

**BETWEEN            NEIL WELLS**

**Plaintiff**

**AND                GRACE HADEN**

**Defendant**

Hearing Commenced:    13 March 2008  
Appearances:            N Wright for the Plaintiff  
                                 Defendant in person

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**NOTES OF EVIDENCE TAKEN BEFORE JUDGE RODERICK JOYCE QC**

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**MR WRIGHT OPENS AND CALLS**

**NEIL EDWARD WELLS (SWORN)**

Q.    Mr Wells you've sworn two affidavits that have been filed in relation to these proceedings, is that correct?

10    A.    That's correct.

Q.    Can you confirm for the Court –

**THE COURT:**

Well first of all to get it on the record Mr Wright, could we do the usual and get Mr Wells full name and occupation and so on.

15

**MR WRIGHT:**

Yes Sir. I didn't think that was necessary as the full name's on the affidavits themselves.

**THE COURT:**

It is always necessary.

**EXAMINATION CONTINUES: MR WRIGHT**

Q. Do you confirm your full name is Neil Edward Wells.

5 A. I do.

Q. You've sworn two affidavits that have been filed in relation to these proceedings?

A. That's correct.

Q. You affirm the contents of those affidavits?

10 **THE COURT:**

Give us the dates please, so we know which of the affidavits it is we're talking about.

**EXAMINATION CONTINUES: MR WRIGHT**

Q. Mr Wells?

15 A. It's the 10<sup>th</sup> of December. I don't have the other one in front of me Your Honour, if I may refresh my memory. That's the supplementary one?

**THE COURT:**

The 24<sup>th</sup> of January is that the one Mr Wells.

20 **THE WITNESS:**

Yes that would be the one Your Honour.

**EXAMINATION CONTINUES: MR WRIGHT**

Q. Are you also familiar with the Statement of Claim that was filed in relation to this matter?

25 A. Yes I am.

Q. Can you confirm the correctness of the matters stated in the statement of claim and to the extent that they were within your knowledge?

A. Yes I do.

Q. Just a few preliminary questions Mrs Wells. I note from the deed of trust that's been produced in the affidavit, Mrs Haden for your Trust that provision is made for professional trustees to be paid by the Trust for their professional services?

A. Yes that's correct.

5 Q. How much have you been paid by the Trust during your period acting with it?

A. I've received no payments for professional services.

Q. Could you describe for the Court the Trust's bank accounts and what is in them?

10 A. Yes, there are three accounts. One is a term deposit which has \$90,000 in it, which is specifically the Lord Dowding Fund. The Lord Dowding Fund was a sum that was passed over to AWINZ by the New Zealand Fund for Humane Research, and when that Trust wound itself up it handed the funds over to AWINZ to administer under the terms of the Lord Dowding Fund. That's \$90,000 and that's in a fixed deposit. The current account has \$12,000  
15 currently in it, and there is a third account, which is the Waitakere Animal Welfare Fund, which has approximately \$3,000 in it.

Q. Now obviously I don't want specifics in relation to this point, but can you broadly describe over the life of the Trust what's gone in and out of the accounts?

20 A. If I can take the Waitakere Animal Welfare Fund account first. That is made up of small donations that have been made by Waitakere residents specifically for animal welfare activities in Waitakere city. The only other activity in the main account has been income from movie companies for providing monitors on movies. That's been quite spasmodic because it's not a continuing source of  
25 income.

Q. And outgoings?

A. The outgoings mainly would be to pay the movie monitors who are employed to go onto the movie sets to independently monitor animal action.

Q. Have there been any grants made by AWINZ?

30 A. Yes there have. From the Lord Dowding fund \$10,000 was granted to UNITEC to carry out a research project, that was about two years ago and recently approximately \$5,000 was paid to UNITEC for a further project in research and teaching.

Q. Some issue is raised by Mrs Haden in her affidavit regarding the decision made by the Trust to not register under the Charitable Trust Act. Can you just briefly explain to the Court why that decision was made?

A. Yes Your Honour over a period 1998 to the end of 1999 there were two Bills before Parliament, the Animal Welfare Bill Number One, which I was largely responsible for drafting and the Animal Welfare Bill Number Two, which was a Government measure. When it came before the Select Committee, the committee merged those two Bills together and took submissions from the public on the two Bills as though they were one. Part of that process was to establish a regime for approved organisations. Up until that time the Waitakere Animal Welfare Project had been run on an informal basis by an agreement between the Ministry of Agriculture and Forestry and Waitakere City, but the clauses in the Bill that were being considered by the Select Committee in '98 and '99 made a new provision for an approved organisation and criteria for approved organisations were laid down in the Bill. One of the criteria was that an approved organisation must have animal welfare as its principal purpose. It was plainly obvious at that point that territorial authorities would not qualify to be approved organisations, because although they may have animal welfare as part of their operation, animal welfare is not the principal purpose for setting up a territorial authority. So in discussions with MAF officials, particularly in the Bio-security authority, we proposed to form an intermediary organisation, namely the Animal Welfare Institute of New Zealand, which would become an approved organisation and then would link territorial authorities into that to enable them to continue to operate as animal welfare inspectors. Now the wording of the Bill, as all Bills, they take a course of action with submissions and counter submissions and it was a very fluid process, and it wasn't until the final Bill was before the Select Committee, and incidentally I was an independent specialist advisor of the Select Committee, so I was privy to the discussions that were going on inside the Select Committee. It wasn't until the final stages that the criteria for approved organisations were determined, and the term organisation was the final word used, but even then, even when the Bill was passed at the end of 1999 and came into effect on the 1<sup>st</sup> of January the year 2000, AWINZ then had to go through a robust application process before the Minister would approve it as an

approved organisation. There was vigorous communication between me and MAF Policy Analysts, one of whom took the view that organisation meant Body Corporate, so there was a process where there was discussion as to whether the Animal Welfare Institute of New Zealand would be registered as a Body Corporate under the Charitable Trusts Act. The process got quite bogged down in the year 2000 because we seemed to be at logjams with MAF Policy Analysts on the one hand, but there was some anxiety in the MAF Bio-security that the whole business be dealt with and the approvals go through. And finally, to sort of break the deadlock, I arranged a meeting with the Director General of Agriculture, Professor Ross, the Associate Director General, who was their Legal Counsel, Larry Fergusson, Barry O'Neil who was another Assistant Director General the Group Director of Bio-security Authority. At that meeting it was resolved that the questions be raised about Body Corporate or organisations was put to one side and the Director General told the other two Assistant Director Generals to get on with it. There is no need for evidence of incorporation, the Act used the word organisation, and from that point on we proceeded to negotiate memorandum of understanding and technical and performance criteria which were required under the Act, and at the end of that year, after that robust protest, the Minister of Agriculture approved AWINZ as an approved organisation. Now all the way through this, of course was the need for documentation, and during that process I had indicated to MAF that AWINZ would be registered under the Charitable Trusts Act. That was at the stage where MAF Policy was saying that was a requirement, but finally when it was decided that was not a criteria, then the process of registering a voluntary registration of the Charitable Trusts Act was put to one side and all the focus then was placed on getting the organisation operational, and more particularly to get the Waitakere City Council officers warranted under the new Act. While that process was going on for the year of 2000 their appointments were null and void.

