

## **SUPPLEMENTARY WITNESS STATEMENT OF GERARD JOHN HAYES**

1. My full name is Gerard John Hayes.
2. I am a resident of New South Wales.
3. I am the currently elected Secretary of the HSU NSW.

### **Request for information from the Royal Commission**

4. On 5 August 2014, I received a letter from the Royal Commission asking me to provide a statement in relation to certain matters.
5. On 15 August 2014, I replied to that request and provided a statement addressing the matters requested of me.
6. On 21 August 2014, at 12.16pm, my Solicitors received a further request for a supplementary statement from the Royal Commission. I was requested to provide a supplementary statement by no later than 10am on 25 August 2014.
7. I note that the request has given me just over one working day to reply to the matters which have been requested of me.
8. In an effort to assist the Commission, I have prepared this statement within the time constraints which have been imposed upon me by the conduct of the Commission. I have therefore done so on the basis of:
  - (a) The knowledge that I have;
  - (b) The limited information which I have been able to obtain in the time period afforded to me; and
  - (c) What research I have been able to do on the request.
9. I also need to make it plain that some of the requests for information inevitably involve the searching of records. The HSU NSW, the organisation of which I am Secretary, does not have access to a large part of its financial records owing to the fact they are currently held by Strike Force Carnarvon.

10. I have therefore had to prepare this statement without the benefit of a search of those records. The fact that the records are with the NSW Police is a matter of which the Royal Commission has been previously made aware.

#### **HSU Victoria No 3 records**

11. The decision to relocate the records to Sydney was taken by Peter Mylan (who at the time was Secretary of HSU East).
12. Mr Mylan arranged for Toll to collect the records and transport them back to the Sydney Office.
13. I was asked to attend the Melbourne Office to oversee the collection of the documents.
14. I recall that I attended the Melbourne Office. I announced that I was there, that the financial records were to be sent to Sydney in accordance with a resolution of the Executive Committee and I then stood outside the Melbourne Office whilst the documents were collated. I could see through the window of the office and could see that Ms Jackson was going through boxes as was Mr Bolano.
15. I did not enter the building during this process and I did not touch the documents. I did not enter the building because I was aware of previous allegations made between different parties within the Victorian HSU and I did not want those allegations to be levelled at me. I was trying to protect myself.
16. A courier then arrived to collect the documents and from what I can recall waited to collect the documents. That was the end of my involvement with the documents.
17. I do not know what happened to them when they returned to Sydney and I had no responsibility for them.

#### **Michael Williamson**

18. Ms Jackson makes a number of comments and allegations in her statement prepared with the assistance of the staff of the Royal Commission about various alleged conversations with me. I do not intend to respond to each and every paragraph of the Jackson statement as most of it is fanciful, and due to the constraints of time.

19. On 1 June 2012, Ms Jackson made an affidavit in Federal Court proceedings *NSD 631/2012, NSD 621 of 2012 and NSD 735 of 2012* ('the Jackson affidavit'). In that affidavit, Jackson states that she told me of some of her concerns at a lunch which she held at her home with Michael Lawler. That affidavit does not reference any conversations as having occurred in late 2010 about her alleged Williamson suspicions and I maintain that no such conversations occurred with Jackson as she sets out in Paragraphs 110-128 of her statement made before this Commission. A copy of an extract of the Jackson affidavit is behind **Tab 1**.
20. I note that Ms Jackson now says in her statement before the Commission that she had the conversation referred to in Paragraph 123-124 in late 2010 whereas in the Jackson affidavit she says that this conversation happened at the lunch held in February 2011 (see Paragraph 60 of the Jackson affidavit).
21. In so far as Jackson references conversations which allegedly occurred in late 2010, I deny that those conversations occurred in the manner, at the time, or at all as described by Jackson in her statement to this Commission.
22. Throughout 2010, and in particular late 2010, I was responsible for negotiating a replacement to the Ambulance Service of NSW Memorandum of Understanding. This was a significant agreement for our membership and the Union and I devoted a lot of time to it. I was not living in Melbourne during late 2010 as I was negotiating this MOU and it did not get signed off until on or close to 23 December 2010 at or around 9pm before the Industrial Relations Commission of NSW. I did not move to Melbourne until late February 2011.
23. I do agree with Ms Jackson that I attended a BBQ at her house. Her partner Michael Lawler was also there. I cannot be sure now on recollection if this was in late February 2011 or March 2011. The reason I cannot be sure is that I do not believe that I moved to Melbourne until 28 February 2011 but I accept that I was present.
24. I arrived at the home of Ms Jackson and Mr Lawler which was in Balwyn at about 1pm. During the course of the afternoon, I became heavily intoxicated. I have never been in such a state before (or since). To drink the point of intoxication is entirely out of character for me. During the afternoon, I could not walk properly. I recall walking around the pool and being very unstable. I have a vague recollection of falling down

steps as I was leaving. Ms Jackson drove me home that evening. It was a very strange situation for me and I only have patchy memories of the afternoon.

