-1365, it says "Donations to
14 political party". You've got a figure and you're
15 explaining I think the difference between 2009 and 2010?
16 A. Yes.
17
18 Q. You say it's a 574 per cent increase because of
19 \$5,000 paid to attend a dinner for 10 staff members at \$500
20 a head.
21 A. Yes. This is an analytical review why there would be
22 a large variation and it would have notes explaining the
23 variation.
24
25 Q. If I come a bit further down the page, you've got an
26 entry for the account 6-1580, "Honorarium", and you
27 likewise explain the increase between the 2009 and 2010
28 year?
29 A. Correct.
30
31 Q. You say it's due to the accrual being recognised in
32 this year and not 2009?
33 A. Yes.
34
35 Q. That again relates back to the \$48,000 that we've
36 discussed?
37 A. Yes.
38
39 Q. Could you come to E2.44, page 884.
40
41 THE COMMISSIONER: It is illegible to my aged eyes.
42
43 MR STOLJAR: Yes, it is tiny print. I'll see if I can get
44 a larger version. Perhaps I'll have a look at that over
45 lunch, if that's convenient, Commissioner.
46
47 THE COMMISSIONER: Do you want to adjourn now or go on

1 with something else for a couple of minutes?

2

3 MR STOLJAR: I can go on with something else,
4 Commissioner.

5

6 THE COMMISSIONER: We can stop now if it is convenient.

7

8 MR STOLJAR: Perhaps I'll deal with E2.47.

9

10 THE COMMISSIONER: The same problem.

11

12 MR STOLJAR: Yes, that is tiny as well. Yes, I think it
13 might be simpler, Commissioner, if we take the break now.

14

15 THE COMMISSIONER: If we resume at 2pm will that be all
16 right?

17

18 MR STOLJAR: Yes.

19

20 THE COMMISSIONER: We will now adjourn until 2pm.

21

22 **LUNCHEON ADJOURNMENT**

23

24

25

26

27

28

29

30

31

32

33

34

35

36

37

38

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1 UPON RESUMPTION

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3 THE COMMISSIONER: Yes, Mr Stoljar.

4

5 MR STOLJAR: Q. Mr Agostinelli, I was asking you about the
6 document at page 884 in your bundle at volume 3. It is
7 very hard to read, so I'll provide you and the Commissioner
8 with some blown-up pages. As we can now see this is
9 a worksheet the subject heading being, "Large Expenses",
10 and you were here checking a sample of what you've
11 described as large expenses paid by the branch over the
12 period ending 24 May 2010; is that right?

13 A. Yes.

14

15 Q. What was a large expense?

16 A. I would need to check that definition, but we would
17 sample - I think it's over \$5,000, but I need to check.

18

19 Q. Could you then come to page 890 in volume 3 and it is
20 the fourth page of the bundle I've just handed you of the
21 blown-up version. This is another worksheet, this one is
22 headed, "Accommodation & Travel". Just tell me in work
23 done, I can read what you've written, but just explain what
24 you are actually doing to check what's being recorded in
25 "Accommodation & Travel"?

26 A. We're agreeing that expense item against source
27 documents, such as bank statements and invoices, and also
28 looking for them being reasonable in nature.

29

30 Q. These seem to relate to Citibank Diners Club and
31 Mastercard expenses, amongst other things?

32 A. Yes.

33

34 Q. There's also some numbering in the top right-hand
35 corner of the bundle, if you go to page 6. Because they've
36 been blown up, the pages no longer precisely correlate to
37 pages in volume 3, but I will identify it as page 6 of the
38 bundle. There's a note:

39

40 *No invoices to support statement, however,*
41 *purchases made on credit card and able to*
42 *determine that expenses are in relation to*
43 *travel and accommodation.*

44

45 *Can you just explain that notation?*

46 A. In our discovery we didn't find the actual invoices
47 relating to the accommodation and travel, but we were able

1 to look at the credit card notation and support that they
2 were actually travel and accommodation in nature.

3

4 Q. Could you then come to page 8 in the bundle which is
5 a blown-up version of page 892 in volume 3. It is headed,
6 "Donations". Again, you've done similar work in relation
7 to donations?

8 A. Yes.

9

10 THE COMMISSIONER: Mr Stoljar, do you know what the
11 significance there is, if any, of the difference between
12 items that are all in capital letters and items that are
13 not? For example, on the page in this bundle numbered 6,
14 the first line is in capital letters and the next four
15 aren't.