- Q. After that point you would have had the option as trustees of registering under the Charitable Trusts Act, after AWINZ had been approved as an approved organisation. Why didn't you do that?
- A. As time moved on the Government indicated new policy concerning charities, which was the Charities Bill at that stage and it appeared that even that Bill

was not going to require a charity to be a Body Corporate registered under the Charitable Trusts Act. There was nothing to be gained by registering it under the Charitable Trusts Act, other than perhaps protecting the name, but at that stage it never entered anyones mind that we would have to protect the name, the Animal Welfare Institute of New Zealand from other people who wanted to assume that identity.

Q. You say in your evidence that another reason was that AWINZ wasn't undertaking any commercial activities at that stage, and in her affidavit Mrs Haden points to the fact that AWINZ, I think in 2002 or 2003 assisting in relation to filming of the Lord of the Rings films. Can you explain your affidavit in the light of that observation?

A. Yes, the Lord of the Rings trilogy really changed the nature of the movie industry in New Zealand, and we, that is AWINZ provided monitors to supervise Lord of the Rings, but they were operating as contractors not as employees. Now as the movie industry started to expand Inland Revenue took a closer look at how payments were being made to people who were engaged on a temporary basis on movie sets and determined that they in fact should be treated as employees with withholding tax. That being the case, when the next movie came along, which was the Chronicles of Narnia, that was the point where it was determined that we needed Inland Revenue approval to be an employer. We got registration and from that point on any movie supervision has been done on the basis of payments to the monitors which withholding tax paid to Inland Revenue, and that was the same time that we then needed a bank account. Up until that stage we were not doing anything in terms of monetary transactions.

Q. Mrs Haden in her affidavit refers to the application that the Animal Welfare Institute of New Zealand made to MAF to be approved as an organisation in December 1999. In that application you attached the draft Trust Deed that was later signed in March 2000 and stated "A Charitable Trust has been formed with my Deed of Trust as the Animal Welfare Institute of New Zealand". Obviously the Trust Deed wasn't actually signed until some three months later?

A. That's correct.

Q. Are you able to explain on the basis of your understandings as to whether a Trust had been formed orally between the named trustees. Was there a common intention on the part of the named trustees in your view to form this Trust at that point?

5 A. Yes, yes. The four original trustees came together late in 1998 and early in 1999 once the wording of the Bill was becoming quite apparent, and that to progress the project there was going to be a need to establish an intermediary organisation which will ultimately become an approved organisation. The Bills were not passed until October 1999 and the Act itself did not come into force  
10 until the 1<sup>st</sup> of January 2000, so MAF could not receive an application as an approved organisation until such time as the Act itself had commenced. So there was a lot of paper work and preparation done in 1999 but none of it could have any affect until we could lodge a formal application. Any correspondence with MAF in 1999 was simply on the basis of intention, there could not be a  
15 formal application at that time. *- criteria that they should be an animal welfare organisation*

Q. But given the common intention stated the fact that the Deed of Trust had not *First* been at that stage signed, does not derogate in any way from your statements in the application "A Charitable Trust has been formed";

A. That's correct. We had formed a common intention to create a Trust and  
20 various drafts of that Trust were considered in 1999. When the Act was passed and we submitted a formal application, that was at the point that it was required by the trustees that we sign that Trust Deed in a I believe March of 2000.

Q. Two more minor points. Can you explain for the Court the role of AWINZ in terms of prosecutions under the Animal Welfare Act and why its name appears  
25 on informations?

A. Yes. Under the Animal Welfare Act approved organisations are recognised as a prosecuting authority in that District Courts may at their discretion award the fine, or part of any fine awarded on a prosecution to the approved organisation.  
30 There is another provision which enables a District Court to forfeit animals to an approved organisation. The memorandum of understanding with MAF clearly set out that any prosecutions undertaken under this arrangement would be the responsibility of AWINZ, not a territorial authority. For a number of reasons MAF had the direct relationship with the approved organisation, but

further any prosecution taken directly by a territorial authority would not then enable the Court to make orders to approved organisations, so hence any prosecutions that were taken would be laid in the name of the investigating inspector and the prosecution itself was taken by AWINZ itself.

5 Q. Just finally Mrs Wells, I ask you to have a look at these documents.

**WITNESS REFERRED TO DEEDS**

A. These are the two Deeds that were signed simultaneously. The one with the pink cover was used for photocopying and it has no staple in it, although it will be noted that there is evidence of a staple that had been in it. And the second  
10 one. Sorry the other way round Your Honour. The yellow one is the one that has had the staple removed for photocopying and scanning purposes, the other one in the pink folder still has the original staple in and has not ever been taken apart, that has been held in a safe.

**EXHIBIT 1 PRODUCED – DEED IN YELLOW FOLDER**

15 **EXHIBIT 2 PRODUCED – DEED IN PINK FOLDER**

**LEGAL DISCUSSION (11.16.37)**

**EXAMINATION CONTINUES: MR WRIGHT**

**COURT ADJOURNS: 11.17 AM**

20 **COURT RESUMES: 11.41 AM**

**LEGAL DISCUSSION (11.41.54)**

**CROSS-EXAMINATION: MRS HADEN**

Q. Mr Wells, you're a Barrister?

A. That's correct.

25 Q. How many Trusts have you incorporated?

A. Probably in the vicinity of six or seven.

Q. So prior to the Animal Institute of New Zealand being set up and signed in 2000, how many Trusts had you set up before that date?



A. Probably three.

Q. So you're familiar with the process?

A. Oh yes, yes, but every Trust has different imperatives.

Q. But the process of registration through the Charitable Trusts Act 1957, you've  
5 used that procedure before and you're familiar with that procedure?

A. Yes. Albeit a voluntary process.

Q. I'd just like to step through the origins and the beginnings, and I refer to my  
affidavit and I've attached appendix L which is your letter to John Luxton dated  
2<sup>nd</sup> of November 1999. You have signed this document as Neil Wells, trustee.

10 A. What's the reference number?

Q. L.

A. I don't have your –

Q. You're aware of that letter. Would you tell me what the state of the Trust was  
at the time that you wrote that letter? What was the status of the Trust at that  
15 time?

A. The status of the Trust as at the 22<sup>nd</sup> of November 1999. The status of the  
Trust was we had agreed to form the Trust, we had formulated the final version  
of the Trust Deed, the Trust Deed itself had not been signed.

Q. If we go to the first page of your application, could you explain to the Court why  
under two, functions of the Institute, it reads "A Charitable Trust has been  
20 formed by Deed of Trust";

A. Yes. The Trust Deed was in the final format, it had not been signed at that  
stage and obviously then it was indicating to the Minister that a Deed of Trust  
was the basis for the formation of the Animal Welfare Institute.

25 Q. So in other words, the word formed meant that it hadn't been legally formed?

A. Well I can't comment on the legal aspects. The intention had been formed, the  
Trust Deed had been drafted to the final version, it had not been signed  
because the Act itself hadn't come into force at that point.

Q. In legal terms, if I was to say that a Trust had been formed by Deed of Trust,  
30 as a lawyer what interpretation would you place upon that?

A. Well I think it's a hypothetical question?

Q. I don't think so.

**THE COURT:**

I'll ask you to answer it nevertheless Mr Wells.