25. I have absolutely no recollection of the having the discussion set out in 131-142 of the Jackson statement. Jackson has previously made allegations of a similar kind in the Jackson affidavit and I have responded to that by saying in my affidavit before the Federal Court:

*[8] I have grave doubts that it occurred because of the following matters:*

- (a) At this time, there was no discussion that I was aware of in the union about corrupt activities by Williamson;*
- (b) At no time prior to this barbeque or in the period after it until about September 2011, did Jackson raise her allegations of corruption with me;*
- (c) In paragraph 60 of her affidavit, Jackson attributes a comment about Williamson's treatment of Mark Hardacre. I do not know Mark Hardacre and I have never met him. I have only been at the Union since 2000 and Mark Hardacre was not there at my time at the Union. I have no knowledge about the circumstances in which he left the Union or his treatment by Williamson.*

26. I do not ever recall suggesting to Jackson that Williamson should be made CEO on his retirement, as suggested in her affidavit. The concept does not even make sense to me as I saw Williamson's role of General Secretary as being akin to the role of a CEO.

27. The first time I learnt of the allegations against Mr Williamson was in September 2011, along with everyone else. I have previously said this before the Federal Court in an affidavit which is located behind **Tab 2 ('the Hayes affidavit')**. I refer to Paragraphs 15-19 of that affidavit. With the allegations, I took the position of affording natural justice and believed that with appropriate investigations things would be determined as to what was correct and what was not.

28. In or about February 2012, I developed concerns regarding Williamson's corrupt conduct when he told me that Mr Temby had identified his wife's scanning business arrangements with the union. As a result of this conversation, I began to consider that the allegations made against Mr Williamson had some substance.

### **My assistance in the Federal Court and to Strike Force Carnarvon**

29. I contacted Strike Force Carnarvon in November 2011 to let them know that I was more than happy to talk to them if required. I was not contacted until March 2012 at which time I met with them and began assisting them in their investigations of Michael Williamson. I continued to provide assistance to the police throughout the investigation and the prosecution of Williamson.
30. I provided an affidavit to the Federal Court pointing out the serious dysfunction in the HSU East and I advocated for its administration to address these issues. I did so even though I knew this would result in my loss of employment.

### **My campaign in the 2012 election and subsequent reforms**

31. My election campaign was focused on a plan to reform the Union and establish confidence in the union for members. I also ran on focusing the Union on a campaign agenda and the provision of significant extra resources for the membership in the form of additional staff and services.
32. I also ran on a platform of reducing membership fees.
33. The election was heavily contested and all tickets had significant resources available to them. The message of my campaign and the support from the membership that I was able to gather were the primary reason for the success of my team.
34. Since taking office in December 2012, I have followed through on the commitments made in my campaign, as has been detailed to the Commission previously.
35. These reforms include applying, enforcing and enhancing governance procedures. I believe in the Union and the need for a properly functioning Union to represent the members. This has been my sole motivation throughout this entire period.

### **Treatment of Ms Jackson**

36. I refer to Paragraph 173 of the Jackson affidavit.
37. I also refer to my reply to that paragraph in Paragraph 20 of the Hayes affidavit.

38. I agree that I met with Ms Jackson on 26 September 2011. The meeting was arranged by her at the East Sydney Hotel
39. Ms Jackson obviously contacted me because I was someone who was trying to keep the lines of communication open between the NSW officials and the Victorian Officials. I was not out to get Ms Jackson, or victimise her. As far as I was concerned the allegations against Mr Williamson were being investigated by the appropriate authorities and I believed that was the correct process.
40. I recall that Mr Lawler was outside the East Sydney Hotel on my arrival and remained outside for the entirety of the meeting except for one occasion where he came in and showed Ms Jackson something on a laptop computer before leaving again. I found his conduct and presence to be inappropriate and I made a complaint about this. Located behind **Tab 3** is a copy of my complaint.
41. I do not think it has been suggested by anyone that I treated Ms Jackson badly within the Union. I tried to maintain some form of stability within the Union because the controversy surrounding the Union was causing a great deal of stress to both members of staff and our members. It was important that lines of communication were kept open and I did that with Ms Jackson.
42. As to Paragraph 41-52 of the statement of Ms Hart, I do not recall being present at this meeting and cannot comment about what occurred.

#### **Katrina Hart**

43. Ms Hart has run against me for election to the Secretary position of the HSU. She was unsuccessful in her candidacy which was partially funded by Kathy Jackson.
44. Ms Hart is also a candidate for the upcoming elections against me.
45. I have been asked to comment about whether I have replied to various emails sent to me by Ms Hart.
46. The various requests which were made of me by Ms Hart were generally not within my scope or control. I do recall sending a reply to one of her emails stating this fact and referring her to Mr Mylan. I recall speaking with Mr Mylan about some of her requests and asking him to reply. I could not see any reason why he would not respond. It was within his authority to do so.

47. Since I have been elected as the Secretary, Council meetings have been opened up to all members who wish to attend. The Union also arranges for a copy of its financial records to be taken out to members in their workplace so that they can inspect the records.
48. Ms Hart has not, to the best of my knowledge, ever attended a meeting of Council (or sought to) or inspected the books. Nor has she raised any of the issues in person with me on the numerous occasions we have met since my election.

