

## **Witness Statement - Kimberley Kitching**

### **My Position**

1. I am the General Manager of the Victoria No.1 Branch of the Health Services Union.
2. I held this position, firstly in a temporary capacity (following a Branch Committee of Management resolution of 23rd December 2012) and was employed on 24th December 2012; and then in a permanent capacity from 3<sup>rd</sup> of June 2012 (my permanent employment was approved by the Branch Committee of Management on 3<sup>rd</sup> June 2014).

### **My qualifications and experience**

3. I have relevant qualifications and experience for my role. I speak 4 languages. I have tertiary qualifications, including a law degree. I have been admitted as a Solicitor to the Supreme Court of Queensland. I have been elected as a Councillor of the City of Melbourne, a Corporation that at that time had a budget of approximately \$300 million. I have worked as a Senior Advisor to the Minister for Industry and Trade, Major Projects and Information and Communications Technology; and as a Senior Advisor to the Treasurer of Victoria who with the Premier and other members of the Expenditure Review Committee sets (at that time) a \$45 billion State Budget (FY09-10). I have been employed in private enterprise: I was an employee at LookSmart, a technology company that went on to list on the NASDAQ, and was involved in the first tranche of its capital raising; I have also been employed at Drake International, the largest privately owned human resources company globally and was responsible for their Government and Corporate Relations, and for strategic human resources advice for clients. I have been a Director on several boards, and have been a Vice President and Trustee of the Victorian Branch of the Australian Labor Party. In late 2012 I was studying for the entrance exam to participate in the Victorian Bar Readers' Course.

### **Diana Asmar**

4. I have known Diana Asmar since the late 1990s. I know her through the ALP and through local government circles. I know Diana and her husband David Asmar personally.

5. I was aware of the elections for the three demerged branches of the former organisation known as HSU East, those elections being held at the end of 2012.
6. During the elections held in 2012, I spoke with Diana and David, and saw them frequently during the campaign. Diana asked me towards the end of the campaign period whether, if she was successful, I could come to help out at the beginning of her term.
7. The Australian Electoral Commission declared the result of the Branch Elections on the afternoon of Friday, 21st of December 2012.

#### **First visit to branch office**

8. I went with Diana late on the Friday afternoon to the Branch office, and saw a dirty and messy office. During that visit an administrative employee (the former Administrator's personal assistant) unlocked the door of the office that Kathy Jackson had vacated some days previously. The office was full of large black rubbish bags, and rubbish piled up on chairs and the floor. I later discovered that the rubbish bags contained documents (many of which had been torn up and included unbanked cheques for members' dues, documents concerning the financial affairs of the Branch, contracts and receipts for personal expenditure. There were also dozens of bags of shredding near the backstairs of the office.
9. The Victoria Police were at that time undertaking an investigation into the conduct of previous officials of the Union. The Police had the use of a locked, secure room in the union building. We informed the Police of the shredded records that we had discovered. They asked if we could place the shredded documents in a safe place near that room where they could not be interfered with, and they would come to investigate it. We did that.

#### **Employment Practices**

10. Statements of other witnesses before the Commission raise criticism of the Branch's employment practices.
11. I assisted Diana in implementing the Branch's employment policy, a policy which had been established by the Administrator during 2012. I gave Diana a copy of that employment policy. I then took steps to ensure that the Branch complied with that policy. Employees were employed in accordance with the Employment Policy of the Branch. I wrote or finalised position descriptions for prospective employees. I

directed David Saunderson to upload position descriptions to the website, as required under the employment policy. I satisfied myself that this occurred on each occasion.

12. My own position was advertised. I applied for the position, submitting my curriculum vitae and a covering letter. I was interviewed by Diana Asmar and David Eden. My permanent employment was approved by the Branch Committee of Management on 3<sup>rd</sup> June 2013.

### **Ms. Flynn**

13. I first met Leonie Flynn on Saturday, 22<sup>nd</sup> December 2012. She was elected from Marco Bolano's ticket as she had been at the previous election. The conversation was friendly and she offered to buy me a coffee as she was going down the road to a nearby café.
14. I next saw her in January 2013, as she had been away over the Christmas/New Year period.
15. I had a number of discussions in the first few months with Ms Flynn. She confided in both Diana and me about a number of personal issues.
16. Her attendance at the office became more and more infrequent. She would often not return phone calls. This became increasingly noticeable because some problems needed to be addressed quickly for fear that they would worsen. Sometimes when Leonie was needed for meetings and for decision-making, she would not be available.
17. She was not a hard worker. From my observation, she did not apply herself to her duties effectively. She appeared to struggle to comprehend the financial and governance obligations of her role.