**CROSS-EXAMINATION CONTINUES: MRS HADEN**

5 A. In the formation of any Body Corporate or non Body Corporate there is a series of processes which ultimately create the existence of an organisation, and in the case of the Animal Welfare Institute, the various drafts of the Deed of Trust which were formulated in 1999 led up to the final Deed, but it was not necessary in our view to actually have the signed copy until we were ready to proceed in the year 2000 because we couldn't formalise our application until

10 Q. That was not my question. My question was, that as a Barrister, if I was to say that I had formed a Trust by Trust Deed, a Deed of Trust, what connotation would you take, what would you expect to be in existence?

A. I would expect there to be a written Deed of Trust.

15 Q. Now reading onto that next part, it says it is being registered under Part II of the Charitable Trust Act –

**THE COURT:**

I'm sorry I've lost my place. Which Exhibit again is it that we are looking at?

20 **MRS HADEN:**

Exhibit L Your Honour and it's under point two, and it's that top three line paragraph and it's the bottom part of it. That's L, very first page and we're at the bottom under number two.

**CROSS-EXAMINATION CONTINUES: MRS HADEN**

25 Q. It says it is being registered under Part II of the Charitable Trusts Act 1957. Can you tell me what that statement means?

A. Yes, it was under consideration and you need to put that in the context that MAF policy were indicating that they would require registration and a Certificate of Incorporation, but as I said earlier in my evidence, as things

30 finally progressed through the year 2000 MAF then determined it was not necessary for a Trust Deed to be registered and a Certificate of Incorporation

produced in order for them to proceed with the application as an approved organisation.

Q. Thank you, but that was not my question. My question was, what does it mean when it says it is being registered?

5 A. That's indicating that there is something in process.

Q. And does it there's something in process currently or in the future?

A. Don't think I understand the question.

Q. If I say to you "this is being registered, it is being registered", does that give you a connotation of the present, or does it give you a connotation of intent in  
10 future?

Q. It would give an indication of an intention to be carried out in the future. It was a continuous process, there was no date specified it would be done by a certain date and that statement was made against the background of MAF saying that you will need to follow this process.

15 Q. Where is that background? Whose evidence that this background is as you alleged, rather than this document I have in front of me?

A. There was correspondence with MAF policy analysts all the way through the year 1999 and 2000, including exhaustive legal opinions both from Kensington Swann and the Crown Law Office, it finally got to the point later in the year  
20 2000 where MAF was satisfied that AWINZ was appropriate to be appointed as an approved organisation and had in fact met all of the criteria set down in the Act, and registration under the Charitable Trusts Act in the end was determined not to be a requirement.

Q. So in going back to it is being registered, when you wrote that, you didn't mean  
25 it was actually being done at that time?

A. It was a process that was under –

Q. No, no, I'm just getting down to the words, the word say "it is being registered". To me those words have meant current. Can you please explain why a current term was used for something which had not happened?

30 A. As I said earlier, I regard that as a series of actions in process.

Q. Going to –

A. May I add, it does not say that application has been made for registration under the Charitable Trusts Act.

*Proves he was not Trustee or Minister*

**THE COURT:**

Q. Just to be quite clear about it Mr Wells, are these propositions correct? If they're not, or they require qualification, don't hesitate to correct me. The propositions being first, that as at the 21<sup>st</sup> of November 1999 a Deed of Trust had not been signed off?

A. Correct.

Q. And secondly, as at that same date, no formal steps had been taken to seek registration of any such Trust under the Charitable Trusts Act?

A. That's correct Your Honour.

**10 CROSS-EXAMINATION CONTINUES: MRS HADEN**

Q. Going to section 10 in that same document. Section 10 commences on page 6, and that's the Institute's compliance with section 122 of the Act. Can you tell me what significance section 122 of the Animal Welfare Act has?

A. Yes. I don't have the Act in front of me but my recollection is that an approved organisation must satisfy the Minister that it has robust organisation, financially accountability --

Q. Can I help you out, it's at the top of the page there 122. Is that the section;

A. Yes that is section 122.

Q. Under 122(b) the accountability arrangements, financial arrangements, the management organisation as such, having regard to the interest of the public, the organisation is suitable to be declared an approved organisation?

A. Yes.

Q. Can I then take you through to point 10.5, which is on page Your Honour. In the third paragraph down it states "because the Institute will be registered under the Charitable Trusts Act 1957 and not the Incorporated Societies Act 1908, it will have no ordinary members, thus a Board of Trustees will always be in control". What was the intent of that paragraph?

A. The intent was to indicate that AWINZ would not seek registration under the Incorporated Societies Act, but it preferred the option of operating as a Charitable Trust.

Q. What do the words "will be registered." What impression does that convey?

A. That something of that nature will occur in the future.

Q. Taken in connection with the words on page two, which said "it is being registered". Reading it is being registered and will be, what impression does it convey as to the process that's been undertaken?

5 A. Well the intention of this was to convey an impression to the Minister that certain processes were going through a robust consideration. At that stage, as I pointed out, the Ministry of Agriculture erroneously were taking the view that that required incorporation, subsequently they retreated from that view and agreed that no incorporation was ultimately necessary. Taking that as a snapshot at that time, that was the intention.

10 Q. But anyone reading that would that convey to a person reading this document that there is both a Trust Deed, that the Trust Deed is presently in the process of being sent of for incorporation and that the incorporation hasn't been completed?

15 A. Well it's not a question of what somebody else might take from it. This was an application addressed to the Minister, and it was under consideration by his officials, who were fully informed as to the process, and as I said there were robust discussions between me and the Ministry officials and officials in the Minister's office as to the process, so they were fully understandable as to what was going on and at no stage were they saying "well before we go any further, you've got to produce a Certificate of Incorporation." They had indicated that, but we convinced them ultimately that was not a necessity and that was confirmed by the Director General of Agriculture.

20 Q. So there was obviously this document, what it says in this document of any relevance because the correspondence and the words surrounding this document contradict what's in here?

25 A. It was statement of intent.

Q. Where on this document does it say that it's a statement of intent?

30 A. I think there are some references to "it is proposed that" Yes, at the head of section 10 it says "the Institute proposes to meet these criteria in the following manner". So that was obviously being put to MAF as something for their consideration to come back to us and take it through further discussion. This was at the end of November and the Act had not quite come into force. The Act had been passed, and as I mentioned further, that discussion continued for

a whole year before MAF finally got to the point where they could recommend to the Minister the approval of the Institute as an approved organisation.

Q. But when it says "Institute proposes to meet the criteria", it means all of the criteria of section 122, not just specifically of the one applies to the accountability to the public?

A. It is the Minister who must be satisfied that all that criteria is met and the material that was submitted to the Minister via MAF was the intention of satisfying the Minister that at that point the Animal Welfare Institute did meet that criteria. At that point though, MAF were not satisfied that all the criteria were being met and it took, as I say, many months of negotiation before we finally got to the point where the Minister's office was satisfied.

Q. You'd be aware of entities being a lawyer and how incorporation makes an Unincorporated Trust a Body Corporate and an entity in its own right?

A. What was the question?

Q. As a Barrister, are you aware of the structure of entities?

A. What do you mean by the word entity?

Q. Well I see here the name of the applicant, the name of the applicant is the Animal Welfare Institute of New Zealand. The applicant is not a group of trustees, and at that point in time, we've established that the Animal Welfare Institute of New Zealand, is actually just a name?

A. It is a Trust.

Q. If it's a Trust, it cannot make an application in that name because it's not incorporated, and where are the names of the other applicants who would be the entities who can make such an application?

