

**ROYAL COMMISSION INTO TRADE UNION
GOVERNANCE AND CORRUPTION**

The Australian Workers Union

Level 5, 55 Market Street, Sydney, NSW 2000

On Wednesday, 10 September 2014 at 9.35am

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

Counsel Assisting: Mr Jeremy Stoljar SC
Mr Michael Elliott

Instructed by: Minter Ellison, Solicitors

1 THE COMMISSIONER: Before we begin, I must express my
2 gratitude to those who record the testimony for the
3 transcript for their fortitude during the late sitting
4 yesterday and also for putting up with the early start this
5 morning. It is not generally appreciated how much strain
6 there is on them when they work beyond the usual sitting
7 hours.

8
9 Yes, Mr Stoljar?

10
11 MR STOLJAR: The first witness is Mr Elliott.

12
13 <ROBERT JOHN ALEXANDER ELLIOTT, affirmed: [9.35am]

14
15 <EXAMINATION BY MR STOLJAR:

16
17 MR STOLJAR: Q. Could you tell the Commission your full
18 name?

19 A. It's Robert John Alexander Elliott.

20
21 Q. You are a resident of Victoria?

22 A. I am.

23
24 Q. Your current occupation?

25 A. I am retired.

26
27 Q. You previously worked at the HSU?

28 A. I did.

29
30 Q. You held various offices, including that of industrial
31 officer?

32 A. Yes.

33
34 Q. You were Assistant Branch Secretary of the Victoria
35 No. 2 Branch?

36 A. Yes.

37
38 Q. You were a member of the National Executive?

39 A. Yes.

40
41 Q. You were National Secretary between 1995 and 2002?

42 A. Yes. I was also a Senior Industrial Officer at the
43 Victoria No. 2 Branch.

44
45 Q. Can I show you a document.

46 A. Yes.

47

1 Q. This is a document headed "Statement of
2 Robert Elliott".
3 A. Yes.
4
5 Q. It is a document that you prepared yourself?
6 A. I did.
7
8 Q. You prepared it for the purpose of legal proceedings
9 you brought or were considering bringing?
10 A. Considering bringing.
11
12 Q. You must have worked on it for some considerable
13 period of time? It is a lengthy document.
14 A. I really don't recall. I am quite used to putting
15 documents of this nature together so perhaps, perhaps not.
16 I can't really --
17
18 Q. You supplied it to your solicitors for the purposes of
19 legal proceedings you were considering bringing at that
20 time?
21 A. Yes, to give them a general background about a wide
22 range of things, yes.
23
24 Q. You prepared the document carefully, I take it?
25 A. Yes.
26
27 Q. Knowing that you were going to be supplying it to your
28 solicitors?
29 A. Yes.
30
31 Q. And that it may be used, even by way of background,
32 for the purposes of legal proceedings you were
33 contemplating?
34 A. Yes, I suppose.
35
36 Q. And you satisfied yourself that the document was true
37 and correct before you supplied it to your solicitors?
38 A. Yes. If I had - if I were about to make a sworn
39 statement, I probably would give it a lot more attention,
40 a lot more focus, but I was broadly satisfied, yes, of
41 course.
42
43 Q. You certainly weren't proposing to be deceitful in
44 this statement, were you?
45 A. No.
46
47 Q. It was a comprehensive background document which you

1 were providing to your lawyers?

2 A. Yes.

3

4 Q. You contemplated that it might be used in legal
5 proceedings?

6 A. Well, yes and no. I mean even at the time I would
7 have understood there was material in that statement that
8 weren't really relevant to the matters likely to be in
9 dispute between myself and the HSU.

10

11 Q. Quite so. But setting aside issues of relevance and
12 the like, you contemplated that this was a document which
13 would provide your lawyers important background which they
14 would be able to use in the legal proceedings?

15 A. Important background. Some of the material would be
16 more important than other of the material in the document,
17 obviously.

18

19 Q. Could you come to paragraph 55 of the document,
20 please. Just to put it in context, you are describing here
21 in this paragraph your dealings with other persons in or
22 associated with the labour movement. You are describing in
23 particular some dealings that you had with Ms Gillard?

24 A. Yes.

25

26 Q. You say in 55:

27

28 *Ms Gillard was supportive of a*
29 *'reform group' in which I was involved in*
30 *the HSU in the late 1980s.*

31

32 Who were the members of that reform group?

33 A. Well, a reform group I think, generally speaking in
34 all unions, is pretty ill-defined. It would at least,
35 I think, include the candidates in an election, but
36 probably more broadly their cadre of supporters.

37

38 Q. Did that include Ms Darveniza?

39 A. Yes, she was a lead candidate.

40

41 Q. This is in the late '80s?

42 A. '89 I think was the election.

43

44 Q. '89. You say:

45

46 *Ms Gillard and Slater & Gordon became legal*
47 *advisers to the ... No. 2 Branch ...*

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That was at about that time, was it?

A. Some time later. I'm not quite sure when.

Q. You say.

... Ms Gillard continued to give, not just strictly legal advice, but also offered more general political counsel.

You mean to yourself and others?

A. Yes, sir.

Q. You knew her personally, I take it?

A. I've known Julia since university days, yes.

Q. You say:

It was generally understood that success for Ms Gillard's allies in union elections was of benefit to Ms Gillard's political career and, in turn, Ms Gillard's advancement would benefit those unions (and the union movement generally).

Just looking at that sentence a bit more carefully, you say, "It was generally understood", you mean among those with whom you were associating in the HSU?

A. That's generally understood in the labour movement. There are factions with the factual leaders and grandees. I was a member of a faction which included Ms Gillard. It was widely accepted. I mean, amongst a great number of people, Ms Gillard was a rising star. As far as I can remember, I was also of the belief that Ms Gillard would one day be Prime Minister. There are some people who just strike you as being of that ilk.

Q. You say:

It was generally understood that success for Ms Gillard's allies in union elections was of benefit to Ms Gillard's political career.

You mean because persons who had received the support of Ms Gillard in union elections would be able, to turn, to throw their support behind Ms Gillard in her political

1 career?

2 A. That's the way it works in the Labor Party,
3 Mr Stoljar.

4
5 Q. You say it would also work the other way, Ms Gillard's
6 advancement would benefit those unions?

7 A. I think that's correct. That's also how it works in
8 the Labor Party and I suspect every other political party.

9
10 Q. Two way street?

11 A. Two way street.

12
13 Q. Could you come to paragraph 56. You say:

14
15 *Such was the closeness of the political*
16 *relationship that Ms Gillard felt able, on*
17 *one occasion, to offer, at a meeting of me,*
18 *her and another senior HSU official, to*
19 *undertake the legal work to establish a*
20 *fundraising entity, outside of the union,*
21 *to raise funds for the re-election in the*
22 *HSU of the officers of that entity but*
23 *established for the ostensible purpose of*
24 *promoting occupational health and safety in*
25 *the health industry.*

26
27 A. Yes.

28
29 Q. Looking more closely at 56, you say this occurred on
30 one occasion. You had a recollection, when you drafted
31 paragraph 56, of that particular occasion?

32 A. I would have had a recollection of some nature, yes.

33
34 Q. You were describing a particular occasion, not simply
35 some general course of relationship over a period of time
36 when you wrote 56; correct?

37 A. Well, yes, I imagine I was, yes.

38
39 Q. When was that occasion?

40 A. When was the occasion when I wrote this?

41
42 Q. No. When did the occasion take place?

43 A. I don't know. You know, I imagine there was a range
44 of discussions that I and others from the branch had with
45 Ms Gillard over, you know, two or three years from the date
46 of the election in which the formed group was successful.
47 I imagine it was some time after that occasion but I'm not

1 entirely sure.

2

3 Q. After '89 is that what you meant?

4 A. After the elections in '89.

5

6 Q. So what, in the early '90s?

7 A. Late '89, early 1990. That's the sort of period
8 I envisage.

9

10 Q. The occasion took place in late 1989 or the early '90s
11 and you say, "It was at a meeting of me, her and another
12 senior HSU official." That was Ms Darveniza, was it?

13 A. At the time of writing this, I apprehended that that's
14 right, it was Ms Darveniza.

15

16 Q. Where did the meeting take place?

17 A. I have no idea.

18

19 Q. It took place at your home, didn't it?

20 A. I doubt it.

21

22 Q. You doubt it?

23 A. Yes. At the time we had a very small apartment and we
24 didn't really receive guests that frequently. I don't know
25 that Ms Gillard ever attended those premises.

26

27 Q. In any event, there was a meeting comprising three
28 people: yourself, Ms Gillard and another senior HSU
29 official.

30 A. Well, Mr Stoljar, you keep saying that. As you know
31 from our discussions yesterday, I no longer believe key
32 elements of this paragraph.

33

34 Q. I know that you now say that your position has
35 changed. What I am endeavouring to elucidate from you is
36 your recollection when you crafted 56.

37 A. Sure. Okay. As long as it is understood then --

38

39 MR CLELLAND: Commissioner, just on the basis of that
40 previous answer from the witness, I have a concern about
41 the way that the questioning has proceeded to date in a
42 leading form. It might be appropriate, given the witness's
43 obvious unease about adopting the statement, perhaps from
44 here on in, it might be appropriate for Mr Stoljar to ask
45 this witness whether, firstly, the paragraph is correct; if
46 it is not correct, what the witness actually says about it.
47 We understand that this witness is being called principally

1 today to actually lead evidence of the content of that
2 statement.

3
4 THE COMMISSIONER: Yes, Mr Stoljar?

5
6 MR STOLJAR: My questions were proceeding on the basis
7 that when this witness crafted paragraph 56, he had a
8 particular recollection of events. That was the premise
9 underlying the questions I was putting. If that needs to
10 be clarified, I will do that with the witness now. There
11 is a separate question as to what the witness says his
12 recollection is as he sits here today in the witness box.
13 One needs to take it in steps, Commissioner.

14
15 THE COMMISSIONER: Yes. I do not know that any particular
16 ruling is called for. Mr Clelland's general warning,
17 I suppose, about leading questions is a reasonable
18 proposition.

19
20 MR STOLJAR: Yes.

21
22 Q. Can I approach it this way, Mr Elliott: as
23 I understood it, when you crafted 56, you regarded at that
24 time, in 2012, it as being the correct reflection of your
25 memory of the occasion on which --

26
27 MR CLELLAND: That is objectionable, sir, with respect.

28
29 MR STOLJAR: I press the question.

30
31 THE COMMISSIONER: It may be leading but there are some
32 leading questions that are really necessary to bring the
33 witness's mind to a particular point.

34
35 MR CLELLAND: With respect, I am not sure the question or
36 the issue falls into that category at the moment. It may
37 be an open question which simply asks what the witness's
38 state of mind was, or whether it represented the facts at
39 the time would be preferable.

40
41 MR STOLJAR: There was nothing objectionable about the
42 question but in order to save time.

43
44 Q. Mr Elliott, when you crafted paragraph 56, did you
45 have a recollection of the occasion to which you make
46 reference?

47 A. Well, I would have, yes.

1
2 Q. Do you say that your recollection has changed?
3 A. Yes.
4
5 Q. When did your recollection change?
6 A. About - the process began about two weeks ago when my
7 wife was contacted by staff of counsel - sorry, solicitors
8 assisting.
9
10 Q. You had conversations with your wife, did you?
11 A. I did.
12
13 Q. Your wife and you discussed the matter?
14 A. We did, at length.
15
16 Q. And you arrived at the view that your recollection was
17 wrong?
18 A. I did.
19
20 Q. Do you adhere to the position that there was an
21 occasion at which a meeting took place involving yourself,
22 Ms Gillard and your wife?
23 A. There have been numerous occasions of that nature.
24
25 Q. Was there one such occasion in 1989 or the early
26 1990s?
27 A. There would have been at least one such occasion in
28 '89 and early 1990.
29
30 Q. On that occasion --
31 A. Not necessarily dealing with the subject matter the
32 subject of these paragraphs.
33
34 Q. On that occasion did --
35 A. On which occasion, Mr Stoljar?
36
37 Q. On the occasion to which you make reference in
38 paragraph 56 --
39 A. Yes.
40
41 Q. -- did Ms Gillard raise with you and your wife the
42 question of raising funds for the re-election in the HSU of
43 officers of an entity established outside of the union?
44 A. I believe so.
45
46 Q. So there was a meeting at which that was said. Was
47 there further discussion about the entity established

1 outside the union being established for the ostensible
2 purpose of promoting occupational health and safety?
3 A. I no longer believe that's right.
4
5 Q. You say, do you, as you sit here today, you recollect
6 a meeting --
7 A. Well, Mr Stoljar, I recollect that meetings occurred.
8 To say I recollect a meeting is not quite accurate.
9 I don't have a visualisation of a meeting or its location
10 or even what the agenda of that meeting might have been.
11
12 Q. Can you come back to 56. When you crafted 56, you had
13 at that time a recollection of a particular meeting?
14 A. I don't know what was - apart from what's in the
15 paragraph itself, I don't have any recollection of having a
16 recollection of some - the particulars of a meeting.
17
18 Q. It was a simple question, Mr Elliott. When you
19 crafted 56, you had a recollection of a particular meeting;
20 is that right?
21 A. Well, when you say "recollection", I would have
22 believed that a meeting had occurred, yes. Mr Stoljar, I'm
23 a bit concerned you're saying therefore that I would
24 remember where it happened, you know, what time of the day
25 it happened, you know, the particulars of a meeting. I do
26 have a visualisation of a meeting --
27
28 Q. I am not asking you about --
29 A. I can construct one. When you ask the question,
30 I construct one in my mind.
31
32 Q. I don't want you to construct anything, Mr Elliott.
33 I am just looking at paragraph 56.
34 A. Yes.
35
36 Q. Paragraph 56 you drafted in about 2012?
37 A. Yes, I think so.
38
39 Q. The preparation of the statement took some time?
40 A. Well, I think I have already answered that. I don't
41 think it did take a great deal of time, no.
42
43 Q. But you had --
44 A. I'm fairly practised in putting these sort of
45 documents together given my experience as an industrial
46 advocate.
47

1 Q. You were describing in 2012 a meeting that you say
2 took place. This is your description in 2012 of an event -
3 I'm sorry. You were describing in paragraph 56 an event
4 that you say took place a considerable period of time
5 before, in the early '90s?
6 A. Well, yes, 25 years ago, yes, indeed, maybe 24, 25.
7
8 Q. When you came to craft this statement, you hadn't
9 discussed it with your wife?
10 A. No.
11
12 Q. And 56 represented your own recollection of events at
13 the time?
14 A. Yes.
15
16 Q. Your recollection now has changed on your discussing
17 it with another witness over the last couple of weeks, is
18 that what you say?
19 A. Yes, yes.
20
21 Q. You accept still, do you, that a meeting took place in
22 about that time, or you say in fact a number of meetings
23 took place?
24 A. Yes. Yes
25
26 Q. There was discussion about legal work to establish a
27 fundraising entity outside of the union?
28 A. Well, there was a discussion about a fundraising
29 entity. I don't think it got to the stage of discussing
30 legal work since no entity was - it was decided no entity
31 be established. No entity was established.
32
33 Q. In 56 you say that was to raise funds for the
34 re-election in the HSU of officers of that entity?
35 A. Well, I believe so, yes.
36
37 Q. You say now that you have no recollection of the fund
38 being established with the ostensible purpose of promoting
39 occupational health and safety?
40 A. Well, I believe that's wrong.
41
42 Q. That's wrong?
43 A. Yes. I don't believe there was a discussion about
44 that. I believe I have conflated other things to come up
45 with - at the time of making this statement, to come up
46 with a false scenario. False in the sense I believed it at
47 the time, but I no longer believe it.

1
2 Q. You believed it to be true in 2012; you now believe it
3 to be false?
4 A. Yes.
5
6 Q. And your belief that it's false has been derived from
7 discussions you have had in the last couple of weeks with
8 your wife?
9 A. Well, yes, and those discussions have caused me my
10 confidence in my memory of these events and of the period
11 to be fundamentally shaken, Mr Stoljar.
12
13 Q. Your wife being other witness before the Commission.
14 Your witness indeed, Mr Stoljar.
15
16 Q. I take it that in 57 you were endeavouring to recount
17 what your recollection of events was when you crafted your
18 draft statement?
19 A. Yes.
20
21 Q. And you say in 57:
22
23 *This offer was not taken up by me or others*
24 *on the basis that it seemed an exotic and*
25 *suspect arrangement ...*
26
27 Do you see that?
28 A. I see that.
29
30 Q. In 2012 when you were crafting 57, what did you mean
31 by "suspect arrangement"?
32 A. Look, I don't rightly know. I don't rightly know.
33
34 Q. You don't know?
35 A. Well, I imagine it means that --
36
37 Q. Well, not what you imagine --
38 A. -- an irregular --
39
40 Q. I'm asking what you --
41 A. I think I meant at the time - I wrote it two years
42 ago, Mr Stoljar. I tried to know what was in my mind when
43 I used the term "two years ago." I imagine "irregular"
44 would probably have been a better term than "suspect".
45
46 Q. You say in 57:
47

1 ... since the promotion of workplace health
2 and safety was the proper preserve of the
3 union itself.
4

5 A. Yes. Again I think, as I say, I have a belief about
6 having conflated some other matters with this issue so as
7 to be - so as to, in 2012, have this what I now understand
8 to be false belief.
9

10 Q. But again, your understanding that what you say in 57
11 is false is derived from conversations with your wife in
12 the last two weeks?

13 A. Well --

14
15 Q. Is that right?

16 A. Well, that's --

17
18 Q. Just tell me if that's right or not?

19 A. It is not capable of being answered "yes" or "no",
20 Mr Stoljar.

21
22 Q. Why not?

23 A. Because it is a process of not - it's a process of
24 having my memory jolted about things I had completely
25 forgotten about and really, had I remembered those things
26 at the time of making this statement, then I hope I would
27 not have made this statement in the terms that it's made.
28

29 Q. And that view of what you said in 57 was false, was
30 derived from conversations that you had with your wife in
31 the last two weeks? Are you able to answer that "yes" or
32 "no"?

33 A. Derived and my memory was agitated by those
34 conversations, yes.
35

36 Q. Then you say in 57:

37
38 *To my knowledge, no such entity as that*
39 *described then by Ms Gillard has ever*
40 *operated in connection with the HSU.*
41 *I understand that fundraising entities*
42 *operate in association with several other*
43 *unions.*
44

45 That reflected your true understanding as at the time?

46 A. Yes.
47

1 Q. What were the other unions to which make you make
2 reference?
3 A. Transport Workers' Union, the AWU. I can't recall any
4 others just at the moment.
5
6 Q. The position is this: when you prepared your draft
7 statement, you did so without consideration as to whether
8 it would ultimately be the subject of evidence in a Royal
9 Commission; correct?
10 A. It is a great distress to me that now having formed
11 the view it is a false memory I'm describing here, that it
12 is the subject of consideration by a Royal Commission. To
13 say that I am embarrassed about it doesn't begin to
14 describe it, Mr Stoljar.
15
16 Q. What I suggest to you is that what you say in 56 and
17 57 reflected your truthful belief when you crafted your
18 statement?
19 A. When I crafted the statement, yes.
20
21 Q. And it is still a truthful record of what occurred
22 back in the early '90s; correct?
23 A. It is not.
24
25 MR STOLJAR: Nothing further. Thank you, Commissioner.
26
27 **<EXAMINATION BY MR CLELLAND:**
28
29 MR CLELLAND: Q. Mr Elliott, your unease about the
30 statement as it's described springs from a number of
31 factors. Can I suggest the first of those is that it is
32 only a draft?
33 A. Yes, very much so.
34
35 Q. It is clear on the face of the document and throughout
36 the document that it is an incomplete document?
37
38 THE COMMISSIONER: We seem to have --
39
40 MR STOLJAR: Yes, "pot" and "kettle" spring to mind.
41
42 THE COMMISSIONER: -- a fashion for leading questions this
43 morning.
44
45 MR CLELLAND: I don't occupy the position of
46 counsel assisting before this Commission.
47

1 THE COMMISSIONER: The witness is essentially hostile to
2 Mr Stoljar; the witness is not hostile to you.

3
4 MR CLELLAND: We noticed that, Commissioner.

5
6 THE COMMISSIONER: Mr Clelland, the weight of your answers
7 is diminished by the leading character of the questions and
8 the weight of the answers may be increased by the
9 non-leading technique that is employed.

10
11 MR CLELLAND: I hear that, Commissioner, but we sat and
12 listened to the attempts, in effect, to have the witness
13 adopt in particular paragraph 56. That's our concern. We
14 don't intend to transgress. We haven't had conferences
15 with this witness. He's not our witness. I will see if
16 I can avoid leading questions lest they detract from the
17 weight of the answers.

18
19 Q. Mr Elliott, is this a concluded statement by you?

20 A. No, far from it.

21
22 Q. How would you describe it? As a draft or as a
23 completed statement?

24 A. Well, obviously it's very much a draft. It's
25 largely - much of it is incomplete.

26
27 Q. Yes. Mr Stoljar asked you early on in his questioning
28 whether the document was at least drafted in anticipation
29 of possible legal proceedings.

30 A. Yes.

31
32 Q. Without necessarily going into those, was the
33 statement at that time, albeit in draft form, was it being
34 drafted by you to support your position, your bargaining
35 position, with the HSU?

36 A. Well, no. I mean, even at the time of writing this,
37 you know, I would have understood there were issues in it
38 that are not relevant to the matter in dispute between
39 myself and the HSU. It's a - you know, I think at the time
40 I joked to my solicitors that, you know, a bit of it was
41 therapy involved in writing this statement to get things
42 off my chest, and I think at the time my solicitors
43 remarked, "Well, much of the stuff is simply not relevant
44 to matters that go between you and the HSU".

45
46 Q. Yes. In any event, you do not adhere to the content
47 of paragraph 56?

1 A. I do not.

2

3 Q. It is not simply a case, as I understand your answers,
4 of you having a failing recollection. What you have told
5 the Commissioner is that in fact the content of that
6 paragraph is untrue?

7 A. Well, I don't believe it now. I believed it at the
8 time of writing it, but not now.

9

10 Q. Just in conclusion, you would ask the Commission not
11 to place any reliance on paragraph 56 or paragraph 57; is
12 that right?

13 A. I most certainly would do that, and I would also like
14 to record my acute embarrassment and my apologies to your
15 client for causing her any distress or discomfort, that
16 would be mortifying to me. I now believe this is not an
17 accurate statement, and I'm very apologetic that it's made
18 its way into the public domain. It was not my intention
19 that it do that. It was not my intention that it be given
20 any status, certainly not before a body like the Royal
21 Commission, and to say that I feel extremely embarrassed is
22 a gross understatement.

23

24 MR CLELLAND: Yes.

25

26 THE COMMISSIONER: Let me ask a question. Does anyone
27 else want to ask any questions and on what basis?
28 Mr Stoljar, are you going to tender this?

29

30 MR STOLJAR: Yes, Commissioner.

31

32 MR CLELLAND: We object to that, Commissioner.

33

34 THE COMMISSIONER: On what ground?

35

36 MR CLELLAND: If it is being tendered as truth of its
37 contents, we object. If it is being tendered as in effect
38 identification of the document, we don't object.

39

40 THE COMMISSIONER: In your last question or two, in
41 effect, you successfully invited the witness completely to
42 abandon paragraphs 56 and 57 and he gave various items of
43 testimony before that that perhaps didn't go that far.
44 Isn't it desirable to have the entire document just to
45 assess whether or not there might be some credibility to be
46 attached to paragraphs 56 and 57 or a key part of it?

47

1 MR CLELLAND: We would have thought that issue was, in
2 effect, resolved already. Commissioner, as I say, we would
3 object if it is being tendered as the truth of its
4 contents. The witness hasn't adopted it, but the witness
5 has acknowledged that it is a document that he drafted and,
6 on that basis, we wouldn't object to its tender.

7
8 THE COMMISSIONER: I think I will admit it on that wider
9 basis and call it Elliott MFI-1.

10
11 **ELLIOTT MFI#1 STATEMENT OF ROBERT ELLIOTT**

12
13 THE COMMISSIONER: Q. Can I just ask a question of
14 Mr Elliott. I may not have written down one of your
15 answers correctly, but this is my note. This was at a
16 point when you were indicating that the last part of
17 paragraph 56 was not now your present recollection and that
18 you abandoned it.

19 A. Yes.

20
21 Q.

22 *I believe I have conflated other things to*
23 *come up with - at the time of making this*
24 *statement, to come up with a false*
25 *scenario.*

26
27 ie, the statement in paragraph 56. What were the other
28 things you had conflated?

29 A. I believe there was - well, Commissioner, first of
30 all, in discussions with my wife there were major matters
31 which we had conferred with Ms Gillard with that I'd
32 completely forgotten about. One of those was a process
33 whereby we would set up some sort of health and welfare
34 body or committee, probably by a rule change to deal with
35 welfare claims by members, and I had entirely forgotten
36 about that matter. It is very confronting for me to know
37 I had forgotten about it because it was a very important
38 issue at the time and one which was centred on a major
39 industrial issue at the time. I was the industrial
40 officer, I should have remembered that, I didn't remember
41 it, and it caused me to have very much shaken confidence in
42 my memory of the period. I believe it was that event, that
43 subject matter, which I had conflated to develop a false
44 memory of the matters put to me by Mr Stoljar.

45
46 THE COMMISSIONER: Thank you. Mr Clelland, does anything
47 arise out of that question?

1
2 MR CLELLAND: No, Commissioner.
3
4 THE COMMISSIONER: Mr Stoljar?
5
6 MR STOLJAR: Mr Elliott could be excused, unless anyone
7 has any objection.
8
9 THE COMMISSIONER: Yes. Mr Elliott, you are excused from
10 further attendance. Thank you for coming up from Victoria
11 for your evidence.
12
13 THE WITNESS: Thank you, Commissioner.
14
15 <THE WITNESS WITHDREW
16
17 MR STOLJAR: Commissioner, the next witness is
18 Ms Darveniza.
19
20 <KAYE MARY DARVENIZA, sworn: [10.05am]
21
22 <EXAMINATION BY MR STOLJAR:
23
24 MR STOLJAR: Q. Could you tell the Commission your full
25 name?
26 A. Kaye Mary Darveniza.
27
28 Q. You are a resident of Victoria?
29 A. That's correct.
30
31 Q. You are a member of the Legislative Council?
32 A. That's correct.
33
34 Q. You have prepared a statement dated 8 September 2014.
35 Do you have a copy of that? We can provide you with one.
36 A. I do, yes.
37
38 Q. You have a copy?
39 A. Yes.
40
41 Q. Is the content of that statement true and correct?
42 A. Yes, it is.
43
44 MR STOLJAR: Commissioner, I would ask that Ms Darveniza's
45 statement be received into evidence.
46
47 THE COMMISSIONER: Yes. I do not have a copy of it, not

1 that that affects its admissibility. Is there any
2 objection to it? Do you have a copy of it, Mr Clelland?