16

17 MR STOLJAR: I will ask Mr Agostinelli to answer that
18 question.

19

20 THE WITNESS: Your Honour, that is how it has been entered
21 into the MYOB ledger by the bookkeeper

22

23 THE COMMISSIONER: It is a facsimile reproduction,
24 in effect. Thank you.

25

26 MR STOLJAR: Q. And then if you come lastly to page 11
27 of the bundle, it corresponds to 903 - I'm sorry,
28 Mr Agostinelli, I may have skipped over one. I'm sorry,
29 yes, I've missed page 9. It corresponds to page 894.
30 That's, without going through it, in summary, the work done
31 in respect of the honorarium account?

32 A. Yes.

33

34 Q. For the purposes of the audit?

35 A. Yes.

36

37 Q. If you come to the next page, page 10 of the bundle,
38 you express a conclusion:

39

40 *As per the minutes ...*

41

42 Pausing there, is that the BCOM minutes?

43 A. Yes.

44

45 Q.

46

47 *... an honorarium training/conference
allowances are to be paid up to \$9,800 per*

1 *meeting to the BCOM, this would be paid by*
2 *cash at every meeting that was attended.*

3
4 Then you say in the second paragraph:

5 *... the \$9,800 has been split between*
6 *honorarium and training/conferences.*

7
8
9 A. That's for purposes of allocation for those categories
10 of expenses.

11
12 Q. Yes, but you were satisfied that that was something
13 that had been approved in the minutes of the BCOM?

14 A. Authorised in the BCOM minutes, yes.

15
16 Q. In the next page of the bundle, page 11, which
17 corresponds to page 903 of volume 3, this is an analysis of
18 the NHDA?

19 A. Yes.

20
21 Q. In your conclusion you say that:

22 *Amounts are paid at the discretion of*
23 *Kathy, no invoice or supporting*
24 *documentation ... being paid.*

25
26
27 And then on the next page, page 12 of the bundle:

28 *As per minutes they can only contribute up*
29 *to a \$90K limit. The payments are made at*
30 *the discretion of the Branch Secretary or*
31 *when the National Office requests it.*

32
33
34 And that corresponds to what you had in your minutes
35 review that we discussed just before the lunch break?

36 A. Yes.

37
38 Q. You have noted that:

39 *Last year the NHDA expense was \$75K due to*
40 *more contributions being made for the*
41 *election campaign. This year no such*
42 *campaign was run and therefore*
43 *contributions decreased.*

44
45
46 A. Yes.

47

1 MR STOLJAR: Commissioner, could that document be marked
2 for identification?

3

4 THE PRESIDING MEMBER: Do you want it to treat it as
5 Mr Agostinelli MFI3 or have it separately?

6

7 MR STOLJAR: It may be appropriate to have a separate MFI
8 only because the page numbering departs from that in
9 Volume 3.

10

11 THE COMMISSIONER: Yes. It will be Mr Agostinelli MFI4

12

13 MR STOLJAR: If it please the Commission.

14

15 **AGOSTINELLI MFI#4 HSU - VICTORIAN BRANCH 24/05/2010**
16 **SUBJECT: LARGE EXPENSES**

17

18 MR STOLJAR: Q. I have just one last point about your
19 statement, Mr Agostinelli. I have dealt with the three
20 folders, but if you just come back to your statement, you
21 say in paragraph 40:

22

23 *When we conducted the audit we started*
24 *fresh and did not follow the process of the*
25 *previous auditor.*

26

27 And then you say:

28

29 *We were not given any files by the previous*
30 *auditor so we started afresh.*

31

32 Can you just explain what you meant by that?

33

34 A. Sometimes when you are talking over an audit you get
35 access to the previous auditor's files and you follow their
36 process, but we didn't do that. We adopted a new audit
37 approach and so we didn't follow anything from prior
38 periods.

38

39 MR STOLJAR: I have nothing further. Thank you,
40 Commissioner.

41

42 THE COMMISSIONER: Q. Yes. Thank you for attending,
43 Mr Agostinelli. It may be necessary for you to come back
44 on some later occasion if anyone represented wants to ask
45 you any further questions, but for the present you can
46 leave.

47

A. Thank you, sir.

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THE WITNESS WITHDREW

MR STOLJAR: Commissioner, the next witness is Mr Craig Ferguson McGregor.