A. The Act uses the term organisation, the Act does not define the term organisation and MAF itself finally determined that organisation can be any group, entity, Body Corporate, Body Unincorporated Trust. Because Parliament did not define the term organisation, MAF were quite happy to accept an application from a body called the Animal Welfare Institute of New Zealand as an organisation.

Q. The Animal Welfare Act is unfortunately not the only legislation in this country. As a Barrister how would the legality of any contract with a name animal Welfare Institute of New Zealand, which is not incorporated, what legal status would it have?

A. I'm not aware that the Animal Welfare Institute has entered into any contracts. It has entered into Memoranda of Understanding.

Q. What I'm trying to get at Your Honour is that a name in itself cannot apply for anything. An entity has to make the application.

## 5 THE COURT:

I'm just wondering how far you can usefully further take this with the witness, and whether this may be a matter for us to consider in the course of submissions. As a matter of law there is no entity separate from trustees of a simple Trust in the way that there is if there has been a Body Corporate of some kind established under  
 10 particular legislation or otherwise. Often times in the Court we find parties to litigation suing or being sued in the name by which the trustees undertaking is commonly known and I've had to point out to counsel on several occasions that the correct way to identify the parties in the heading of Court papers is to identify the trustees rather than simply to state the name under which if you like they operate.  
 15 Very commonly now trustees seem to assume something akin to a trading name if you were, just as an individual. You might be a plumber or a drainlayer or an IT person and might choose a name under which he or she trades. It is just a name. The questions that you have put to Mr Wells have I think, I'm not stopping you but probably conveyed to me the matters that you wanted brought to light or clarified if  
 20 you will and I just whether having got this far we're left with matters to be debated with the Court, by you and Mr Wright at the end when we make submissions because although Mr Wells is a Barrister and Solicitor and certainly can be asked about his appreciation and understanding and so on, if it becomes a crucial issue for determination I'm the one who is going to have to rule on that and with great respect  
 25 to him, his opinion won't be able to count. He is not here to give evidence in the ordinary course as an independent expert, he's a plaintiff of the proceeding.

## CROSS-EXAMINATION CONTINUES: MRS HADEN

### WITNESS REFERRED TO EXHIBIT O – LETTERS

Q. In Exhibit O, these are letters which have been released to me under the  
 30 Official Information Act. Do you recall the email, unfortunately most of it's been blanked out, from Mr Mark Neeson to yourself regarding the legal status of the Trust?

A. This is an email from me to Mark Neeson.

Q. Sorry. My one says "legal status of the Trust. Could you please provide documentary evidence confirming that the Trust has been –

A. Sorry, I was on the next page.

5 Q. Under the Charitable Trusts Act 1957 –

A. Yes that just reaffirms, I don't recall the date, but my reply to him was the 17<sup>th</sup> of March, so I would assume it was early in, right there's a letter dated the 28<sup>th</sup> of January. Yes, at that point MAF policy was still of the view that they would not progress an application until such time as a Certificate of Incorporation under the Charitable Trusts Act had been produced. Hence Mark Neeson's letter to me and my reply to him on the 17<sup>th</sup> of March, and in that I note that I say that "I would like to revisit one other issue from our meeting and recommendation for approval cannot be considered without evidence of registration" and I said "I ask you to reconsider that requirement that would add to the process". I also pointed out that an applicant can be any organisation, but there is no requirement the organisation be a Body Corporate, an organisation can be incorporated or unincorporated. At that point MAF did not accept that view, but ultimately they did.

Q. In paragraph two you said "that will add months to the application being finalised". How long had your previous registration process taken from the time that you sent your application in to the time it was registered?

A. It was probably a matter of a couple of weeks.

Q. Would you accept that if you had, as you had said in your document dated November, when you said the Trust had been formed and was being incorporated, that by the 17<sup>th</sup> of March that process would have been completed?

A. Yes, but we hadn't conceded to MAF that that was necessary process because MAF, as they raise, and bear in mind that the letter to the Minister went at the end of November, Government virtually closes down for December and the most of January, so when we came back to discuss it in early January they were still of the view that incorporation was a necessity. I was arguing that it was not, and I reaffirmed that in my email of the 17<sup>th</sup> of March. The issue was not so much the time it would take, but the requirement of MAF for incorporation when it was not a requirement of the Act.



Q. Do you think that by Mr Neeson sending the letter on the 28<sup>th</sup> of January, that his interpretation from the application papers might have expected him to have been delivered a Charitable Trust registration?

A. I can't say what was in Mark Neeson's mind. The discussion with Mark Neeson in January 2000 was whether or not the Act required such registration.

Q. His email, what does his email convey to you? That he was seeking a document as to the registration?

A. That's what his letter states yes, and then it finishes off "MAF would appreciate your comments on the above points, so he was asking me to make a counter comment on what they were requiring, hence my email of the 17<sup>th</sup> of March.

Q. Now going onto page two of your email. You write, "unlike Bodies Corporate such as Societies and Companies, a Trust becomes a legal person upon the signing of the Trust Deed, not from the date it is registered. Many Trusts are never registered under the Charitable Trusts Act but are still legal persons." No you said while AWINZ will be a registered Charitable Trust, that is part of the process that leads up the approval by IRD for exemption for filing tax returns. Now this is in 2000 and in 1999 you had, as you pointed out before been a contractor to Lord of the Rings?

A. No I did not say that we had been a contractor in 1999. I said that the movie was commenced in 1999. AWINZ did not intervene in that movie until well into the year 2000.

Q. So if even in 2000 you still weren't registered for IRD and you were not incorporated. You say you worked with Lord of the Rings, so how did this come about with neither registration or IRD number?

A. There were no financial transactions at all with AWINZ until Bank accounts were opened, I think it was early 2005. As I said earlier, the monitors were treated as contractors and as such there was no deduction of any payment to them by the movie company. They were just contractors and subsequent to that the Inland Revenue reviewed their whole requirements for registration for tax exempt status, and ultimately came to the conclusion that there was no need for the production of an Incorporated Society or a Charitable Trust Act Certificate of Incorporation. When IRD status was finally granted they conceded that and granted the Animal Welfare Institute exemption from filing tax returns and also qualification for donations in the hands of the donor.

Q. So how would these independent contractors have worked under the auspices of AWINZ, when AWINZ was not contracted themselves, how did AWINZ then become involved in this transaction?

A. AWINZ trained and supplied the independent monitors.

5 Q. I believed that the independent monitors were from the SPCA and were UNITEC staff. I put it to you that they were UNITEC staff and that they were SPCA members?

A. Yes one of the monitors was a lecturer at UNITEC and two of the other monitors, actually there were three, had positions with the SPCA.

10 Q. Now while we're onto the SPCA, it might need to clarify for the Court just the significance of AWINZ. How many organisations are there, which are approved organisations?

A. There are two.

Q. And which are they?

15 A. The SPCA and the Animal Welfare Institute.

Q. And can you tell the Court what the structure is of the SPCA?

A. The national body is the Royal New Zealand Society for the Prevention of Cruelty to Animals. There are 54 local SPCA's. I'm not up to date with the status of those SPCA's, but when I was associated directly with the Royal New Zealand SPCA there were something like 16 of the 54 that were still Incorporated Societies, the remainder were Incorporated Branches.