3
4 MR CLELLAND: I do. It is one of the ones we received
5 yesterday afternoon, Commissioner. We are actually digging
6 around ourselves. Thank you, we do have a copy of it.

7
8 THE COMMISSIONER: Unless there is any objection, it will
9 be received into evidence.

10
11 MR CLELLAND: If the Commission pleases.

12
13 **MFI#2 STATEMENT OF KAYE MARY DARVENIZA DATED 08/09/2014**

14
15 MR STOLJAR: Q. Ms Darveniza, after leaving school you
16 studied nursing?

17 A. That's correct.

18
19 Q. In 1975 you qualified as a registered psychiatric
20 nurse?

21 A. That's correct.

22
23 Q. Then you left the workforce for some years and in 1986
24 you became an organiser with the HSU?

25 A. I think that that's the right year, yes.

26
27 Q. About then?

28 A. Yes, about then.

29
30 Q. Which branch of the HSU?

31 A. The No.2 Branch.

32
33 Q. In due course, in 1989, you became State Secretary of
34 that branch?

35 A. Yes.

36
37 Q. You held that position for 10 years?

38 A. That's correct.

39
40 Q. In 1999 you became a member of the Legislative Council
41 in Victoria?

42 A. Correct, yes.

43
44 Q. You were and still are married to Mr Elliott?

45 A. That's correct.

46
47 Q. Who also held positions at the HSU No. 2 Branch?

1 A. Correct.

2

3 Q. In your statement you describe various dealings that
4 you had with Ms Gillard and others, beginning at
5 paragraph 7. At paragraph 7 you are describing the setting
6 up of an election fund. In paragraph 14, you say:

7

8 *To the best of my recollection, another*
9 *matter briefly discussed was the*
10 *establishment of a fund for general*
11 *political fundraising.*

12

13 Did you mean within the union or across the broader labour
14 movement?

15 A. To the best of my recollection it was a fund that
16 would raise money as I - well, it was never stipulated what
17 it was going to raise money for. It was one of those
18 things that was talked about very briefly. I saw it as
19 being a bit like a fund that would raise money in the way
20 that we had raised money for my election, during my
21 election campaign, to become the State Secretary for the
22 No. 2 Branch, and we ran dinners and comedy nights and
23 raffles, and all sorts of activities, to get the money to
24 run the campaign and, you know, a whole range of different
25 supporters and people and families of supporters came to
26 those fundraisers. My recollection is that it would be
27 something similar to that. My thinking, as best as I can
28 remember it, is that it was about me being re-elected in
29 four years time when I would be up for election again. It
30 was not something that was discussed for any length of time
31 or given a great deal of consideration, and I think that
32 I thought that - I think that my thinking was that, you
33 know, if we had the voluntary contribution being made by,
34 you know, the officials of the union, then that we'd have
35 enough money for me to be able to run a decent campaign in
36 four years time when the election came up.

37

38 Q. If you have a look at paragraph 16 of your statement,
39 you say:

40

41 *I understand from Rob Elliott that in a*
42 *2012 document, Mr Elliott has described a*
43 *proposal ...*

44

45 Et cetera.

46 A. Mmm-hmm.

47

1 Q. You say you have no recollection of such a proposal.
2 You had discussions with Mr Elliott over the last couple of
3 weeks about that matter?
4 A. We've had a lot of discussions. We've spoken of
5 little else since we were contacted by the Commission to
6 give - to come and give evidence about this.
7
8 Q. You were contacted by the Commission?
9 A. Yes, I was contacted by the Commission.
10
11 Q. Not Mr Elliott?
12 A. No. Later on he was contacted by the Commission.
13 Yes, you're correct, I was contacted.
14
15 Q. Did you have any discussion with Ms Gillard back in
16 the early '90s about establishing an incorporated
17 association for the purpose of fundraising?
18 A. I have no recollection of that, no.
19
20 Q. Is this the position: Ms Gillard visited your home
21 and asked whether you were interested in setting up an
22 account along the lines of the Workplace Reform
23 Association?
24 A. Sorry, can you ask me - I didn't hear. I'm a little
25 bit hard of hearing. Sorry, I didn't catch what you said
26 right at the very start.
27
28 MR CLELLAND: Commissioner, again I hesitate to rise when
29 counsel assisting is asking questions, but we don't find
30 this in the witness's statement. I'm just not sure what
31 the source of that piece of puttage is in a clearly leading
32 form to the witness.
33
34 THE COMMISSIONER: Puttage?
35
36 MR CLELLAND: Yes.
37
38 THE COMMISSIONER: Does it have to have a source? Your
39 point is this: if one puts something one implies one can
40 call some evidence about it as distinct from an open-ended
41 inquiry as to the existence or not of some fact.
42
43 MR CLELLAND: Yes. That's our only concern.
44
45 THE COMMISSIONER: Mr Stoljar, perhaps that concern could
46 be taken into account.
47

1 MR STOLJAR: Yes. I think I put the question, "Is this
2 the position", or I asked whether this had occurred.
3
4 Q. Did this occur, Ms Darveniza: did Ms Gillard in the
5 early '90s visit your home at a time when you and your
6 husband were there?
7 A. Yes, Ms Gillard - we were neighbours. We lived quite
8 close together, yes.
9
10 Q. Did you have a discussion about, or did she put to you
11 in one of those meetings the question as to whether you
12 were interested in setting up an account with some sort of
13 incorporated association? Did you have a discussion about
14 that?
15 A. I have no recollection of an incorporated association
16 being set up.
17
18 Q. An account into which employers would make
19 contributions?
20 A. No. No, not to my recollection, and I --
21
22 Q. That's your recollection as you sit here today?
23 A. I beg your pardon?
24
25 Q. And that is your recollection as you sit here today?
26 A. Yes. Yes.
27
28 Q. Have you told others that you had a meeting at which
29 that sort of thing was discussed in the past?
30 A. Not to my recollection, no.
31
32 Q. Are you sure about that?
33 A. Yes, I'm pretty sure about that.
34
35 Q. Have you ever told anyone that you had a discussion at
36 your home with your husband at which Ms Gillard asked you
37 whether you were interested in setting up an account
38 similar to the Workplace Reform Association?
39 A. No, I've never had a - I've never said that to anyone.
40
41 Q. After you became a member of the Legislative Council?
42 A. No. No, I have recollection --
43
44 Q. You deny that, do you?
45 A. I have no recollection of that, no.
46
47 Q. You don't remember or you deny it?

1 A. I beg your pardon?
2
3 Q. You don't remember or you deny it?
4 A. No, I don't believe I did, no.
5
6 Q. I note what you say in the last two paragraphs of your
7 statement about having difficulties with your memory. Your
8 memory has been affected, has it, in recent years?
9 A. Well, in my - in the --
10
11 THE COMMISSIONER: I think what she is saying is that she
12 is not sure whether it has been affected by what is
13 narrated in paragraph 18.
14
15 Q. Is that the position?
16 A. Yes, that's correct. I mean, I'm advised that it
17 could be but I'm not sure that it has been. If it has, I'm
18 not sure how much it has been, yes.
19
20 THE COMMISSIONER: I think the position is clear now.
21
22 MR STOLJAR: Thank you. Nothing further. Thank you,
23 Commissioner.
24
25 THE COMMISSIONER: Mr Clelland?
26
27 MR CLELLAND: Briefly, Commissioner.
28
29 **<EXAMINATION BY MR CLELLAND:**
30
31 MR CLELLAND: Q. Ms Darveniza, as you have recorded at
32 paragraph 17 of the statement that has now been tendered in
33 the Commission, you regard the memory at least of the
34 events described in the statement as extremely vague?
35 A. Yes. Yes.
36
37 Q. Can I just ask you about a couple of paragraphs,
38 please, particularly paragraphs 7 and 8. Do you have that
39 statement in front of you, Ms Darveniza?
40 A. I beg your pardon?
41
42 Q. Do you have the statement in the witness box?
43 A. Yes, I do. Yes.
44
45 Q. There are some references in there to some discussions
46 and some advice?
47 A. Mmm-hmm.

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Q. All I want to ask you is whether you adhere to the statement that - I am sorry, I will withdraw that and ask it this way. Are you saying to the Commission that it was Ms Gillard who raised the question of the setting up of an account to raise funds?

A. This is the - this is the - for the branch voluntary - the voluntary contributions to the branch re-election fund?

Q. Yes.

A. Look, to the best of my recollection, I think that we were given advice about that by Ms Gillard, but that's the best - that's the best of my recollection. This was - this was 25 years ago and it was - these were - these were issues - I was a newly elected State Secretary of a union and I have to say these were not first order issues that we were - that we were dealing with at all. They were, you know, more like 10th order issues that we were putting our minds to.

Q. I understand. All I wanted to put to you about that was that Ms Gillard does not recall her having raised that issue with you at that time and, in those circumstances, do you still adhere to what is set out in paragraph 8, if that was intended to convey the idea that it was Ms Gillard who had actually raised the issue or offered the advice?

A. Well, to the best of my recollection, I would say - I would say, yes, but if you were to say to me, "No, look, that never happened", I couldn't really say that you wouldn't - that you wouldn't be right either.

Q. Thank you, Ms Darveniza. Can I now ask you to go to paragraph 9 of the statement.

A. Yes, 9. Yes.

Q. What I want to suggest to you about that is that that matter that you say you believe was discussed with Ms Gillard was not in fact discussed between you and her?

A. I would have - again, it is the same proposition. I would have thought that these - that these matters would have been matters that I would have had - that Ms Gillard would have been involved in the discussions, and the reason that I say - the reason that my thinking is that she would have been involved in the discussions is that we would have been - I would have been concerned about any mechanism that was being set up, that it was being set up correctly and that it was being set up within the rules of the

1 organisation and that it was being done - that it was being
2 done properly and that we had some, you know, proper legal
3 advice and other advice from people who knew the rules and
4 who would be able to give us that - give us that advice.

5
6 Q. I understand.

7 A. My best guess is, and I lot of this, you know, I have
8 to say, whilst I'm doing my very best to accurately recall
9 these events of 25 years ago, events that I've not really
10 put my mind to or even thought about until, you know, the
11 last week, my best guess is that these are the sorts of
12 matters - these are the sorts of matters that were around
13 at the time and that we would have been seeking some advice
14 about them.

15
16 Q. Can I put it to you this way: is the intended effect
17 of that paragraph really that you think or believe that
18 that's the topic or the kind of topic that would have been
19 discussed with Ms Gillard at about that time?

20 A. Yes. And again can I --

21
22 Q. Can I take you --

23 A. Can I say?

24
25 Q. Yes.

26 A. This was something that we, you know, we were - we
27 were concerned about, you know, setting up - we were
28 concerned, rather, about the staff assistance program going
29 that I mention in paragraph 10 and about, you know, having
30 some vehicle, you know, for that staff assistance program
31 that might, that might go and that there be some provision
32 for providing for the welfare, but again, it wasn't
33 something that we - that we - again, it wasn't a
34 first-order, it wasn't a first-order issue and again
35 nothing ever - nothing ever came of it. None of these
36 things were ever implemented. We had thought about it, we
37 discussed it, but nothing ever - we never set anything up.

38
39 Q. Just to follow on with this issue of what you think
40 was probably or might have been discussed, can I direct
41 your attention to paragraph 14 of the statement, please.

42 A. Yes.

43
44 Q. By the way, is this a statement prepared for you by
45 the Commission?

46 A. No, no, no, this was one that I prepared for myself.

47

1 Q. You drafted it yourself?
2 A. My husband assisted me with it and he typed it up for
3 me.
4
5 Q. Was that on or about 8 September 2014?
6 A. It was the day before yesterday. The day before
7 yesterday, yes, is that right? Yes.
8
9 Q. I'm sorry, I interrupted you. If I could just direct
10 your attention to paragraph 14. Again, I'm instructed that
11 Ms Gillard disputes that she raised with you or discussed
12 with you the issue of a - sorry, paragraph 13, not 14,
13 disputes the suggestion there that she raised with you or
14 discussed with you the issue of a self insurance fund?
15 A. Mmm-hmm.
16
17 Q. All right - for the subsidisation of funeral expenses.
18 Do you see that there?
19 A. Yes, I do. I do, yes.
20
21 Q. What I'm suggesting to you is that you did not have
22 that discussion with Ms Gillard?
23 A. Yes. Yes. Again, it was one of those - one of the
24 matters that we were dealing with at the time and, again,
25 I would have thought that we would have - you know, we
26 would have got advice about it and, again, my best guess is
27 that we would have had a chat to her about it, but, again,
28 it's just my best - it's my best guess.
29
30 Q. Likewise, paragraph 14, is that another example of
31 where you've tried to, as you say, reconstruct things that
32 happened 25 years ago, and that's a recollection of what
33 you think probably or might have happened?
34 A. Yes, and again, this one was probably given the
35 least - to my mind - to my mind - to my recollection, this
36 one was - this one was - the previous one, the funeral one,
37 I think we gave, you know, a bit more consideration to and
38 maybe even thought about, you know, making it part of that
39 health and welfare fund. This one, number 14, the general
40 political fundraising one, I think that was - that was
41 thought about and discussed briefly and discounted.
42
43 MR CLELLAND: Thank you, Ms Darveniza. Commissioner,
44 those are the questions.
45
46 THE COMMISSIONER: Thank you, Mr Clelland. Anything
47 further, Mr Stoljar?

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MR STOLJAR: No, Commissioner.

THE COMMISSIONER: Ms Darveniza, you are excused from further attendance on on summons that brought you here. Thank you very much for coming up.

THE WITNESS: Thank you

<THE WITNESS WITHDREW

MR STOLJAR: Commissioner, the next witness is Ms Gillard.

MR CLELLAND: Just before Ms Gillard is called, Commissioner, I wonder if we might ask the Commission's indulgence just for five minutes.

THE COMMISSIONER: A short adjournment?

MR CLELLAND: If we could.

THE COMMISSIONER: Five, or do you want to tell me when you are ready?

MR CLELLAND: If we could do it the latter way, we would be grateful.

THE COMMISSIONER: We you just tell my tipstaff. We will adjourn for a short time.

SHORT ADJOURNMENT

THE COMMISSIONER: Yes, Mr Stoljar?

MR STOLJAR: Commissioner, the next witness is Ms Gillard.

<JULIA EILEEN GILLARD, affirmed: [10.32am]

<EXAMINATION BY MR STOLJAR:

MR STOLJAR: Q. Your name is Julia Eileen Gillard?

A. Yes, it is.

Q. You are a resident of South Australia?

A. That's correct.

Q. Can you tell the Commission your current occupation?

1 A. There's a list. I am of course a former Prime
2 Minister and do a number of things associated with that.
3 I am an author. I am the Chair of the Global Partnership
4 For Education. I am a non-resident Distinguished Senior
5 Fellow at the Brookings Institution in Washington. I am an
6 Honorary Professor at the University of Adelaide.

7
8 Q. You have prepared a number of witness statements?

9 A. Yes, I have.

10

11 Q. Do you have copies of those with you?

12 A. I have with me my principal statement and its
13 annexure.

14

15 Q. There were also some short statements you prepared
16 dealing with evidence given by Mr James, Mr Spyridis and
17 Mr Hem. I will provide you with those.

18 A. Thank you.

19

20 Q. Ms Gillard, did you need to make any correction to
21 your longer statement? I think you called it your
22 principal statement.

23

24 MR CLELLAND: Commissioner, can I assist with this rather
25 than Ms Gillard having to go through the document at the
26 moment? We just picked up a typographical error at
27 paragraph 26. This is of the principal statement,
28 Commissioner

29

30 THE COMMISSIONER: Yes, I have that.

31

32 MR CLELLAND: Thank you, Commissioner. If you go to the
33 last line the words "from the bank and my salary" the "and"
34 should be an "or".

35

36 THE COMMISSIONER: Yes.

37

38 MR CLELLAND: That's the change.

39

40 MR STOLJAR: Q. Save for the correction that Mr Clelland
41 has pointed out, the content of your four statements is
42 true and correct?

43 A. Yes, they are.

44

45 MR STOLJAR: I would ask that those statements be received
46 into evidence, Commissioner.

47

1 THE COMMISSIONER: Yes. Those four statements will be
2 received into evidence.

3

4 **#FOUR WITNESS STATEMENTS OF JULIA EILEEN GILLARD**

5

6 MR STOLJAR: Q. Ms Gillard, by way of background, you
7 obtained your law degree in 1986?

8 A. Yes I did.

9

10 Q. You were at some point thereafter admitted as a
11 solicitor to the Supreme Court of Victoria?

12 A. Yes, I was in 1987.

13

14 Q. In that year you commenced working as a first year
15 solicitor with Slater & Gordon?

16 A. Yes, I did.

17

18 Q. You practised in the industrial area?

19 A. Initially I practised in the commercial section and in
20 the industrial section and quite quickly that moved to
21 being full-time in the industrial section.

22

23 Q. You reported to Mr Murphy?

24 A. Yes, I did.

25

26 Q. Three years later, in November 1990, you were made a
27 partner in Slater & Gordon?

28 A. That's right.

29

30 Q. A salaried partner?

31 A. Yes, that's right.

32

33 Q. You kept up a close professional relationship with
34 Mr Murphy?

35 A. Mr Murphy was the equity partner in the industrial
36 unit, so, yes.

37

38 Q. You had the next door office?

39 A. That's correct.

40

41 Q. You became friends?

42 A. Yes.

43

44 Q. Not long after you were made a partner at Slater &
45 Gordon, you or the firm received instructions to act for
46 the Australian Workers Union?

47 A. In either 1989 or 1990 the firm commenced to work for

1 the Victorian Branch of the Australian Workers Union.
2
3 Q. I see. So you may not have become a partner at that
4 point?
5 A. I'd have to track the dates, Mr Stoljar, but in or
6 around the same time.
7
8 Q. Who was the person doing most of the work for the AWU?
9 Was it yourself or Mr Murphy?
10 A. It was Mr Murphy who was the principal contact with
11 the Victorian Branch.
12
13 Q. And thereafter the AWU was an important client for the
14 firm?
15 A. It was one of a wide range of clients.
16
17 Q. The client was the AWU, not any particular individual
18 within the AWU?
19 A. The client was the AWU Victorian Branch at that point.
20
21 Q. You did work for the AWU yourself?
22 A. I did some work, but at that point the Victorian
23 Branch was principally Mr Murphy's client for industrial
24 matters. Obviously they would also refer personal injury
25 work to the firm that would be done by a range of
26 solicitors in the plaintiff personal injury practice.
27
28 Q. On becoming a salaried partner, your pay arrangements
29 were changed?
30 A. Yes, that's right.
31
32 Q. Your salary was nominally increased, but the increase
33 was effected through a loan advanced to you by the firm?
34 A. Yes, that's right.
35
36 Q. In substance, the loan comprised a total amount of
37 \$40,000?
38 A. Yes.
39
40 Q. Which was paid in two tranches: one in February 1991
41 and one in June 1991?
42 A. I didn't independently recall all those details.
43 I did recall the firm made me a loan for the purchase of
44 the house, but, Mr Stoljar, I've had the opportunity to
45 look at the relevant documents and what you say is right.
46
47 Q. Yes. I think there's something in your statement to

1 that effect?
2 A. Yes.
3
4 Q. That enabled you to acquire a property at
5 36 St Philip Street, Abbotsford?
6 A. Yes, it did.
7
8 Q. I am sorry to delve into the financial details, but
9 you borrowed \$118,000 from CBA to acquire that property,
10 does that sound right?
11 A. It sounds right.
12
13 Q. In addition there was some stamp duty and you needed
14 also the advance from Slater & Gordon to facilitate that
15 purchase?
16 A. So Slater & Gordon assisted with the \$40,000 and then
17 I borrowed the balance from the Commonwealth Bank.
18
19 Q. You, in substance, borrowed 100 per cent of the
20 proceeds necessary to acquire the Abbotsford property?
21 A. I think there may have been some of my savings in
22 there, but the overwhelming bulk of it was the Slater &
23 Gordon moneys or the, you know, moneys by way of mortgage
24 from the Commonwealth Bank.
25
26 Q. You were living there from about June 1991, you
27 yourself?
28 A. Once it settled, yes.
29
30 Q. You met Mr Wilson for the first time in that same
31 year?
32 A. Yes, that's correct.
33
34 Q. April 1991. He was the Secretary of the WA Branch of
35 the AWU?
36 A. Not at that point, Mr Stoljar, no.
37
38 Q. Can I show you a folder of documents. It's been
39 marked "AWU WRA Gillard MFI-1".
40
41 MR STOLJAR: Commissioner, do you have a copy of that
42 folder?
43
44 THE COMMISSIONER: Yes, I do.
45
46 MR STOLJAR: First of all, I would ask that that folder be
47 received into evidence, Commissioner.

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THE COMMISSIONER: Any objection? Anyone who has not had a chance to read it will have their rights to object in due course preserved.

MR CLELLAND: We will reserve our position.

THE COMMISSIONER: Very well.

DR HANSCOMBE: Likewise, Commissioner. We didn't know the existence of this folder.

THE COMMISSIONER: It will be received into evidence.

#FOLDER OF DOCUMENTS MARKED "AWU WRA GILLARD MFI-1"

MR STOLJAR: Commissioner, do you have a copy of that folder?

THE COMMISSIONER: Yes, I do.

MR STOLJAR: Q. Could I take you to tab 3, page 131 in the bottom right-hand corner. That's the transcript of interview that you gave in September 1995 to two of the partners at Slater & Gordon. If you go to page 132 in the bottom right-hand corner, the transcript reads:

I met him in April 1991.

You are dealing there with your encounters with Mr Wilson.

I met him in April 1991.

And you say at the bottom of the page:

I was asked when I was over there ...

-- that's WA --

... to contact Bruce by Graeme Droppit who was then an employee solicitor of Slater & Gordon ...

He was from Western Australia. He had done legal work for Bruce when he had been in WA. So Mr Droppit had got to know Mr Wilson, had he?

1 A. Yes, that's right.

2

3 Q. He introduced Mr Wilson to the firm as a client?

4 A. Mr Droppit worked in Western Australia. He was
5 Western Australian. He knew Bruce Wilson. He asked me to
6 meet with Bruce Wilson whilst I was in Western Australia on
7 other legal business.

8

9 Q. Coming down the page, this is page 133, you say:

10

11 *He was at that point basically stalking the*
12 *then WA secretary with a view to getting*
13 *him out and taking his position, and he*
14 *needed some legal advice about arrangements*
15 *to do with that.*

16

17 What did you mean he was stalking the then Secretary?

18

19 A. At the time I met Mr Wilson, he had already been
20 involved in the Australian Workers Union. He was seeking
21 to become Secretary of the Western Australian branch of the
22 AWU.

22

23 Q. He was seeking to remove Mr Keenan; is that right?

24

25 A. As I understood it, there was disputation within the
26 branch including about the performance of the then
27 Secretary.

27

28 Q. Do you recollect what the legal advice was that you

29

30 gave to Mr Wilson at the time about those matters?

31

32 A. No, I don't recall.

33

34 Q. You say that you stayed on - I am just continuing to
35 travel through page 133 - in Perth for the purpose of
36 meeting with him and then you say you became involved in a
37 personal relationship with him in, in effect, 1991 or late
38 1991. That's all accurately summarised as the course of
39 events, I take it?

38

39 A. Yes, that's right.

40

41 Q. Then you mention further down the page.

42

43 *... when Bruce came to Victoria ... he came*
44 *alone ...*

44

45 This again is on 133:

46

47 *He was subsequently joined by an organiser*

1 *from Western Australia ... known as either*
2 *Bill Telikostoglou or simply Bill the*
3 *Greek.*

4
5 Do you recollect what his role was at the AWU, that's
6 Mr Telikostoglou, when he came to Victoria?

7 A. He was an organiser, I believe.

8
9 Q. Did he report to Mr Wilson?

10 A. Mr Wilson was Acting Secretary and then subsequently
11 became Secretary of the Victorian Branch of the AWU. So
12 all organisers would have reported to him.

13
14 Q. Mr Telikostoglou has been described in some documents
15 as Mr Wilson's minder. Is that a fair description?

16 A. I wouldn't use those words, no.

17
18 Q. He carried out a wide variety of work at the direction
19 of Mr Wilson?

20 A. I don't have a particular view about what work he
21 carried out at the direction of Mr Wilson. I understood
22 him to be an organiser.

23
24 Q. When did you first hear of the Workplace Reform
25 Association?

26 A. As is detailed in my statement, in 1992, I received
27 instructions from Mr Wilson about providing legal advice on
28 the incorporation of an association.

29
30 Q. When you say in your statement, you mean witness
31 statement 4 that has now become part of the evidence in
32 this Commission?

33 A. Yes, that's right.

34
35 Q. You are not referring to your exit interview with
36 Slater & Gordon?

37 A. I think the matter is dealt with in both. I presume
38 by "exit interview" you are referring to the transcript of
39 the meeting on 11 September 1995?

40
41 Q. Yes. I will just call it the interview. In any
42 event, you say in paragraph 13 of your statement that you
43 provided advice to Wilson and Blewitt in relation to the
44 setting up of an incorporated association. That was some
45 time prior to April 1992, was it?

46 A. Yes, that's correct.

47

1 Q. Did you have any discussions with Mr Wilson about that
2 when he was stalking the WA Secretary?

3 A. No.

4

5 Q. So that came up after he had moved to Melbourne?

6 A. It came up in 1992, not 1991.

7

8 Q. Mr Wilson raised it with you?

9 A. Mr Wilson raised with me wanting to have a fund in
10 Western Australia that would support him and his team and
11 their re-election in Western Australia and, you know,
12 regularising arrangements amongst the team.