**Carol Glen**

49. I generally agree with the statement of Ms Glen which has been provided to this Commission save for the following points:
- (a) I cannot be sure that Mr Mylan was present during all of the meeting with Ms Glen referred to paragraph 32 of her statement;
  - (b) The meeting was at the Radisson Hotel;
  - (c) Once Ms Glen had made it clear that she wanted to leave, I informed Mr Williamson. I believe I was asked to do this by Mr Mylan. Mr Williamson agreed with the resignation.
  - (d) Mr Mylan then came to the meeting with Ms Glen with a deed of release reflecting the agreed terms of the resignation and the forfeiture of office; and
  - (e) I assisted Ms Glen to resign because despite me not wishing her to leave, I recognized the situation had become intolerable for her.
50. I was previously involved in the termination of Mr Jim Arneman from employment with the HSU. Mr Arneman agreed to resign his employment and was paid for approximately three months to allow him to find further employment.
51. I am also aware, although I was not involved, that a deed terminating the office of Mr Jamie Martorana was executed by the Union. Mr Martorana was the Assistant Divisional Secretary of the merged HSU. I have caused a search of records held by the HSU NSW to be undertaken and I have managed to find a draft deed of release reflecting the terms of the agreement with Mr Martorana. I note that it:
- (a) Provided for Mr Martorana to be paid two years' salary; and

- (b) Was to be signed by Ms Jackson, Mr Bolano and Mr Williamson; and
- (c) Was not for one year similar to the Glen deed.

Located behind **Tab 4** is a copy of the draft deed. The handwriting on the deed is not mine and I do not know whose it is.

#### **4 April 2012**

52. I refer to Paragraph 21-25 of my previous statement made to the Commission.

#### **Officers Election Fund**

- 53. In my capacity as Secretary of the HSU NSW, I instructed our Solicitors to provide a memo on the operation of the HSU Officers Election Fund. This was sent on 14 May 2014.
- 54. Located behind **Tab 5** is an extract of the memorandum which relates to the Officers Election Fund.

#### **Credit Card Statements**

- 55. The process for credit card approvals was as follows:
  - (a) Those with a credit card would be given a copy of their statement on a monthly basis;
  - (b) The officer would supply supporting information about the charges;
  - (c) This would be submitted back to the finance department;
  - (d) Finance would check the expenses and seek clarity or an explanation on anything of concern;
- 56. I have been asked to explain certain transactions on my credit card account. As I set above, I have done this with limited time, without access to records, and on the basis of my recollection and memory. I reserve the right to supplement this. I respond as follows:



Date	Reason
5 November 2007	I had a serviced apartment in Derby Street Newcastle. I had been directed by Mr Williamson to work on the campaign of Jim Arneman who was running for election to the Federal Parliament. Mr Arneman was running for the seat of Paterson. I was authorised to incur the expenditure by Mr Williamson and the Union on the basis that the Union had taken a public position in support of Mr Arneman.
26 November 2007	I believe that my card was used to pay for the accommodation expenses of HSU staff that were staying in and around the seat of Patterson to support the Jim Arneman campaign.
27 March 2008 23 September 2009 11 January 2011	This is the accommodation I generally stay in when I am doing work in and around Western NSW. Sometimes I would stay a few nights. Sometimes employees of the HSU would travel with me on work related matters and I would pay for their accommodation.  On occasion I stay in other accommodation in the central west. It depends upon availability.
3 October 2008	These expenses were related to a National Council Delegation.
8 February 2011	I cannot recall what these expenses relate to.
23 June 2009 8 June 2010	These were expenses incurred for delegate's drinks and the like followings the meetings of annual conference.
3 March 2010	I cannot presently recall what these expenses relate to.
7 April 2010	I cannot presently recall what these expenses relate to.
24 May 2010 8 August 2011	These are dinners put on by the Union with delegates who come to Sydney from around the state and who generally stay overnight. My memory suggests that they were meetings of Ambulance delegates.
24 August 2010 2 September 2010	These were lunches/dinners with Mr Williamson. I recall one involved the PSA. One involved members of Parliament.

18 February 2011	The large expense could have been a dinner post officers meeting.
6 June 2011	I generally paid at the request/direction of Mr Williamson.
10 September 2010 6 February 2012	The first of these expenses was a dinner with members.  The second was a dinner with councillors held the evening before flying to Melbourne for a Council meeting in Melbourne. Some of the delegates live outside of Sydney and it was usual for Council to dine together if staying overnight somewhere.
19 September 2010	This was a meeting in Tweed Heads. This was a lunch meeting with my counterpart from the Ambulance Service who the Union was in negotiations with about the replacement of the Ambulance service MOU. The negotiations were quite intense and the lunch was authorised by Mr Williamson in an effort to build bridges.
22 September 2010	This was a place located next to the Melbourne office. I believe that the expense relates to a meeting which occurred in Melbourne on that day where several Sydney based officials attended.
17 December 2011	I believe that I paid for the Victorian Christmas Party on my credit card as I was authorised to do.
27 April 2011	I cannot recall precisely but I suspect that this was lunch with David Langmead who was the Barrister engaged by the HSU.

57. Of those listed in the table above that I state I cannot recollect, these would have been approved work expenses. I cannot recall the specific circumstances but from time to time I would have been required to pay for food and beverages for staff and members after a Union meeting.