Q. But they were all part of that entity called the SPCA?

A. They are all either Branches or member Societies of the RNSPCA.

Q. And AWINZ does not come under the umbrella of the SPCA?

25 A. No it does not.

Q. Now on the bottom of the page, the second to last paragraph, AWINZ can produce evidence that the Trust is in being by providing a signed copy of the Trust Deed and given undertaking that it will be registered by the Ministry of Commerce. What steps were taken subsequent to that paragraph being written?

30

A. Well none. Again that was in the light of the Ministry requiring registration, us saying it wasn't, but for discussion I said that AWINZ can produce evidence that the Trust is in being by providing a signed copy of the Trust Deed, and at that point, 17<sup>th</sup> of March 2000, that Trust Deed had indeed been signed. My

other point was that if MAF insisted, then we would have to provide an undertaking that would be registered with the Ministry of Commerce. As I said earlier it subsequently was determined that MAF's opinion was wrong and they conceded to that.

5 Q. What was your capacity with MAF at the time? Were you not a legal advisor at the same time?

A. No I was not.

Q. Have you at any time been a legal advisor to MAF?

A. I have never been a legal advisor to MAF, I have been a consultant on law  
10 reform matters. I have not given legal advice to MAF.

Q. Now going to the last page in that little bundle. This is an extract from a letter dated 25<sup>th</sup> of March, Neil Wells and the Honary Jim Sutton who was at that time the Minister of Agriculture. It says a signed copy of the Deed of Trust will follow, the original is being submitted to the Minister of Commerce for  
15 registration as a Charitable Trust in accordance with clause 20(a) of the Deed. Did you ever send a copy of the Deed of Trust?

**WITNESS REFERRED TO TRUST DOCUMENTATION BUNDLE O**

A. To whom?

Q. To the Minister?

20 A. Yes.

Q. When did you send it?

A. It was not for sometime later when the Ministry advised me that while they had an unsigned copy, they didn't actually have the signed copy.

Q. Would it be true to say that that copy was sent in 2006?

25 A. That's quite likely.

Q. Now reading the words "the original is being submitted to the Ministry of Commerce". Does that convey that there is one or two documents?

A. There was one original copy and a signed counterpart. There were two signed copies.

30 Q. So why was it impossible to send him a copy at that time?

A. I put it down to no more than oversight. As I said it was not for some time that the Ministry discovered that in fact their files did not have a signed copy and that's when a signed copy was forwarded to them.

Q. Now I note that the other Trusts you've incorporated. What procedure did you go through with the Trust Deed? Did you send the original Trust Deed, or did you send a verified copy?

A. It was a certified copy.

5 Q. So why in this case could you not have sent a certified copy through to be registered in the Charitable Trust? Why did you claim that the original was not available because it was being sent to be registered?

A. I have not made the statement the original was not available.

10 Q. Well the original is being submitted to the Minister of Commerce. What does that mean to imply?

A. That a copy of the Trust Deed would be sent to the Ministry of Commerce?

Q. Is being? Is that future or —

A. Again, that was a future intention.

Q. Can we have a look at the Trust Deed?

15 **WITNESS REFERRED TO TRUST DEED**

Q. Can you read to me what section 20(a) of your Trust Deed says?

A. What was the question?

Q. In this letter, it's to the Minister, it says that "it's been sent for registration as a Charitable Trust in accordance with clause 20(a) of the Deed".

20 A. There is no 20(a) of the final signed copy.

Q. Was there a 20(a) on the document which was attached to the application to the Minister in November 1999?

A. I can't answer that, I don't know.

Q. I can give you the documentation if you like, if you bear with me for a minute.

25 No I haven't got it here, but in any case, the letter being dated 25<sup>th</sup> of March 2000, does this letter pre-date or is it after the Deed was signed?

A. The Deed was signed on the 1<sup>st</sup> of March 2000.

Q. So between the 1<sup>st</sup> of March 2000 and the 25<sup>th</sup> of March 2000, what amendments took place to the Trust Deed?

30 A. Could you repeat the question?

Q. Between the 1<sup>st</sup> of March 2000 and the 25<sup>th</sup> of March 2000, what amendments took place to the Trust Deed?

A. None, it was signed on the 1<sup>st</sup> of March.

Q. Then how did this letter to the Minister rely on clause 20(a) of the Deed?

A. Well I can't answer that directly, but a possibility is that I inadvertently referred to an earlier draft.

Q. I'm going to the administrative operating procedures for Animal Welfare officers. Now this was produced on the 1<sup>st</sup> of September 2004 and on page two under the policy statement it has your signature. How many trustees were involved in the production of this document?

A. I was the author of the document.

Q. In the definitions it says AWINZ. Can you read what that definition says please?

A. AWINZ means the Animal Welfare Institute of New Zealand.

Q. And what indication is there that Animal Welfare Institute of New Zealand is anything but an Incorporated Society, or and Incorporated Trust or entity rather than a Body Corporate?

A. There's no indication in here, in that definition claiming that the Animal Welfare Institute was registered either as an Incorporated Society or a Charitable Trust. However, in one of the, I don't know whether the full guidelines are here, a mistake was made by me in referring to AWINZ as a Body Corporate when it came to a reference to the Solicitor General's guidelines on prosecutions.

Q. Do you not concede that that's a pretty serious mistake to make?

A. No I wouldn't consider it a serious mistake.

Q. Now, going to appendix H, which is the prosecution of Sara Meke.

A. Yes.

Q. Now Sara Meke, how did she come to your notice?

A. Officers of Animal Welfare Waitakere investigated a complaint of neglect and they submitted the prosecution file to me for consideration for prosecution.

Q. When you say they submitted it to you, was that in your capacity as their manager of Animal Welfare, or was it as Neil Wells Barrister, or Neil Wells as Trustee of AWINZ?

A. It came to AWINZ. I was not the manager of Animal Welfare Waitakere in 2004.

Q. Now on the second page, you approved that for prosecution?

A. That's correct.

Q. Now on the final page, we have a letter, which has your letterhead N E Wells, Barrister. So you prosecuted that in your capacity as Barrister?

A. Correct.

Q. And you offered diversion to Sara on the payment of some money into a Bank account?

A. To put it into its context. Her counsel asked if diversion would be considered.

5 Q. Do you have a provision for diversion under the Animal Welfare Act?

A. My understanding is that diversion is a matter of practice, which is not actually derived from any statute. I may be wrong on that, but very clearly her solicitor was anxious that this not proceed to trial and made an offer, call it diversion if you like, but he made an offer on the basis of diversion, and then on the basis of that we agreed and sought leave to withdraw the charges.

10 Q. At the time, from my enquiries with the Bank, there was only one person who had control over the Bank account into which this money was paid. Could you tell me who that person was?

A. Well I can't comment on what your enquiries with the Bank are, but yes I was a signing authority of the Bank account at that stage, yes.

15 Q. Would it be correct to say that you were the only person who had control over that Bank account?

A. At that point I was the signatory of the Bank account yes.

20 Q. Going to the donations which are solicited from the public. You put out a letter which is appendix I.

#### **WITNESS REFERRED TO APPENDIX I**

Q. At the time in June 2006, when this letter was sent out, what was your occupation?

A. In June 2006 I was the manager of Animal Welfare Waitakere City.

25 Q. Just for clarification, we have a Memorandum of Understanding with Waitakere.

#### **WITNESS REFERRED TO EXHIBIT C MEMORANDUM OF UNDERSTANDING**

Q. Did you sign that document on 20<sup>th</sup> March 2004?

A. That's correct.

30 Q. And the person you signed that document with?

A. It was Tom Didovich, who at that time was the manager Animal Welfare Waitakere City.

Q. So you took his place in that position?

A. Yes, in effect.

Q. Now, could you also tell us while we're on Tom Didovich, who witnessed and collected the signature for the Trust Deed?