13

14 Q. Could you come to page 134 in the bottom right-hand
15 corner. You are dealing with this sequence of events.

16

17 MR CLELLAND: What is the page of the document? We don't
18 have the folder yet.

19

20 THE COMMISSIONER: Page 4 at the top.

21

22 MR CLELLAND: Thank you, Commissioner.

23

24 MR STOLJAR: Mr Gordon says:

25

26 *Now, around about mid 1992 were you asked*
27 *by Bruce or Ralph or anyone connected with*
28 *the AWU to set up certain unincorporated*
29 *associations to enable the union or*
30 *factions within it to raise and control*
31 *funds?*

32

33 And you say "Yes". You give some more detail about that a
34 bit further down the page. You say.

35

36 *... I was asked by Bruce to form, I was*
37 *asked by Bruce about the holding of*
38 *election fund moneys. It's common*
39 *practice, indeed every union has what it*
40 *refers to as a re-election fund, slush*
41 *fund, whatever, which is the funds ...*
42 *into which the leadership team puts money*
43 *so that they can finance their next*
44 *election campaign.*

45

46 Is it the position that Mr Wilson wished to have an account
47 of that kind?

1 A. The position is as detailed in my statement, my
2 principal statement, that prior to April 1992 I was asked
3 by Mr Wilson about the holding of election moneys for the
4 support of him and his team in Western Australia when
5 I provided advice on the incorporation of the Association.
6

7 Q. You say that's in your statement. Where do I find in
8 your statement reference to his team in Western Australia?

9 A. It's not detailed in the statement, but it was about
10 him and the team of officials he would run with.
11

12 Q. When did he say that to you?

13 A. Well, in these conversations. Obviously when people
14 run for union elections, they run with a team of
15 supporters.
16

17 Q. Could we come back to page 134 of the interview,
18 page 4 at the top if that's easier. It says halfway
19 through the long paragraph:
20

21 *Bruce wanted to have such an account. We*
22 *have at Slater & Gordon, we have*
23 *incorporated associations for the purposes*
24 *of holding, if you like, being the legal*
25 *entity that holds such an account.*
26

27 Had you been involved yourself in setting up incorporated
28 associations of that kind for other unions?

29 A. I don't recall setting up any other incorporated
30 associations for other unions, but my understanding at the
31 time, as detailed in this discussion with Mr Gordon and
32 Mr Shaw, was that that had been done by the firm.
33

34 Q. You say you hadn't yourself set one up?

35 A. I don't recall doing so, no.
36

37 Q. Further down the page you say:
38

39 *So, I advised Bruce that we had done that*
40 *in the past for unions. We had*
41 *incorporated associations.*
42

43 A. Yes.
44

45 Q. Does that jog your memory that Slater & Gordon had set
46 up incorporated associations for other unions in the past?

47 A. As detailed in this discussion with Mr Gordon and

1 Mr Shaw, it was certainly my view at the time that Slater
2 & Gordon had done such work. I understood your question to
3 me to be do I recall specifically, personally, doing such
4 work --

5

6 Q. Yes.

7 A. -- and I don't recall that.

8

9 Q. Do you know for which other union Slater & Gordon had
10 done that work?

11 A. Oh, I don't recall that now, all these years later.

12

13 Q. But you say at the bottom of 134:

14

15 *I was uncertain whether the laws in*
16 *Western Australia were akin to the laws in*
17 *Victoria about the incorporation of*
18 *associations. I subsequently checked and*
19 *my recollection is they had almost*
20 *identical Act, and I was then instructed to*
21 *incorporate an association and did so.*

22

23 So you checked the WA Act?

24 A. Yes, I would have done so.

25

26 Q. And you were familiar already with the Victorian Act?

27 A. Yes, I was.

28

29 Q. Can I take you to 137 in the bottom right-hand corner,
30 that's page 7. Mr Gordon says:

31

32 *All right, well, let's talk about the AWU*
33 *Workplace Reform Association Account.*

34

35 That account, as you have said, is an account which was the
36 account belonging to an incorporated association by the
37 same name which was incorporated by Slater & Gordon on
38 Wilson's instructions following your advice to him which
39 you described earlier and you say, "That's right", and then
40 the question is:

41

42 *PG: And that happened in or about mid*
43 *1992?*

44 *JG: That's right.*

45

46 You are talking here about a bank account; correct?

47 A. This document, as you would be familiar, Mr Stoljar,

1 records a discussion, quite a lengthy discussion, about the
2 AWU Workplace Reform Association.

3
4 Q. Yes.

5 A. I think Mr Gordon might have been using the
6 terminology "account" because we had been talking about
7 election funds. I had no knowledge at that time, or
8 knowledge at any time, about the banking arrangements of
9 the Workplace Reform Association.

10
11 Q. Isn't he saying to you - he says:

12
13 *That account, as you've said, is an account*
14 *which was the account belonging to an*
15 *incorporated association by the same name*
16 *which was incorporated by Slater & Gordon*
17 *on Wilson's instructions ...*

18
19 He's referring to an account quite separate from the
20 Association; correct?

21 A. When you look across this discussion with Mr Gordon
22 and Mr Shaw, there's a discussion about the Workplace
23 Reform Association; there's a discussion then about
24 bank accounts at the Victorian Branch of the AWU. I think
25 Mr Gordon used the term "account" following that
26 discussion. I didn't know anything about the banking
27 arrangements of the AWU Workplace Reform Association.

28
29 Q. You understood that the Association was setting up an
30 account?

31 A. I understood that --

32
33 Q. At the time I mean.

34 A. Mr Stoljar, I understood that it was the desire of
35 Mr Wilson and others involved in the Association to have an
36 association, to be a team that would run together for union
37 elections, and to have an account into which they would
38 bank moneys that they had fund-raised for that purpose,
39 yes.

40
41 Q. And the account to which Mr Gordon is making reference
42 on page 137 is that very bank account, is it not?

43 A. He is obviously referring to the discussion before,
44 yes. But if your question to me is - and I may be
45 misunderstanding you, Mr Stoljar, and if I am, I apologise,
46 but if your question to me is did I have any knowledge of
47 particular accounts operated by the AWU Workplace Reform

1 Association, no, I did not.

2

3 Q. I am not asking if you knew the account number, but
4 the fact is that you knew that it had set up an account and
5 was operating an account under the same name as the
6 Association?

7 A. I knew at the time that I provided legal advice on the
8 incorporation that there was an intention to set up an
9 account.

10

11 Q. You certainly understood, as at 11 September, that the
12 account had been set up because Mr Gordon makes reference
13 to it and then you say, "That's right."

14 A. Mr Stoljar, I am not sure I can take it further for
15 you than I have. This was a discussion where we talked
16 about the Australian Workers Union Workplace Reform
17 Association and in other sections of the discussion I make
18 it perfectly clear that I had no knowledge of any of the
19 banking arrangements of the Workplace Reform Association,
20 or any knowledge of its accounts.

21

22 Q. When do you say you became aware that in fact an
23 account had been set up by the Association?

24 A. I did not become aware that an account had been set up
25 by the Association.

26

27 Q. You know, as you sit here today, that one was set up,
28 I take it?

29 A. In time sequence, sorry, because you have just jumped
30 from this discussion in 1995 to the present day, in time
31 sequence I provided legal advice - as has been discussed
32 here and is in my principal statement, I provided legal
33 advice. I then had no further contact with the work of the
34 Association or its banking arrangements. Obviously, given
35 the extensive publicity and inquiry into these matters
36 since, I have become aware in the years since that the
37 Australian Workers Union Workplace Reform Association had
38 an account.

39

40 Q. If you go back to 137, Mr Gordon --

41

42 MR CLELLAND: Page?

43

44 THE COMMISSIONER: Page 7.

45

46 MR CLELLAND: Thank you.

47

1 MR STOLJAR: Q. Mr Gordon goes on to say that Slater &
2 Gordon had gone on to draft some model rules and the like,
3 submitted those rules to the relevant Western Australian
4 Government authority, there had been a letter back, it
5 might be a trade union and therefore, ineligible for
6 incorporation "and that we had prepared a response." He's
7 asking you about dates and you say:

8
9 *I wouldn't want to be held to the dates*
10 *without looking at the file, but whatever*
11 *dates the file shows are the right*
12 *dates ...*
13

14 To which file were you referring?

15 A. I am referring to the file about the incorporation of
16 the Workplace Reform Association.

17
18 Q. Did you open a file in relation to that matter?

19 A. I had a file, a manila folder with documents in it,
20 which would have been labelled "Australian Workers Union
21 Workplace Reform Association", or something like that which
22 would have been held in the filing cabinets that were on
23 the ground floor at Slater & Gordon where the industrial
24 unit worked.

25
26 Q. So you collated the documents in a file and put the
27 file in the filing cabinet but didn't open the file on the
28 system; is that the position?

29 A. Yes, that's correct.

30
31 Q. Were there any other files in the filing cabinet that
32 weren't open on the system?

33 A. Yes.

34
35 Q. You accept that if substantive work is done in
36 relation to a matter, it would be appropriate to open a
37 file on the system?

38 A. To just explain the context here, in the days I worked
39 at Slater & Gordon, which obviously is a very long time
40 ago, it was a much smaller firm than it is now. Its
41 business model at the time was that it was heavily reliant
42 on plaintiff personal injury work. The laws of plaintiff
43 personal injury work were quite different than they are
44 today. The purpose of the industrial unit was to do
45 industrial work for trade union clients and for employees,
46 and obviously to earn fees in doing so, but it was a part
47 of the purpose of having the industrial unit that Slater &

1 Gordon would form bonds with trade unions so that trade
2 unions would refer their plaintiff personal injury work.
3 As a result, it was common to do work without fees for
4 trade unions and trade union officials.
5

6 Q. It may have been common to do some work but where you
7 are engaging in substantive work of the kind that Mr Gordon
8 describes on the page I just took you to, a file ought to
9 have been opened; correct?

10 A. It was always a judgment call about whether or not one
11 would open a file for work that you were not going to
12 charge a fee. There were various arrangements for doing
13 that. You would keep file notes and they may be put on
14 your personal file, so I had a file in the filing cabinet
15 called JEG General - "JEG" being my initials - for trade
16 union clients. We had files in the filing cabinet that we
17 would collect file notes on telephone advice and minor
18 matters. You might have the "Municipal Employees Union -
19 General File". Then if you performed work where you put it
20 in a folder, you would make a judgment call about whether
21 or not that should be opened as a file on the system. A
22 clear dividing line was the dimensions of the work and most
23 certainly whether or not any disbursements were raised.
24

25 Q. This was a substantial job, you accept that?

26 A. No, I don't.
27

28 Q. You don't accept that?

29 A. No. This would have been a job that took me in total
30 - oh, I don't recall specifically, but I would have said in
31 the order of three, four, five hours work at most.
32

33 Q. It was more substantial than just bits of free work or
34 telephone advices and that sort of thing?

35 A. Mr Stoljar, I can assure you I did more substantial
36 jobs than this for free for trade unions during my days at
37 Slater & Gordon.
38

39 Q. And it really ought to have been opened on the system,
40 do you accept that?

41 A. When I was discussing this matter with Mr Shaw and
42 Mr Gordon in 1995, I indicated to them that with the
43 benefit of hindsight maybe it would have been better to
44 have opened it on the system, but I did do more substantial
45 free work for trade union clients and trade union officials
46 than this particular job.
47

1 Q. If you go to page 151, there's the passage of the
2 transcript of the interview to which you may be making
3 reference.

4
5 THE COMMISSIONER: Page 21.

6
7 MR CLELLAND: Commissioner, we have now been provided with
8 the folder.

9
10 THE COMMISSIONER: Good.

11
12 MR STOLJAR: Q. About halfway through the page you say:

13
14 *This was a more substantial job than that*
15 *and really ought to have been opened on the*
16 *system ...*

17
18 A. Yes. I have just referred to that passage.

19
20 Q. Yes. Was there a Mr Lang working in the office at the
21 time?

22 A. Yes. Mr Lang was employed at Slater & Gordon as a
23 solicitor.

24
25 Q. Did he have a particular expertise in incorporated
26 associations?

27 A. Yes, he did.

28
29 Q. The point, in any event, was that Mr Wilson was the
30 client so far as you were concerned?

31 A. That's correct.

32
33 Q. You say in your statement, in the passage to which you
34 have made --

35 A. Mr Wilson and Mr Blewitt.

36
37 Q. All right. The person who was predominantly in
38 discussions with you was Mr Wilson?

39 A. Mr Wilson and Mr Blewitt. Obviously Mr Blewitt was
40 playing a role in this incorporation. He is the signatory
41 to the documents.

42
43 Q. My question was: the person predominantly
44 communicating with you in relation to this matter was
45 Mr Wilson; is that right?

46 A. I had communications with both Mr Wilson and
47 Mr Blewitt. I would have had more communications with

1 Mr Wilson, that's correct.

2

3 Q. You accept that Mr Wilson was the person who was
4 predominately communicating with you in relation to this
5 matter?

6 A. I was communicating with both of them but I was more
7 regularly in contact with Mr Wilson, that's true

8

9 Q. Can I take you back to page 4 of the interview, that
10 is page 134 in the bottom right-hand corner. You are
11 discussing there again - I took you to this before - the
12 incorporation of the Association and you say there or
13 elsewhere that you had set up an incorporated association
14 or at least you had a set of rules for the socialist forum?

15 A. Yes, I do say that. I am a little bit lost in the
16 document, Mr Stoljar. You're on page 4 at?

17

18 Q. Yes. Just a moment. Yes. Page 137 in the bottom
19 right-hand corner. You were asked if Mr Lang had anything
20 to do with the model rules?

21 A. Okay. So over on page 137, yes, I am with you now.

22

23 Q. You respond.

24

25 *... I had just in my own personal precedent*
26 *file a set of rules for Socialist Forum*
27 *which is an incorporated association in*
28 *which I am personally involved. Tony Lang*
29 *and I drew those rules some years ago ...*
30 *and I've just kept them hanging around as*
31 *something I cut and paste ...*

32

33 Then you say.

34

35 *... I don't quite recall how now but*
36 *I obtained the model rules under the WA Act*
37 *and I must have done the drafting just*
38 *relying on those two sources. I don't have*
39 *any recollection of sitting down with Tony*
40 *or any other practitioner and talking*
41 *through the draft of the rules.*

42

43 So that is how you came to craft the rules for the
44 Association, is it, drawing on the Socialist Forum rules
45 and what you would call the model rules from the WA Act?

46 A. So I would have obtained, as I said in this statement
47 at the time, the model rules. I had the Socialist Forum

1 precedent. I think, Mr Stoljar, I am right in saying you
2 will find a reference to another association here, I am
3 thinking of Emily's List, but I had been involved in other
4 incorporated associations since I had a couple of
5 precedents in the model rules.
6

7 Q. I see. So these were not incorporated associations
8 which you had been involved in setting up, but you in fact
9 had some involvement in the operation of those
10 associations; is that right?

11 A. I had been involved with Mr Lang in personal
12 capacities in the setting up of the Socialist Forum which
13 was an incorporated association. I was also involved with
14 Mr Lang in the setting up of the incorporated association
15 which is Emily's List, which is a Labor women's
16 organisation.
17

18 Q. Was there a written retainer between Slater & Gordon,
19 on the one hand, and Mr Wilson and Mr Blewitt, on the
20 other, in relation to this work?

21 A. No, I don't believe there was.
22

23 Q. You say in your statement - and go to it if you need
24 to refresh your memory - at paragraph 13 that you provided
25 advice in relation to the setting up of an association.

26 A. Yes, I have that.
27

28 Q. In the second sentence you say:

29 *I was subsequently instructed by them ...*
30

31 That is Mr Wilson and Blewitt:

32 *... to incorporate an association.*
33

34
35 The first step is that you provided advice in relation to
36 setting up an association. When did you provide that
37 advice?
38

39 A. I don't recall a specific date, Mr Stoljar.
40

41 Q. Were you in Perth or Sydney, do you remember that?

42 A. I most certainly would not have been in Sydney.
43

44 Q. I am sorry, in Perth or Melbourne?

45 A. I don't recall. I think it is more likely to have
46 been Melbourne.
47

1 Q. Do you recollect who else was present or who was
2 present? Was it the three of you?

3 A. I don't have a specific recollection of discussions
4 and meetings. I have a general recollection of receiving
5 instructions from Mr Wilson and Mr Blewitt.
6

7 Q. Was Mr Murphy present at any of those discussions, do
8 you recall?

9 A. No, he was not.
10

11 Q. Was there a meeting in Melbourne attended by all four
12 of you?

13 A. No, there was not.
14

15 Q. Was there a meeting in Melbourne attended by yourself,
16 Mr Wilson and Mr Blewitt at which this matter was
17 discussed?

18 A. I think it is most likely that there was a discussion
19 in Melbourne, but I couldn't, you know, 100 per cent say it
20 wasn't it Perth, but I think it is more likely it was in
21 Melbourne.
22

23 Q. You say separately, or at least in the second
24 sentence:

25
26 *I was subsequently instructed by them to*
27 *incorporate an association.*
28

29 Do you recollect when you received those subsequent
30 instructions?

31 A. I don't recollect a date, no.
32

33 Q. Was it shortly after you had that initial meeting?

34 A. I couldn't tell you, Mr Stoljar, the amount of time in
35 between the two.
36

37 Q. As far as you were concerned, you were providing
38 Mr Wilson and Mr Blewitt with all such advice in respect of
39 setting up an association as a reasonably competent legal
40 practitioner exercising due care and skill would regard as
41 appropriate?

42 A. I was trying to do my best, Mr Stoljar, yes.
43

44 Q. So you agree with me that that was what you were
45 endeavouring to do when you gave them advice?

46 A. I was obviously trying to give them the benefit of my
47 professional expertise, yes.

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Q. Could you have a look at tab 2 of the folder.

A. Tab 2?

Q. Yes. Page 5. In the bottom right-hand corner is the advertisement.

A. Yes.

Q. You make some reference to this in your statement. One aspect of setting up an incorporated association is that there be public notification of that incorporation by way of advertisement?

A. Yes, that must be the case.

Q. You were aware of that in 1992 when you were providing advice to Mr Wilson and Mr Blewitt?

A. If I checked the Act and it is a requirement of the Act, then, yes, I would have been aware of it.

Q. You did check the WA Act, didn't you?

A. Yes, yes, I am agreeing with you. If I checked the Act and if it is in the Act, then I would have been aware of it. I do not have a direct recollection of it, Mr Stoljar, but from the documents it is apparent there was a requirement for an advertisement.

Q. I have included a copy of the Act in the folder. I'll take you to it. It's tab 8.

A. Tab?

Q. Tab 8.

A. Tab 8?

Q. Yes. Section 6, which is on page 222 in the bottom right-hand corner, provides that:

(1) An applicant for incorporation must cause an advertisement in the prescribed form to be published once in a newspaper circulating in the area where the association is situated or conducts its affairs;

(2) The advertisement required by subsection (1) must be published not less than one month nor more than 3 months before the application for incorporation is

1 *made to the Commissioner.*

2
3 You would have been familiar with that requirement when you
4 were advising Mr Wilson and Mr Blewitt, I take it?

5 A. I would have checked the Act and read it and
6 understood the sense of it, yes.

7
8 Q. And the timing is quite specific: not less than one
9 month, not more than three months before the application is
10 lodged with the Commissioner?

11 A. Yes.

12
13 Q. It has to be done in advance, in other words?

14 A. Yes.

15
16 Q. That provision enables any person who wishes to object
17 to the incorporation of the Act to do so, or at least
18 facilitates that objection being taken?

19 A. Yes, I presume so.

20
21 Q. I take it that you advised Mr Wilson or Mr Blewitt in
22 relation to the requirement of running that advertisement?

23 A. I don't recall providing that advice, no.

24
25 Q. In all likelihood you did?

26 A. Look, I don't recall it, Mr Stoljar. Clearly from
27 the documents you can see that an advertisement was placed
28 in the newspaper.

29
30 Q. In all likelihood, you gave advice in relation to the
31 necessity to run that advertisement in a particular form
32 and at a particular time?

33 A. Well, all I can say, Mr Stoljar, is I do not recall
34 that. It is a long time ago.

35
36 Q. No. But my question was: in all likelihood in the
37 ordinary course of your practice, you gave that advice;
38 correct?

39 A. Look, I am not in a position to help you. I don't
40 recall it. I can see from the documents that an
41 advertisement was published. To the best of my
42 recollection, I don't believe I drafted that advertisement.

43
44 Q. Mr Wilson didn't engage any other solicitor, did he?

45 A. No, but it is possible that Mr Wilson or Mr Blewitt
46 drafted that advertisement.

47

1 Q. Just looking at the words, it is a little hard to
2 read, but it says:

3
4 *Notice is hereby given that Ralph Blewitt*
5 *... [of a particular address] ... being*
6 *duly authorised by the above association,*
7 *intends to apply to the Commissioner of*
8 *Corporate Affairs on or after 9 April 1992*
9 *for the incorporation of the Australian*
10 *Workers Union - Workplace Reform*
11 *Association.*

12
13 That language has a legal flavour, you agree?

14 A. Oh, Mr Stoljar, I don't know what you are asking me to
15 say. Could someone without a legal degree draft that
16 language? Well, of course they could.

17
18 Q. The likelihood is that you advised Mr Wilson of the
19 necessity of placing the public advertisement?

20 A. Mr Stoljar, I am giving evidence in a Royal
21 Commission. I am not prepared to guess.

22
23 Q. In the course of advising, it is likely that you gave
24 advice as to the content of the advertisement; correct?

25 A. Mr Stoljar, I don't recall giving any advice about the
26 advertisement.

27
28 Q. The advertisement says that the association is formed
29 for promoting and encouraging workplace reform for workers
30 performing construction and maintenance work. That is my
31 reading of it. Was that the true purpose of the
32 Association, as you understood it, back then?

33 A. Sorry, I am just struggling to --

34
35 Q. I think it says promoting --

36 A. -- to read the bottom. Is that what you are saying
37 the bottom paragraph of that advertisement says?

38
39 Q. I think it says, "The Association is formed for the
40 purpose of" - I think it is "promoting and encouraging
41 workplace reform for workers performing construction and
42 maintenance work."

43 A. Mr Stoljar, I don't recall drafting this
44 advertisement. I don't believe I did draft this
45 advertisement, so I am not in a position really to help you
46 with the meaning of the advertisement.

47

1 Q. You understood, setting aside the advertisement, that
2 the purpose of the Association was to raise money for the
3 re-election campaigns of Mr Wilson and Mr Blewitt?

4 A. My understanding of the purpose of the Association was
5 that it would formalise arrangements between a team of
6 officials who had an intention of running together at the
7 next election. It would enable them to fund-raise to
8 support that re-election campaign.

9

10 Q. You say would formalise the relations between a team
11 of officials, is that what you say?

12 A. Yes, Mr Stoljar. In my discussions with Mr Gordon and
13 Mr Shaw back in September 1995, I explained my view of this
14 Association, these kinds of associations, saying that it
15 means that people who are working together in trade union
16 elections turn their mind to questions like what would
17 happen if the team divided, to avoid the problems
18 associated with collective moneys perhaps ending up in an
19 individual bank account.

20

21 Q. Yes. That is at 134. You make reference at about
22 point 8 on the page.

23

24 *... the problem developed that when the*
25 *leadership team fractured ... you got into*
26 *a very difficult dispute ...*

27

28 THE COMMISSIONER: Mr Stoljar, does Ms Gillard have that
29 in front of her?

30

31 THE WITNESS: I do. You are back under tab?

32

33 MR STOLJAR: Q. Tab 3.

34 A. Back under tab 3. Yes. Yes. Page 134.

35

36 Q. You were making reference to passages of your
37 discussions with Mr Gordon and Mr Shaw. I am directing
38 your attention to the particular passage to which you were
39 making reference.

40

41 A. Yes.

42

43 Q. You say.

44

45 *... the problem developed that when the*
46 *leadership team fractured, as relatively*
47 *commonly happens, you got into a very*
difficult dispute ... so it was better to

1 *have an incorporated association, a legal*
2 *entity into which people could participate*
3 *as members, that was the holders of the*
4 *account.*

5
6 Is that what you meant when you said earlier that this
7 would regularise the relations?

8 A. Yes.

9
10 Q. The operation of the Act is to facilitate the
11 incorporation of associations; correct?

12 A. Yes.

13
14 Q. You understood that at the time?

15 A. Yes.

16
17 Q. The Act isn't something that regulates the creation of
18 associations, does it?

19 A. I am not sure I understand the distinction you are
20 making, Mr Stoljar.

21
22 Q. You were a lawyer in 1993, a successful lawyer; is
23 that right?

24 A. Yes.

25
26 Q. You understood there could be associations which were
27 not incorporated?

28 A. Oh, yes, I am with you now. Yes, Mr Stoljar, I did.

29
30 Q. For example, an association whose objects fall outside
31 the Act for one reason or another?

32 A. Yes, Mr Stoljar. I understood that there were
33 incorporated associations.

34
35 Q. Or one so small or informal, for example, that there
36 was no need to incorporate it?

37 A. Yes, Mr Stoljar, I understood that.

38
39 Q. The Act facilitated, and still does facilitate, the
40 incorporations of an association that has already been
41 formed and, for whatever reason, the members or the
42 officers of the association now seek its incorporation;
43 correct?

44 A. Yes, that's right.

45
46 Q. There are various criteria stipulated in the Act which
47 are taken into account in determining whether the

1 application for incorporation is to be granted?
2 A. Yes, that's correct.
3
4 Q. If we just look briefly at some of those criteria, if
5 I take you back to the Act itself --
6 A. That was tab 7?
7
8 Q. Tab 8.
9 A. Tab 8.
10
11 Q. It begins on page 218. Why don't we begin with
12 section 4. It says:
13
14 *Subject to this Act, an association is*
15 *eligible to be incorporated under this Act*
16 *if it has more than 5 members and is*
17 *formed ...*
18
19 And then there are a series of purposes described?
20 A. Yes, that's right.
21
22 Q. Similarly, we looked a moment ago at the requirements
23 for advertising. Section 6:
24
25 *An applicant for incorporation must cause*
26 *an advertisement in the prescribed form to*
27 *be published once in a newspaper*
28 *circulating in the area where the*
29 *association is situated or conducts its*
30 *affairs.*
31
32 So the Act is contemplating an advertisement being placed
33 by an already existent corporation; correct?
34 A. Yes, it is.
35
36 Q. I'm sorry, an association.
37 A. It says an "applicant for incorporation".
38
39 Q. Yes.
40 A. But your point is you could have an unincorporated
41 association that chose to incorporate and that would be the
42 applicant?
43
44 Q. Yes.
45 A. Yes.
46
47 Q. Similarly, the rules of the association needed to be

1 in a particular form. For example, section 5 provides:

2

3 *An application for the incorporation of an*
4 *association must be made to the*
5 *Commissioner in the prescribed manner and*
6 *form ...*

7

8 Then coming over to the next page:

9

10 *Application for incorporation must be*
11 *accompanied by -*
12 *(a) a copy of the rules of the association*
13 *conforming to the requirements of this*
14 *Act ...*

15

16 And then likewise, section 9 requires that upon the
17 application being made, the Commissioner forms an opinion
18 that the association is eligible to be incorporated and the
19 rules conform to the requirements of the Act. If criteria
20 of that kind are met then the application for incorporation
21 may be successful; correct?

