

McCubbin Robert John

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Background

1. My full name is Robert John McCubbin and I am not currently employed. I have been a long term member of the Health Services Union in Victoria No. 1 Branch. I first became a member of the union roughly twenty years ago and since that time I have performed a range of roles. The roles I have performed include shop steward, branch Committee of Management member, as an organiser and Branch Assistant Secretary.
2. It was about 2002 that I first met Diana Asmar when I was the Assistant Secretary of the union. I was introduced to Diana and David Asmar by Jeff Jackson who was the Secretary at the time. Jeff introduced Diana to me as the person who would be taking over my role in the future because I was at loggerheads with Jeff about the way union funds were being spent inappropriately.
3. In 2006 I left the union due to a motor cycle accident I had in which I was seriously injured. In 2009 I returned to the union and became a member. Diana approached me and asked me to support her in the upcoming election because I was well known and popular among the members. Diana offered me the role of Assistant Secretary if she was successful. Diana had a person running on her ticket as the Assistant Secretary but the deal was that the person would resign if they were elected and I would take over the role as Assistant Secretary.
4. I supported Diana by going out to hospitals with her, going door knocking with her and allowing my name to be used on documentation to gather support.
5. Diana was not successful at that election and I resigned from the union over the branch being amalgamated which I considered to be illegal.
6. I did not hear from Diana for the next couple of years and although I tried to contact Diana a number of times, I was unsuccessful and she would not return my calls. It was 2012 that Diana contacted me again because there was going to be another election for Victoria No. 1 Branch and she wanted my support again. Diana was challenged in the Federal Court about her eligibility to run for election by Marco Bolano and she was represented by Holding Redlich law firm. She was successful in being deemed to be eligible to run for election.
7. I supported Diana during her election campaign in a similar way to the previous campaign and this time she was successful. On this occasion, Daniel Govan ran for Assistant Secretary / Treasurer and there was a clear agreement between myself, Diana and David Asmar as well as Daniel that if Daniel was successful, he would stand down from the position



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and I would take over the role of Assistant Secretary / Treasurer. This agreement was common knowledge with everyone on the ticket and people supporting those on the ticket.

8. Diana was successful in being elected in December 2012 to Secretary although Daniel was not and Leonie Flynn was elected as the Assistant Secretary / Treasurer from an opposing ticket. After the election, Diana joined me up as a member and I paid 12 months back fees so that I could take over the role of Assistant Secretary / Treasurer once Diana was able to get rid of Leonie Flynn.

9. Immediately after the election I became part of the Executive team although I was not a paid employee at that time. This meant that I participated in Executive meetings with Diana Asmar, Kimberley Kitching, Mark Donohue and Luke Walladge.

10. There was open discussion that one strategy to get rid of Leonie Flynn was that Luke Walladge would flirt with her and set her up for a sexual harassment claim. This strategy was discussed at meetings at Diana's home with Diana, David Asmar myself and my partner Sandy.

11. The strategy for Luke to flirt with Leonie didn't eventuate because there was a legal issue involving a claim against Luke and he needed to return to Perth. After that, the plan became that Kimberley Kitching would take Leonie out for coffee and become friends and become a confidant. Mark Donohue would also get close to Leonie by having cigarettes with her and befriend her. The purpose of this would be so that Kimberley or Mark could get information out of Leonie which they could later use against her in the plan to get rid of her.

12. None of these plans worked and Kimberley didn't take her out for coffee although Mark did spend time with Leonie having cigarettes with her.

13. I attended meetings with Diana Asmar, Kimberley Kitching and on several occasions with David Shaw from Holding Redlich. During these meetings, the strategies discussed were how to take Leonie Flynn's financial role away from her so Diana could take over the financial role. Also discussion occurred about how to extend the election period because Diana only got 14 months before another election is required. I am aware that the National Secretary Chris Brown will not support an extension to the election period.

14. It was the ^{22nd} April 2013 I started full time employment with the union as an occupational health and safety officer. For the first three months I had been assisting Diana but I was doing so on a voluntary basis as required until the branch had the funds to start paying me. There was no selection process and I was appointed to the role. Within a reasonably short time of me starting as the occupational health and safety officer, Diana gave me the position as team leader (lead organiser) at a salary of \$90,000 and a vehicle, phone, fuel card etc.