Signature

Gerard John Hayes

Dated:

25 August 2014

Form 59  
Rule 29.02(1)

## Affidavit

Nos. NSD 613 of 2012  
NSD 621 of 2012  
NSD 735 of 2012

Federal Court of Australia  
District Registry: NSW  
Division: Fair Work

Minister for Employment and Workplace Relations and others  
Applicants (across the three sets of proceedings)

Health Services Union and others

Respondents (across the three sets of proceedings)

Affidavit of: Katherine Jackson  
Address: 208 Park Street, South Melbourne, Victoria  
Occupation: Union Official  
Date: 1 June 2012

## Contents

Document number	Details	Paragraph	Page
1.	Affidavit of Katherine Jackson in support of orders sought by her in NSD 613 of 2012, NSD 621 of 2012 and NSD 735 of 2012 affirmed on 31 May 2012.		
2.	Exhibit "KJ1" being the main library of documents.	4	4
3.	Exhibit "KJ2", being a collection of reference documents	5	4

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(include state and postcode)

[Form approved 01/08/2011]

*Katherine Jackson*

59. [This paragraph only as to my state of mind] In late August 2011 my private investigator said to me words to the effect:

NM: "According to local council building records, Mah-Chut Architects was the architect for the Michael Williamson's holiday house on the waterfront at Lake Macquarie and Mah-Chut Architects was the architect for the substantial renovation on Michael Williamson's home in Maroubra."

### **Attempts to address the issue with internal official support**

60. In about early February 2011 I invited Gerard Hayes to lunch with me and my partner at my home. During that lunch I raised the issue of Michael Williamson being corrupt. I said to Hayes words to the effect:

KJ: "Gerard, I have something very important to raise with you. I have come to the view that Michael Williamson is corrupt and that the corruption is real and large. I am not sure whether it is hundreds of thousands of dollars or millions of dollars but I am sure that there is massive corruption."

I then took Mr Hayes through the evidence and there was a conversation to the following effect:

KJ: "So, will you support me in dealing with Williamson's corruption?"

GH: "I know he is a crook, but there is nothing we can do. He is just too powerful. Look, he will be gone in a couple of years. When he retires we can just make him CEO."

KJ: "Oh for fuck's sake! What the fuck are you talking about? CEO! You think he should be the Chief Executive Officer in retirement? We are not a company running a business. We are a union. CEO! You have got to be joking. What? You think we should go on paying for this grub even after he retires? I don't think so."

GH: "Well, perhaps that was the wrpng term. Anyway, he will be retired before too long."

KJ: "Well, I don't think that is good enough. He is thieving the members' money as we speak and living an obscene millionaire's lifestyle off the backs of our members. Something has to be done."

GH: "I don't think we can do anything. He is too powerful. You know what he did to Mark Hardacre. Williamson destroyed him, and that was more than a decade ago. His power is even more entrenched today."

*Hayes*

*Williamson*

KJ: "Yeah, well be that as it may. We have duties to the members. It might be tough going but we can't just turn a blind eye."

GH: "Look I can support you quietly behind the scenes but I won't come out in the open."

61. I recall sighing at this point and decided not to pursue the matter further with Hayes.
62. I made a further attempt to ascertain whether the NSW Councillors would be likely to deal properly with the matter if they were presented with proper evidence. The NSW official to whom that query was directed gave a response of complete repudiation of the request.

#### My decision to make a formal complaint to the NSW Police

63. [Only as to my state of mind] I spent the period between February 2011 to June 2011 agonising over what to do.
64. [Only as to my state of mind] By May 2011 I had satisfied myself that there was no realistic prospect of adequately addressing my concerns internally within the Union in the first instance. I was reluctant to go to the police without hard evidence because I knew that if I made the allegations Michael Williamson was likely to do everything in what I assessed to be his considerable power to destroy me and that he would certainly succeed if I did not have hard evidence.
65. [Only as to my state of mind] In early June 2011 I asked my partner to think about what I should do. He came back to me and said words to the effect:

ML: "When I was a prosecutor, I had the DPP's fraud practice in Canberra for a couple of years. I did a lot of work with the AFP and later I did a lot of work with NSW Police on the Building Royal Commission. I did a bit of crime at the bar and I even had a couple of briefs as counsel assisting in the ICAC. I think I know what I am talking about here. The real problem you face is the practical problem of getting a law enforcement agency seriously interested. If you make the complaint but it is not taken seriously then you will be in serious strife. What you suspect is not organised crime in the conventional sense and that rules out the Australian Crime Commission. This is a NSW union with NSW officials doing things in NSW. It is a NSW matter. Unfortunately, the fact that it does not involve organised crime in the conventional sense rules out the NSW Crime Commission. It does not involve official government corruption on the material available to you and so that rules out the ICAC. That leaves you with the NSW Police, specifically the Fraud Squad. The fraud squads around the country are chronically under-resourced. They only have the resources to investigate a small

*Hege Lee*

*Michael Williamson*

Form 59  
Rule 29.02(1)

## Affidavit

No. NSD613 of 2012

Federal Court of Australia  
District Registry: New South Wales  
Division: Fair Work

**Minister for Employment and Workplace Relations**  
Applicant

**Health Services Union and Another**  
Respondents

Affidavit of: **Gerard John Hayes**

Address: Level 2, 109 Pitt Street in the State of New South Wales

Occupation: Divisional Secretary, Health Services Union East Branch and HSUeast

Date: 4 June 2012

I, Gerard John Hayes of Level 2, 109 Pitt Street in the State of New South Wales, Divisional Secretary of the Health Services Union East Branch (**East Branch**) and HSUeast (**NSW Union**) (together, the **Union**), say on oath:

- 1 I have previously sworn an affidavit in relation to this matter on 17 May 2012.
- 2 I have read the affidavit of Katherine Jackson (**Jackson**) affirmed on 1 June 2012 (**the Jackson Affidavit**) and set out my response below.

### Paragraph 60 of the Jackson affidavit

- 3 I refer to paragraph 60 of the Jackson affidavit. I recall attending a barbeque with Jackson and her partner, Michael Lawler (**Lawler**) in February 2011. Jackson had invited me over to lunch at her home. I understood that the purpose of the lunch was social.