22 A. Yes, Mr Stoljar.

23

24 Q. Upon incorporation, of course, there are great
25 benefits to the members, most particularly limited
26 liability?

27 A. There are benefits of incorporation, correct.

28

29 Q. Section 10, as you no doubt recollect, provides at
30 subparagraph (c):

31

32 *All rights and liabilities ... exercisable*
33 *against members or officers of the*
34 *association ... become rights and*
35 *liabilities of and exercisable against the*
36 *incorporated association ...*

37

38 It is a form of limited liability?

39 A. Yes, Mr Stoljar.

40

41 Q. You understood that at the time?

42 A. Yes, I did.

43

44 Q. It is very different from the incorporation of a
45 company where the company springs into existence upon the
46 registration of the company?

47 A. Intellectually, Mr Stoljar, I am agreeing with you. I

1 was not involved in the practice of incorporating companies
2 when I was a lawyer.

3
4 Q. If you go back to the advertisement which is behind
5 tab 2 on page 5 --

6 A. Yes.

7
8 Q. -- the drafting of that is consistent with the
9 analysis I was just taking you through, in the sense that
10 it provides - and again it is not that easy to read, but if
11 I read out what I apprehend to be the words:

12
13 *Notice is hereby given that Ralph Blewitt*
14 *... [of a particular address] ... being*
15 *duly authorised by the above association*
16 *intends to apply to the Commissioner on or*
17 *after ...*

18
19 A date in April 1992 for the incorporation of that
20 Association. What is being proposed is that at some date
21 in the future Mr Blewitt, who was duly authorised, would
22 submit an application for that particular Association to be
23 incorporated; correct?

24 A. That's the meaning of those words, yes.

25
26 Q. At that point --

27 A. If they are as you are endeavouring to read them, yes.

28
29 Q. At that point there was no association; correct?

30 A. Not to my knowledge, no.

31
32 Q. I know you say --

33
34 THE COMMISSIONER: Q. Just at that point, there was no
35 association to your knowledge, in that answer were you
36 thinking of the Association as the pre-incorporation entity
37 or the incorporated entity?

38 A. I'm --

39
40 Q. It is just a question of clarity. Do you follow my
41 query?

42 A. Yes. Commissioner, my understanding of my
43 instructions at the time was not that there was a
44 pre-existing unincorporated association, but that there was
45 a desire to form and create an association, and I gave
46 advice on its incorporation.

1 Q. Which would then become incorporated?

2 A. Correct, yes.

3

4 MR STOLJAR: Q. But you agree with me that on your
5 understanding at the time, as at March 1992 when this
6 advertisement appeared, there was no unincorporated
7 association?

8 A. My understanding at the time was that there was no
9 unincorporated association, that's correct.

10

11 THE COMMISSIONER: Just on the advertisement, it may be a
12 trivial matter, but section 5 spoke of the application
13 being in the prescribed manner and form. Wouldn't it
14 ordinarily be the case that the body that administers this
15 Act probably has a standard form of advertisement which
16 applicants can look at and tailor to suit their own
17 requirements? In other words, it would say something like
18 this: "Notice is hereby given that [blank], being duly
19 authorised by the above association intends to apply to the
20 Commissioner of Corporate Affairs on or after [blank] for
21 the incorporation of [blank]. The [blank] is formed for
22 the purpose of [blank]", and then the applicant just fills
23 in the gaps, depending on the circumstances of the case.

24

25 MR STOLJAR: That may well be, Commissioner.

26

27 THE COMMISSIONER: It would explain the stilted sort of
28 formalistic language.

29

30 MR STOLJAR: It would. Section 46 talks about a
31 prescription of forms and it may be the regulations have
32 been passed to that effect. We might see if we can turn
33 those up.

34

35 Q. Just while we are still on the Act, there were also
36 stipulations in the Act about the crafting of rules for the
37 Association?

38 A. Yes, there are stipulations in the Act that you have
39 here.

40

41 Q. Picking up what the Commissioner was just saying about
42 the advertisement, there is a schedule to the Act which you
43 will on page --

44

45 MR CLELLAND: Just while Mr Stoljar is locating that,
46 I will then sit down, but I am sure it has not escaped
47 Mr Stoljar's recollection, I think Mr Blewitt gave some

1 evidence about this matter on 12 May 2014, pages 16 and 17
2 of the transcript. He gave some evidence about who had
3 drafted the advertisement, if that is of assistance to our
4 learned friend. He nominates Mr Wilson.

5

6 MR STOLJAR: This witness is giving her recollection of
7 events and I am not sure it assists.

8

9 MR CLELLAND: I just thought if Mr Stoljar was interested
10 in finding out who had actually drafted it, there has been
11 some evidence about it, Commissioner.

12

13 THE COMMISSIONER: He is interested in finding out who
14 drafted it and he is trying to assemble as much evidence as
15 he can and then survey it all and see what it has.

16

17 MR STOLJAR: I put on record that that interjection was
18 quite inappropriate.

19

20 Q. Schedule 1 is at page 245.

21

A. 245?

22

23 Q. Yes.

24

A. Yes.

25

26 Q. Were these the model rules to which you made reference
27 or was there some other document?

28

29 A. Mr Stoljar, it's a very long time ago, so I'll try and
30 be as clear as I can given the effluxion of time. My
31 recollection is that there was something else provided by
32 the associations incorporation people, bureau, register,
33 whatever it was, that assisted people to draft the actual
34 rules that were model rules, rather than just the
35 definition of what needed to be in the rules. It is a long
36 time ago, but that's my broad recollection of this area of
37 law, is that people were endeavouring to make it simple
38 enough that people could incorporate associations without
39 needing legal advice, so consistent with that I would have
40 thought that there are more specific model rules available
41 to assist people.

41

42 Q. In any event, Commissioner raised the question as to
43 whether there were some prescribed form in relation to the
44 advertisement and this was something in the Act that at
45 least provided some guidance in relation to the crafting of
46 rules. Did you look at schedule 1, do you remember, when
47 you were drafting the rules yourself?

1 A. Mr Stoljar, I'm not in a position, all of these years
2 later, to tell you which pages of a piece of legislation
3 I went to. I received instructions. I obviously did
4 sufficient work to ascertain the law in WA was in the same
5 form as the law in Victoria and went from there.
6
7 Q. The rules themselves are at page 9 behind tab 2.
8 A. Page 9 behind tab 2. Sorry, I went to tab 9.
9
10 Q. These are the rules that you put together in the way
11 you describe in the record of interview. If we work
12 through these, the objects of the Association are those set
13 out in paragraph 3. In truth, the object of the
14 Association was to raise funds for elections; correct?
15 A. The object of the Association was, or the purpose of
16 the Association was as I described it earlier, to
17 regularise arrangements between a team of officials who
18 were intending to run in union elections and to enable them
19 to fundraise to support their campaigning.
20
21 Q. The reason the Association was being set up was to
22 facilitate fundraising by those officials and
23 in particular, to facilitate the creation of an account
24 into which funds so raised could be collected; correct?
25 A. That's correct, with the addition of the discussion we
26 had earlier and when we went to a section of my discussion
27 with Mr Gordon and Mr Shaw, that it also meant people
28 turned their mind to questions like what would happen if
29 there was a division between the team of officials who had
30 been contributors to the election fund.
31
32 Q. None of those matters are set out in subsection (1) of
33 paragraph 3 of the rules, are they?
34 A. These objects are very broadly drawn, that's true.
35
36 Q. It is correct that none of the matters to which you've
37 made reference are set out in paragraph 3; that's right?
38 A. I think the matters in paragraph 3 are broadly drawn
39 and what we've discussed fits beneath them.
40
41 Q. Into which subparagraph do you say, or which
42 subparagraph do you say captures the matters that we've
43 discussed?
44 A. Oh, for example, Mr Stoljar, I'd say subparagraph (f).
45
46 Q. Is (f) the only one?
47 A. Mr Stoljar, the objects are broadly drawn about

1 promotion of change in workplaces, the sort of things that
2 a team of officials might well be promising in a campaign
3 for election.
4

5 Q. Why wouldn't you say squarely what the object was: to
6 raise funds for elections?

7 A. Because in the discussion we've just had, Mr Stoljar,
8 I thought that there were other reasons for incorporating
9 an association.
10

11 Q. That was one of them?

12 A. Yes, one of them --
13

14 Q. One of them --

15 A. -- in accordance with supporting a team of officials
16 or a team - I'm using the terminology "officials" which
17 assumes people are already elected. These - in terms of
18 this Association, I was dealing with people who were
19 already elected, but more broadly, for such associations it
20 could be a reform group that's seeking election or a team
21 of officials who were seeking re-election.
22

23 Q. Why not just say what the objects were in the
24 paragraph dealing with objects? The object was, as I think
25 we've been discussing, to raise funds for elections and to
26 operate an account where those funds could be collected.
27 Why not just say that?

28 A. Mr Stoljar, at the time I obviously thought it should
29 be broadly drawn and go to the types of things that might
30 be issues that officials came together to campaign on.
31

32 Q. It gives no clear understanding of what the objects of
33 the Association in truth are, paragraph 3; that's right?

34 A. Well, Mr Stoljar, I wouldn't agree with that and I'd
35 remind you that my instructions about this matter, coming
36 from Mr Wilson and Mr Blewitt, were clear, that they were
37 part of a team that had come together, that had taken over
38 control of the Western Australian Branch. At some point in
39 the future they would face an election. They obviously
40 wanted their team to contend in that election and win in
41 that election, so I drew the objects broadly trying to
42 capture all matters that might be relevant to that.
43

44 THE COMMISSIONER: Mr Stoljar, is this a convenient time?

45
46 MR STOLJAR: Yes, Commissioner.
47

1 THE COMMISSIONER: The hearing will resume at 11.50.

2

3 **SHORT ADJOURNMENT**

4

5 THE COMMISSIONER: Yes, Mr Stoljar.

6

7 MR STOLJAR: Q. Ms Gillard, could you come, please, to
8 page 12 in the bottom right-hand corner, behind tab 2.

9 A. Page 12. This is in the rules?

10

11 Q. Yes, it is.

12 A. Yes, I have it.

13

14 Q. I asked you before the break something about the
15 objects. I'm now asking you something about the matters
16 set out on page 12 in the bottom right-hand corner,
17 "Role and Composition of the Committee of Management".

18 A. Mmm-hmm.

19

20 Q. Rule 15 stipulates that:

21

22 *The affairs of the Association are to be*
23 *managed exclusively by a Committee of*
24 *Management ...*

25

26 Was there any committee of management of the Association
27 that you were aware of when you were drafting the rules?

28 A. When I was drafting the rules I understood that in an
29 incorporated association there had to be a committee of
30 management.

31

32 Q. Who was the committee of management?

33 A. I didn't turn my mind to who would fill those
34 positions. That was a matter for Mr Blewitt and Mr Wilson.

35

36 Q. Was there a president of the Association when you
37 were --

38 A. I played no role in the - I had no role, no connection
39 with who would play what role within the Association. That
40 was a matter for it and its members.

41

42 Q. Did you give advice about that matter?

43 A. I would have given - I would have explained that an
44 incorporated association has members, that there's a
45 minimum number of members, that you have to have a
46 committee of management, and having explained those things,
47 would have left it to Mr Blewitt and Mr Wilson to work out

1 how they wanted this Association to work and who should
2 play which role. That was a matter for them.

3

4 Q. Did you make an inquiry of them as to whether the
5 officers in the committee of management had been filled?

6 A. No, I did not.

7

8 Q. You have a definite recollection of not asking
9 anything?

10 A. I provided the advice and assistance on the
11 incorporation. Beyond that, what the Association then did,
12 who were members of it, who served in which capacity, was a
13 matter for them and I made no inquiry about it.

14

15 Q. Did you make any inquiry as to whether there had been
16 any meetings of members or the like?

17 A. No.

18

19 Q. Did you make any inquiry as to whether there was a
20 register of members as provided for in rule 13?

21 A. No, I didn't. I viewed it entirely as a matter for
22 them. My role was to provide advice to assist the
23 incorporation. I did not have some ongoing advisory role
24 in relation to the workings of the Association.

25

26 Q. As I understood it, your role was not simply to assist
27 with the incorporation; you were in addition giving advice
28 about the setting up of the Association; is that right?

29 A. Setting it up in the sense of incorporating it, not
30 setting it up in operation; that was a matter for them.

31

32 Q. Perhaps we should go to the application form. It is
33 at page 7.

34 A. Page 7 --

35

36 Q. Behind tab 2.

37 A. Behind tab 2.

38

39 Q. The handwriting - some of the handwriting on this page
40 is your handwriting?

41 A. Yes, it is.

42

43 Q. For example, the black ink, "Australian Workers Union
44 - Workplace Reform Association"?

45 A. Yes, that's correct.

46

47 Q. That's your handwriting. Likewise, in paragraph 2,

1 section 4 (1) (e) of the Act is your handwriting?

2 A. Yes, it is.

3

4 Q. Starting at the top of the page, the words in blue ink
5 in capitals, is that Mr Blewitt's handwriting?

6 A. I don't recall Mr Blewitt's handwriting, but given
7 it's Mr Blewitt's name, I think it's a reasonable
8 assumption.

9

10 Q. Was that filled in in your presence?

11 A. I don't have a recollection of sitting around filling
12 in these forms, so either it was filled in in my presence
13 or I completed some parts of the forms and handed it over
14 to Mr Blewitt and Mr Wilson to complete.

15

16 Q. Do you recognise any of Mr Wilson's handwriting on
17 this document?

18 A. I wouldn't recognise Mr Wilson's handwriting after all
19 this time.

20

21 Q. Paragraph 2 states, "Development of changes to work to
22 achieve safe workplaces". Did you suggest that wording to
23 Mr Blewitt?

24 A. No, I did not.

25

26 Q. Did Mr Wilson suggest it in your presence?

27 A. I don't recall that happening, no.

28

29 Q. Mr Blewitt is not the sort of person, in your memory
30 of him, who would have come up with those words himself, is
31 he?

32 A. I think it's possible; I don't see why it's
33 impossible.

34

35 Q. Can we go back to paragraph 1. It reads:

36

37 *I, Ralph Edwin Blewitt ... [an address]*
38 *... being duly authorised by the*
39 *Association, apply for incorporation of the*
40 *Association under the name -*

41

42 And then you've written out, "Australian Workers Union -
43 Workplace Reform Association." Who came up with that name?

44 A. When I received instructions about this matter, as
45 part of those instructions I was given the name. I don't
46 have a recollection from the time, but having had the
47 opportunity, Mr Stoljar, to look at the material provided

1 to the Commission, I think Mr Wilson says in his statement,
2 doesn't he, that he came up with the name.
3
4 Q. I'm asking about your recollection, not anyone else's?
5 A. Yes. Well, 20 years on, or the best part of 20 years
6 on, I don't recall. I believe it would have come to me in
7 the instructions for putting the Association together.
8
9 Q. Instructions --
10 A. Incorporating the Association, to be more precise.
11
12 Q. Instructions emanating from Mr Wilson and Mr Blewitt?
13 A. Correct.
14
15 Q. They were your client, were they, for the purposes of
16 this matter?
17 A. Yes, that's true.
18
19 Q. They were giving you instructions in their own
20 personal capacities?
21 A. Yes, that's true.
22
23 Q. You took instructions from them, or one of them, to
24 the effect that the name of the Association would be
25 "Australian Workers Union. Workplace Reform Association"?
26 A. That's my best recollection after all these years.
27
28 Q. Did you check to see whether the National Executive of
29 the union had authorised the use of its name?
30 A. No, I did not.
31
32 Q. The union was a client of Slater & Gordon?
33 A. Yes, it was.
34
35 Q. You accept --
36 A. Well, the Victorian Branch of the union was a client
37 of Slater & Gordon. It's not my recollection that we ever
38 acted for the National Office.
39
40 Q. Was any reason proffered to you for the use of that
41 name by Mr Wilson or Mr Blewitt, that is to say, more
42 particularly, the use of the name Australian Workers Union,
43 incorporating those words into the name of the Association?
44 A. I don't recall, you know, a conversation dealing with
45 this matter. I would presume that it had "Australian
46 Workers Union" in it because the team of officials, the
47 Association, was to be involved in elections in the

1 Australian Workers Union.

2

3 Q. The point of the Association is it is not part of the
4 union; isn't that right?

5 A. That's correct, in the sense that you --

6

7 Q. So that union moneys can be kept in the account
8 operated by the Association - I'm sorry, non-union moneys
9 can be kept in the account operated by the Association?

10

11 MR CLELLAND: Might Ms Gillard be able to finish her
12 answer, Commissioner?

13

14 THE COMMISSIONER: Q. Is there something more you wanted
15 to say to the penultimate question?

16 A. I think Mr Stoljar and I are on the same point, that
17 it is not proper for union moneys to be used to finance
18 union elections, so certainly my understanding of the
19 Association was that it was not part of the union because
20 if it had been part of the union, then it clearly couldn't
21 play a role in union elections. I may have put that in a
22 somewhat circular fashion but I trust I've conveyed the
23 meaning.

24

25 MR STOLJAR: Q. Yes, but did it cause you concern, the
26 use of the name of the union within the name of the
27 Association, when those instructions were given to you?

28 A. I had no cause for concern at that time.

29

30 Q. It was misleading, wasn't it?

31 A. In what sense?

32

33 Q. In the sense that the Association is a part of or
34 authorised by the Australian Workers Union?

35 A. There was nothing in any of this, back at the time,
36 which caused me to conclude in any way that the name of the
37 Association or anything else about the Association would be
38 used to mislead people.

39

40 Q. I'm not suggesting that you knew at the time that the
41 Association was going to be used to mislead people.

42 I wasn't putting that to you, Ms Gillard. I'm simply
43 saying did you have some concern at the time that use of
44 the words "Australian Workers Union" could be potentially
45 misleading?

46 A. No, I didn't have that concern.

47

1 Q. For example, use of that name could facilitate,
2 potentially, cheques being drawn in favour of the AWU being
3 deposited into the Association's bank account?

4 A. I didn't turn my mind to that because I had absolutely
5 no reason to do so, absolutely no reason to suspect that
6 that would ever occur.

7
8 Q. Well, did you have reason to suspect that there could
9 be just some general confusion between the Association and
10 the union?

11 A. No, I did not.

12
13 Q. Do you accept now that it would have been, looking
14 back, appropriate for you to go to the AWU and Slater &
15 Gordon's client and say, "Look, has someone given
16 authorisation for the use of your name in respect to this
17 Association?"

18 A. Oh, none of us get to go in a time machine and go
19 backwards. Obviously, if one got to do the whole thing
20 again you would do things differently, given what I know
21 now that I did not know at the time.

22
23 Q. It would have been simple enough to say to Mr Blewitt
24 or Mr Wilson, "Look, go and get a resolution from the
25 National Executive of the union and come back to me when
26 you can show that this has been authorised by the
27 National Executive"?

28 A. Well, I didn't have cause to give that kind of advice.
29 I received instructions on incorporating an association.
30 I had the name, the full name, "Australian Workers Union.
31 Workplace Reform Association", and I did not turn my mind
32 to, I had no reason to turn my mind to, whether or not at
33 any point that would mislead anyone or be confusing or any
34 of those things.

35
36 Q. You're familiar with section 8 of the Act? If you go
37 to 223 --

38 A. Section 8 of the Incorporation Act?

39
40 Q. Associations Incorporations Act?

41 A. So we're back under tab 8, section 8. Yes.

42
43 Q. Section 8 generally regulates the use of certain
44 names, including in (d) where there's a proscription
45 against the use of a name.

46
47 *... identical with or likely to be confused*

1 with the name of any other body corporate
2 or any registered business name.

3
4 Did you give any consideration to that when you were
5 receiving instructions about the name of the Association?

6 A. After all these years, Mr Stoljar, I don't recall
7 reading that section or turning my mind to that section,
8 but clearly I was not of the view that this was a name that
9 would confuse.

10
11 Q. If you just keep one hand on the Act and come back for
12 a moment to the application, in paragraph 2 you've inserted
13 the words "Section 4(1)(e) of the Act"?

14 A. Mmm-hmm.

15
16 Q. And that is a reference to section 4. 4(1)(e) refers
17 to an association having more than five members and being
18 formed at (e) for political purposes. If we go back to the
19 application, that was your apprehension at the time, was
20 it, that the Association was formed for political purposes?

21 A. Given the descriptions in 4(1), that must at the time
22 have seemed to me to be the best summary description.

23
24 Q. And then paragraph 3 stipulates that:

25
26 *The Association is not formed for the*
27 *purpose of trading or securing a pecuniary*
28 *profit to the members from the transactions*
29 *of the Association.*

30
31 Did you give any advice to Mr Wilson or Mr Blewitt about
32 that paragraph?

33 A. I don't have a recollection of specifically giving
34 advice about that paragraph, but given my instructions,
35 that this Association was about a team of officials, trade
36 union elections, fundraising from payroll deductions,
37 you know, raffles and the like, there was no need to
38 particularly focus on that. There was no suggestion in any
39 of my instructions that the Association would be trading or
40 seeking to secure a profit, in that commercial sense of
41 "profit".

42
43 Q. 4 refers to the rules of the Association being
44 attached. Those are the rules that you had drafted and
45 we've gone to a moment ago. And then there's a date and a
46 signature. Was it signed in your presence?

47 A. You're - sorry, Mr Stoljar, I've just got confused in

1 the documents. Where are you back to now? You're on --
2
3 Q. The application, page 7 in the bottom right-hand
4 corner, behind tab 2.
5 A. The application. Okay, yes, back on the application,
6 so where you've got, "The prescribed fee is tendered
7 herewith."
8
9 Q. Yes. And then there's a date and a signature. It
10 appears to be Mr Blewitt's signature?
11 A. Yes.
12
13 Q. Did he sign the document in your presence, or do you
14 not remember?
15 A. I don't think so.
16
17 Q. When you say you don't think so, do you have a memory
18 one way or the other?
19 A. I don't have a clear memory one way or the other but
20 I don't think so.
21
22 Q. Paragraph 1, just going back to that for a minute,
23 says that Mr Blewitt, being duly authorised by the
24 Association, applies for incorporation. There was no
25 Association in existence as at 22 April 1992; is that
26 correct?
27 A. There was no incorporated association, no.
28
29 Q. There was no association at all, was there?
30 A. There was a - authorised by the people seeking to
31 become this Association.
32
33 Q. My question was, as at 22 April 1992 there was no
34 association, was there?
35 A. No, there was a combination of people who wanted to
36 incorporate an association, was my understanding.
37
38 Q. Well, you'd spoken to Mr Blewitt and Mr Wilson about
39 it, but there was no association, whether formal or
40 otherwise, in existence as at 22 April 1992; that's right,
41 isn't it?
42 A. My understanding is that there was a group of people
43 who were connected to each other in the sense that they had
44 come in to the Western Australian Branch of the AWU as part
45 of Mr Wilson's move into the Branch as part of his team and
46 that this Association was for them to be members of; so
47 I believe there was that kind of combination of people. If

1 you're asking me more specifically than that, that's what
2 my belief was.
3
4 Q. You had seen no minutes of any association,
5 for example?
6 A. No, I had not. No, I had not.
7
8 Q. You had not seen any minute of a management committee
9 meeting?
10 A. No.
11
12 Q. As far as you know, there had been no resolution
13 passed authorising Mr Blewitt to apply for incorporation?
14 A. No, and I would have viewed all of that as a matter
15 for Mr Blewitt and Mr Wilson, as I indicated to you before,
16 before the short adjournment.
17
18 Q. Could you come to page 8, which is the certificate?
19 A. Page 8. Yes, I have it.
20
21 Q. Again, Mr Blewitt, it would appear, has filled out the
22 first two lines and then it says that Mr Blewitt certifies.
23
24 *... I am the person authorised to apply for*
25 *the incorporation of Association under the*
26 *name ...*
27
28 And that's your writing again?
29 A. Yes, in the subparagraph, the (i), that's my writing.
30
31 Q. Yes. I meant to indicate the writing in blank ink,
32 "Australian Workers Union - Workplace Reform Association"?
33 A. Yes, that's my writing.
34
35 Q. Does your writing appear anywhere else on this page?
36 A. No, it does not.
37
38 Q. Do you recognise the writing in subparagraph (iii)?
39 A. I don't recognise it, no.
40
41 Q. Was that advertisement date inserted when you
42 completed the writing in subparagraph (i)?
43 A. I don't recall.
44
45 Q. Did you consider whether the Association had more than
46 five members when you were looking at this document back in
47 1992?