<CRAIG FERGUSON McGREGOR, affirmed: [2.10pm]

<EXAMINATION BY MR STOLJAR:

MR STOLJAR: Q. Your name is Craig Ferguson McGregor?

A. That's correct.

Q. You are a resident of Victoria?

A. That's correct.

Q. And you have prepared a witness statement in these proceedings?

A. I have.

Q. This was a statement that you prepared with your solicitors and you've attached some documents. I'll hand you a folder of documents and provide a copy for the Commissioner.

A. Thank you.

Q. Mr McGregor, your solicitors prepared a folder that contained your statement and numbered tabs 1 through to 14 inclusive, but the pages weren't numbered, so we've prepared a version that has numbered pages throughout.

A. Okay.

Q. You won't have seen that particular folder, so just glance through and make sure that nothing has gone astray with the tabs or anything like that.

A. It appears to be the same.

Q. You had a couple of corrections of your statement. If you go to paragraph 13, this is a small point but you have omitted the words "of the" after the words "the records" in the first line of paragraph 13?

A. Yes, correct.

Q. In paragraph 26, the third line, before the letters "MYOB", you wish to insert the word "detail"?

A. Yes.

1 Q. And likewise in paragraph 28, in the third line, prior
2 to the words "records of transactions", you wish to insert
3 the word "detailed"?

4 A. That's correct.

5

6 Q. Save for those changes, are the contents of your
7 statement dated 16 June 2014 true and correct?

8 A. They are.

9

10 MR STOLJAR: Commissioner, I'd ask that Mr McGregor's
11 statement and the folder of materials that accompanies it
12 be admitted into evidence.

13

14 THE COMMISSIONER: Yes, they may be admitted into
15 evidence.

16

17 **#STATEMENT OF CRAIG FERGUSON MCGREGOR DATED 16/6/2014**

18

19 THE COMMISSIONER: Do you want the accompanying documents
20 to be separately marked?

21

22 MR STOLJAR: It may be appropriate, Commissioner, if for no
23 other reason than in paragraph 3 they are so identified.

24

25 THE COMMISSIONER: Yes. The documents to which
26 Mr McGregor has referred in his statement will be described
27 as McGregor MFI1.

28

29 **McGREGOR MFI#1 FOLDER OF MATERIALS ACCOMPANYING**
30 **MR MCGREGOR'S STATEMENT**

31

32 MR STOLJAR: Q. Mr McGregor, you are a radiographer by
33 profession?

34 A. Yes.

35

36 Q. You were in November 2012 elected secretary of the
37 Victorian No 3 Branch?

38 A. That's correct.

39

40 Q. When you took over that position, you've described
41 some issues that you had with respect to the records; you
42 deal with that at paragraph 12 and following of your
43 statement. Without delving into it in great detail, is the
44 short point that, as you sit here today, you, or the
45 No 3 Branch has not got a complete set of records for the
46 period leading up to the merger?

47 A. That's correct, yes, we're missing significant

1 portions of our records.

2

3 Q. In paragraph 29, you describe the No 3 Branch
4 receiving a notice to produce from this Commission and you
5 say there you then made attempts to comply with that notice
6 to produce, as a result of which you searched so much of
7 the No 3 Branch records as were available to you?

8 A. Yes.

9

10 Q. You have attached some correspondence that you then
11 had with Mr Brown at the National Office concerning results
12 of those searches. I take you firstly to page 68 behind
13 tab 6 of MFI1.

14 A. Yes.

15

16 Q. This is an email that you sent to Mr Brown on 23 April
17 2014?

18 A. Yes.

19

20 Q. You had spent about three weeks or so, or staff at the
21 No 3 Branch had spent about three weeks or so looking for
22 documents so as to comply with the notice to produce issued
23 by the Commission?

24 A. That is correct.

25

26 Q. And you said in your email to Mr Brown:

27

28 *The following information is sent to you in*
29 *compliance with Resolution NE 57/214 ...*

30

31 Just pausing there. NE 57/214, does "NE" stand for
32 "National Executive"?

33 A. It does.

34

35 Q. And was this a resolution, in substance, to the effect
36 that any employee or officer of the HSU who became aware of
37 any potential corruption should bring that issue to the
38 attention of the National Office?