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Right of Entry Permits

15. In about April 2013 I recall having a discussion with Diana in her office during which Diana told me that Kimberley Kitching had done her (Diana's) Right of Entry on line test. Diana told me she was going to instruct the rest of the staff at the industrial day that Kimberley would be doing the Right of Entry tests, including mine.

16. Also, in April 2013 I attended an Industrial day at the branch which is when all employees meet at the branch. There is firstly a housekeeping meeting for all staff and then some staff leave the meeting and the organisers meet to discuss industrial and training issues. It was at that meeting that Diana Asmar directed the industrial staff that all Right of Entry Permits would be done by Kimberley Kitching. I took this to be a specific direction from the Secretary.

17. I understood that Kimberley would be doing the Right of Entry training and tests because of the workload of organisers, it would save them time if Kimberley did the tests and the organisers could focus on industrial matters.

18. I recall around the time Kimberley was running for pre-selection for a seat in Parliament on union payed time. Both Diana and Kimberley gave direction to Peggy Lee to do the Right of Entries; Peggy Lee refused to follow their directions. I remember thinking how brave Peggy was as I knew what could happen to people who refused direction from Diana. I remember signing the form Peggy Lee presented to me of which I returned to Kimberley. I know that it was Kimberley Kitching that did my Right of Entry test and within a few weeks I received my Right of Entry Permit.

19. I am certain that Kimberley completed the Right of Entry test for a number of people and there was no secret about it, everyone in the office knew about it. Kimberley did the tests for:

Diana Asmar;

David Eden (the President);

Nick Katsis;

Jayne Govan;

Myself;

Moiria Sanderson;

Peter Lazarevski;

Jack Massa;

Wael Hassen (who has resigned);

Sasha (surname not sure).

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20. The problem, apart from making declarations about doing the training and tests which people weren't actually doing, is that people don't know what they need to be doing according to the legislation. That includes what their rights and responsibilities were in going on sites. Diana told people not to worry about specific rights and responsibilities when accessing sites and she did not seem to think there was a problem with it.

21. My other concern about people like Nick Katsis, Moira Saunderson, Peter Lazsrevski, Jack Massa, Wael Hassen and Sasha is that none of them had any experience in accessing work sites. People like me, David Eden Diana herself and a few others at least had experience and knew what we should and shouldn't do when using Right of Entry Permits.

22. I handed back my permit to the Fair Work Commission on Thursday 29 August 2013 because I am no longer employed by the Union. It is likely I will apply for a Right of Entry Permit in the future and the reason things occurred how they did with my permit is that I considered the Secretary to have given a specific direction about how they were to be obtained. I took this seriously as she is the Secretary of the Branch.

Concern about Cronyism

23. I have a significant concern about most of the people Diana employed at the Branch. My partner Sandy and I have both been told by Diana Asmar that Kimberley Kitching and her husband Andrew Landeryou lent money to Diana for her HSU election campaign. Diana told us that the payback for the loan was that Kimberley would be employed in the Branch if Diana was successful in the election and that Kimberley would be supported by the Branch in circumstances where she ran for parliamentary elections in the future. Diana has told my partner Sandy and I that Kimberley is on a salary of \$120,000 with a car, fuel card and a phone. I am aware that Kimberley's husband uses the union car and Kimberley uses cab vouchers. My concern is that this is an abuse of members funds.

24. Since Diana has been elected, Kimberly has run for three seats; Gellibrand, Lalor and a Senate position although she was unsuccessful with all three. I know that branch resources were used to support Kimberley's parliamentary election campaigns which included printing of flyers, use of computers and telephones and using the branch office for labor party meetings. There were often labor party people at the branch but I recall one night when the branch office seemed to be full of labor party people discussing tactics about who would get elected and where.

25. I am also aware that David Saunderson came to Australia from England and I am concerned about whether the Branch actually paid for him to fly to Australia and back to England. I am aware that he was employed by the branch in some sort of campaign role but I am aware through my internal knowledge of what was going on, that he was actually employed to support Kimberley Kitching in her parliamentary election campaigns.