1 A. I would have provided advice that it needed to have
2 more than five members.
3
4 Q. You say you would have done?
5 A. Yes.
6
7 Q. You mean in the ordinary course of your practice you
8 would have done that?
9 A. In explaining what an incorporated association is,
10 I would have explained the minimum membership requirements.
11
12 Q. Do you have any particular recollection of doing that
13 or do you simply say that would have been your ordinary
14 practice?
15 A. That would have been my ordinary practice.
16
17 Q. You said you had no recollection of whether the words
18 in subparagraph (iii) had been inserted when you completed
19 subparagraph (i); was that correct?
20 A. That's correct. And it goes to the conversation we
21 had before the short adjournment. I don't have a clear
22 recollection of meetings, discussions about this matter.
23 We're obviously in the position where we've got the
24 documents and that can assist. Looking at these documents
25 I'm not in a position to tell you whether I filled in
26 sections of them and handed it across to Mr Blewitt and
27 Mr Wilson to then complete and go around and file and the
28 rest, or whether we sat and did this together. I don't
29 have a recollection of that.
30
31 Q. Do you have any recollection as to whether you were in
32 Melbourne or Perth when that was done, or your work in
33 relation to these documents was done?
34 A. Look, I didn't - the best I can answer you about that
35 is I was not routinely in Perth. In my practice at
36 Slater & Gordon I did not routinely travel interstate. My
37 life living on an aeroplane was at a later stage of my
38 life. So whilst, yes, I went to Perth on a few occasions
39 for legal work, I was not routinely in Perth.
40
41 Q. The documents were in due course lodged for
42 incorporation at the Office of Commissioner for Corporate
43 Affairs and indeed one can pick up the date on which that
44 occurred by the date stamp on page 8. Did you have an
45 involvement in the lodging of those documents?
46 A. No, none.
47

1 Q. Who did?
2 A. I presume Mr Blewitt.
3
4 Q. You had some further discussions with him over the
5 next month or two about the lodgment, correct?
6 A. Do you mean in the sense of the inquiry about whether
7 or not this was a trade union?
8
9 Q. Yes.
10 A. Yes, that's right.
11
12 Q. Did you discuss with him then the fact that he had
13 lodged the documents?
14 A. Well, he must have lodged the documents. I don't
15 recall a discussion about lodging the documents, but
16 obviously the inquiry could only have been made by the
17 Commissioner if the documents had been lodged.
18
19 Q. The lodgment, as we've seen, needed to be more than
20 one month and less than three months after the
21 advertisement. Did you give any advice about that matter,
22 do you recollect?
23 A. I thought we had that discussion earlier. I don't
24 recall giving any advice about the advertisement and
25 I don't believe that I drafted it.
26
27 Q. I was really just asking you about the timing, but in
28 any event that's your evidence. Did the Office of the
29 Commissioner for Corporate Affairs then contact you?
30 A. Once again, my view about this is informed by
31 documents. If I hadn't seen the documents I'm not sure I
32 would have recalled these matters, but it is evident on the
33 documents that some inquiry was made, I presume of
34 Mr Blewitt, about the nature of the Association and whether
35 or not it was a trade union and that was then referred to
36 me.
37
38 Q. Do you recollect how it came to be referred to you?
39 A. No, I don't.
40
41 Q. I will come back to that in a minute, but I just want
42 to ask you about an invoice which appears on page 18?
43 A. Of the same section?
44
45 Q. Yes. That was the first invoice issued by the
46 Association to Thiess on 30 April. I'm sorry, the due date
47 was 30 April 1992, so it was presumably issued at some

1 point leading up to that date. Did you have any discussion
2 with Mr Wilson about the fact that the Association had
3 issued an invoice?
4 A. No.
5
6 Q. Did you have any discussion with Mr Blewitt about the
7 fact that the Association had issued an invoice?
8 A. No.
9
10 Q. You were advising in relation to the incorporation of
11 this Association and it had prior to its incorporation
12 already started to issue invoices?
13 A. I didn't know anything about that.
14
15 Q. No-one raised that with you?
16 A. No-one raised it with me.
17
18 Q. The invoice makes reference to a PO box that was set
19 up in Northbridge, WA. Did you have any discussion with
20 Mr Wilson about that?
21 A. No.
22
23 Q. And then again, before we get to the dealings with
24 the Commissioner for Corporate Affairs in WA, if you come
25 to page 20, it is a little hard to read the numbering --
26 A. Page 20?
27
28 Q. Yes. The Association on 4 May, describing itself as
29 "AWU Workplace Reform Association Inc", applied for a bank
30 account and the signatories on that application, as appears
31 on page 21, were Mr Blewitt and Mr Wilson, describing
32 themselves, in the paragraph headed "Official Position", as
33 Secretary of the Committee, it looks like, and
34 Committee Treasurer. Did Mr Wilson have any discussion
35 with you about that?
36 A. No.
37
38 Q. Did Mr Blewitt?
39 A. No.
40
41 Q. You wrote to the Office of State Corporate Affairs in
42 WA on 13 May 1992. That letter has not been located but
43 that would appear to be the case from the correspondence
44 which is on page 23.
45 A. Yes.
46
47 Q. Do you have any recollection of the content of your

1 letter of 13 May 1992?

2 A. I don't have a recollection, Mr Stoljar. What
3 I gleaned from these documents, having them in front of me
4 now and obviously having them in front of me during the
5 course of this Royal Commission, is that there must have
6 been an inquiry about whether or not the Association was a
7 trade union and I responded to that.

8

9 Q. You wrote arguing the case for incorporation; is that
10 right?

11 A. If I'd received an inquiry about whether or not this
12 was a trade union, I would have responded it was not a
13 trade union. I presume the inquiry from the Office of
14 State Corporate Affairs was, "Was this a trade union?",
15 because that would have implications as to whether it
16 should be incorporated as an association or its corporate
17 personality would be governed by state industrial relations
18 law.

19

20 Q. My question was that you wrote to the Commissioner for
21 Corporate Affairs arguing the case for incorporation. Is
22 that correct or --

23 A. I would have done what solicitors do, which is I would
24 have referred to my client's instructions and would have
25 explained my understanding of the law and my understanding
26 of the law and my client's instructions were that this was
27 not a trade union.

28

29 Q. I'll come back to this letter in a moment, but if
30 I take you back to the record of interview at page 137 --

31 A. Sorry, in the same document, though, aren't they?

32

33 Q. Yes, tab 3.

34 A. Tab 3. Yes.

35

36 Q. Mr Gordon says:

37

38 *Slater & Gordon ...*

39

40 This is page 137, in the middle of the page, the paragraph
41 beginning, "And last Monday". The third line.

42

43 *... had submitted those rules to the*
44 *relevant Western Australian government*
45 *authority ...*

46

47 Indeed, that passage suggests that Slater & Gordon

1 submitted the rules to the relevant Western Australian
2 government authority. Does that remind you that Slater &
3 Gordon had some role in lodging this --

4 A. No, Slater & Gordon did not submit the rules to the
5 incorporation body. Mr Gordon's misphrased that question.

6
7 Q. Mr Gordon goes on.

8
9 *... there'd been a letter back from the*
10 *authority suggesting that it might be a*
11 *trade union and therefore ineligible for*
12 *incorporation under that legislation ...*

13
14 And then says.

15
16 *... we had prepared a response submitted on*
17 *Wilson's instructions to that authority*
18 *suggesting that in fact it wasn't a trade*
19 *union and arguing the case for its*
20 *incorporation.*

21
22 And then you say:

23
24 *I wouldn't want to be held to the dates ...*

25
26 Et cetera. That accurately summarised, didn't it, what
27 occurred? A response was submitted on Wilson's
28 instructions suggesting it wasn't a trade union and arguing
29 the case for its incorporation.

30 A. I think we're in agreement, aren't we, Mr Stoljar,
31 that I did what a solicitor does; I put my client's
32 instructions and put my view of the law.

33
34 Q. I understood that you were resisting the proposition
35 that you'd argued the case for its incorporation?

36 A. I just think I've used a more accurate description.

37
38 Q. Can you come back to the letter on page 23 behind
39 tab 2? That letter is addressed to you at Slater & Gordon
40 and says:

41
42 *Thank you for your letter of 13 May*
43 *1992 ...*

44
45 *The explanation which you have provided in*
46 *relation to the purposes of the association*
47 *is accepted, however, it is believed that*

1 *the matter does need to be clarified by the*
2 *amendment of the association's rules to*
3 *include new rule 3A.*
4

5 Do you recollect what the explanation was that you had
6 provided in relation to the purposes of the Association?

7 A. As I explained earlier, I don't have a recollection
8 from all those years ago, but having had the opportunity to
9 look at these documents, what appears clear on the face of
10 the documents is there was an inquiry about whether or not
11 this was a trade union. I responded to it. The personnel,
12 Mr Neal, the assistant director of the Office of State
13 Corporate Affairs, then said that there should be an
14 amendment to be known as new rule 3A and then the document
15 appearing on the next page of the folder details what that
16 rule is and it is to clarify that the Association is not
17 doing the kinds of things one would associate with a trade
18 union.

19
20 Q. Had you crafted the new rule 3A and included it in
21 your letter of 13 May 1992?

22 A. I don't think so and I don't think that's the sense of
23 this letter. I think the sense of this letter is that the
24 State Corporate Affairs people are recommending that
25 amendment.
26

27 Q. The letter on the next page is a memorandum from
28 yourself to Mr Blewitt of 21 May 1992, so some time after
29 this letter?

30 A. Mmm.
31

32 Q. Do you say that the Office of State Corporate Affairs
33 included a version of what actually became rule 3A in their
34 letter of 15 May 1992?

35 A. I think we're both in the unhappy position that we
36 don't have the letter of 13 May 1992 which may answer this
37 question for us. My reading of the letter of 15 May is it
38 may well be that the Office of State Corporate Affairs
39 suggested that draft as clarification, but whichever way,
40 the purpose of the clarification is to exclude the
41 possibility that the Association is undertaking work
42 normally associated with trade unions.
43

44 Q. The letter of 15 May continues:

45 *In order to avoid any unnecessary costs and*
46 *delays ... the Commission is prepared to*
47

1 *incorporate the association with the*
2 *existing rules annexed to Mr Blewitt's*
3 *application subject to receiving a written*
4 *undertaking that the association will amend*
5 *its rules to include new rule 3A within*
6 *30 days of being notified of incorporation.*

7
8 A. Yes.

9
10 Q. You then sent the memo to Mr Blewitt, to which you've
11 already made reference, and it is at page 24.

12 A. Mmm-hmm.

13
14 Q. You drafted a letter that he would be able to send to
15 the Office of State Corporate Affairs?

16 A. Yes, I did.

17
18 Q. You were recommending or at least you were proposing
19 to him to write, saying on behalf of the Association:

20
21 *... I undertake that the Association will*
22 *amend its Rules within thirty days of being*
23 *notified ... to include a new Rule 3A ...*

24
25 And you say that that was intended to clarify how the
26 objects of the Association would operate, or at least to
27 clarify that it would not be operating as a trade union.
28 You say that was your understanding of 3A?

29 A. Yes, that's right.

30
31 Q. Rule 3A precludes the Association, in effect,
32 regulating relations between workmen and employers;
33 correct?

34 A. Mmm.

35
36 Q. One of the things that an employer does is provide a
37 safe system of work; correct?

38 A. Yes, they ought to.

39
40 Q. How was this rule going to operate with the existing
41 rules?

42 A. Consistent with what I've said, that my view, looking
43 at these documents, is that the inquiry was about whether
44 or not this Association would seek to do the kinds of
45 things associated with being a trade union. Looking at
46 this new rule 3A, that the Association aims to seek to
47 regulate the relations between workmen and employers, that

1 that's a formulation about, you know, seeking award
2 regulation, or it may well have been in the days beyond the
3 common approach to enterprise bargaining, but, you know,
4 doing the kinds of things that trade unions do, either
5 under State or Federal law, that is, that they participate
6 in the regulatory system, the regulatory system of
7 employment, things like serving a log of claims in order to
8 create an award.

9
10 Q. Why not just write back and say, "Well, it's not going
11 to be a trade union because it's going to raise money for
12 elections"?

13 A. Mr Stoljar, sitting here, I don't know, but can
14 I suggest to you that one thing that may be worth looking
15 at is whether or not this is a form of words somehow
16 associated with the state industrial relations legislation
17 at that time. I think it's that clarification that was
18 being sought. Should this be an association or a state
19 registered trade union? Those words looked to me like they
20 may have come from state regulation of some nature. Now,
21 I don't have a direct recollection of it, but that is what,
22 piecing together from these documents, I think I was
23 dealing with at the time.

24
25 Q. But if the concern that had been raised with you was
26 that the Association could be confused for a trade union,
27 isn't the simple answer, it's set up outside the union and
28 it's going to raise funds for election purposes and operate
29 a bank account to hold those funds?

30 A. Well, in the letter of 15 May what's being asked for
31 by the corporate affairs people is the inclusion of a new
32 rule.

33
34 Q. That's your construction. The alternative
35 construction is that you had proposed the new rule 3A in
36 your correspondence of 13 May?

37 A. And I'm not in a position to assist you with that
38 further and I don't think you're in a position to assist me
39 when neither of us have the letter of 13 May.

40
41 Q. Did you give any advice to Mr Blewitt as to how the
42 rule change would be effected?

43 A. The advice I gave to Mr Blewitt is the advice you see
44 before you on page 24.

45
46 Q. Effecting a change to the rules would require some
47 sort of resolution, presumably a special resolution; is

1 that right?

2 A. This is a pre-incorporation amendment.

3

4 Q. No. What do you mean by that?

5 A. Just paragraph 3 of Mr Neal's letter.

6

7 *... the Commission is prepared to*
8 *incorporate the association with the*
9 *existing rules ...*

10

11 Q. Quite so.

12 A. "... subject to receiving a written undertaking ..."

13

14 Q. Mr Neal is proceeding on the assumption that there was
15 in fact an association and that what the Commission was
16 going to do was incorporate it; correct?

17 A. The letter says:

18

19 *Thank you for your letter of 13 May 1992*
20 *concerning the application by*
21 *Mr R E Blewitt to incorporate the above*
22 *association.*

23

24 Q. Quite so.

25 A. So --

26

27 Q. In the passage to which you drew my attention, the
28 third paragraph, the Office of State Corporate Affairs is
29 saying:

30

31 *... the Commission is prepared to*
32 *incorporate the association with the*
33 *existing rules annexed ... subject to*
34 *receiving a written undertaking that the*
35 *association will amend its rules to include*
36 *a new rule 3A ...*

37

38 The point being that Mr Neal is proceeding on the basis
39 that there was in fact an association in existence and what
40 the Commission was going to be doing was to incorporate it
41 under the Act; correct?

42 A. Mr Stoljar, my reading of those words - and neither of
43 us is Mr Neal - my reading of those words is the Commission
44 is prepared to incorporate the association; that is, the
45 association for which incorporation is being sought --

46

47 Q. Yes. And there was no such - I'm sorry?

1 A. -- with this change.
2
3 Q. But there was no such association at that time, was
4 there?
5 A. No, there was an application to incorporate an
6 association and I believe it's that association for which
7 incorporation is being sought that Mr Neal is referring to.
8
9 Q. What Mr Neal was contemplating and more particularly
10 you were describing in your memorandum to Mr Blewitt of
11 21 May 1992, was an amendment to the rules taking place
12 within 30 days of the Association being notified of its
13 incorporation.
14 A. What's the question?
15
16 Q. I think I'm really picking up your comment earlier
17 about whether or not this was a pre-incorporation
18 resolution and I'm agreeing with you to this extent, that
19 your memorandum to Mr Blewitt of 21 May 1992 makes
20 reference to a resolution that would need to be passed
21 30 days subsequent to the incorporation of the Association;
22 is that right?
23 A. Yes, that's right. You're now referring to the last
24 line of the third paragraph of Mr Neal's letter; is that
25 right?
26
27 Q. No, I've come to your memo of 21 May on the next page.
28 A. Oh, you've come to my memo. Sorry, yes. Oh, I see.
29 Okay. Sorry, I was on the wrong document.
30
31 Q. You were contemplating that Mr Blewitt would write
32 giving an undertaking that the Association would amend its
33 rules, within 30 days of being notified of its
34 incorporation, to include a new rule 3A?
35 A. Mmm.
36
37 Q. My question was did you give advice to Mr Blewitt as
38 to how the amendment would be effected?
39 A. I don't recall giving advice to Mr Blewitt about how
40 the amendment would be effected, but at this point
41 Mr Blewitt was obviously in possession of the rules.
42
43 Q. You were causing, in effect, Mr Blewitt to write
44 giving a personal undertaking to the Commissioner, the
45 WA Commissioner of Corporate Affairs?
46 A. I think "causing" is not the right word.
47

1 Q. Well, you crafted a letter for him to that effect?
2 A. My understanding from my instructions was that
3 Mr Blewitt and Mr Wilson wanted to incorporate this
4 Association. The clear meaning of the letter from Mr Neal
5 is that there is an issue in relation to that
6 incorporation. I then provided advice to Mr Blewitt about
7 the resolution of that issue. Whether or not he accepted
8 that advice or acted on it is entirely a matter for him.
9
10 Q. Do you recollect whether the concern on the part of
11 the Office of State Corporate Affairs also related to the
12 fact that the words "Australian Workers Union" were
13 included in the name of the Association?
14 A. No, I don't believe so and on the face of this
15 correspondence that doesn't show, does it. You would
16 anticipate, wouldn't you, Mr Stoljar, that if there was
17 more than one concern about incorporation, that it would be
18 separately referred to in the letter of 15 May 1992.
19
20 Q. Did you make an inquiry of Mr Blewitt - or Mr Wilson,
21 for that matter - as to whether he had in fact caused the
22 amendment to the rule to be effected?
23 A. No. Having provided the advice, I wouldn't have.
24
25 Q. No, I'm simply asking whether you made any inquiry,
26 subsequent to incorporation, as to whether --
27 A. No, I did not. No, I did not.
28
29 Q. You didn't follow up that matter?
30 A. No, no, I would have given Mr Blewitt the advice and
31 then he and Mr Wilson and others, on my understanding, are
32 involved in the Association, it's then a matter for them.
33
34 Q. Mr Wilson had by this stage moved to Melbourne?
35 A. My recollection is Mr Wilson moved to Melbourne in
36 mid 1992. Sitting here, I can't tell you what date versus
37 21 May 1992. There may be something in your - sorry, the
38 Commission's documents that helps clarify that, but I don't
39 have that date in my mind.
40
41 Q. He certainly was physically in Melbourne at that time?
42 A. I can't help with you that, Mr Stoljar. I know he
43 moved to Melbourne in 1992. It may be that in one of the
44 many documents before the Commission that date is
45 clarified.
46
47 Q. Did Mr Wilson have discussion with you about why he

1 wanted to set up a fund in WA?
2 A. Not other than the ones that we've already gone to in
3 our discussion during the course of this morning.
4
5 Q. The position when this memorandum to Mr Blewitt was
6 sent on 21 May 1992 was that, so far as you knew, there had
7 been no committee of management appointed or anything like
8 that? You weren't aware of that?
9 A. Sorry, just repeat the question, I'm sorry.
10
11 Q. The committee of management had not been appointed to
12 the Association?
13 A. At what point?
14
15 Q. When you sent your memorandum to Mr Blewitt on 21 May
16 1992?
17 A. I don't know and I didn't - apart from, as we
18 discussed a little bit earlier today, advising about the
19 requirements of an incorporated association, it had to have
20 a minimum number of members, it had to have a committee of
21 management, I didn't make further inquiries about how
22 Mr Blewitt and Mr Wilson then went about operationalising
23 that.
24
25 Q. The critical function of this Association, as you
26 understood it, was to enable funds to be received in a bank
27 account that would operate so as to obviate the possibility
28 of debate arising in due course about the ownership of
29 those funds?
30 A. We had that discussion earlier today and you would
31 recall what I said then, that I thought it was about
32 regularising arrangements between a team of people
33 associated within a trade union and going to run for
34 re-election together and election fundraising, in the
35 holding of an account into which election funds raised for
36 the election would be held.
37
38 Q. Can I come back to Mr Wilson and his movements in
39 1992. At a certain point at least he was living in
40 Cardigan Street?
41 A. Yes, that's correct.
42
43 Q. Did you discuss the Association with him from time to
44 time?
45 A. No.
46
47 Q. You had no discussion with him about it at all?

1 A. No.
2
3 Q. You had discussion about his work, I presume?
4 A. Mr Wilson and I came to be in a relationship. As
5 couples do in relationships, from time to time we'd discuss
6 matters at work, if you had a particularly good day, if you
7 had a particularly bad day, but no, we did not discuss the
8 Association. And whilst I would say, Mr Stoljar, whilst
9 this matter has come to assume a great deal of significance
10 in the years since, at the time of these events and my
11 provision of advice, it had no particular significance.
12
13 Q. Which, the Association had no particular significance?
14 A. I mean in terms of a busy legal practice, it did not
15 stand out, amongst the many legal matters on which
16 I advised, as a matter of particular significance, or the
17 significance it has come to bear, you know, as has happened
18 as the years have gone on.
19
20 Q. At some point during either the latter part of 1992 or
21 early 1993, Mr Wilson started looking for properties for
22 acquisition by Mr Blewitt?
23 A. Yes. As I've dealt with in my principal statement and
24 as is dealt with in the Slater & Gordon transcript of
25 meeting, yes, my understanding was Mr Blewitt was
26 interested in an investment property and it was to be one
27 in which Mr Wilson resided.
28
29 Q. You prepared at some point a power of attorney in
30 relation to that issue?
31 A. Yes, that's correct.
32
33 Q. That's at page 51 of the bundle.
34 A. 51 of the bundle under tab 2?
35
36 Q. Yes.
37 A. Yes.
38
39 Q. That's a document upon which your signature appears.
40 A. Yes, it is.
41
42 Q. Your evidence, as I apprehend it from your statements,
43 is that you have no particular recollection of whether or
44 not Mr Blewitt was in your presence when he signed it, but
45 your evidence is that in the ordinary course of practice,
46 he would have been; is that fair?
47 A. My evidence is I was a busy solicitor. Across the

1 years in which I practised as a lawyer, I would have
2 witnessed many thousands of documents. I do not have
3 specific recall of, you know, each and every document
4 I witnessed and the circumstances, you know, which room,
5 which desk, what I was wearing, I don't have that kind of
6 recall, but I witnessed documents appropriately. I would
7 only witness a document if the signatory was in my
8 presence.

9
10 Q. Do you recollect any occasion on which you departed
11 from that practice?

12 A. No.

13
14 Q. What about your practice in respect of dating a
15 particular document? Did you have any practice in that
16 regard?

17 A. You put the right date on a document.

18
19 Q. Was there any central repository for original
20 documents at Slater & Gordon, say, for an original power of
21 attorney?

22 A. No. No. I mean there was - obviously,
23 Slater & Gordon had things like a secure wills section and
24 that kind of thing, but no, not for a power of attorney.

25
26 Q. Do you recollect having a dinner with Mr Blewitt and
27 others on the evening of 3 February 1993?

28 A. No, I do not.

29
30 Q. You attended the auction of the Kerr Street property
31 with Mr Wilson in due course?

32 A. Yes, I did.

33
34 Q. Did he have the power of attorney with him?

35 A. I don't have a recollection of him having the power of
36 attorney with him. Having had the opportunity to look at
37 the documents that are before the Commission, it appears
38 you may have come to a different conclusion, Mr Stoljar,
39 but it appears to me he must have because reference is made
40 to it in the contract signed.

41
42 Q. What would have been the practice? Mr Blewitt - you
43 witness the signature and then what happens to the
44 document?

45 A. Well, for this document Mr Wilson would have wanted
46 the original, I would have thought, and a copy would have
47 been kept at Slater & Gordon.

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Q. Right.

A. It may be he had a copy and the original was at Slater & Gordon. I don't have a direct recollection of it, Mr Stoljar.

Q. In any event, you and Mr Wilson went along to the auction. Did he have a cheque from Mr Blewitt?

A. I don't know.

Q. How was the deposit paid?

A. I don't have any recollection from the time about how the deposit was paid. I know that there are documents before the Commission that go to this matter but I don't have a recollection.

Q. Did you have any discussion with Mr Wilson about where Mr Blewitt had come up with the money for the deposit?

A. I've had the opportunity obviously to refresh my recollection, looking at the transcript, of meetings between me and Mr Gordon and Mr Shaw and as I summarise it there is correct.

Q. Which passage are you making reference to when you give that evidence?

A. There's a passage - let me just find it - the passage starting page 10, going over to page 11, that details Mr Blewitt indicating an interest in an investment property and the taxation advantages that accrue from negative gearing and me referring him to Nick Styant-Browne for some financial planning style advice and then the paragraphs that deal with the purchase of the property.

Q. At page 11, in the middle at the top, and 141, in the bottom right, you say.

... Ralph came here, looked at properties ...

And then.

... I assisted with fixing up the power of attorney so that Bruce could do the bidding ...

Mr Gordon says.

1 ... on the day of the auction with that
2 power of attorney Wilson attended and
3 I think you attended too?

4 JG: Yes, I did.

5 PG: Who did the bidding?

6

7 And then at the bottom of the page:

8

9 GS: Do you have any recollection of what
10 happened with the deposit on the day, how
11 that was paid?

12 JG: No, I don't have any recollection.

13

14 On the bottom of page 142. The position must be that
15 Mr Blewitt obviously didn't know how much the property was
16 going to be knocked down for in advance, so he must have
17 filled out the cheque on the day of the auction; is that
18 right?

19 A. I don't have any recollection about the cheque. I'm
20 not sure at the time I had any knowledge about the cheque.
21 I think you'll find dealt with elsewhere in the documents
22 before the Commission there's discussion about the cheque
23 from either Mr Blewitt or Mr Wilson.

24

25 Q. In your witness statement, that's number 4, at
26 paragraph 22 --

27 A. Paragraph 22?

28

29 Q. Yes.

30 A. Yes.

31

32 Q. You say.

33

34 I was not the solicitor handling that file.

35

36 That's the conveyancing file:

37

38 The file was handled by the
39 commercial department, which was a
40 different section from where I worked.

41

42 And you say:

43

44 It is apparent from the ... conveyancing
45 file that I prepared a power of
46 attorney ...

47

1 Et cetera. You did have some involvement in the
2 conveyancing matter. Was there some particular reason why
3 you were involved in some aspects and not others?
4 A. Well, the conveyance was undertaken by the
5 conveyancing paralegal, who is a person known to me as
6 Olive Brosnahan. She has given evidence to this
7 Commission. She's obviously married in the years since and
8 is now Olive Palmer.
9
10 Q. Yes.
11 A. So she handled the conveyancing file. I've never done
12 a conveyancing file. You are right, Mr Stoljar, that there
13 were obviously some inquiries, I think it's one or two or
14 three, or something in that order, on the conveyancing file
15 that I dealt with. I'm happy to go through them, if you
16 would like.
17
18 Q. Why don't we go to page 93 behind tab 2? Is that
19 Ms Brosnahan's handwriting?
20 A. I don't know.
21
22 Q. But is it the case --
23 A. It's either her handwriting or I mentioned it to a
24 clerical staff member who wrote down a note and gave it to
25 Olive: I don't know which.
26
27 Q. You were clearly seeking a memorandum from Mr --
28 A. "NOB" is Olive Brosnahan.
29
30 Q. I'm sorry, from Olive Brosnahan.
31 A. Yes.
32
33 Q. About the circumstances in which a higher interest
34 rate is charged. That's presumably under the mortgage
35 which was being provided by Slater & Gordon or some
36 association or entity associated with it. Do you recollect
37 why you were seeking that information?
38 A. I must have been asked by - sorry, I don't recollect.
39 I don't have a direct recollection. Even at the time in
40 1995 of my discussion with Mr Shaw and Mr Gordon, I didn't
41 have a direct recollection of these matters. Having had
42 the opportunity to see the conveyancing file which went
43 into the public domain a couple of years ago, obviously
44 I would have had an inquiry from Mr Blewitt about what it
45 meant, what a reference to an interest rate meant, or
46 something like that, and so I sent a - sent or caused
47 someone else to send a note around to Olive.