39 A. The National Office, to Fair Work, to the
40 Royal Commission and, if appropriate, to the police.

41

42 Q. You said in the second paragraph:

43

44 *It is my expectation that you, in your*
45 *capacity as Acting National Secretary, will*
46 *with due regard for fair and proper process*
47 *ensure that this information is dealt with*

1 *appropriately.*

2

3 A. Yes.

4

5 Q. And then, as you've just indicated, you make reference
6 to the National Executive and the like. You mention the
7 relevant police force. Were you aware on 23 April 2014
8 that the Victorian police had recently concluded a two-year
9 investigation into activities or allegations concerning
10 Ms Jackson?

11 A. I was aware that they had.

12

13 Q. And they had decided, in effect, not to take further
14 action?

15 A. Yes.

16

17 Q. And, indeed, Detective Jenkins of the Victorian police
18 had returned to the No 3 Branch some six boxes of
19 documents?

20 A. That's correct.

21

22 Q. And these were among the document that you searched
23 for the purpose of complying with the notice to produce?

24 A. That's right.

25

26 Q. Then you say:

27

28 *This information, which I will forward as*
29 *individual emails with multiple*
30 *attachments, has been uncovered during our*
31 *investigations ...*

32

33 And then you send three separate emails dealing with
34 the points that are identified in numbered paragraphs 1, 2
35 and 3 at the base of your email?

36 A. That's correct.

37

38 Q. If you come to page 69, dealing with the NHDA, you
39 say:

40

41 *... we noticed that a significant sum of*
42 *money had been deposited ... into an*
43 *account referred to as the NHDA.*

44

45 *We contacted the bank regarding this matter*
46 *and were informed ... that the account*
47 *belonged to an unincorporated Association.*

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When you say that, are you referring to the document at page 90?

A. That's correct, from Trevor Ellis to Mr Neil Bowker, the email.

Q. Mr Ellis is an employee of the Commonwealth Bank of Australia?

A. That's correct.

Q. Mr Bowker is your finance officer?

A. Yes, that's correct.

Q. And Mr Ellis says to Mr Bowker that the name of the account is National Health Development and it is an unincorporated association. Did you do a search?

A. We did a search and didn't uncover any information, in terms of we did an ASIC search.

Q. Because Mr Ellis suggests that a search be carried out. When did you do the search?

A. I can't remember exactly, but on or about the same day as we got correspondence from Mr Ellis.

Q. Is this the case, that you knew as at 23 April 2014 when you wrote to Mr Brown that there was no unincorporated association by the name National Health Development Account?

A. I'm not sure whether - I mean, the search didn't reveal whether there was an association or not. I mean the only information we had was that money had been transferred to the National Health Development Account and the bank had told us that it was an unincorporated association and, beyond that, we could find no further information.

Q. You knew that no unincorporated association was coming up with the name National Health Development Account. Did that suggest to you that there was no such incorporated association?

A. I am not aware of how these things work, whether unincorporated associations regularly returned as part of a search.

Q. You say:

Given that there is no information pertaining to this account ...

1
2 That is information relating to the purpose of the
3 NHDA et cetera:

4
5 *... and given the fact that it is not part*
6 *of an incorporated body, it would appear to*
7 *be the case that members' money was*
8 *illegitimately syphoned off during the*
9 *period 2004 - 2011.*

10
11 A. Where is that?

12
13 Q. The third paragraph, page 69.

14 A. That was my speculation. My understanding was that --

15
16 Q. You accept it's speculation, do you?

17 A. Well, my understanding is that --

18
19 Q. Do you accept it's speculation?

20 A. Well, one thing I know for certain is that the NHDA is
21 not a union bank account.

22
23 Q. What information did you have available to you when
24 you made this allegation to Mr Brown?

25 A. That members' money had been transferred from a cheque
26 account. That cheque account was regularly used for the
27 day-to-day operation of the branch and put in to another
28 account over which the union had no oversight or control.

29
30 Q. Had you checked through the bank records for the
31 period 2004 to 2011 before you made the allegations?

32 A. We had four copies of minutes, some two lots from '99,
33 one lot of minutes from 2009, one lot of minutes from 2010,
34 and those were the minutes we looked at. We'd put out
35 a notice to members suggesting that if they had minutes
36 could they please return them to the branch. So as far as
37 I was able, yes, I did.

38
39 Q. I will show you a bundle of minutes and other
40 documents. The notice to produce that you were issued by
41 the Commission sought the production of all BCOM minutes,
42 do you remember that?

43 A. The second notice to produce?

44
45 Q. The second one, yes, last Friday, and this is when you
46 produced?