A. In the year 2000?

Q. Well so I believe?

5 A. Yes. It was Tom Didovich.

Q. Going first to the logo on the document Exhibit I.

**WITNESS REFERRED TO EXHIBIT I**

10 Q. You had changed while you were at Waitakere Animal Welfare, the logo for AWINZ. Could you identify the logo here and comment on the similarities between that and the logo which Animal Welfare Waitakere uses?

A. Yes, they are using the same format. Both logos are in their coloured version, light green and dark green.

Q. Would you say that the Animal Welfare part is identical to the signage which is outside the premises?

15 A. Yes it is.

Q. And that the only difference is, is perhaps the colour, because of replication and the words underneath Institute of New Zealand?

A. That's correct.

20 Q. Do you accept that this could cause confusion as to what people AWINZ and Waitakere City to be?

A. No.

Q. So you're not concerned that AWINZ is causing confusion with Waitakere City Council?

25 A. I don't believe there is any confusion. They are two bodies operating conjointly to achieve a common end.

Q. How would a member of the public walking up to the Animal Welfare in Waitakere, seeing the sign, which is substantially identical to yours, differentiate two bodies?

30 Q. I don't understand why they would need to. At 48 The Concourse, that is where the animal shelter is, that is an operation of Waitakere City Council. There is no suggestion that Animal Welfare Institute of New Zealand operates from those premises. However, Animal Welfare Institute of New Zealand from the donations made has provided substantial equipment in the form of donations to the veterinary clinic there.

Q. When I called at the Animal Welfare Centre at The Concourse, there was a collection box on the counter.

**THE COURT:**

You cannot give evidence when you are cross examining Mrs Haden.

**5 CROSS-EXAMINATION CONTINUES: MRS HADEN**

Q. With regard to the administration of the New Zealand Fund for Humane Research and the Lord Dowding Fund, which you claim to have \$90,000 in your Bank account for. Can you please expand on how you got to have that money?

10 A. Yes. One of the trustees, or actually the secretary of the Trust, Lucille Heather contacted me and said that, and I had been an original trustee of the New Zealand Fund for Humane Research. She said that there had been little activity of that Trust for many years, in fact I think it might have gone on for about 10 or 15 years, they were getting elderly, they wished to wind up the  
15 fund and would I consider transferring the fund from the Fund for Humane Research to AWINZ on the basis that it would still be administered under the original criteria of the Lord Dowding Fund and we agreed that we would do that.

Q. So the New Zealand Fund for Humane Research continues to exist as  
20 registered under the Charitable Trust Act?

A. I don't know. My understanding was that the secretary had wound it up.

Q. But you say here, you administer the New Zealand Fund for Humane Research?

A. Yes, the fund not the entity.

25 Q. The entity is called New Zealand Fund for Humane Research. Can you please clarify how someone is to differentiate by the fact that you only administer the fund but you don't administer the entity;

**THE COURT:**

Well can I perhaps try and help here. The impression I've got from what you've said  
30 so far Mr Wells, which again may be erroneous and your correction of qualification would be gratefully received, is that you've been indicting that funds held by the Lord



Dowding entity, if I can simply call it that were because that entity had not been as it were in action of recent times, transferred to what I'll loosely call AWI, so that responsibility for the funds application was assumed by AWI.

5 **THE WITNESS:**

That's correct Your Honour.

**CROSS-EXAMINATION CONTINUES: MRS HADEN**

Q. When did you get that money?

A. I can't answer that, I don't precisely know.

10 Q. Have you ever accounted to the secretary for that money?

A. There was no need for us to account to the secretary because the New Zealand Fund for Humane Research, my understanding was it was wound up and is now not a Corporate Body.

Q. I'm having a little bit of trouble with the fact that if it's not a Corporate Body and  
15 there doesn't exist, how you can say you administer this fund and the Lord Dowding Fund which is what they had?

A. Yes, AWINZ is not administering the Charitable Trust known as the New Zealand Fund for Humane Research, it is administering applications from the fund itself.

20 Q. What does it mean?

A. I'm sorry, what does what mean?

Q. Well what you just said?

A. It means that if an organisation wishes to make application for research funds from that fund, AWINZ will administer the process of that application and if it  
25 meets the criteria of the Lord Dowding Fund, we'll make a decision as to whether or not that grant will be made, and in two instances has decided yes it will.

Q. And who are the two instances?

A. Both were research projects at UNITEC. Research of teaching projects at  
30 UNITEC.

Q. Can we go through your connection with UNITEC and your role at UNITEC. Can you tell us how you were involved in UNITEC?

- A. When the animal Welfare Act was leading to its final consideration in 1998 1999, I spoke to MAF Bio-security Authority and discussed with them criteria for establishing a training programme that would meet the requirements of the Act, because under the Act any approved organisation must meet performance and technical standards. I was a consultant to MAF at that point and had negotiations ultimately with the Public Sector Training Organisation and the New Zealand Qualification Authority and in conjunction with their people wrote a series of unit standards which ultimately got registered as the Certificate of Animal Welfare Investigations. Registration of a certificate does not mean anybody's going to deliver it, so MAF decided to call for tenders as to who was going to deliver the training programme and there were three tertiary institutions that submitted, UNITEC being one of them and ultimately the contract, sorry it wasn't a contract. UNITECT was then named by MAF as the preferred supplying.
- 15 Q. Was that through a tender process?
- A. Yes it was.
- Q. And UNITEC tendered and won the process?
- A. That's right. Correct.
- Q. And who lectured to the animal welfare officers?
- 20 A. Quite a number of lecturers. Once UNITEC had been awarded the contract they then approached me and asked if I would join UNITEC staff as a part time consultant, which ultimately led to an appointment as a full time lecturer.
- Q. It's correct to say that you lectured and gave the animal welfare trainees their qualifications?
- 25 A. No I did not give them their qualifications. I lectured in Animal Law and Animal Investigations, but there are other lecturers, lecturing in a wide range of issues like euthanasia, veterinary procedures, animal care and handling. There are probably up to six or seven different lecturers delivering that programme.
- Q. Did you take part in marking the papers for the people who sat their exams for the subjects you taught?
- 30 A. Any subjects that I taught, I marked those papers.
- Q. Can you explain to the Court the process from the time that a person, any person decides to become an animal welfare officer, can you explain the process that they go through at UNITEC and then becoming approved?

A. Under the animal Welfare Act the Director General has recognised the Certificate of Animal Welfare Investigations as meeting the performance and technical standards required by the Act and under a Memorandum of Understanding, the Director General, or through him, it's delegated to the  
 5 Director of the Animal Welfare Group of MAF. Officers cannot be appointed an inspector until they have partially completed the Certificate of Animal Welfare Investigations. Once they have passed the Animal Law paper they are eligible to be appointed for a short term period of 12 months in the expectation that they will complete that training in that next 12 month period. If they are  
 10 successful they will then be appointed for the full three year period and thereafter their appointments are rolled over provided they still meet the criteria.