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- 4 This was shortly after I had been seconded to Melbourne from Sydney, to work in the Union's Melbourne office for a period of around four months. I was replacing Carol Glen who was on leave. My role was a "hands on" operational role working with the Victorian organisers and setting up sub branch structures.
- 5 I arrived at Jackson's house at about 1pm. It was just Jackson, her partner Michael Lawler (**Lawler**) and myself, until later in the afternoon when Fleur Behrens and her husband arrived.
- 6 During the course of the afternoon, I was heavily intoxicated. I have never been in such a state before (or since). To drink to the point of intoxication is entirely out of character for me. By early evening, I couldn't walk properly. I have a vague recollection of falling down steps as I was leaving. Jackson drove me home that evening. It was a very strange situation for me and I have only patchy memories of the afternoon.
- 7 I have absolutely no recollection of having the discussion set out at paragraph 60 of the Jackson affidavit.
- 8 I have great doubts that it occurred because of the following matters:
- a. At this time, there was no discussion that I was aware of in the union about corrupt activities by Williamson;
  - b. At no time prior to this barbeque or in the period after it until about September 2011, did Jackson raise her allegations of corruption with me;
  - c. In paragraph 60 of her affidavit, Jackson attributes to me a comment about Williamson's treatment of Mark Hardacre. I don't know Mark Hardacre and I have never met him. I have only been at the union since 2000 and Mark Hardacre was not there at my time at the union. I have no knowledge about the circumstances in which he left the union or his treatment by Williamson.
- 9 During my time in Melbourne, I developed a good working relationship with Jackson. As she got to know me, she began to talk to me more about Williamson and started referring to him as "God" in everyday conversation.
- 10 At the time, I understood this to be a reference to Williamson's autocratic style.
- 11 I do remember having a general discussion with Jackson about Williamson being too powerful. The discussion that I recall took place not at the barbeque, but in Jackson's office at some stage during my Melbourne secondment.
- 12 I recall telling Jackson that I wouldn't take Williamson on because I wasn't interested in his position and because he was too powerful. It wasn't a power issue for me. My focus was

and is on doing my job on the ground, not on any of these power plays. I recall saying to Jackson words to the following effect:

*Hold your line, Williamson's due to retire soon. Just let things take their course.*

- 13 I do not recall ever suggesting to Jackson that Williamson should be made CEO on his retirement, as suggested in paragraph 60 of the Jackson affidavit. The concept does not even make sense to me as I see Williamson's current role as General Secretary as being akin to the role of a CEO.
- 14 I was aware that Jackson had a problem with the way the amalgamation was operating in practice and rightly so in my view. As I understand things, the amalgamation did not pan out the way it was originally agreed between the HSU Victoria No 1 and 3 and NSW branches in that Victoria did not end up with the degree of autonomy the Victorians felt they should have had. Jackson spoke to me on several occasions, the exact dates of which I cannot remember, about these sorts of issues.

#### **Knowledge of allegations against Williamson**

- 15 The first time I learnt of the allegations against Williamson was in September 2011, along with everyone else.
- 16 I don't recall ever saying that Williamson was a crook, as suggested by Jackson in paragraph 60 of her affidavit. It had never crossed my mind that Williamson was engaged in criminal activity. I would describe Williamson as a "wheeler and dealer", but that is very different to being a criminal. Williamson has been involved in the HSU for 16 years as its leader and has a lot of experience getting wage outcomes and making agreements at all levels of bureaucracy. He wheels and deals, that is part of his job.
- 17 I recall there was an Executive Committee meeting in Melbourne in around August 2011 which was the day prior to both Williamson and Jackson taking a month's leave. It wasn't until after Jackson returned from leave that I learnt about the allegations against Williamson. As far as I am aware the allegations of widespread corruption came out of the blue in September 2011.
- 18 I do remember that at some point in March or April 2011, while I was walking in the corridor of the office, Jackson came up to me and showed me a financial document which set out a list of creditors of HSUEast. One of the creditors was "Access Focus". Jackson asked me if I knew who they were. I told Jackson I had no idea. That was the end of the conversation.
- 19 Jackson did not say anything further about Access Focus.



### Meeting – 26 September 2011

- 20 I refer to paragraph 173 of the Jackson affidavit. The description there of my meeting with Jackson is wrong. Her partner, Michael Lawler, was not in the meeting. I saw him outside in the street, and at one point he came inside to show Jackson something on a laptop, and then went outside again. When I finished my conversation with Jackson we went outside and Lawler was there. I had a conversation with him, which I have referred to in my letter to Justice Guidice, which is document KJ1-629 exhibited to the Jackson affidavit. The contents of that letter are true and correct.
- 21 Justice Guidice sent a reply to me saying he thought it would be inappropriate for him to do anything and that he would refer my letter to Lawler. I have received no reply from Lawler since then.

### Meeting with Jackson and Peter Mylan on 10 October 2011

- 22 I largely agree with the evidence of the meeting between myself, Jackson and Peter Mylan on 10 October 2011 set out at paragraphs 196-201 of the Jackson affidavit.
- 23 My role during this period was to try and keep the lines of communication open and try to get some common sense in play.
- 24 Jackson wanted more autonomy in Victoria and more access to the Victorian membership base. I had sympathy for this view as I thought it was important for Victoria to have autonomy over these things.
- 25 A further example of the autocratic approach adopted by New South Wales, was that all mail received by the Victoria must be redirected to New South Wales for information recording purposes (that is, to be scanned into our systems) and only then sent back to Victoria. This did not make any sense to me and created delays of around a week in receiving mail in Victoria. I had first-hand frustration with this during my time in the Melbourne office.