47 A. That is correct.

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Q. I take it this is the totality of the minutes to which you had access when you made the statement that you make in the third paragraph of your email?

A. Yes.

Q. You hadn't seen Mr Agostinelli's audit file?

A. I had contacted Mr Agostinelli and asked for that audit file and it had not been forthcoming, so I had not seen it.

Q. In the bundle that I've just provided you, the pages aren't numbered, but if you come through to minutes of the meeting of 11 February 2009, just travel through the bundle, on the third page of those minutes there is a heading, "Finance Report"?

A. Yes.

Q. It says:

The Secretary gave a report on branch finances.

Did you make any inquiries as to what sort of documents were given to BCOM before you made your allegation in the third paragraph of your email?

A. No. That was the information I had, that there was a branch finance report. I don't know the details of that report.

Q. And the same applies, if you keep going through to the very last page of the bundle, you didn't make any inquiries about those reports?

A. No, I didn't.

MR STOLJAR: Commissioner, could the bundle of BCOM minutes that I have just handed the witness be marked for identification.

THE COMMISSIONER: Yes, that will be known as McGregor MFI2.

MCGREGOR MFI#2 BUNDLE OF BCOM MINUTES

MR STOLJAR: Q. You say in the fourth paragraph of your email that there had been clumsy attempts to hide the account and the sums deposited into it. Do you see that?

1 What were you talking about there?

2 A. We had received emails from Iaan Dick with Excel
3 spreadsheets and therein some alterations had been made to
4 those spreadsheets which I believe were used for the
5 preparation of the audited financial report for Fair Work,
6 where the sum of money equating to the amount that was
7 transferred to the NHDA account was removed from the branch
8 income. So there was - I can't remember the exact figure
9 but it was income - other income of the branch minus the
10 sum that was transferred to the NHDA, and that was my
11 summation.

12
13 Q. There may be reference to this on page 85. First of
14 all, who prepared the document beginning on page 85?

15 A. That was prepared by Neil Bowker, the financial
16 officer.

17
18 Q. If you go to the heading "2005-06", the second dot
19 point, it says:

20
21 *Comparison year ...*

22
23 And then some further information.

24 A. Yes.

25
26 Q. And you identify a discrepancy. When you say
27 "the report", you mean the report of Mr Dick? Is that at
28 the end of the second dot point?

29 A. The report that was supplied to the Fair Work
30 Commission.

31
32 Q. That would be the audited accounts?

33 A. Yes.

34
35 Q. Did you check with Mr Dick what that was about?

36 A. No, I didn't check with Mr Dick.

37
38 Q. Did you check the underlying records that had been
39 supplied to Mr Dick for the purposes of his audit for that
40 year?

41 A. Did I check them for?

42
43 Q. Did you check to see whether that was some issue with
44 the underlying records or was it something that Mr Dick had
45 done in the preparation of his audit? Did you try and
46 satisfy yourself as to whether it was one or the other?

47 A. I am not an accountant but I spoke to the finance

1 officer and he - I'm not sure I understand your question.
2
3 Q. The proposition that the item NHDA has been dropped
4 from expenses is in relation to some information in the
5 final audited accounts; correct?
6 A. Yes.
7
8 Q. So if something has been dropped, it may have been
9 dropped by Mr Dick in the preparation of his audit?
10 A. Yes.
11
12 Q. Or changed or re-categorised?
13 A. Yes.
14
15 Q. Or it may be that information was supplied to him in
16 some form which did or didn't have it, but it may be an
17 issue about what was given to Mr Dick, or it may be
18 something that Mr Dick did, but you don't know one way or
19 the other?
20 A. So the records are comparative in the Fair Work
21 audited statement. So the one year's transactions are
22 repeated the next year for the purposes of making
23 a comparison, and so in the initial year the NHDA sum was
24 displayed. When the comparison was made the next year,
25 that line item had been dropped and there was no
26 explanation in the report as to why that had happened. But
27 my understanding is that those records should remain
28 identical to the way they were presented in the previous
29 year.
30
31 Q. You say in the next paragraph of your email:
32
33 *Reference to the account was removed,*
34 *presumably by Holt, Jackson and Dick, from*
35 *the Branch's financial reports ...*
36
37 A. That's back in my email?
38
39 Q. Yes, page 69.
40 A. Yes.
41
42 Q. By "Holt", you mean Ms Jane Holt?
43 A. Yes.
44
45 Q. Did you check with Ms Holt as to whether she had made
46 these changes?
47 A. No, I didn't.