1
2 Q. And then on page 97 is the memorandum you'd requested.
3 A. Yes.
4
5 Q. I take it you would have communicated that information
6 back to Mr Blewitt or Mr Wilson?
7 A. Yes.
8
9 Q. Because Mr Wilson from time to time was also making
10 inquiries about this matter?
11 A. I think the file shows that.
12
13 Q. Yes. You certainly understood at this stage that
14 Mr Blewitt was obtaining a mortgage from Mr Rothfield to
15 procure part of the purchase moneys for the Kerr Street
16 property?
17 A. At the time of the requesting of the memo from Olive,
18 yes.
19
20 Q. Yes. When did you become aware of that information?
21 A. Oh, I don't know. I don't recall.
22
23 Q. If you come to page 98, that's another document from
24 the conveyancing file. Did you have a discussion with
25 Ms Brosnahan about the costs and the writing off of costs?
26 A. Yes, I did.
27
28 Q. Typically, she would come to you, as a partner with
29 some knowledge of the matter, to discuss whether or not
30 Slater & Gordon would write off the fees; is that right?
31 A. It was routine at Slater & Gordon, as I think
32 I described to you earlier, with the industrial unit
33 developing relationships with trade unions, trade union
34 officials, with Slater & Gordon seeking the referral of
35 plaintiff personal injury work, it was common at Slater &
36 Gordon for fees to be - for something routine like a
37 conveyance, for fees to be wholly or partly declined.
38
39 Q. Page 99 is a letter of 17 March 1993 to Mr Wilson.
40 Did you have a discussion with Mr Wilson about this letter,
41 do you recollect?
42 A. No.
43
44 Q. Have you seen the letter before?
45 A. Not other than in the Commission's documents.
46
47 Q. Did you see it at the time?

1 A. No.

2

3 Q. The letter makes reference, among other things, to the
4 fact that the principal sum advanced under the mortgage is
5 \$150,000 and then it deals with default rates of interest
6 at the top of page 100 and at page 101 --

7 A. Page 100, yes.

8

9 Q. Then if you come through to page 101:

10

11 *The Mortgagee requires prior to settlement*
12 *an original Insurance Policy or Certificate*
13 *of Currency ...*

14

15 When you read that paragraph, does it refresh your memory
16 you had discussions with Mr Wilson about these matters?

17 A. No, it does not.

18

19 Q. Because what the mortgagee required was, yes,
20 a certificate of currency from an approved insurer noting
21 the interests of Mr Rothfield as first mortgagee for not
22 less than \$200,000?

23 A. Yes, that's what the document says.

24

25 Q. That's something that you attended to yourself?

26 A. I don't believe I ever saw this letter. Separately,
27 on the conveyancing file, you're right, that there are a
28 number of file notes, et cetera, which seem to indicate the
29 certificate - what's it called? The certificate of
30 currency? Is that right?

31

32 Q. Yes.

33 A. Yes. The certificate of currency was being chased
34 from Mr Blewitt, that Mr Blewitt needed to obtain and
35 provide a certificate of currency. Presumably, that's
36 related to completing the conveyancing transaction and the
37 matters associated with the mortgage. The conveyancing
38 file appears to show that that was being sought and I did
39 obviously assist at that point.

40

41 Q. Is the answer to my question "Yes", that obtaining the
42 certificate of currency is something that you attended to
43 yourself?

44 A. I obviously assisted with it. Where I'm disagreeing
45 with you, Mr Stoljar, is I didn't see the letter you refer
46 to. There's nothing in that letter that caused me to
47 assist with obtaining the certificate of currency. If you

1 look elsewhere on the conveyancing file, I think there's
2 some back and forth that's documented between Olive and the
3 legal assistant who worked with me, about the certificate
4 of currency.

5

6 Q. And that file note - are you referring by that to the
7 file note at page 114? You may not be; I'm just asking.

8 A. Yes.

9

10 Q. That's Ms Brosnahan's handwriting?

11 A. Yes, it is.

12

13 Q. She had left a --

14 A. Well, I presume it is. I can't give evidence about
15 whose handwriting is whose, but given it is signed by her.

16

17 Q. Well, Mr - I am sorry, please finish.

18 A. Yes. Given it's --

19

20 THE COMMISSIONER: Q. It's not actually signed by her at
21 the right day: it's 19 January 2013. She's identifying
22 the document.

23 A. Oh, I'm sorry. Okay. Okay.

24

25 Q. Just so that you're not under any misapprehension.

26 A. Yes.

27

28 MR STOLJAR: Q. But anyway, this file note records, it
29 would appear, a conversation with Mr Wilson, "Certificate
30 of currency through", I think that should be
31 "Commonwealth Bank":

32

33 *Ralph spoke to Julia Gillard.*

34 *Spoke to Ralph this morning.*

35 *He was chasing up Commonwealth Bank.*

36

37 And then if you come to the next page, 115 --

38 A. And then under that there's, "To: Julia. Not in.
39 Left message for her to ring me", or something like that.

40

41 Q. Yes. If you come over to the next page, page 115,
42 CBA wrote to you on 22 March 1993 saying:

43

44 *In accordance with your request, we advise*
45 *the buildings are insured for \$200,000 with*
46 *Commonwealth Bank of Australia Insurance*
47 *Scheme ...*

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The interest of [Mr Rothfield] as first mortgagee has been noted.

It would appear that you chased up the Commonwealth Bank re getting that certificate of currency?

A. I either chased up the Commonwealth Bank or I chased up Ralph to chase up the Commonwealth Bank, I don't know which.

Q. The letter is addressed to you. It says:

*Dear Madam ...
In accordance with your request ...*

A. Yes.

Q. That appears to be responsive to a request made by you?

A. Yes, you may well be right. I was just looking at the document before that says, "Ralph spoke to Julia Gillard. Spoke to Ralph this morning. He was chasing up Commonwealth Bank."

Q. Could you come back to page 103.

A. 103?

Q. Yes.

THE COMMISSIONER: Is this a short point you're on, Mr Stoljar?

MR STOLJAR: Yes. I will raise a short point anyway and then perhaps come back to this after lunch.

THE COMMISSIONER: All right.

MR STOLJAR: Q. My only question is had you seen this letter or did you see a copy of this letter before it was sent?

A. No.

THE COMMISSIONER: Very well. Is this a suitable time to adjourn?

MR STOLJAR: Yes, Commissioner.

1 THE COMMISSIONER: The hearing will resume at 2pm.

2

3 **LUNCHEON ADJOURNMENT**

4

5 **UPON RESUMPTION**

6

7 THE COMMISSIONER: Yes, Mr Stoljar.

8

9 MR STOLJAR: Q. Ms Gillard, I was asking you about
10 a letter which appears on page 103 behind tab 2. Just
11 before the break, you indicated that you had not seen this
12 letter before it was sent. We were just looking at
13 a letter to you from the CBA of 22 March 1993 in relation
14 to certificate of currency. That, just to remind you, was
15 the date on which settlement of the matter was to take
16 place: that is, of the conveyance. This letter on
17 page 103 is sent a few days prior to settlement and seeks
18 that Mr Blewitt send a bank cheque in the sum of
19 \$67,000-odd. I know you said you had not seen this letter.
20 Do you recollect discussions with Mr Blewitt about that
21 matter in the few days leading up to the 22nd?

22 A. About the certificate of currency or the need to pay
23 the balance of the funds?

24

25 Q. The need to pay the balance of the funds.

26 A. No, no discussions.

27

28 Q. You had no discussions?

29 A. I had no discussions with Mr Blewitt about that
30 matter.

31

32 Q. Did you have discussions with Mr Wilson about that
33 matter?

34 A. No, I did not.

35

36 Q. You will see from this letter that it is said to be
37 a copy of a letter dated 18 March 1993 which was sent to
38 Mr Blewitt, but it is seeking either a bank cheque by the
39 next day or that an amount be telegraphically transferred
40 into a trust account by the next day. To your recollection
41 was there some flurry of activity about obtaining the funds
42 for settlement?

43 A. Not insofar as I was aware.

44

45 Q. Can you come through to page 106 of the bundle. That
46 is a cheque signed on the account of the AWU Workplace
47 Reform Association in the sum of money that had been

1 requested in the letter we just looked at, \$67,722.30. It
2 has been drawn on the account of the Association, as you
3 can see. Did you have any discussion with Mr Wilson or
4 Mr Blewitt about that matter?

5 A. Certainly not.

6

7 Q. Were you having any discussions with Mr Wilson about
8 what the Association was doing at this stage, March 1993?

9 A. No.

10

11 Q. He was contemplating standing for re-election, was he?

12

13 A. By 1993, Mr Wilson had become Branch Secretary of the
14 Victorian Branch and I don't recall the dates. They'd be
15 transparent on the documents before the Commission, but
16 I think discussions would have been in train about the
17 creation of the National Construction Branch. So Mr Wilson
18 was certainly continuing to pursue his union career, but
19 I don't recall there being elections that he was focused on
20 that were imminent.

20

21 Q. But over this time, this is a year or so after the
22 Association has been set up, you surely had some discussion
23 with him about how the Association was going or the like?

24

25 A. No, I did not.

26

27 Q. Did you have any discussion about fundraising for
28 his - whether he stood for an election or stood for some
29 position in the NCB or otherwise?

29

30 A. No, we did not.

31

32 Q. You never discussed that at all?

33

34 A. No, we did not.

35

36 Q. Come back to this letter on page 106. As we have
37 seen, that is a cheque drawn from the account of the
38 Workplace Reform Association and it is drawn in favour of
39 Slater & Gordon Trust Account. Slater & Gordon maintained
40 a trust account in WA, did it?

39

40 A. Oh, I don't know, Mr Stoljar. Slater & Gordon
41 certainly had, you know, an accounting section and a trust
42 account and, you know, there were record keeping for trust
43 funds and if you had a file that touched upon trust funds
44 then obviously there was the appropriate record-keeping,
45 but whether there were two accounts or one central trust
46 account for the whole firm, I do not recall.

46

47 Q. You do not recall whether it set up separate accounts

1 in each state or whether there was some central account?
2 A. No. I mean I as a solicitor had to, in terms of the
3 file work, acquit the paperwork obligations in relation to
4 the trust account, but I was not operating the trust
5 account. There was an accounting section to do that.

6
7 Q. That sum of \$67,000-odd was needed to procure the
8 balance of settlement moneys in enable the settlement to
9 proceed. If you come to page 123A --

10 A. 123A?

11
12 Q. Yes.

13 A. Yes.

14
15 Q. There is a notation, a handwritten notation:

16
17 *Not enough money in trust.*

18
19 Do you recognise that handwriting?

20 A. No, I do not.

21
22 Q. You will see that it is an account ledger from
23 Slater & Gordon and it is in fact dated 24 March 1993,
24 printed on that morning. There are some items under the
25 heading, "Date", "Reference" and "Description" and they
26 identify the source of particular funds that appear to have
27 arrived in the Slater & Gordon Trust Account. You will
28 see, for example, on 15 March 1993, there is an amount
29 received on account of a valuation fee of \$500 and then it
30 is a little hard to read, but on a date in March, it might
31 be 22 March 1993, there is an amount received, said to be
32 from a Mr Ralph Blewitt, balance of purchase moneys, direct
33 deposit, and it was \$67,722.30. I just took you to the
34 cheque and it was drawn on the account of the Association.
35 Do you know why Slater & Gordon recorded in its trust
36 account records that that money had been received from
37 Mr Blewitt?

38 A. No idea, and I had no contact with this trust account
39 record.

40
41 Q. Who in the ordinary course of business maintained the
42 trust account record at Slater & Gordon at that time?

43 A. It was - the trust account record was maintained in
44 the accounting section.

45
46 Q. Yes.

47 A. In terms of a conveyancing file, the operator of the

1 file, Ms Brosnahan, now Palmer, would have made
2 arrangements and the supervising partner was Nick
3 Styant-Browne.
4

5 Q. When you say "made arrangements" --

6 A. Obviously, she is a conveyancing clerk. She would
7 regularly be dealing with moneys in and out of trust.
8 There would have been a system of forms and paperwork which
9 she would have acquitted in relation to each file.
10

11 Q. Are you able to shed any light on how the entry,
12 "Mr Ralph Blewitt" came to be on the account ledger rather
13 than "Workplace Reform Association"?

14 A. Absolutely none.
15

16 Q. You don't recollect or do you recollect the
17 individuals who were responsible for maintaining the
18 account ledger for the trust account at that time?

19 A. I had no dealing with this account ledger, the one you
20 are referring me to, no knowledge of it. I do not recall
21 the names of the staff who worked in the accounting
22 section. That may be ascertainable through Slater &
23 Gordon.
24

25 Q. And then further down that page there is an amount
26 received from Slater & Gordon Trust Account which was the
27 mortgage loan in the amount of \$150,000.

28 A. Yes.
29

30 Q. That was a loan that was organised through Slater &
31 Gordon?

32 A. Yes. We discussed that earlier, the mortgage practice
33 which was overseen by Jonathan Rothfield. I think we went
34 to that before lunch.
35

36 Q. Did Mr Wilson ever suggest to you that the Kerr Street
37 property was acquired for union purposes?

38 A. No, he did not.
39

40 Q. Did he ever suggest to you it was being acquired by
41 the Association?

42 A. No, he did not.
43

44 Q. The firm Slater & Gordon performed two legal tasks for
45 Mr Blewitt, that is to say, conveyancing and in addition
46 the provision of some financial planning advice?

47 A. Yes, that's correct.

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Q. I think you made reference to that in your evidence this morning?

A. Yes. In the discussion with Mr Gordon and Mr Shaw in 1995, it records me saying that when Ralph Blewitt started talking about the purchase of property, that I referred him to Nick Styant-Browne for financial planning advice.

Q. Did he ask for that referral to be made?

A. I don't recall the words of the conversation. Obviously out of the conversation I thought he may seek such advice and Nick Styant-Browne was in a position to provide it, or financial planners working under Nick Styant-Browne's oversight.

Q. You have a definite recollection of Mr Blewitt asking for that, do you?

A. My best recollection is the one informed by the September 1995 transcript.

Q. Oh, I see. You have reviewed that --

A. Yes, I have refreshed my memory obviously from looking at the transcript.

Q. But you are not suggesting, as you sit here today, you have a recollection of a conversation with Mr Blewitt in which he requested that advice?

A. I don't have a direct memory of a conversation. What we do have is this record of a conversation in 1995 where I go to the matter.

Q. Could you have a look at page 94 of the bundle behind tab 2.

A. 94.

Q. This is a letter of approval in respect of the loan application from Slater & Gordon to Mr Blewitt dated 10 March 1993. It refers to a procuration fee payable to Slater & Gordon Financial Planning Pty Ltd. Was that the entity which was giving the financial advice?

A. I see. The 0.5 per cent payable. Yes, so there was - that's right. There was a separate company within - so there was obviously the legal firm. There was a company trading as Slater & Gordon which provided the financial planning advice.

Q. This letter, or the acceptance of the terms of the

1 letter has been placed upon the letter by Mr Wilson
2 exercising the power of attorney, if you have a look at
3 page 96. The position is that Mr Wilson was executing all
4 relevant documents in relation to conveyance pursuant to
5 that power of attorney, that was your --
6 A. That's what the file shows, Mr Stoljar. I had no --
7
8 Q. But that was your --
9 A. No. I wasn't dealing with the conveyancing file.
10 I wasn't dealing day-to-day with these documents.
11 I wouldn't have sighted these documents at the time.
12 Obviously, sitting here now with the document in front of
13 me, it is clear Mr Wilson signed it, but that wouldn't have
14 been known to me at the time.
15
16 Q. You certainly had some dealings with the conveyancing
17 file, didn't you?
18 A. Yes, but not with the document you are referring to me
19 now.
20
21 Q. You were still in a relationship with Mr Wilson at
22 that time?
23 A. Yes, I was, but I was --
24
25 Q. And you must have been having some discussions with
26 Mr Wilson about these matters?
27 A. As I have indicated to you, I had discussions with
28 Mr Blewitt and Mr Wilson, with Mr Blewitt indicating that
29 he wanted to purchase an investment property, and then the
30 property was bought. We've been through the limited number
31 of occasions that I did anything in relation to the
32 conveyancing file. I didn't operate the conveyancing file
33 and it was not in my possession.
34
35 Q. I just want to talk further a little bit about the
36 financial planning. On page 110 of the bundle --
37 A. 110?
38
39 Q. Yes. There is a disbursement order which deals, among
40 other things, with the procuration fee, to which I have
41 already made reference.
42 A. Yes, I have it.
43
44 Q. Did you see this document about the time it was
45 created?
46 A. No, I did not.
47

1 Q. Did Ms Brosnahan have any discussion with you about
2 whether or not to write off the procuration fee?

3 A. Not that I recall, no.

4

5 Q. You were the person to whom she would have raised that
6 or with whom she would have raised that matter; correct?

7 A. If she - yes. Yes. If she thought it was a relevant
8 issue to raise, she would have raised it with me, that's
9 true.

10

11 Q. She raised with you the question of writing off other
12 fees and disbursements in relation to conveyance; that's
13 correct?

14 A. That's correct.

15

16 Q. It is quite likely she would have raised whether or
17 not to write off the procuration fee; is that right?

18 A. If she wanted advice or instructions about writing off
19 this fee, yes, she would have asked me.

20

21 Q. Could you come back to page 88. You will have to look
22 at it on the side, but it seems to be a note. It is drawn
23 from the Slater & Gordon conveyancing file, but it is
24 a note about the financial planning matter. I won't take
25 you through the whole document, but towards the bottom it
26 says - this may be Ms Brosnahan's writing, I'm not certain:

27

28 *Attending Mr Wilson re above 4/3/93 - he*
29 *will let me have proof of income by fax*
30 *then original.*

31

32 And I think it says:

33

34 *And also let me have cheque for \$500.*

35

36 The \$500 is presumably the valuation fee.

37 A. I am just admiring your sterling decoding job.

38

39 Q. Thank you. Mr Wilson seemed to be personally involved
40 in the provision of information in respect of the financial
41 planning matter. Did he have any discussion with you about
42 that?

43 A. No, he did not.

44

45 Q. Were you involved in any way in the provision of the
46 financial planning advice as distinct from the conveyancing
47 matter?

1 A. No.
2
3 Q. Information was then provided, beginning on page 89,
4 concerning Mr Blewitt's income position. Do you know
5 whether any information was received concerning any other
6 sources of income that Mr Blewitt might have at that time?
7 A. No, I knew nothing about it at that time.
8
9 Q. And you don't know whether any detail of his wife's
10 income or asset position was obtained?
11 A. No. I had no knowledge then and I have no knowledge
12 now.
13
14 Q. Likewise, I take it from your last answer that you do
15 not have any information as to whether there was any detail
16 of Mr Blewitt's asset position obtained for the purposes of
17 financial planning?
18 A. No idea, no. I had no connection with the matter.
19
20 Q. You knew at the time that he was borrowing in the
21 order of \$150,000 through the Slater & Gordon mortgage,
22 Mr Rothfield's mortgage?
23 A. I knew it was Ralph Blewitt's intention to have a
24 mortgage for the balance above the deposit. I wouldn't
25 necessarily have been able to rattle off the figures. I'm
26 not sure I was familiar with the figures.
27
28 Q. You knew there was a shortfall between the amount that
29 was being provided pursuant to the Slater & Gordon mortgage
30 and the balance required to effect settlement?
31 A. I'm not sure what you mean about shortfall. You mean
32 over and above the deposit?
33
34 Q. No. He paid the deposit in the first instance and
35 then he borrowed \$150,000 and then that still left an
36 amount of a bit over \$67,000 which was the shortfall
37 between the amount Slater & Gordon were apparently prepared
38 to advance and what was required to effect settlement. You
39 may not have known the specific details, but you knew there
40 was a shortfall between what was being advanced under the
41 mortgage and the amount required to effect settlement?
42 A. No, I did not.
43
44 Q. You didn't know that?
45 A. No, I did not.
46
47 Q. Did you make any inquiry of Mr Wilson or Mr Blewitt as

1 to where he had procured funds to pay the deposit?
2 A. No. My understanding, as we discussed I think before
3 lunch, was in accordance with the discussion I had in 1995
4 with Peter Gordon and Geoff Shaw. My understanding was
5 that Mr Blewitt wanted to purchase an investment property,
6 that he had from his own funds, his family's funds, his and
7 his wife's funds, the ability to pay a deposit. He was
8 looking to have a mortgage and have the investment and also
9 the tax benefit consequence consequential on the negative
10 gearing.

11
12 Q. Can I ask you to come to page 147 of the interview?
13 A. 147 of the interview?

14
15 Q. Yes, behind tab 3. You were asked the question in
16 about the bottom third of that page:

17
18 *Have any renovations taken place on that*
19 *property?*

20
21 That is the Abbotsford property. You say:

22
23 *Yes ... I moved there in July 1991.*

24
25 And then you say some other things, and then in the fourth
26 line you say:

27
28 *... I didn't really do anything of*
29 *substance to the property for twelve,*
30 *eighteen months, something like that.*
31 *I then started to get various bits of work*
32 *done, go relatively slowly and as I could*
33 *afford to get them done bit by bit.*

34
35 That accurately describes the first 18 months or so in
36 which you were occupying the Abbotsford property?

37 A. Yes, it does.

38
39 Q. You say:

40
41 *I remember commenting to Geoff ...*

42
43 Is that Mr Shaw?

44 A. Yes, it was.

45
46 Q.
47 *... at one point that I renovated so slowly*

1 *other people would call it maintenance*
2 *because not much was happening.*

3
4 And you say:

5 *Then substantial renovations got done on*
6 *the property last year which included the*
7 *kitchen being entirely redone and the*
8 *bathroom and laundry being entirely redone*
9 *and internal plastering and painting being*
10 *done ...*

11
12 You say at the top of next page:

13
14 *... I got all that work done in September,*
15 *October, Novemberish last year.*

16
17 That is 1994?

18 A. Yes, it is.

19
20 Q. And then Mr Gordon asks you another question and then
21 you go through it, as you say piece by piece. I am not
22 going to go through it item by item but you say:

23
24 *I originally got glasswork and paving work*
25 *done that was because the way in which the*
26 *glasswork and the paving were done at that*
27 *time was causing water to go into the*
28 *foundations. I contracted with*
29 *a glassworker ... called Athol James.*

30
31 And then you say:

32
33 *... I got three quotes and then picked the*
34 *lowest ...*

35
36 A. Yes.

37
38 Q. And that accurately describes what occurred?

39 A. Yes, it does.

40
41 Q. Come further down the page. At about point eight you
42 say:

43
44 *... I had a long term plan to fix the*
45 *bathroom and laundry. Both were a sort of*
46 *seventies renovation which amongst other*
47 *things was red and yellow in colour and*

1 *I therefore wanted to get it replaced.*
2 *I went away for a holiday in late August*
3 *early September last year ...*

4
5 Pausing there that is 1994?

6 A. Yes, it is.

7
8 Q.

9 *... and I had been talking for a long time*
10 *about getting this bathroom and laundry*
11 *work done. And, Bruce whilst I was away*
12 *decided that I should just get it done so*
13 *he commenced with a group of friends*
14 *demolishing the bathroom.*

15
16 That is what happened, was it?

17 A. Yes, that's right.

18
19 Q. So you had gone away obviously without him for
20 a period of time. You went overseas?

21 A. No, I think I went on a holiday to Queensland.

22
23 Q. Wherever, you went away, and you came back and you
24 discovered that he had demolished the bathroom?

25 A. Yes, that's right.

26
27 Q. That must have been an interesting homecoming. In any
28 event, you say:

29
30 *By the time I came back the bathroom had*
31 *been demolished so I had no option but to*
32 *get the rest of the renovations done and*
33 *a series of tradespeople who Jim Collins*
34 *predominantly organised ...*

35
36 Let's just look at that a bit more closely. You came back,
37 the bathroom had been demolished, so you had no option at
38 that point but to get the rest of the renovations done and
39 you say:

40
41 *... a series of trades people who*
42 *Jim Collins predominantly organised ...*

43
44 "Jim Collins predominantly organised", Jim Collins being an
45 organiser of the AWU. He worked with Mr Wilson, did he?

46 A. Yes, he did.

47

1 Q. In substance, Mr Wilson was organising the
2 tradespeople, wasn't he?

3 A. Jim Collins was recommending people and, you know,
4 they were performing the work.
5

6 Q. Is this the position: you came back and found the
7 bathroom had been demolished and you said to Mr Wilson,
8 "Well, you'd better fix this up"?

9 A. No. I'd been talking about getting the renovations
10 done for quite a long period of time. Bruce Wilson
11 obviously thought I should get on with it and created
12 circumstances where I had to get on with it. Jim Collins
13 recommended a series of tradespeople and I dealt with them
14 and they performed work and I paid them.
15

16 Q. And then you say:

17 .
18 *... a series of tradespeople came in and*
19 *did the renovation which predominantly*
20 *consisted of the bathroom, completing the*
21 *kitchen, tiling on the kitchen floor,*
22 *plastering work, replacement of ceilings*
23 *and the like.*
24

25 It was quite a major renovation; correct?

26 A. It was the biggest single renovation I had done at
27 this home.
28

29 Q. That work then commenced, if you go back to 148,
30 in September/October - sorry, it commenced in September and
31 continued through October and into November; is that right?

32 A. Yes, that's correct.
33

34 Q. So you came back from your holiday in early September,
35 that is at the bottom of page 148, and the work got
36 underway that very month?

37 A. Yes, it did.
38

39 Q. That was quite a substantial piece of work requiring,
40 as it is said here, the bathroom - the bathroom had been
41 demolished so that had to be done, completing the kitchen,
42 tiling on the kitchen floor, plastering work, replacement
43 of ceilings and the like. That is at 149. You didn't get
44 any quotes or the like from any tradesmen?

45 A. My recollection is I wanted to get on with this job
46 obviously, given the state of the house and that
47 Jim Collins was in a position to recommend people.

1 I thought he would make good recommendations and so
2 I relied on that.

3

4 Q. You weren't concerned to get comparable quotes in the
5 way that you had done when you caused work to be done in
6 the previous year or two, as you describe in 148? You say
7 you got three quotes and picked the lowest one?

8 A. On this occasion I wanted to just get on with it.

9

10 Q. In fact, just got on with it, the work started
11 a matter of a few days virtually after you came back from
12 your holiday?