Q. And to receive the delegated authority from the Crown under the Animal Welfare Act, how do they get appointed?

15 A. They're appointed by the Director of the Animal Welfare Group of Bio-security New Zealand, who has a written delegation from the Minister of Agriculture.

Q. Is it not true that you've got through AWINZ, which again you signed with the Minister, an MOU which allows you to recommend for appointment these people who wish to become animal welfare officers?

20 A. Yes. Any appointment that comes through an approved organisation, must be recommended by that approved organisation, whether it's the SPCA or the Animal Welfare Institute.

#### **WITNESS REFERRED TO ITEM D – MEMORANDUM OF UNDERSTANDING**

Q. While we're on this Memorandum of Understanding, bearing in mind this is a  
 25 contract with a Government Department, what indication is there on this document that the Animal Welfare Institute of New Zealand is not a Body Corporate?

A. I don't believe there's any reference in here as to what its status is, and incidentally this is not a contract, it is a Memorandum of Understanding.

30 Q. It is an agreement is it not?

A. It's a Memorandum of Understanding.

Q. Does it not say on the last page "duration of agreement"?

A. Yes it does.

Q. And is it by virtue of this legal agreement that MAF and AWINZ have come to an agreement that AWINZ can recommend persons it deems suitable for appointment as inspectors under the Animal Welfare Act?

A. Yes that's correct.

5 Q. Who does that recommendation?

A. I do.

Q. Part of the process is that these people have to be employed by territorial authorities?

10 A. No. That is certainly the case with the Animal Welfare Institute but not the case for SPCA's, they have an entirely different arrangement.

Q. Just confining ourselves with the structure of the Animal Welfare Institute of New Zealand. The requirement is what for a person to become an Animal Welfare Institute appointed –

15 A. They would normally be officers who are employed by Waitakere City as animal welfare officers.

Q. Can you tell the Court what your relationship is to the animal welfare officers in Waitakere?

A. I am the manager of that section, but there is a team leader who actually manages the field services team.

20 Q. But you are actually, you are their employer, the person that they respond to?

A. I am their manager yes.

Q. So going back to the previous prosecution matter, if that was to occur now, you would have the role of animal welfare manager, you would have the role of approving the prosecution, you would have the role of Barrister and you would have the role of banking the money. Am I wrong?

25 A. Not sure what your last point is, banking which money.

Q. If they offer diversion, the diversion money comes to you as trustee of AWINZ and you put it into the Bank?

A. No I don't do the banking for AWINZ.

30 Q. But you were the only person who had signing right at the time when I located the Bank account?

A. I'm not sure when you located the Bank account.

Q. Getting back to the Memorandum of Understanding with the Minister of Agriculture, there is no other reference to any other trustees on this document.

**THE COURT:**

I'll try and help here Mrs Haden. I've looked through this document and unless I missed something, you're perfectly correct. It describes terms of understanding apparently between what style the Animal Welfare Institute of New Zealand and the

5 Ministry of Agriculture and Forestry. I think we all know by now that the name Animal Welfare Institute of New Zealand isn't representative of any Body Corporate in the ordinary or strict sense, but rather is a reference to the body of responsibilities that are to be discharged by Mr Wells and the other people who are the trustees of this Trust. In the course of submissions we can discuss the relevance of all that, but

10 you've made your point and I don't think you need to keep hammering it home repetitively. It's like putting more screws in box than it really needs to have a tight lid.

**CROSS-EXAMINATION CONTINUES: MRS HADEN**

Q. Just going back to the issues I had with the very first document I brought up.

15 I'm just trying to get the difference, if I was to say "it is being submitted" or "it will be submitted". Is there a difference to you as to timeframes?

A. I think I've already answered that, but that indicates an intention of something that is either in process or happening in the future.

Q. So "is being" gives the connotation of something in the future, as opposed to

20 something that's occurring now?

A. In my mind yes.

Q. In the Act, as you correctly stated earlier, that the primary function of the association is animal welfare. Why in the primary function of your organisation being animal welfare did you not need to be incorporated. Why was it deemed

25 not necessary?

A. You're asking me for a legal opinion, and I have answered that earlier. The whole of 2000 was a robust, very robust application process that in the end resolved that it was not necessary for an organisation to be incorporated for it to be approved by the Minister.

30 Q. In 199 you incorporated two other Trusts. The Archangel Trust and the National Animal Welfare Trust. What I'm trying to get to is why was there a necessity to incorporate one lot which didn't have a public function and not incorporate another one which did have a public function?

A. They were two entirely different organisations, in fact neither of those Trusts have functioned at all since incorporation and I was acting on instructions of Canadians who asked that they do be registered under the Charitable Trust Act, but they were not applicants under the Animal Welfare Act.

5 Q. So when I first became involved with AWINZ there were people who had trouble finding accountability. How do people find who is accountable behind AWINZ?

A. An approved organisation is accountable to the Minister.

Q. The organisation represented by the trustees therefore has no accountability?

10 A. It is accountable to the Minister and through that the Ministry of Agriculture carries out an audit once a year to ensure that the Trust is in fact complying with its obligations under the Animal Welfare Act and in the whole time that those audits have been carried out, not significant deficiencies have been found.

15 Q. Is it not true that prior to your engagement as manager of Animal Welfare Waitakere, that these audits were conducted by N E Wells & Associates Limited?

A. No, that's not correct. The MAF audits are conducted by the MAF compliance unit. They are employees of MAF.

20 Q. What audits were done by N E Wells & Associates?

A. They were audits required by the North Shore City Council for their compliance under the ISO 9000 accreditation, they were not related at all to anything required by MAF.

25 Q. Can you perhaps explain how the Trust has lost through me asking questions about the running of it?

A. I don't understand the question.

Q. This hearing is about quantum. I'm asking how the Trust has suffered a loss because I sought accountability from it?

A. I'm sorry I still don't understand.

30 **OBJECTION: MR WRIGHT (12.51.34)**

**THE COURT:**

Mr Wright is correct Mrs Haden. The third cause of action in defamation is very plainly when I look at the statement of claim, one pursued by this witness on his own, in his personal capacity.

5 **CROSS-EXAMINATION CONTINUES: MRS HADEN**

Q. In your personal capacity, could you tell me how in your personal capacity you have suffered because of the questions I've asked about the apparent conflict of interest as demonstrated in Court today?

A. I'm sorry, I still don't understand the question.

10 Q. Have you suffered any loss due to my questioning the conflicts of interest which appear in this Court today?

A. Yes, your many phone calls have to a wide range of people, have made it very difficult for the Animal Welfare Institute to function properly because of the diversions that we've had to pursue in dealing with the issues that you've raised.

15 Q. Can you itemise when I've made these phone calls and how long ago I made these phone calls and who I made these phone calls to?

A. Well I could. You made a phone call to two trustees of AWINZ who decided they were not prepared to be harassed any more.

20 **OBJECTION: MRS HADEN (12.53.00)**

A. Your Honour I'm giving hearsay evidence and I really feel as though I'm moving into an area that I should not, because it is hearsay.

**THE COURT:**

25 Mrs Haden I think you do need to take some care here for your own sake in terms that by asking these very wide in scope questions you are possibly offering the witness and opportunity to elaborate upon what in his contention is the damage he has suffered and possibly to take it beyond matters that he has identified in his evidence to date. In other words do you want to give him the chance to double ice his damages claim cake or not. You may be offering him that by the very form of question that you're proffering him.