1
2 Q. Did you check with Ms Jackson?
3 A. No, I didn't. This --
4
5 Q. I thought you were concerned with fair process and the
6 like?
7 A. Well, this was a preliminary email to Mr Brown saying
8 this is something we will need to look into.
9
10 Q. These matters then received wide publicity; is that
11 right?
12 A. That's correct.
13
14 Q. Did you supply this information to someone from the
15 newspapers?
16 A. I did.
17
18 Q. You knew when you supplied the information that
19 nothing had been put to Ms Holt for her comment before you
20 supplied it?
21 A. That's correct.
22
23 Q. And it hadn't been put to Ms Jackson for her comment
24 before you supplied it?
25 A. That's correct.
26
27 Q. It hadn't been put to Mr Dick, for that matter, for
28 his comment before you released it to the newspapers?
29 A. That's correct.
30
31 Q. Or for that matter, Mr Agostinelli; is that right?
32 A. That is correct.
33
34 Q. And you appeared on quite a number of media outlets on
35 30 April and the following days discussing these matters
36 and you hadn't at that time, again, given any of the people
37 affected an opportunity to explain their position, had you,
38 Mr McGregor?
39 A. I believe that the --
40
41 Q. Had you, Mr McGregor?
42 A. I hadn't - no, I hadn't. I believe that the
43 journalists contacted them and asked them to comment before
44 anything was published.
45
46 Q. Indeed you contacted - you released this information
47 to the media before you supplied it to the Commission in

1 answer to the notice to produce; is that right?
2 A. That's correct.
3
4 Q. If you come back to paragraph 3 --
5 A. Of page 69?
6
7 Q. Yes. When you initially answered my question about
8 it, you described it as your speculation; remember that?
9 A. Yes.
10
11 Q. And then I asked you to confirm that it was
12 speculation and you didn't give me a clear answer one way
13 or the other, and I'm asking you again: that's really just
14 your speculation, isn't it, Mr McGregor?
15 A. That's right.
16
17 Q. You said that you'd attempted to obtain the audit file
18 from Mr Agostinelli. When did you do that?
19 A. I can't remember exactly. I phoned Mr Agostinelli mid
20 last year and spoke to him about that and I sent him
21 follow-up emails requesting information.
22
23 Q. Emails, more than one?
24 A. Yes, more than one.
25
26 Q. Where do I find that in your statement, Mr McGregor?
27 A. Paragraph 26.
28
29 Q. Yes. You make reference to tab 2. Is that the only
30 place? Have a look at 27.
31 A. Yes, page 27 is communication between Mr Dick and
32 myself.
33
34 Q. I'm sorry, I was referring to paragraph 27 of your
35 statement.
36 A. Paragraph 27, yes.
37
38 Q. As I understood your evidence a moment ago, you said
39 that you had made an oral request of Mr Agostinelli to
40 provide you with the audit documents and then you sent him
41 a number of follow-up emails. Does that accurately
42 summarise your evidence a few minutes ago?
43 A. Yes.
44
45 Q. Where do I find reference to your oral request of
46 Mr Agostinelli for the records in your witness statement?
47 A. It is not there.

1
2 Q. You made a request of him, did you?
3 A. Yes, I did.
4
5 Q. When was that?
6 A. It was middle of - I can't recall exactly.
7
8 Q. The middle of what? Last week? Last year?
9 A. It was some months ago. It would have been more than
10 six months ago.
11
12 Q. I'm sorry?
13 A. Several months ago. More than six months ago.
14
15 Q. I see. So it had nothing to do with the notice to
16 produce the Commission issued to you on or about 31 March
17 2014?
18 A. No. We were attempting to locate as many documents as
19 we could. The reason I was contacting at that point was to
20 see if he had copies of the branch committee minutes which
21 we were lacking.
22
23 Q. Then you said you sent him an email. Is that behind
24 tab 2, is it, page 12?
25 A. Yes, that's correct.
26
27 Q. You've included an email of 8 April 2014 to
28 Mr Agostinelli?
29 A. Yes.
30
31 Q. You say there:
32
33 *I refer you to the GPFR ... 2009-10.*
34
35 Is that General Purpose Financial Report?
36 A. That's correct.
37
38 Q. You refer to note 16 and you raise a question about
39 that at the bottom of the page. On the next page you say
40 you refer to note 13, which is a reference to Australia
41 Bringing Hope Incorporated?
42 A. Yes.
43
44 Q. You say that's problematic?
45 A. Yes.
46
47 Q. And you asked Mr Agostinelli to respond?