13 A. I don't remember the exact time period between me
14 returning and the work starting, but the work started soon
15 after. I couldn't give you a count of days or weeks.

16

17 Q. You didn't trouble to do any budget or costing or
18 anything of that kind?

19 A. I'd been talking about getting these renovations done
20 for a long period of time. I was, you know, confident
21 I had between doing things like extending my mortgage and
22 relying on my salary, I was confident that I was able to
23 finance them. I just hadn't got around to organising them
24 and getting them done.

25

26 Q. So is the answer to my question that you didn't do any
27 budgeting or costing or anything of that kind?

28 A. The answer to your question is I, having done some
29 renovations, thinking, I had in my mind an order of
30 magnitude of likely costs of these renovations and thought
31 I would be in a position to finance them.

32

33 Q. The answer to my question is you didn't do any
34 budgeting or costing of any kind?

35 A. I didn't sit down and write a budget, if that's what
36 you mean, Mr Stoljar, no.

37

38 Q. You left it to Bruce, through Jim Collins, to arrange?

39 A. Work commenced. Getting quotes - quotes as in likely
40 expenditure from the individual tradespeople that paid
41 invoices, made arrangements with the bank to extend my
42 mortgage in order to finance the renovations.

43

44 Q. If you come back to 149, Mr Gordon asks you, about
45 halfway down the page:

46

47 *In terms of the tradesmen who did the work*

1 ... who were they?

2

3 You say:

4

5 ... I don't recall their names. I have
6 some of their receipts at home.

7

8 When you would organise the tradesmen yourself, such as
9 Athol James - you certainly remembered him?

10 A. Yes, I remembered Mr James. He came on more than one
11 occasion to my home.

12

13 Q. He was practically living there at one point?

14 A. I used that form of words in this interview but I got
15 him back to do I think it was three pieces of work and so
16 I, you know, remembered him because he had done work over
17 an extended period of time at my home.

18

19 Q. You say at 149, halfway down the page:

20

21 ... I don't recall their names. I have
22 some of their receipts at home.

23

24 Who had the other receipts?

25 A. I was the only person who would have had receipts.

26

27 Q. You say further down in that paragraph and this is at
28 the end of that same paragraph:

29

30 ... I do have a series of receipts from
31 various of them about bits of the work that
32 was done.

33

34 Does that mean that some of the tradesmen did not supply
35 receipts?

36 A. No, it does not.

37

38 Q. Isn't that the natural reading of what you have said
39 there:

40

41 ... I do have a series of receipts from
42 various of them ...

43

44 A. What those words mean and my recollection of these
45 events is clearly the question of renovations at my home
46 had become somewhat controversial and remarked upon.

47 I commenced to pool my receipts together. I'd been through

1 the receipts prior to this interview. After this
2 interview, I continued to pool all my receipts together and
3 to study them to satisfy myself that I had paid for all
4 renovations at my home.

5
6 Q. When you were doing the interview you said:

7
8 *... I have a series of receipts from*
9 *various of them about bits of the work that*
10 *was done.*

11
12 I suggest that some of them hadn't given you receipts and
13 there was other work in respect of which there was no
14 receipts?

15 A. That's not what I meant by those words.

16
17 Q. What, you didn't have any quotes from any of these
18 tradesmen?

19 A. No. The way I went about it is as I have described to
20 you.

21
22 Q. You didn't have any contracts with any of them?

23 A. I obviously had oral contracts with them, agreements
24 with them, that they would perform the work and that
25 I would pay their accounts when they were rendered.

26
27 Q. Well, agreements entered into by either Mr Wilson or
28 Mr Collins on his behalf with these tradesmen; is that
29 right?

30 A. No.

31
32 Q. You didn't enter into any agreements with these
33 tradesmen, did you?

34 A. I entered into agreements with them. They performed
35 the work, so I knew that they were coming to my home.
36 I knew what work they were going to perform. I'd sought,
37 you know, estimates of the amount of money that would be
38 required to pay them and when it was necessary to pay them
39 and receipts were - "invoices" is the more proper
40 expression. When invoices were given to me, I paid them.

41
42 Q. I'm sorry, you say invoices were given to you?

43 A. When these tradespeople rendered their accounts.

44
45 Q. That is not what you say in your interview, is it?
46 You say you have receipts from these tradespeople. That is
47 very different from invoices, isn't it?

1 A. I think there is a series of things you get from
2 tradespeople. You get their bill. You pay their bill and
3 then you get a receipt for the moneys paid.
4

5 Q. Some people do. Do you say in your evidence now that
6 you received invoices from these tradesmen?

7 A. Yes, I do.
8

9 Q. Where do I find that in either your statement - well,
10 let's start with your statement. Where do I find that in
11 your statement?

12 A. I think it is comprehended by the expression, "I do
13 have a series of receipts." What I meant was I had been,
14 you know, invoiced and paid.
15

16 Q. You have been answering questions about these issues
17 for many years; correct?

18 A. I most certainly have, Mr Stoljar.
19

20 Q. And you have never before suggested that you had
21 anything from these tradesmen other than receipts, have
22 you?

23 A. I don't - I am not putting it as a stylised term of
24 art the way you are.
25

26 Q. It is not a stylised term of art, Ms Gillard. These
27 are simple English words, aren't they, "invoices" and
28 "receipts"?

29 A. Yes, they are and when you read all of this which is,
30 you know, a fairly contemporaneous recollection, what it is
31 telling you is that tradespeople came, tradespeople
32 performed work. I obviously got invoices to know how much
33 to pay them. I paid them and they gave me receipts.
34

35 Q. All you have ever said to date is that you received
36 receipts from some of these tradesmen.
37

38 THE COMMISSIONER: Just before you proceed with that
39 question, if you look at the second witness statement,
40 paragraph 11, the fourth-last line and the last line.
41

42 MR STOLJAR: Yes. That is dealing with an invoice from
43 Mr Spyridis, as I understand it.
44

45 THE COMMISSIONER: Your question may need qualification.
46

47 MR STOLJAR: Q. Yes. Just for clarity, Ms Gillard, you

1 have made in your evidence references to an invoice from
2 Mr Spyridis and you have also, in fairness to you, I think,
3 made reference to invoices from Mr James or, in any event,
4 there may be invoices from Mr James in evidence. Save for
5 those two pieces of evidence, you have not previously
6 deposed that you received anything other than receipts from
7 the tradesmen who did work on your house in 1994; that's
8 right, isn't it?

9 A. Well, the form of words here in what is referred to as
10 page 149 in these documents from my discussion with
11 Mr Gordon and Mr Shaw in 1995, I am talking about having
12 occasion over the course of the weekend to look through my
13 personal records. I do have a series of receipts. I used
14 that form of words then. I'd only have had a series of
15 receipts if I'd been invoiced and knew how much to pay.
16

17 Q. This is really the point, isn't it, that if payments
18 are made by cash, you may not have receipts for every
19 payment, that's right, isn't it?

20 A. I paid for renovations by cheque.

21

22 Q. By cheque?

23 A. Yes.

24

25 Q. Every item of work that was done was paid for by
26 cheque?

27 A. It was my practice to pay by cheque.

28

29 Q. Where do I find in your statement the proposition that
30 all of the work that was done in 1994, so setting aside
31 Mr Spyridis and Mr James, was paid for by cheque?

32 A. I don't recall being asked that in the course of this
33 discussion with Mr Shaw and Mr Gordon.

34

35 Q. No, I am sorry, in your statement of evidence to this
36 Commission, do you give that evidence in your statement?

37 A. Oh, sorry, do I give that evidence in my statement to
38 the Commission?

39

40 Q. Yes.

41 A. I think in my statement I talk about paying from my
42 own funds, but I am happy to go to the individual
43 paragraphs.

44

45 Q. Yes. Paragraph 26, for example.

46 A. Yes.

47

1 Q. It simply says --
2 A. My renovations "on my property were from my own money
3 which was either derived from a loan from the bank and from
4 my salary."
5
6 Q. Yes, but you say that in fact payments were made by
7 cheque; is that your evidence?
8 A. Yes.
9
10 Q. Mr Collins had organised the tradesmen?
11 A. Yes, that's right.
12
13 Q. Did he hand over the cheques or did you?
14 A. I would have - depending on the circumstances, I would
15 have handed a cheque or there may have been times that
16 I posted a cheque.
17
18 Q. You see, the position is that you would not
19 know - I mean, you were maintaining your practice at this
20 time, I take it?
21 A. Yes, I was.
22
23 Q. So you were a partner at Slater & Gordon during these
24 months?
25 A. Yes, I was.
26
27 Q. Were you annoyed that Mr Wilson had smashed up your
28 bathroom?
29 A. It wasn't my preference, no.
30
31 Q. You had left it to him or to Mr Collins to organise
32 these tradesmen?
33 A. Mr Collins recommended tradesmen. That obviously
34 assisted with organising the works, but in terms of,
35 you know, picking tiles, picking colours, all of those
36 kinds of things that you do associated with renovations,
37 I did those things. I paid for the work.
38
39 Q. You did those things, but you would not know on
40 a day-by-day basis who was doing what work, would you?
41 A. I would know that there were tradespeople at work in
42 my home. They were at work in my home over a period of
43 time.
44
45 Q. Mr Wilson obviously had access to the home?
46 A. Yes. He could have access to the home.
47

1 Q. He or Mr Collins were organising the tradesmen?
2 A. They didn't need someone supervising them as they went
3 about the work. I mean, once it was apparent that - to
4 take an example, if the bathroom needed to be tiled then
5 the tiler would get about tiling the bathroom. No-one
6 needs to be standing over his shoulder as he's doing that.
7
8 Q. Quite so. The position is that either Mr Wilson or
9 Mr Collins on his behalf may have paid some of the
10 tradesmen who were coming in and out and you wouldn't know
11 anything about it?
12 A. That's not possible because --
13
14 Q. Well, it is possible, isn't it?
15 A. Mr Stoljar, at the time of all of this, in 1995,
16 I took steps to satisfy myself that looking at the amount
17 of work that had been performed on my home, that I had paid
18 for it all. That I had documents, receipts, invoices that
19 showed that I'd paid for it all. At the time of this
20 interview in 1995, it is obviously during what was
21 a stressful period in my life, I had not fully satisfied
22 myself at the point of this interview. I took further
23 steps to fully satisfy myself.
24
25 Q. You took further steps by looking at further receipts;
26 is that right?
27 A. That's right, and looking around my home, looking at
28 what had been done and satisfying myself that I had paid
29 for what had been done.
30
31 Q. If payments are made in cash, it is entirely possible
32 that no receipt is issued, correct, as a matter of
33 practice?
34 A. That is not relevant. If you look around and you have
35 had painting done and you have a receipt for the amount of
36 moneys that you have paid the painter --
37
38 Q. Do you accept my proposition that, as a matter of
39 theory, if payments are made in cash, the recipient of the
40 cash payment may or may not issue a receipt?
41 A. Well, I don't think we're here to deal with matters of
42 theory, Mr Stoljar.
43
44 Q. We probably won't. That is right, isn't it?
45 A. I did not hear you, sorry?
46
47 Q. The person receiving the cash may well not issue

1 a receipt, that's right, isn't it?

2 A. I am sure that in our big wide world that there are
3 tradespeople who take cash and don't issue receipts. It
4 was my practice to pay by cheque.
5

6 Q. The position when you gave the interview to Mr Gordon
7 and Mr Shaw, as at that day, was that you were uncertain
8 whether you had paid for the work yourself; is that right?

9 A. That's right, and the interview records it.
10

11 Q. Mr Gordon asks you on page 150, at the top of the
12 page:

13
14 *... is it fair to say as a general summary*
15 *of that work that all of the work was paid*
16 *for by you?*
17

18 And you say:

19
20 *I believe all of the work was paid for by*
21 *me.*
22

23 And the words "I believe" suggest you weren't sure about
24 it; correct?

25 A. If you look across this interview, what you see is me
26 indicating that I believed that I paid for all of the work.
27 I couldn't see how it was possible that I hadn't paid for
28 all of the work. I say that I have been looking at my
29 records subsequent to the interview. I took more steps to
30 get all of my records in one place and to go through them
31 forensically and to satisfy myself that I paid for all of
32 the work.
33

34 Q. I know you are anxious to say that you checked your
35 records after the date of the interview. If we could just
36 focus on the interview for the moment. You say:

37
38 *I believe all of the work was paid for by*
39 *me. I was getting receipts, I was paying*
40 *it.*
41

42 And then if one comes to page 153, you are giving a long
43 answer, which I will not take you through, but towards the
44 bottom of that page you say:

45
46 *I will meet with Bob as soon as possible*
47 *for the purpose of clarifying that matter.*

1
2
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That is Mr Bob Smith, and you say:

... I believe that that must be the source of the rumour, that must be the factual construct behind what has become the rumour about, about the association or Bruce or the union ...

And then you say:

... I can't categorically rule out that something at my house didn't get paid for by the association or something at my house didn't get paid for by the union or whatever, I just, I don't feel confident saying I can categorically rule it out ...

This is work that was done --

MR CLELLAND: I wonder if the rest of that answer might be read to the witness, Commissioner.

MR STOLJAR: Certainly.

MR CLELLAND: At least down to the words "that I hadn't paid for".

MR STOLJAR: Q. Certainly. I will go right back to the beginning. You say:

... I believe that that must be the source of the rumour ... that must be the factual construct behind what has become the rumour about, about the association or Bruce or the union or whoever paying for work on my house and I don't obviously given I've been fairly surprised by events to date in relation to this matter, I can't categorically rule out that something at my house didn't get paid for by the association or something at my house didn't get paid for by the union or whatever, I just, I don't feel confident saying I can categorically rule it out, but I can't see how it's happened because that really is the only bit of work that that that I would

1 *identify that I hadn't paid for.*

2

3 So that was the position as at the date of interview?

4 A. Yes, and for completeness it goes on, the interview.

5

6 Q. Yes.

7

8 A. *And it seems, just looking at the receipts*
9 *and how much I borrowed and all the rest of*
10 *it that I basically paid full value for*
11 *everything else, so it doesn't seem to me*
12 *looking at the house and working through it*
13 *mentally that there is sort of thousands of*
14 *dollars of free unexplained work lying*
15 *around in the house. It seems to me that*
16 *I've paid you know relatively ordinary*
17 *funds for work to get done and you know I*
18 *just don't see where there could be big*
19 *money coming from any other source into the*
20 *renovations.*

21

22 Q. You are talking there about "big money".

23 A. And I am talking there at various points - I'd used
24 the phrase "big money" once, that's true, and then I talk
25 about I basically paid full value for everything else.

26

27 Q. I would like to come back to what is on page 153:

28

29 *... I can't categorically rule out that*
30 *something at my house didn't get paid for*
31 *by the association or something at my house*
32 *didn't get paid for by the union ...*

33

34 That is only - it is less than a year after the work was
35 done?

36 A. So this interview is in September 1995.

37

38 Q. Yes.

39 A. And the work was done in September/October/November
40 the year before, so that's right, less than a year.

41

42 Q. It's less than a year later, and you are unable to
43 rule out that at least some funds had come from the
44 Association or from the union?

45 A. Well, it had never been suggested to me or occurred to
46 me in any way before this time, in 1995, that anybody else
47 was contending they had paid for any part of the

1 renovations. It was just not controversial. I got
2 renovations done at my home and I paid for them. It became
3 controversial in 1995. I took steps to check. Some of
4 those steps are discussed in this interview. I took
5 further steps after it.

6

7 Q. The interview is 11 September. By that stage there
8 were rumours swirling around the firm about corrupt conduct
9 and the like; that's right?

10 A. During this time, of course, there were issues of
11 controversy within the firm, yes, absolutely.

12

13 Q. You heard the evidence of Justice Murphy yesterday,
14 I take it?

15 A. I have read the transcript of Justice Murphy's
16 transcript.

17

18 Q. You don't take issue with what he said about rumours
19 swirling around the firm about corrupt conduct?

20 A. No, I don't broadly take issue with it, no.

21

22 Q. Those matters were all coming out from about mid-July
23 onwards?

24 A. I'd say in August - I think Mr Murphy's evidence is
25 August and September, but obviously that can be checked.

26

27 Q. We don't need to check it. Mr --

28 A. But in and around this period of 1995, certainly.

29

30 Q. Yes, because Mr Wilson came to you first, did he not?

31 A. As is indicated in this interview, yes, that's right.
32 I received some instructions from Mr Wilson.

33

34 Q. And you declined to act for him?

35 A. I referred him to Mr Murphy. I thought that was the
36 appropriate course of conduct.

37

38 Q. Why did you regard that as the appropriate course of
39 conduct?

40 A. I thought, given the nature of what he was telling me,
41 that it was a more appropriate matter for Mr Murphy, given
42 our personal relationship.

43

44 Q. Did you regard yourself as in a position of conflict
45 between a duty that you might owe to him, personally, by
46 reason of his being your client in respect of the
47 Association and the duties that you owed to the AWU by

1 reason of they being Slater & Gordon's client?
2 A. You have made an assumption in that question,
3 Mr Stoljar, which isn't right. The instructions that
4 Mr Murphy provided me were about the Members' Welfare Fund
5 and it was having received those instructions that
6 I referred him to Mr Murphy.

7
8 Q. I think you said in that answer that Mr Murphy gave
9 you instructions. You meant Mr Wilson?

10 A. I meant Mr Wilson. Sorry, I misspoke.

11
12 Q. That may be so, that he gave you instructions about
13 the Members' Welfare account. But, in any event, he had
14 been your client in his personal capacity in respect of the
15 Association matter?

16 A. Yes, but in my mind at that time, receiving those
17 instructions, there was no connection between the two.

18
19 Q. I see. You say both in your evidence today and, for
20 that matter, in your interview, the record of interview at
21 page 153 going over to page 154, in particular looking at
22 the top of page 154:

23
24 *... I basically paid full value for*
25 *everything else, so it doesn't seem to me*
26 *looking at the house and working through it*
27 *... that there is ... thousands of dollars*
28 *of free unexplained work lying around in*
29 *the house.*

30
31 You had not got any quotes or anything like that, had you?

32 A. No, but what I was referring to at that time is what
33 I had paid for the various things that had been done.

34
35 Q. But you were not able to say with any precision what
36 the cost, or whether the amounts paid would cover the
37 actual cost of doing those works?

38 A. What I was able to estimate is, you know, what
39 renovations - looking at the renovations, looking at
40 receipts, looking at invoices, I knew what I had paid and
41 I was able to form a view about whether or not that was
42 a fair amount. If there was something that had been done
43 that no payment had ever been made for, that is what I was
44 looking for.

45
46 Q. You had no expertise or training or experience in
47 making estimates of that kind, did you?

1 A. No, I am not a quantity surveyor or anything like
2 that, Mr Stoljar.
3
4 Q. It was the first large building job you had done on
5 your house?
6 A. It was the first - well, I had Mr James around and
7 paid him on three occasions.
8
9 Q. Yes.
10 A. I had an idea of what woodwork and structural work and
11 glasswork cost. I'd had the kitchen done, I had
12 tradespeople around for that, so I had some idea about what
13 cupboards and their installation, and matters associated
14 with plumbing and the installing of a kitchen, cost.
15 I also had an understanding of how much all of this had
16 cost. I had extended my mortgage by \$20,000. I had
17 received a prepayment from Slater & Gordon. I obviously
18 had some funds from my salary that I'd amassed in savings.
19 You know, we have to remember the differences in money
20 between then and now. This is a house that I had bought
21 for \$152,000. So when you are talking about works at the
22 home well in excess of \$20,000, that is a lot to spend on
23 a renovation. So, across all of that, and checking
24 receipts, working it through, I could ascertain for myself
25 that work that had been done had been paid for.
26
27 Q. You have read the evidence of Mr Wilson in this
28 Commission?
29 A. Yes, I have.
30
31 Q. From reading that evidence, you know that even
32 Mr Wilson accepts he received various significant payments
33 of cash from the Workplace Reform Association?
34 A. I know Mr Wilson has given evidence about the
35 Workplace Reform Association, yes. Yes, I do.
36
37 Q. You know --
38 A. But not in this connection -- not in connection with
39 that.
40
41 Q. -- Mr Wilson's evidence is that he received - even
42 Mr Wilson's evidence is that he received various
43 significant payments in cash from the Workplace Reform
44 Association; is that right?
45 A. That is my understanding of his evidence. Not in
46 relation to the matters we are discussing now.
47

1 Q. For example, on 12 October 2003, he says he was handed
2 \$8,000 in cash which he used for a shop steward's
3 committee, do you remember that?
4 A. I have no knowledge of those things other than reading
5 the documents before this Commission.
6
7 Q. That's so. And then in November 2003, he says he
8 received \$8,000 in cash and he spent it on computers,
9 a printer, a fax machine and answering machine?
10 A. Once again, I have read the documents before this
11 Commission.
12
13 Q. Do you remember him buying that equipment?
14 A. No, I do not.
15
16 Q. Did you observe whether or not he purchased computers,
17 a printer, fax machine, an answering machine in November
18 2003? I'm sorry, in 1993.
19 A. I don't recall him purchasing office equipment then.
20 I am not able to assist you as to whether or not it
21 occurred, I don't know.
22
23 Q. Just for clarity, his evidence was that on 12 October
24 1993, he was handed \$8,000 for a shop steward's committee?
25 A. Once again the only thing I know about that is that it
26 is in the documents before this Commission.
27
28 Q. Mr Wilson also said he received \$5,000 from Mr Blewitt
29 and he used it for telephone bills, office supplies,
30 et cetera. You have seen that evidence?
31 A. Once again, all I know about that is it is in the
32 documents before this Commission.
33
34 Q. You were in a relationship with him at the time. Did
35 you notice whether or not during 1993 he had significant
36 amounts of cash on him?
37 A. I never saw Mr Wilson with significant amounts of
38 cash.
39
40 Q. Did you ever wonder whether Mr Wilson had some other
41 source of income that he was using?
42 A. There was nothing about his conduct which caused me to
43 wonder.
44
45 Q. Did Mr Wilson tell you that at a period in 1993 or,
46 I think, 1994, he became angry with Mr Blewitt because he
47 thought that Mr Blewitt had taken funds from the

1 Association's account?
2 A. No.
3
4 Q. Never mentioned that to you?
5 A. Never.
6
7 Q. You have given evidence about Mr James. You said that
8 he did work over a considerable period?
9 A. Yes, he did.
10
11 Q. You got on well with him?
12 A. Yes. I mean, he was there a lot, so I chatted to him,
13 yes.
14
15 Q. He was a careful person to your observation?
16 A. Well, he did the work well. I obviously would let him
17 in in the morning and go to work and leave him to it but he
18 did the work diligently and well.
19
20 Q. And he provided you with invoices and receipts and the
21 like?
22 A. Yes, he did.
23
24 Q. You told him on a number of occasions that Mr Wilson
25 was paying for the renovations?
26 A. That's completely untrue.
27
28 Q. Because Mr Wilson was in fact paying for the
29 renovations --
30 A. That's just not true, Mr Stoljar.
31
32 Q. -- that's right, isn't it?
33 A. Just not true.
34
35 Q. You also told Mr James that as Bruce brought you cash,
36 you would be in a position to pay his bill?
37 A. That's just not true.
38
39 Q. Mr Hem's evidence is that at a certain point he paid
40 a sum of \$5,000 into your account, you are aware of that?
41 A. I am aware that is Mr Hem's evidence.
42
43 Q. You have dealt with this publically before. Your
44 position, in a nutshell, is that you say you do not
45 remember the \$5,000 being paid into your bank account?
46 A. I've dealt with all of this publically before.
47 I don't remember the \$5,000 being paid into my bank

1 account. \$5,000 in those days was a lot of money.

2

3 Q. Yes.

4 A. I think I would remember it had it occurred. I have
5 taken every step possible to procure my bank records from
6 the time. I wish I was in a position, Mr Stoljar, to give
7 them to you today because I think that they would disprove
8 this assertion by Mr Hem. We are in the unfortunate
9 position that given the many years since, banks don't
10 retain records for that time.

11

12 Q. Can I just ask you about a different aspect of
13 Mr Hem's evidence. You deal with this in your third
14 witness statement. I am not sure whether you have it
15 there.

16 A. Yes, I do.

17

18 Q. It is page 4 of the bundle if that helps.

19 A. That is all right, I have my third witness statement.

20

21 Q. If you go to paragraph 5, you are dealing there with
22 a number of paragraphs of Mr Hem's statement. I can take
23 you to them if you like but, in a nutshell, his evidence in
24 those paragraphs was to the effect that he went
25 with - I think it was Mr Telikostoglou to the Abbotsford
26 house and he observed Mr Telikostoglou handing over an
27 envelope of cash to people working at the house, and your
28 response to that is:

29

30 *To the best of my recollection, the*
31 *painting at my home in Abbotsford was*
32 *undertaken earlier than mid-1995.*

33

34 Pausing there, you say it was done in late '94, is that
35 right, September, October, Novemberish?

36 A. Yes, that's right.

37

38 Q. And you say:

39

40 *I have no reason to believe that payment*
41 *for any section of it ...*

42

43 That is the painting:

44

45 *... was made by any other person than me.*
46 *I have no knowledge of Bill ...*

47

1 That is Mr Telikostoglou.

2

3 *... attending my property and purportedly*
4 *paying one or more of the tradespeople as*
5 *described in the statement.*

6

7 You don't deny what is in Mr Hem's statement, do you?

8 A. Mr Stoljar, I am not in a position to give eyewitness
9 evidence about an event that I wasn't at, but I can say
10 this: in accordance with our earlier discussion, I checked
11 my expenditure in relation to my renovations and satisfied
12 myself that I paid for it in full. I can also say in
13 relation to Mr Hem's statement that he does not accurately
14 describe the home in which I lived, and I can also say in
15 relation to Mr Hem's statement that he records a series of
16 tradespeople being there together doing jobs and those jobs
17 were done at separate times; that is, that there was no
18 time when that combination of tradespeople was at work in
19 the home.

20

21 Q. But what you say is:

22

23 *I have no reason to believe that payment*
24 *for any section of it was made by any other*
25 *person than me.*

26

27 I am just trying to understand that a bit better. You mean
28 you have no reason to believe, as you sit here today, that
29 "payment for any section of it was made by any other person
30 other than me, and I have no knowledge of Bill attending my
31 property". You accept then, do you, that it is
32 a possibility that Mr Telikostoglou or Mr Collins may have
33 arranged for some painters on behalf of Mr Wilson to come
34 to the Abbotsford property?