### Disamalgamation

- 26 At paragraph 243 of her affidavit, Jackson says that she is unaware of any explanation having been given by myself or others as to why the demerger is warranted. I do not recall whether or not this is the case, but having an open dialogue in meetings of the Union Council or the Executive Committee is difficult if not impossible. The divide is so wide that genuine and open dialogue just does not happen.
- 27 As I said in my earlier affidavit, my original view was that the demerger should not occur. Though I held the "party line" on this front, I saw it as a knee jerk reaction. I knew a lot of work had gone into keeping the amalgamation going and I initially thought it would be best for it to continue.

28 However, given the events of the last nine months, I now do not see how the amalgamation can continue. The people who believed the amalgamation was of benefit have now seen so much destruction within the union that they no longer consider the deep scars can be healed.

29 New South Wales and Victoria work under two completely separate systems. New South Wales has some exposure to Fair Work Australia, but the vast majority of its membership falls under the jurisdiction of the New South Wales Industrial Relations Commission. Victorian members fall under the jurisdiction of Fair Work Australia.

30 I now see that the merger was a bridge too far in the first instance. Now the bridge has been blown up.

#### **Carol Glen's resignation**

31 In response to the matters concerning Carol Glen's (**Glen**) resignation at paragraphs 196-263 of the Jackson affidavit, I comment as follows.

32 I worked closely with Glen when I was in Melbourne. Glen and I became friends and we continue in that friendship.

33 Sometime around December 2011, Glen contacted me to say that she had had a call from Lawler and that she felt that he had spoken to her in an inappropriate manner. As discussed above, I had a similar interaction with Lawler in September 2011. Carol sought my advice on a draft letter of complaint she proposed to send to Justice Guidice, the then President of Fair Work Australia.

34 I did not "settle" the letter, nor did I suggest that she add or remove any detail. Glen asked me to look at the letter as she had never written a letter to a person as senior as Justice Guidice before and wanted to run it by me. I told Glen the letter seemed appropriate.

35 I recall that Glen had resigned from her position only a matter of days before she sent me the letter. Glen had previously told me that she was uncomfortable in the workplace and was concerned about the direction in which the union was headed.

36 I understand that Glen's email to me, annexed as KJ1/626 to the Jackson affidavit was sent from Glen's personal Yahoo account. I do not know how Jackson has access to emails from this account. Glen had previously informed me that she suspected her personal Yahoo email account may have been hacked into and that she had made a complaint to Victoria Police about the matter.

#### **Vote of Lillicrap's reinstatement**

37 I refer to paragraph 459 of the Jackson affidavit. I deny that my vote for Andrew Lillicrap's reinstatement at the meeting of the HSUeast Executive on 15 May 2012 was the first time I

had voted differently from Mylan at a meeting of the Union Council or Executive since 12 September 2011.

38 At a meeting held at the Qantas Club in Victoria earlier this year, we discussed conducting a review of organisers' roles and responsibilities. New South Wales sought to conduct the review for both Victoria and New South Wales organisers with minimal input from Victoria.

39 I sided with the Victorians because I thought that Victoria should conduct the review of organisers working in Victoria. Obviously the review would need to be signed off by the General Secretary, who is based in New South Wales, but it made sense that the Victorian review should be led by Victoria, not New South Wales.

SWORN at  
in Sydney  
on 4 June 2012  
before me:

)  
)  
)  
)

Signature of deponent

Signature of witness

Name of witness

*Kathryn Anne Peterson*

Address of witness

Corrs Chambers Westgarth, Level 32, Governor Phillip Tower,  
1 Farrer Place, Sydney NSW 2000

Capacity of witness

Solicitor

And as a witness, I certify the following matters concerning the person who made this affidavit (the deponent):

1 I saw the face of the deponent.

2 I have confirmed the deponent's identity using the following identification document:

Signature of witness

Date

*NSW Drivers Licence*

*K Peterson*

*4 June 2012*

Justice G M Giudice  
President Fair Work Australia  
GPO Box 1994  
Melbourne 3001

Gerard Hayes  
L 2 109 Pitt ST  
Sydney 2000

**Private and Confidential**  
**Not for publication**

Your Honour,

I am writing to as an Officer of the Union and to advise you of an incident that occurred between Deputy President Michael Lawler and me on the 26<sup>th</sup> of September 2011.

Whilst I was extremely concerned and intimidated by the encounter I initially decided not to progress the matter due to the current events surrounding the HSUeast.

I have revisited this decision due to being recently made aware that Deputy President Lawler has made contact with another officer of the HSUeast in what has been described to me as a very inappropriate and intimidating manner.

I wish to advise that on 26<sup>th</sup> September 2011 Kathy Jackson Executive President of the HSUeast rang me at 5.49 pm and asked to meet at the East Sydney Hotel. I met with Kathy Jackson shortly after that phone call and discussed a range of matters that affected the Union as a consequence of allegations that had been mentioned in the media and ultimately referred to NSW Police.

Kathy Jackson mentioned allegations that had been in the media but also wanted to discuss seeking peace within the Union and develop a way forward given that she was confident the allegations would be upheld.