1 A. Yes.
2
3 Q. You don't say anything in there about getting hold of
4 the audit file, do you?
5 A. No.
6
7 Q. You don't say anything in there about getting hold of
8 the branch - the BCOM minutes, do you?
9 A. No, I don't.
10
11 Q. Is that the only email you sent to Mr Agostinelli
12 since 31 March 2014?
13 A. I would need to check my records.
14
15 Q. You don't refer to any other email on 8 April, do you?
16 A. In my witness statement, I don't believe so.
17
18 Q. In the email of 8 April you don't refer to some other
19 email you have sent to him and say, you know, "I'm" --
20 A. No, I don't.
21
22 Q. So coming back to your page 69, that's sent on
23 23 April 2014. On 8 April, you sent an email to
24 Mr Agostinelli asking two specific questions about the
25 accounts, and do you say that you sent an email between
26 8 April and 23 April asking for the audit file? You sent
27 Mr Agostinelli an email to that effect, is that your
28 evidence?
29 A. Where are you referring to in my statement?
30
31 Q. I took you to your email at tab 2?
32 A. Yes.
33
34 Q. That is dated 8 April 2014 and that is on page 12?
35 A. Yes.
36
37 Q. If you come through to page 69, there's an email of
38 23 April 2014 to Mr Brown?
39 A. Yes.
40
41 Q. What I'm asking you is did you send an email - well,
42 is your evidence that you sent an email between 8 April and
43 23 April to Mr Agostinelli asking him for a copy of his
44 complete audit file?
45 A. No, that's - I mean I sent the email to Mr Agostinelli
46 on 8 April.
47

1 Q. Yes.
2 A. And then I don't - well, I'm not sure, but I don't
3 believe I sent another email to him between then and the
4 23rd.
5
6 Q. So you get the notice to produce on 31 March. On
7 8 April, you send an email to Mr Agostinelli, you don't
8 think you sent another one after 8 April but before
9 23 April, and then on 23 April, you send the email to
10 Mr Brown. Is that the sequence of events?
11 A. I believe so.
12
13 Q. So the position is that as at 23 April, you hadn't
14 asked Mr Agostinelli for a copy of his audit file?
15 A. I had previously asked him for - in my phone
16 conversation, I believe, for all information that he had
17 relating to the branch.
18
19 Q. Was this telephone conversation in about March 2013?
20 A. I believe it was earlier than that.
21
22 Q. Earlier than March 2013?
23 A. Yes.
24
25 Q. So it was in, what, 2012?
26 A. No, sorry, 2013. I thought you said 2014. It was
27 approximately then, yes, that's correct.
28
29 Q. 2013?
30 A. Yes.
31
32 Q. Did you discuss with Mr Brown the fact that you were
33 going to go to the media with these allegations prior to
34 you doing it?
35 A. I had had some discussions with Mr Brown regarding the
36 media.
37
38 Q. Did you tell Mr Brown that you were going to go to the
39 media with these allegations prior to you doing it?
40 A. I don't think so. I can't recall exactly.
41
42 Q. Are you involved in giving instructions to lawyers
43 about proceedings in the Federal Court against Ms Jackson?
44 A. I have had discussions with lawyers about those
45 matters, yes.
46
47 Q. With the lawyers?

1 A. Yes.
2
3 Q. Are you giving the instructions or is someone else?
4 A. I'm not giving instruction.
5
6 Q. You know that in those proceedings allegations have
7 now been made against Ms Jackson about the NHDA?
8 A. Yes, I do.
9
10 Q. Do you know whether anyone has obtained the audit file
11 from Mr Agostinelli?
12 A. I'm not aware of that.
13
14 Q. Could you come to page 94 of your statement. This
15 relates to payments to a fund called IR21?
16 A. Yes.
17
18 Q. That is also a matter that you brought to the
19 attention of Mr Brown on 23 April?
20 A. Yes.
21
22 Q. At page 102, you raise the issue of AB HINC?
23 A. Yes.
24
25 Q. And you say in the second - well, you refer to
26 a donation of 5,000 and you say:
27
28 *AB HINC is purportedly Australia Bringing*
29 *Hope ...*
30
31 Do you see that?
32 A. Yes.
33
34 Q.
35 *We have contacted the organisation and they*
36 *do not recognise the bank account and know*
37 *nothing of the fund raiser.*
38
39 A. Yes.
40
41 Q. You are suggesting, aren't you, in this email that
42 money had been recorded in the accounts having been donated
43 to a charitable organisation working to alleviate third
44 world poverty when, in fact, the money had been used for
45 a political donation? Is that the nub of your point?
46 A. Well, I mean I was somewhat confused in that there was
47 - the invitation specifically referred to AB HINC and the