26. I know that David was using Leonie Flynn's office and I saw Kimberley's campaign flyers in the bin in Leonie's office that David was using. I have no doubt that David was producing these flyers, using HSU resources for Kimberley's campaign.

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27. David was employed for a number of months and most of his time was dedicated towards assisting Kimberley in her election campaigns. David left the HSU in around late June and it wasn't until his last period of time there that he actually did HSU work by producing business cards and other minor work.
28. Kerry Georgiev is the current finance manager of the branch. I was told by Diana that the reason Kerry was employed was because Kerry's father loaned Diana Asmar money for her election campaign and the payback was that Kerry was to get a job at the branch. I know that Kerry Georgiev is on \$100,000 salary and is supplied with a car.
29. I am aware that there is an accountant who does work for the branch and so it seems a lot of union funds to be paying a finance manager because her father lent Diana money.
30. I am also concerned about the process by which Mark Donohue has been employed. Mark ran Diana's election campaign and he was employed after she was elected. He was employed for a couple of months and then he left to go to America.
31. Diana rang me a couple of months after he left and told me he was coming back to Australia and that she wanted to employ him. We discussed that he would not be on a large salary and would not get a car however, after his re employment I questioned Diana Asmar and she told me he was on \$100,000 with a car. I am aware that Mark Donohue gets a tram to work and does not drive the union car. Mark's partner drives the vehicle and uses the union fuel card.
32. Again my concern is that this is an abuse of HSU members funds.
33. I have also have a concern that there have been no selection processes for employed by Diana Asmar and people are employed on the basis of previous friendships. For example, Diana's PA Hala was her PA when Diana was the Mayor of Darebin; because Hala is employed, her sister also gets employed by the union as an organiser. Wael Hassen was employed on the basis of his uncle being employed. Moira Saunderson was employed because her brother David was employed and supported by Kimberley.
34. Other people from the Labor party have been employed at the union not because of their skills or by applying for the roles but because they have supported David Asmar in his role with the Labor party. These people include Kimberley Kitching, Mark Dohohue, Nick Katsis, Cameron Granger, Sel Sanli, Nathan Murphy, Dean Sherriff, Imad Alzind, Kemal Bekhzai and David Saunderson. There have been others employed in the same way since I have left the union.
35. I am aware that the union has never before had so many employees and Diana has had to re-finance the union to pay the salaries and vehicles. Traditionally the only ones to have a vehicle were elected officials and industrial staff but, seems most staff under Diana Asmar has vehicles.

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Legal Tender Process

36. I have a further concern about the legal tender process by which Holding Redlich became the successful tenderer. Diana Asmar made it very clear in a discussion with my partner Sandy and I that Holding Redlich were always going to be the successful tenderer for HSU legal work because they had supported her during her election campaign.

37. I was present with Diana when the tender envelope was opened. Diana wanted me to be there as a witness although other people came and went from Diana's office including her PA. Diana opened the envelope and went through the three tenders that were inside. I recall that Holding Redlich was the cheapest tenderer. There were two other tenderers but my concern is that I was told later on that only two tenders made it to the Branch Committee of Management.

38. I am also aware that the branch has incurred a significant legal bill to Holding Redlich in the first nine months of somewhere in the vicinity of \$200 - \$250,000. I do not believe Holding Redlich have done anywhere near that amount of work for the branch and I am concerned about the possibility that Holding Redlich may be recovering some of their costs of supporting Diana in her election campaign.

39. It was the evening of July 10 2013 that I resigned from the Union because of these concerns and the workplace bullying and harassment that was going on in the union by Kimberley Kitching and Mark Donohue which was being approved by Diana Asmar.

40. Leonie Flynn was being particularly bullied because Diana obviously didn't want her there and Jayne Govan was also being bullied.

41. I have expressed these concerns because I genuinely believe that union members funds should be used for the benefit of members and I am concerned that in some cases, funds are not being appropriately used.

Robert McCubbin

13 September 2013