### **The Position of Assistant-Secretary Treasurer**

#### **Training**

18. Leonie was obliged, by reason of her position as Assistant-Secretary Treasurer, to undertake financial governance training in a course which the Fair Work Commission would approve. She appeared apprehensive and reluctant to undertake the training. I began discussing this with her in the first week of February 2012. Over the next few months, I found her approximately a dozen courses. The ACTU provides training for elected officeholders. Leonie's view was that such a course wasn't suitable because

'with her position she needed "specialised training". As Leonie lives in Maffra, I found her a course at Gippsland TAFE; when in Melbourne, she stays with her mother-in-law in Bundoora, and I found her a course at RMIT at Bundoora. I chased her for a month for her School Leaving Certificate (some of the courses required this document to be attached) and gave her the contact number at the Department of Education so that she could be sent a copy of her Leaving Certificate as it occurred to me that she may not have been able to find it. She then told me that she wasn't sure that she had a Leaving Certificate.

19. This was very frustrating because I would have concentrated on courses that didn't require this Certificate, and I felt (by this time) months had been wasted when it was desirable that Leonie would have already applied, undertaken, and finished the requisite course.

#### **Union resources**

20. No union resources were applied to support my preselection campaign activity. I have my own mobile phone for which I pay personally.

#### **Cabcharges**

21. As General Manager, I authorised the use of cabcharges by other staff. My authorising initials "KK" may appear on the file that records cabcharge use. The reason my initials appear on the cabcharge sheet is that I was authorising its use. It does not mean I took the cab.
22. When I created leaflets I paid for the preparation and printing of that material from my own resources.
23. I took annual leave when I was working on the Gellibrand preselection campaign.
24. Leonie refers to and exhibits a copy of a leaflet for my Gellibrand preselection campaign. The only copies of that leaflet I had in the office at any time were in a manila folder on my desk, underneath my handbag. I did not consent to any person taking a copy of my property from my office.

#### **Mr. Saunderson**

25. David Saunderson was not employed to work on my preselection campaign. David Saunderson was employed to work for the union. David worked on the renaming and

rebranding of the Branch, and on the members' journal, a very substantial undertaking.

#### **BCOM Meetings and Audit and Compliance Meetings**

26. My attendance at Branch Committee of Management meetings and Audit and Compliance Committee meetings was to act in an advisory capacity, and was requested by the Chair of the Committee (David Eden) and the Secretary (Diana Asmar). When I spoke at meetings I spoke through the Chair at the direction of the Secretary. I am not a member of the Union.
27. Branch Committee of Management meetings were often robust and from time to time heated. They were substantial meetings that lasted more than hour or substantially longer.

#### **Policies on Branch website**

28. At one point, the Graphic Designer (appointed before Diana was elected) removed the Financial Policy and Procedures document from the website, as the website was being updated. The policies were reinstated on the website in response to a phone call from Chris Brown.

#### **No bullying**

29. I did not bully Leonie Flynn. There was never any bullying of anyone. Although meetings sometimes became heated, I never got "stuck in" to Leonie.
30. There was never any plan to have Leonie embarrassed or to have her the subject of any persecution or prosecution. Leonie put forward her point of view at meetings.

#### **ROE Tests**

31. It is alleged that I undertook ROE tests for other people.
32. I have never conducted any test for a Right of Entry training course, either for myself or for any other person. Neither Diana nor any other person has ever asked me to conduct such a test for themselves or for anyone else.

#### **Tender Processes for acquisition of services**

33. I wrote tender process documents for the Branch. Tenders for legal services, cleaning services and insurance broking arrangements were completed in accordance with the Branch's tender policy.

**Allegation that Leonie Flynn was prevented from performing her role**

34. As Assistant Secretary-Treasurer, Leonie Flynn had financial responsibilities under the Rules.
35. The Branch was sent a CommBiz token by the Commonwealth Bank for Leonie. The token arrived in February or March. It was available for Leonie from that time. Neither Diana nor anyone else ever told me to prevent Leonie from ever having access to the CommBiz token.
36. Financial documents were available to Leonie. They were also available to all Branch Committee of Management members.
37. Her claim on the 5<sup>th</sup> of August that she did not have a Commbiz token at the Branch Committee of Management meeting shocked me.
38. I know that Leonie spoke with Michael Shulman from Stanards (the Branch auditors) about financial matters as I observed these meetings if I was going past when they occurred at the office. Sometimes Leonie attended Michael Shulman's office.
39. Ms. Kerry Georgiev, who held a position as Finance Manager, was available to assist Leonie as she was available to assist all others.
40. Leonie refers to a meeting with Joanne Fenwick at FWC she did not attend. There was no intention to exclude her from any meetings at the Fair Work Commission. If Leonie missed any meetings at any time, it was because of her absence or because she chose not to attend.
41. There was no discrimination in terms of the spreading of work at the Branch. Leonie chose to go into the areas where she was employed, and indeed I heard her thank Diana for the opportunities to go into new areas.

**SMC Account**

42. There are allegations about an SMC account.

43. There were discussions about the creation of a re-election account. This account was never opened. No meeting was ever held.

Dated: <sup>23</sup>~~22~~ August 2014

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Kimberley Kitching