1 corresponding date and sum of money in the Fair Work report
2 referred to Australia Bringing Hope. So there were
3 questions around that.
4

5 Q. You asked Mr Agostinelli about that on 8 April,
6 page 12 of your statement? Really it is on page 13. On
7 the top of page 13, you say to Mr Agostinelli - sorry, you
8 ask him questions about what you describe as an interesting
9 issue and you say:

10
11 *The reference to Australia Bringing Hope*
12 *Incorporated is problematic for us.*
13

14 A. Yes.

15
16 Q.
17 *The MYOB file records this as a payment to*
18 *a political party ... Do you have any*
19 *notes ...*
20

21 And Mr Agostinelli responds later the same day. On
22 page 12, it says:

23
24 *I will look into the donations and also*
25 *the minutes separately.*
26

27 A. Yes.

28
29 Q. Had you heard from Mr Agostinelli further?

30 A. No.

31
32 Q. Before 23 April? So you made the complaint at 102
33 prior to hearing back from Mr Agostinelli about that?

34 A. As I said I previously contacted Mr Agostinelli and he
35 had not got back to me and, again, I contacted him and he
36 had not got back to me.
37

38 Q. Well, on 8 April he wrote to you saying that he was
39 going to get back to you. He said:

40
41 *I will look into the donations and*
42 *the minutes separately.*
43

44 And you didn't wait for him to get back to you before
45 23 April when you sent off this email to Mr Brown?

46 A. And, that's correct, he still hasn't got back to me.
47

1 Q. And you then released this matter to the media as
2 well?
3 A. That's correct.
4
5 Q. And you did that before you'd provided the material to
6 the Commission?
7 A. Correct.
8
9 Q. Did you raise concerns with Mr Brown or anyone else
10 about cash withdrawals or payments relating to Ms Jackson
11 in the amount of \$220,000-odd?
12 A. Yes.
13
14 Q. And did you release that information to the media as
15 well?
16 A. Yes.
17
18 Q. Were you in the Commission today listening to the
19 evidence?
20 A. Yes.
21
22 Q. Do you understand now that the figure of \$220,000-odd
23 relates to honorariums and other payments with respect of
24 BCOM meetings?
25 A. That's the way they're recorded in MYOB, yes.
26
27 Q. And did you raise that issue with Ms Jackson, Ms Holt,
28 Mr Dick or Mr Agostinelli before releasing it to the media?
29 A. No, I didn't.
30
31 Q. What was your purpose in releasing information to the
32 media?
33 A. It seemed to me that there were some questions to
34 answer around cash withdrawals and, as a member, that would
35 be something that I'd be interested in, and I felt that the
36 members should be apprised of that information. I did not
37 make specific allegations. I just said there are questions
38 to answer around this.
39
40 Q. Would it not be more appropriate to obtain information
41 such as the audit file and put allegations to people for
42 their comment before you release them publicly?
43 A. I believe that journalists have a code of conduct and
44 they attempt to do that work. I do not have the resources
45 or the ability to do that. That was a decision I made in
46 the best interests of the members.
47

1 MR STOLJAR: Nothing further. Thank you, Commissioner.

2

3 THE COMMISSIONER: Yes. Mr McGregor, you are free to
4 leave the witness box now. It may be that later on it will
5 be necessary to come back because people represented may
6 wish to ask you some questions.

7 A. Thank you.

8

9 THE COMMISSIONER: But for now you are free to go.

10

11 **<THE WITNESS WITHDREW**

12

13 THE COMMISSIONER: Anything else to do this afternoon?

14

15 MR STOLJAR: No. The next witness was not scheduled until
16 tomorrow morning, so it may be just convenient,
17 Commissioner, to adjourn now until 10am.

18

19 THE COMMISSIONER: Yes. We will adjourn until 10am
20 tomorrow morning.

21

22 **AT 2.55 PM THE COMMISSION WAS ADJOURNED TO WEDNESDAY,**
23 **18 JUNE 2014, AT 10AM**

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