35 A. No, I don't.

36

37 Q. And may have paid them directly for work that they
38 carried out on that property?

39 A. No, because that would have become apparent to me when
40 I looked through the payments that I made for the work,
41 that there was painting that was done that I hadn't paid
42 for. I would also have thought that Mr Hem would be in
43 a position to correctly describe the property. I would
44 also have thought Mr Hem would be in a position to
45 correctly describe the tradespeople who were at the
46 property when he said he visited. Given Mr Hem is not in
47 either of those positions, he has the nature of the

1 property wrong, the layout of it wrong, he has the
2 combination of tradespeople wrong, and I checked that
3 I paid for the work, no, I don't think it is possible.
4

5 Q. How do you know he has the combination or the number
6 of tradespeople wrong?

7 A. Because in his statement he talks about who is doing
8 what at the home, and those functions were done at
9 different points.
10

11 Q. You don't say that in your statement that he has the
12 tradespeople wrong?

13 A. No. We have put it in the statement:
14

15 *To the best of my recollection, the*
16 *painting at my home in Abbotsford was*
17 *undertaken earlier than mid-1995.*
18

19 That is the reference.
20

21 Q. You are familiar, I take it, with the evidence
22 Mr Blewitt gave to this Commission?

23 A. Yes, I am.
24

25 Q. Mr Blewitt gave evidence in May of this year to the
26 effect that he had gone to the Abbotsford house and he
27 handed some money to Mr Wilson who then handed it to some
28 tradesmen. He was clear in his evidence that you were not
29 present at the time that the money was handed over. He
30 said only Mr Wilson did that. It is possible that that
31 could have been some of the workmen that Mr Collins or
32 Mr Wilson organised, do you accept that?

33 A. I have read Mr Blewitt's evidence. Once again I am
34 not in a position to give eyewitness evidence of an
35 event - an alleged event, I should have been saying
36 "alleged" all along. I am not in a position to give
37 evidence about an alleged event I wasn't present at but
38 I can say two things.
39

40 Q. Yes.

41 A. Number one: I checked my receipts and expenditures and
42 satisfied myself that I had paid for all of the work at my
43 Abbotsford property. Number two: the circumstances that
44 Mr Blewitt describes are inherently improbable. I worked
45 full-time. I worked hard as a lawyer at Slater & Gordon.
46 Mr Wilson worked full-time. He worked hard as a union
47 official. There would not have been times that we were

1 sitting at my home while tradespeople were working.
2 Tradespeople would have been working during the week when
3 I was at work and so was Mr Wilson.
4

5 Q. Can we come to a period a bit earlier than the time of
6 the exit interview. I asked you a bit about this before.
7 In around about July or perhaps early August 1995,
8 Mr Wilson came to you and gave you some instructions about
9 the Members' Welfare account and then you handed that over
10 to Mr Murphy. When did you discover what had been
11 happening with the Workplace Reform Association?
12

13 DR HANSCOMBE: I object to that question. It is entirely
14 clear what is meant by "What had been happening with the
15 Workplace Reform Association".
16

17 MR STOLJAR: I will not debate it, Commissioner.
18

19 Q. When did you first discuss, in the period after
20 Mr Wilson had come to give you initial instructions,
21 whether with Mr Wilson or anyone else, the topic of the
22 Workplace Reform Association?

23 A. My answer to that - and I do feel I need to be a bit
24 careful here. I referred, as my statement from 1995
25 records, Mr Wilson to Mr Murphy. Mr Murphy subsequent to
26 that event spoke to me about matters Mr Wilson had given
27 him instructions on. It is my understanding, and given we
28 are in a roomful of lawyers, I will defer to others, but it
29 is my understanding that there is some contest around the
30 privilege associated with those matters, and I don't want
31 to make an error about them.
32

33 THE COMMISSIONER: I don't think there is any contest
34 about the privilege. It is just a question of avoiding
35 infringing it.
36

37 THE WITNESS: Yes, certainly.
38

39 MR STOLJAR: Q. I am not asking you about the Members'
40 Welfare account. I am asking you about the association.
41 Perhaps I will come at it this way. You have agreed with
42 me that rumours were swirling in August/September 1995 in
43 Slater & Gordon about the possibility of corrupt conduct?

44 A. There were rumours swirling at Slater & Gordon, yes,
45 and in some sections of the trade union movement.
46

47 Q. In part that related to the corrupt use of moneys in

1 connection with the acquisition of the property at
2 Kerr Street?

3 A. I wouldn't necessarily say that, no. I think the
4 first wave of rumours were really around the Members'
5 Welfare account. There were some rumours about renovations
6 at my home, and that all stemmed from Mr Spyridis going to
7 the AWU looking for payment, and I deal with that in my
8 statement and in the interview in 1995. There was, you
9 know, general publicity. There were articles in the
10 newspaper about police being involved. A little bit later
11 on a Victorian State Parliamentarian got involved. So,
12 yes, I mean all of these things were sort of swirling
13 around. To the specific, you know, issues about
14 Kerr Street and the Workplace Reform Association, I am not
15 really in a position to go to that without perhaps
16 troubling people on privilege questions.

17

18 Q. If you come to page 145 of the interview --

19 A. Page 145 of the interview, yes.

20

21 Q. That is tab 3. You were asked:

22

23 *During the course of 1993 and 1994 were you*
24 *aware of any transactions relating to the*
25 *Western Australian account, the Workplace*
26 *Reform Association's account?*

27

28 You say:

29

30 *No I was not.*

31

32 You were asked:

33

34 *PG: Were you aware of any donations being*
35 *made to it?*

36

37 *JG: No I wasn't.*

38

39 *PG: Were you aware of any payments being*
40 *made to Slater & Gordon from that account?*

41

42 *JG: No I wasn't.*

43

44 *PG: Is it your belief today that any*
45 *monies have been paid to Slater & Gordon*
46 *from out of that account for any purpose at*
47 *all?*

1
2 *JG: Not that I know of. I'm not aware of*
3 *any monies being paid to Slater & Gordon*
4 *from that account.*
5

6 So clearly by this stage, 11 September 1995, the Workplace
7 Reform Association was on the table as a matter for
8 discussion?

9 A. Yes, I agree with that.

10
11 Q. There was a concern as to whether payments had been
12 made to Slater & Gordon from an account associated with the
13 Workplace Reform Association?

14 A. Clearly Mr Shaw and Mr Gordon thought it was
15 a relevant topic for the asking of questions, yes.
16

17 Q. Presumably that payment of money was the \$67,000-odd
18 that I took you to a bit earlier on in the examination, the
19 cheque drawn on the account that found its way into
20 Slater & Gordon's trust account?

21
22 MR CLELLAND: With respect, I don't think Ms Gillard can
23 answer that, Commissioner.
24

25 MR STOLJAR: It is a matter for Ms Gillard to indicate
26 whether she can or she cannot.
27

28 THE COMMISSIONER: Q. Are you able to answer it,
29 Ms Gillard?

30 A. No, I am not. The sequence of events here is
31 instructions are given to Bernard Murphy. Mr Murphy or
32 Justice Murphy yesterday gave as much evidence as he could,
33 without intruding on privilege matters, about then
34 declining to further act for Mr Wilson or the AWU, and the
35 partnership then making some inquiries about all of this.
36 I am really not in a position to take it any further than
37 that.
38

39 MR STOLJAR: Q. When Mr Wilson first approached you
40 about this matter, was he talking to you in the context of
41 his relationship with you? Was he seeking out your legal
42 advice?

43 A. When Mr Wilson came to discuss with me the Members'
44 Welfare account, he came to Slater & Gordon. He was
45 raising it with me in my capacity as a solicitor. I felt
46 uncomfortable about acting on the matter; I referred it to
47 Mr Murphy.

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Q. Yes. That is the Members' Welfare account. What I want to ask you about is the Workplace Reform Association which is what is being dealt with on page 145. Clearly you had, by 11 September 1995, found out more about the Workplace Reform Association?

A. Well, I hadn't in the sense that when Mr Wilson came in to give me instructions about the Members' Welfare account - the only account of concern under discussion at that time was the Members' Welfare account, I referred the matter to Mr Murphy. Mr Murphy took more comprehensive instructions. Subsequent to that obviously the partnership then took a series of steps, and one of those steps was the discussion with me, and the record of it is before you.

Q. Did you give consideration to alerting the AWU to the fact that moneys had been travelling in or out of the Workplace Reform Association's account?

A. For my state of knowledge and for what I was doing, I was not the partner - well, either of the partners, any of the partners. I was not amongst the partners who were making inquiries about this matter.

Q. Did you raise it with Mr Wilson just in your personal capacity to say, "What on earth is going on?"

A. Subsequent to these events I had a discussion with Mr Wilson where he was evasive and I formed the view that I had not been fully in the picture about the nature of his conduct, and I took steps to end our relationship.

Q. That had already occurred, that conversation, I take it, by the time of the interview?

A. Yes, that's right. And I think it is referred to in the interview at the end.

Q. I asked you some questions about your involvement in incorporated associations with any other unions. You are familiar with Ms Darveniza?

A. Yes, I know Ms Darveniza.

Q. From the HSU?

A. She is in Victorian Parliament.

Q. Yes. Back in the period from 1989, she was the Secretary of the No. 2 Branch of the HSU?

A. Yes, she was.

1 Q. Slater & Gordon commenced doing work for the No. 2
2 Branch?

3 A. Yes, we did.
4

5 Q. It did that work through you?

6 A. Some through me. Not exclusively through me.
7

8 Q. Did you have a meeting with Ms Darveniza and
9 Mr Elliott at their home in Melbourne at which you
10 discussed the possibility of setting up an incorporated
11 association?

12 A. No.
13

14 Q. Before you answer that, back in the early 1990s?

15 A. Obviously I was in a position to watch the evidence
16 given this morning. No, I did not have such a meeting with
17 them.
18

19 Q. I am not asking whether you set it up. I am asking
20 whether you questioned Ms Darveniza in particular as to
21 whether she would be interested in establishing such
22 a fund?

23 A. No, I did not.
24

25 Q. Mr Elliott, as you will know from the evidence this
26 morning, in 2012 made a statement. This morning he said
27 that the statement was incorrect. I am just putting you in
28 the picture about what his evidence was, but can I ask you
29 this: was there a reform group operating in the HSU in the
30 late 1980s involving Ms Darveniza and Mr Elliott?

31 A. Yes, there was.
32

33 Q. Did you give both legal advice and political counsel
34 to that reform group from time to time?

35 A. I was supportive - at that point it was Kaye Williams.
36 She has subsequently reverted to her maiden name which is
37 Darveniza. I was supportive of Kaye Williams and
38 Mr Elliott's campaign in the HSU. I didn't give them any
39 advice about incorporating an association but, yes, I was
40 politically supportive of their campaign.
41

42 Q. What Mr Elliott said in his statement was that:
43

44 *It was generally understood that success*
45 *for Ms Gillard's allies in union elections*
46 *was of benefit to Ms Gillard's political*
47 *career and, in turn, Ms Gillard's*

1 *advancement would benefit those unions (and*
2 *the union movement generally).*

3
4 Is that a fair statement?

5 A. Well, I would say I had a view that Ms Williams would
6 be a competent union official. As it was, you know, these
7 events you are taking me to, I think, 89-90, is that right?

8
9 Q. The date is a little uncertain but it is '89 at the
10 earliest and probably in the early 1990s as I understood
11 the evidence this morning.

12 A. Yes. As you may well be able to research about my
13 political career, it took me until the 1998 election to be
14 successful in preselected and elected.

15
16 Q. I will just put this to you for your comment,
17 Ms Gillard, you can tell me whether you agree with it or
18 not. He says in 56 of his statement:

19
20 *Such was the closeness of the political*
21 *relationship that Ms Gillard felt able, on*
22 *one occasion, to offer, at a meeting of me,*
23 *her and another senior HSU official ...*

24
25 I will ask you to assume that is Ms Darveniza:

26
27 *... to undertake the legal work*
28 *to establish a fundraising entity, outside*
29 *of the union, to raise funds for the*
30 *re-election in the HSU of the officers of*
31 *that entity but established for the*
32 *ostensible purpose of promoting*
33 *occupational health and safety in the*
34 *health industry.*

35
36 Is that a correct statement?

37 A. No. As in the event referred to did not happen.

38
39 Q. And he says in paragraph 57:

40
41 *This offer was not taken up by me or others*
42 *on the basis that it seemed an exotic and*
43 *suspect arrangement particularly since the*
44 *promotion of workplace health and safety*
45 *was the proper preserve of the union*
46 *itself.*

1 Did Mr Elliott or Ms Darveniza ever say anything to you to
2 that effect?

3 A. No.

4

5 MR STOLJAR: Excuse me just one moment, Commissioner.
6 Nothing further. Thank you, Commissioner.

7

8 THE COMMISSIONER: Yes. Mr Galbally, do you have any
9 questions?

10

11 MR GALBALLY: I do, Commissioner.

12

13 THE COMMISSIONER: Can I just make this prefatory
14 statement. These questions ought to satisfy two
15 conditions. One is that they relate to some respect in
16 which Ms Gillard's evidence impacts on Mr Blewitt's
17 position. The other condition is that the questioning not
18 re-traverse ground which Mr Stoljar has traversed. In
19 other words, if you have a different angle on old ground,
20 that is one thing. If you are just trying to do it better
21 than Mr Stoljar, that is another thing.

22

23 MR GALBALLY: I will not be trying to do it better than
24 Mr Stoljar. He has canvassed many of the issues that
25 I would have otherwise embarked upon.

26

27 THE COMMISSIONER: Why don't we start and see how we go.

28

29 MR GALBALLY: Thank you.

30

31 THE COMMISSIONER: Are you content with that?

32

33 MR CLELLAND: Thank you, Commissioner, yes.

34

35 **<EXAMINATION BY MR GALBALLY:**

36

37 MR GALBALLY: Q. Ms Gillard, Bob Galbally is my name and
38 I represent Ralph Blewitt. You have had the opportunity of
39 reading the transcript of Mr Blewitt's evidence --

40 A. Yes, I have.

41

42 Q. -- given back in May?

43 A. Yes, I have.

44

45 Q. I think I heard you say recently that you also have
46 read the transcript of the evidence given by Mr Wilson?

47 A. Yes, I have. I don't have it in front of me but

1 I have read it.
2
3 Q. Do you understand that their evidence is essentially
4 at odds with each other?
5 A. Yes, I understand that.
6
7 Q. That your evidence might be relevant to deciding where
8 the facts lie and who should be believed?
9
10 THE COMMISSIONER: I am not sure that using Ms Gillard as
11 a witness of someone else's credit is really an appropriate
12 use of the process we are engaged on. Maybe I should not
13 interrupt and let Mr Clelland interrupt --
14
15 MR GALBALLY: Thank you, Commissioner --
16
17 THE COMMISSIONER: -- if he wishes to.
18
19 MR GALBALLY: -- I am happy with that.
20
21 Q. I wanted to ask you some questions about your history.
22 I am not going to duplicate the evidence that you have
23 already given, but in the 1980s, you were firstly a law
24 student and then you became admitted to practice?
25 A. Yes, that's correct.
26
27 Q. You joined Slater & Gordon in 1988?
28 A. I think it was 1987.
29
30 THE COMMISSIONER: We have been through all this.
31
32 MR GALBALLY: Q. Prior to you joining Slater & Gordon,
33 had you been involved in formulating objects or purposes of
34 other unincorporated associations?
35
36 MR CLELLAND: This was the subject of questioning by
37 Mr Stoljar this morning, Commissioner.
38
39 THE COMMISSIONER: I think that is true.
40
41 MR GALBALLY: Briefly, this witness gave --
42
43 THE COMMISSIONER: Do you have a specific question?
44
45 MR GALBALLY: I have.
46
47 THE COMMISSIONER: Right.

1
2 MR GALBALLY: Q. You mentioned this morning the Socialist
3 Forum?
4 A. Yes, I did, and it is mentioned in the documents.
5
6 Q. Did you do work in relation to that in the mid-1980s?
7 A. I am just thinking about when the time would have
8 been. Yes, it would have been the mid-1980s, that's
9 correct.
10
11 Q. Were you on the committee of management?
12 A. Yes, I was.
13
14 Q. Did the committee of management decide to incorporate?
15 A. Yes. There was a decision to - it is going back
16 a long time, but the Socialist Forum decided to
17 incorporate.
18
19 Q. You don't have to go through the history of it.
20 A. No, no, I assisted with that work, as did Mr Lang.
21
22 Q. You wrote a small paper explaining the benefits of
23 incorporation?
24 A. I didn't recall that. I understand it is floating
25 around the internet somewhere now.
26
27 Q. We can probably cut this short. Apart from working on
28 the objects of the Socialist Forum, did you have other
29 experience in relation to rules of unincorporated
30 associations?
31 A. Incorporated or unincorporated?
32
33 Q. Unincorporated.
34 A. I'd had experience drafting rules. I mean Mr Lang and
35 I - predominantly Mr Lang - worked on the rules for
36 Emily's List, a Labor Women's organisation. One of the
37 tasks I undertook when I first came to Slater & Gordon and
38 still was doing commercial work was drafting rules
39 for - actually, it was insurance - a company.
40
41 Q. All right.
42 A. So I had experience drafting rules.
43
44 Q. So when it came to 1991 and Mr Wilson asked you to
45 assist in having the Workplace Reform Association
46 registered, you had had experience in that area?
47 A. As I indicated in response to Mr Stoljar's questions,

1 I had been involved in two incorporations as discussed, so
2 that is the experience.
3
4 Q. You knew the difference between an unincorporated
5 association and, for example, an election fund?
6
7 MR CLELLAND: Commissioner, that is --
8
9 THE COMMISSIONER: Yes. That has been --
10
11 MR CLELLAND: -- Practice Direction 1.
12
13 DR HANSCOMBE: I support that objection.
14
15 MR GALBALLY: I will move on.
16
17 Q. Ms Gillard, you met Mr Wilson in 1991?
18 A. Yes, I did.
19
20 Q. He, to your knowledge, had recently been elected as
21 Secretary of the Western Australian Branch?
22 A. Not at the time that I met Mr Wilson, no. He was not
23 Secretary of the Western Australia Branch at that time.
24
25 Q. Did he tell you that he had formed an election fund
26 called the New Leadership Fund or New Leadership Group?
27 A. No, he did not.
28
29 Q. You have never heard that description?
30 A. No, I haven't heard that description.
31
32 Q. Was it in August of 1991 that you commenced doing some
33 legal work for the Australian Workers Union?
34 A. It was in 1991, yes. I met Mr Wilson I think in April
35 and later in 1991 started performing some legal work.
36
37 Q. Do you recall writing a letter in August of 1991 to
38 the Western Australian Branch about their rules,
39 a four-page letter, is that familiar to you?
40 A. I don't recall it, no.
41
42 Q. That hasn't been brought to your attention?
43 A. No, it has not.
44
45 Q. When you met him, or after you met him, he became the
46 Secretary of the Western Australian Branch?
47 A. Yes. At a later point, that's right.

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Q. There was a possibility, wasn't there, that at some stage in the future he could be appointed General Secretary of the Australian Workers Union?

A. No. By the time I met Mr Wilson, he had run unsuccessfully for the position of - it is either National President or National Secretary. He had run on a ticket with Mr Ludwig and one of them had succeeded and one of them had failed.

Q. When he sought your assistance to register the association, the Workplace Reform Association, you knew there had been a failed attempt to do that?

DR HANSCOMBE: I object to that question. The witness has repeatedly said that both Mr Wilson and Mr Blewitt were giving her instructions. He has now put twice that only Mr Wilson was giving the instructions. In my submission, it is important to get these things right.

MR GALBALLY: Perhaps we can clarify.

THE COMMISSIONER: What you say is correct but Mr Galbally is entitled to seek to get the witness to change her evidence. It may not be easy, but he is entitled to try.

DR HANSCOMBE: If the Commission please.

MR GALBALLY: Q. The first instructions you received to attempt to register the Workplace Reform Association was given to you by whom?

A. As I gave evidence earlier today, I received instructions from Mr Wilson and Mr Blewitt.

Q. Both together?

A. As I gave evidence earlier today - I don't precisely recall each conversation, but I do have a general recollection Mr Blewitt and Mr Wilson gave me instructions to assist with the incorporation.

Q. Do you agree that the rules and the application pre-suppose that there is a loose group of people already in existence as an association?

A. Well, as I gave evidence earlier today, there was a group of people who had come together to take over the - by way of appointment. The former Secretary of the Western Australian Branch had resigned, Mr Wilson had filled his

1 spot and had a team that had come in with him and that they
2 were a combination, a team.

3
4 Q. You were acting as a lawyer in this task?

5 A. Yes.

6
7 Q. Did you ask who the five members were?

8 A. No. I've given that evidence earlier today. I would
9 have advised them about the minimum membership
10 requirements.

11
12 THE COMMISSIONER: Mr Galbally, we are retracing almost
13 word-for-word evidence given this morning. Again you may
14 like to try and get the witness to change her evidence, but
15 it is trespassing on well-trodden ground.

16
17 MR GALBALLY: Q. Ms Gillard, you did not open a file in
18 relation to this matter?

19
20 THE COMMISSIONER: Been there too.

21
22 MR GALBALLY: Q. Is it so that the legal work you
23 undertook in relation to this Workplace Reform Association
24 took something like three or four months?

25 A. Well, the timing is in the documents, but in terms of
26 the personal labours by me, I was asked a question about
27 that by Mr Stoljar and said it was in the order of three,
28 four, five hours' work.

29
30 Q. Were you asked to undertake this task in early 1991,
31 around about January or February?

32 A. I have given my best recollection as to the timing
33 already.

34
35 Q. You were a Victorian lawyer?

36 A. Yes.

37
38 Q. And you were asked to do work in Western Australia?

39 A. Work under Western Australian law.

40
41 Q. Yes. Did you study the Western Australian
42 legislation?

43
44 THE COMMISSIONER: Mr Galbally, I will really ask you to
45 concentrate on the matter in hand. No doubt this witness
46 is very well capable of looking after herself, but she has
47 been in the box a long time. It is a very tiring place to

1 be. We have Mr Clelland yet to extract evidence from his
2 own client if he wants to; Dr Hanscombe may well wish to
3 ask some questions. The Commission has a very full day
4 tomorrow. No doubt the witness has a very full day
5 tomorrow. It is simply not possible for us to either sit
6 very late tonight or start early tomorrow. We have to
7 concentrate on new material or a new insight on old
8 material.

9
10 MR GALBALLY: Thank you, Commissioner.

11
12 Q. At the time you undertook the preparation of the power
13 of attorney, had you had any expertise in the preparation
14 of a power of attorney?

15 A. At Slater & Gordon at this time - obviously life would
16 be different now, but at Slater & Gordon at this time there
17 were precedent folders and you would dictate the variables.
18 So there would be a power of attorney precedent. Variable
19 one would be the name, you would dictate that, and the tape
20 would be taken to word-processing and the document
21 generated.

22
23 Q. Do you recall who asked you to prepare this power of
24 attorney?

25 A. As I have referred to in, I think, the 1995 interview,
26 it arose out of discussions about Mr Blewitt wanting to buy
27 an investment property, the decision narrowing down to
28 bidding on the Kerr Street property, and Mr Blewitt not
29 being personally able to be there to do that bidding.

30
31 Q. You opened a file within days, did you not, of the
32 auction at Kerr Street?

33 A. A conveyancing file?

34
35 Q. Yes.

36 A. No, I did not.

37
38 Q. You instructed someone else to do that?

39 A. I had never operated a conveyancing file. I would
40 have referred Mr Blewitt as a client to the conveyancing
41 section of Slater & Gordon, and they would have opened the
42 file.

43
44 Q. It wasn't your responsibility to obtain instructions
45 from Mr Blewitt about settlement periods?

46 A. Most certainly not.

47

1 Q. Where funds came from, et cetera?
2 A. Most certainly not.
3
4 Q. In 1995 when you were asked questions by Mr Shaw and
5 Mr Gordon, they asked you the questions - and I am not
6 going to go over them - about receipts and invoices and so
7 forth. It is later that year, is it not, around
8 November/December that this issue was raised in State
9 Parliament?
10 A. It was later in the year. I couldn't give you precise
11 dates, but the Hansard obviously can be recovered from
12 that.
13
14 Q. Did you think it prudent at that point in time to
15 cobble together all of the paperwork you had in order to
16 meet any allegations that were made about this in the
17 future?
18
19 MR CLELLAND: We renew the objection or persist with it,
20 Commissioner. We didn't object on the power of attorney.
21 We understand there is a difference between Mr Blewitt and
22 Ms Gillard's evidence, but, on this point, in our
23 submission, this is not in issue between Mr Blewitt and
24 Ms Gillard.
25
26 THE COMMISSIONER: Just give me a moment. I think there
27 is some force in that objection.
28
29 MR GALBALLY: I think there is, Commissioner, yes.
30
31 Q. Ms Gillard, I suggest to you that your association
32 with Mr Wilson in the early 1990s has led to your judgment
33 being clouded about matters of ethics and running files?
34 A. Completely untrue.
35
36 MR CLELLAND: I object to the question.
37
38 THE COMMISSIONER: It is very vague.
39
40 Q. Have you answered that question, Ms Gillard?
41 A. I said it is completely untrue.
42
43 MR GALBALLY: They are the questions I have for this
44 witness.
45
46 THE COMMISSIONER: Very well. Dr Hanscombe?
47

1 DR HANSCOMBE: I have no questions.
2
3 THE COMMISSIONER: Mr Clelland?
4
5 MR CLELLAND: Nothing, sir. Thank you.
6
7 THE COMMISSIONER: Mr Stoljar?
8
9 MR STOLJAR: I have nothing further. Thank you,
10 Commissioner.
11
12 THE COMMISSIONER: No objection to Ms Gillard being
13 excused?
14
15 MR STOLJAR: No, Commissioner.
16
17 THE COMMISSIONER: Ms Gillard, you are excused from
18 further attendance. Thank you very much for coming along
19 today to answer all these questions.
20
21 THE WITNESS: Thank you.
22
23 <THE WITNESS WITHDREW
24
25 THE COMMISSIONER: Is there any other witness we need to
26 do this afternoon?
27
28 MR STOLJAR: No, Commissioner.
29
30 THE COMMISSIONER: So we will adjourn until 10 tomorrow
31 morning?
32
33 MR STOLJAR: Yes.
34
35 THE COMMISSIONER: The hearing will resume at 10.00am
36 tomorrow.
37
38 **AT 3.35PM THE COMMISSION ADJOURNED UNTIL THURSDAY,**
39 **11 SEPTEMBER 2014, AT 10.00AM**
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