I advised Kathy that I was happy to maintain a dialogue with a view to settle the instability that been developed within the Union, I also advised her at that time that I did not wish to speak about the allegations given that they were in the hands of respective authorities. I also informed her that I was not interested in any activities with respect to the allegations and the Union until such time as the Police matters had been addressed.

Kathy Jackson among other things spoke to me about the Gilleland's, a storage place where Michael keeps expensive cars; a Deed Michael has with Rob Elliott. Kathy also told me about Michael Williamson being required to excuse himself from a SGE Board meeting due to the Board having to assess Michael's level of debt which Kathy said was to \$2M. She went on to ask if I was aware that Michael Lawler had contacted Bev Turello, a HSUeast

Organiser, in relation to asking her if she knew if Michael Williamson and had support in NSW.

Kathy Jackson also said to me when we go outside would I tell Michael Lawler that I would help rebuild the Union when the issues are formalised with the Police, to which I declined.

These discussions took place over approximately an hour. Following these discussions that were held inside the East Sydney Hotel I went outside with Kathy where Michael Lawler had been waiting.

Michael Lawler had been at the Hotel throughout my meeting with Kathy. On exiting the Hotel I greeted Michael Lawler who seemed agitated. In course of discussion with Michael Lawler he raised with me several points which include that he said to me "you must have known about the Access Focus account" which I replied "that I have no knowledge of Access Focus apart from what Kathy Jackson had mentioned to me and that was only the name Access Focus". Kathy Jackson agreed that I did not get or see the papers relating to individual accounts.

Michael Lawler advised me that his father is very senior in the Catholic Church and had been a key person in the Hawke Government. He went on to speak about how my father was a Police Officer and so I should know what the right thing to do is.

Michael Lawler also advised me that a private investigator had been engaged to investigate aspects of the Union and that this investigator was a very experienced and that he had done work relating to the Sony Corporation and the Triad.

Michael Lawler said that Michael Williamson is "fucked" and if he thinks he is playing with amateurs he is kidding himself. Michael Lawler explained to me about requirement for a secret commission 1) there is a contract, 2) there is a secret and 3) there is a benefit.

Michael Lawler said you must have known given Michael Williamson's lifestyle, I told him that Kathy Jackson had informed me that Michael Williamson owed over \$2M and at a SGE Board meeting earlier in the year he had to leave the meeting while they discussed how to

limit the exposure of the SGE to Michael Williamson's debt. I would presume that this level of debt would explain Michael's lifestyle.

I felt quite uncomfortable and intimidated by the discussion and withdrew by saying Michael obviously you have your view points and I think it is best that I leave. I immediately contacted my Partner at 7.56pm. I do not make these comments lightly and given the serious investigations that are currently in place I do not believe it is appropriate for a very senior official of Fair Work Australia to approach me in this manner.

I would appreciate it if you would review this matter and ensure that this type of behaviour is not ongoing.

Yours Faithfully

Gerard Hayes

8.12.2011

**RESPONSE OF THE HSU NSW TO CORRESPONDENCE FROM THE ROYAL  
COMMISSION INTO TRADE UNION GOVERNANCE AND CORRUPTION DATED  
14 APRIL 2014: RELEVANT ENTITIES**

1. We refer to the meeting between representatives of the Royal Commission on Union Corruption (RC) and the Health Services Union NSW (HSU NSW) held on 10 April 2014.
2. We note that at this meeting, information was proffered concerning:
  - the recent history of HSU NSW, dealing with issues such as what went wrong and the recent reform measures taken; and
  - entities related to HSU NSW which have been, or are intended to be, utilised for election purposes.
3. We also refer to your letter dated 14 April 2014, which requested further information in relation to relevant entities (whether associated with the HSU NSW or its officers) that presently exist or have existed in the past 5 years.
4. So far as is known to the present officials of HSU NSW, there have been and are no bodies or funds emanating from HSU NSW or the corresponding Federal branch, or associated with any official thereof, which are or may be relevant entities as defined in the letters patent issued on 13 March 2014, other than the two dealt with below.
  - (a) The Health Services Union Officers' Election Fund; and
  - (b) Our HSU Inc

**The Health Services Union Officers' Election Fund**

5. By deed executed on 14 August 1997, a trust fund known as the "Health & Research Employees' Association Officer's Election Fund" was established, the trustees being Michael Williamson (then the Secretary of the State union) and Terry Tracey.
6. By clause 3.1, the objects of the Fund were stated as being:

*"to promote by legitimate means, the interests of the beneficiaries of the HREA by seeking the return of approved candidates at the next ensuing election of officials to be held in accordance with the rules of the HREA and the provisions of the Industrial Relations Act".*

7. Further amending deeds were executed on 28 May 2004, 23 September 2009 and 3 March 2011.

8. The last of these was executed by Michael Williamson, Peter Mylan, Gerard Hayes (now the Secretary of HSU NSW), and Kerry Seymour as trustees. It named the trust as The Health Services Union Officers' Election Fund ("**the Fund**"). It recited the original deed and that beneficiaries of the trust had from time to time resolved to vary the terms of it. The objects of the Fund, by clause 3.1, were to:

*"promote by legitimate means, the interests of the members of the HSU by seeking the return of approved candidates at the next ensuing election of officials to be held in accordance with the rules of the HSU and the provisions of the Industrial Relations Act".*

9. For the benefit of the Royal Commission, we **enclose** the following deeds:

- (i) The 1997 deed; and
- (ii) The 2009 deed.

10. Fund monies were obtained by way of authorised deductions from the salaries of elected Officials and employed organisers and industrial officers of the HSU NSW. Those monies collected were used to fund the election campaign expenses of a single ticket of candidates who had been endorsed by the beneficiaries of the HSU Trust.
11. On 5 October 2012, two plaintiffs commenced proceedings in the Equity Division of the Supreme Court of NSW, seeking declarations and orders in relation to the Fund. The plaintiffs were Adam Hall, a beneficiary of the Fund



trust, and Gerard Hayes, a trustee and beneficiary. The defendants were Williamson and three others.

12. By Notice of Motion filed on 29 August 2013, the plaintiffs sought judicial advice pursuant to s. 63 of the *Trustees Act 1925*, and on 21 October 2013, Windeyer AJ answered in the affirmative questions whether:

- the objects of the trust as contained in clause 3.1 had been extinguished by reason of the demerger of the HSUeast branch on 21 June 2012;
- the trustees in discharging their obligations should return monies to the beneficiaries of the trust in proportion to their contributions;
- upon distribution, the trust ceased to exist.

13. A complete distribution to contributors was accordingly effected. The contributors were officers and some employees of HSU NSW, and the contributions had come from their pay and the amount distributed was \$442,670.24.

14. So far as is known by the present officers of HSU NSW, including Hayes, all monies in the Fund came from contributors, and none from employers or from HSU NSW or the Federal branch, i.e. there was no employer or union money in the Fund.

**DEED OF AGREEMENT**

**BETWEEN:**

**HSUeast**

**-and-**

**CAROL GLEN (Ms. GLEN)**

**DATE:** 1<sup>st</sup> December 2011

**RECITALS**

Whereas

- A. The HSUeast is a union registered under the Industrial Relations Act 1996 (NSW);
- B. The Health Services Union East branch ("the Branch") is a Branch of the Health Services Union, an Organisation registered under the Fair Work (Registered Organisations) Act 2009 (Cth);
- C. Ms Glen is the holder of the office of Divisional Secretary of HSUeast and the office of Divisional Secretary of the branch ("the Offices");
- D. Ms Glen has indicated she is not happy with the working operations or the working environment in the Melbourne office and wishes to resign from her position with HSUeast and The Branch;
- E. HSUeast, the Branch and Ms Glen want to resolve all difference between them on the terms set out in this Deed.

13

LSL

CG

## TERMS OF SETTLEMENT

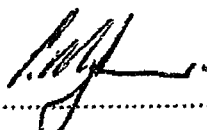
1. Ms Glen will resign from the Offices effective on 1/12/2011;
2. HSUeast will pay Ms Glen the sum of \$217,038.
3. The amount referred to in clause 2 will be paid by weekly payments of \$3,558.00 until 1<sup>st</sup> February 2013. (31/12/2012) \*
4. Ms. Glen shall be entitled to keep the mobile phone and laptop computer supplied to her.
5. Annual leave entitlements with leave loading and long service leave shall be paid within 7 days of the date of this Deed.
6. Ms Glen forever releases HSUeast and Branch from any claim for remuneration in relation to her holding of the Offices or any claim in relation to her previous employment with the Branch.
7. Until 1<sup>st</sup> February 2013 Ms Glen will not engage in any conduct, which will adversely affect the interests of HSUeast or the Branch.
8. Until 1<sup>st</sup> February 2013 Ms Glen will not work whether for remuneration or voluntarily for any person or entity, which is competing, with either HSUeast or the Branch.
9. Until 1<sup>st</sup> February 2013 Mr Ms Glen will not accept any appointment as a bargaining representative for any employee who is eligible for membership of HSUeast or the Branch.
10. Until 1<sup>st</sup> February 2013 Ms Glen will not perform as or perform any functions of a bargaining representative for any employee who is eligible for membership of HSUeast or the Branch.
11. Nothing in this Deed shall prevent Ms Glen from working for any employer or employer organisation.
12. HSUeast, the Branch and Ms Glen will not make any disparaging comment about any of them.
13. The terms of this Deed are strictly confidential to the parties and their legal advisers and shall not be disclosed to any other person except as required by law.

\$3,558 pw  
\* 4 weeks paid on 6/12/11 + ADO's  
Balance of payments to 31/12/2012

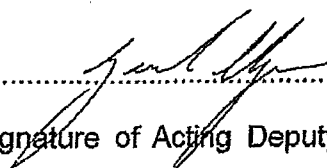
CH

**EXECUTED AS A DEED:**

**Signed, sealed and delivered by HSUeast in accordance with its Rules by its authorised Officers:**

  
.....  
Signature of Acting General Secretary  
Secretary

Peter Mylan

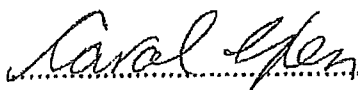
  
.....  
Signature of Acting Deputy General

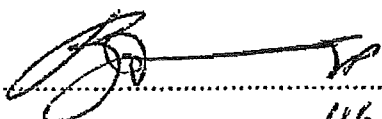
Gerard Hayes

Date: 1/12/11 Date: 1/12/11

**Signed, sealed and delivered by Carol Glen:**

In the presence of:

  
.....  
Carol Glen

  
.....  
Signature of Witness: 116172

Date: 1/12/11