**MRS HADEN:**

Your Honour he actually didn't answer the question because I asked him how he had suffered and he immediately went on to talk about the other trustees and that's not the question Your Honour, he actually threw it outside the scope of my questioning. I directed the questions at him and he brought in third parties.

**THE COURT:**

Well technically I think what you say is perfectly correct, but just to go back to my first point where I'm just counselling some care and consideration on your part. In his affidavit or affidavits that are in front of me today and that you have seen, at various points he as I recall it anyway, describes the effect on him as he would wish the Court to identify and accept it of the things which you have done. My concern for you was that by asking this totally open ended question, you're right, you're perfectly right he talked about the trustees or the Trust rather than you, you are giving him a golden opportunity to add to that catalogue. Do you really want to do that.

**MRS HADEN:**

No Your Honour I'll withdraw the question.

**THE COURT:**

You are perfectly entitled to cross-examine him as to the substance of what he said in terms of effects upon him so that might result in the Court being persuaded that those effects were less wide or less extensive or less generally than he asserts. I don't want to stop you doing that but just to be as clear as I can about it warning you against giving him an opportunity to add to his list of complaints in a fashion that otherwise would not have been available to him.

**COURT ADJOURNS: 12.56 PM**



**COURT RESUMES: 2.24 PM**

**CROSS-EXAMINATION CONTINUES: MRS HADEN**

Q. Mr Wells what loss –

- 5 Q. Your Honour just a little point. I don't recall Mr Wells being sworn, is that normal? I was just wondering if it's normal in the civil jurisdiction not to swear witnesses and whether we can have some clarification as to whether or not this evidence that's being given has been sworn.

**THE COURT:**

- 10 Q. You swore him did you not?

**THE COURT TAKER:**

A. I did swear him yes of course.

15 **MRS HADEN:**

Your Honour I must have missed that I'm sorry, thank you. I just wanted to cross the t's so to speak.

**THE COURT:**

- I certainly remember him taking the oath Mrs Haden, but I always like to have lateral  
20 support for my recollections.

**CROSS-EXAMINATION CONTINUES: MRS HADEN**

Q. Mr Wells what loss have you suffered?

**THE COURT:**

You'll remember my warning Mrs Haden.

25

**MRS HADEN:**

Yes Your Honour.

**CROSS-EXAMINATION CONTINUES: MRS HADEN**

A. Your Honour I have been involved in animal welfare for close on 30 years and over that period I have built up a reputation both nationally and internationally as an expert in animal ethics and in animal law. I have been consulted by a wide range of organisations, so my reputation internationally has been of a fairly high standing to the point where I am consulted by organisations internationally on matters relating to animal ethics and animal law reform. The attacks on my integrity that have occurred through the publication of the statements that these proceedings are about have greatly damaged that reputation to the point where I find it now difficult to uphold my reputation internationally. I have been a speaker at international conferences both in this country, in Australia, Europe and the United States, and through that have built up as I say Your Honour a reputation as an international expert in my field. To have statements published that I am guilty of fraud, that I am criminal, that I'm engaged in white collar crime absolutely rejected. In my view they have attacked my integrity and have had the tendency to destroy that reputation that has been built up over a long period of time. It has had a tremendous effect on my ability to function both in that capacity and also as a manager of Animal Welfare at Waitakere where some interference by the defendant in my staff activities created some problems with the staff there. Incorrect –

Q. Excuse me, can you please –

**THE COURT:**

Pause Mrs Haden, you asked the question. I warned you before, you did so once again of the risks that you were taking. Having asked the question the witness is entitled to answer it in his own way and I'm going to let him do so.

**CROSS-EXAMINATION CONTINUES: MRS HADEN**

A. Because of interference in staff activities that I was involved in it created a difficult situation with my staff where I was quite concerned to see reports, erroneous reports on websites published by the defendant that related to confidential staff settlement matters in terms of employment issues. That has made it difficult to administer my job adequately as manager of Animal Welfare to the point that in 2006 my director had a discussion with me and suggested

that I take some time off because the stress that it was causing to me was affecting my ability to act properly as a manager. I could go on Your Honour.

Q. I am referring specifically to page 15 of your affidavit point 80, where you state your loss of income?

5 A. Give me that reference again.

Q. Page 15, point 80?

A. Is this a new question Your Honour?

# **THE COURT:**

Yes I think so yes.

## **10 CROSS-EXAMINATION CONTINUES: MRS HADEN**

Q. Yes that was trying to elicit from you, the value of your loss as you've put it in your affidavit. Can you refer to that paragraph, the sum of money you've personally lost?

A. That's right.

15 Q. And the subsequent affidavit filed in January you produced documents which were for another entity?

A. Yes that's right. That affidavit Your Honour was filed after the defendant asked for more detail of that and included in that affidavit as Exhibit notes were invoices that had been tendered over a period of time. My contract with  
20 UNITEC was on the basis of my company Wells Associates Limited whereby I provided lecturing services to UNITEC. Those services have now been terminated and I no longer have income through my company for those services.

Q. Your company, is that a party to these proceedings?

25 A. No it is not.

Q. So this income does not come direct to you, it comes to your company?

A. It comes to me because I am the person who is actually delivering those lectures. I was the person who was actually delivering the lectures. The company cannot deliver lectures, it has to operate through a person.

30 Q. Are you contracted to UNITEC or is the company contracted to UNITEC?

A. The company is contracted to UNITEC to provide me as a lecturer to UNITEC. I should say was.

Q. The income and the invoices are between UNITEC and the company?

A. That's correct, and that in turn affected the income that I could derive from performing those lectures.

Q. Those figures, are they based on extrapolation or on known facts?

5 A. On known facts.

Q. Could you provide the facts as to what the figures would have been had you had it?

A. I believe I did in my affidavit.

Q. You suggested outlines.

10 A. At the beginning of 2007 an agreed hourly rate was established and had those lectures in the year of 2007 been conducted to the same hours as in 2006 at the agreed hourly rate they would have been in excess of \$18,000 in 2007.

Q. Do you have any independent evidence to suggest what UNITEC based their decision on, other than hearsay evidence, real evidence that they chose to not  
15 engage you?

A. No it was not hearsay evidence. A professor at UNITEC informed me that –

Q. That's hearsay.

A. No, it's not hearsay, because it was said directly to me.

Q. No, but it's not in the presence of me. It's therefore I submit Your Honour  
20 unless he can produce documents which prove that this is the reason why UNITEC did not establish, it's hearsay.

#### THE COURT:

I think it's best to leave issues of hearsay or not and admissibility or not to argument afterwards. You are asking these questions. The third time I mentioned and the  
25 warning I gave you. I think that at this stage it's best that we simply take the answers we get and their weight of worth can be debated later on. Finish your answer Mr Wells.

#### CROSS-EXAMINATION CONTINUES: MRS HADEN

A. Yes Your Honour. A professor at UNITEC told me directly during a discussion  
30 that UNITEC needs to keep you at arms length because of the impact of these proceedings on UNITEC.

Q. Could you please name that professor?

A. Yes. Professor Natalie Warren.

**RE-EXAMINATION: MR WRIGHT**

Q. Mr Wells, Mrs Haden has pointed out in her evidence in cross-examination  
agreed with her that the various roles that you play in relation to animal  
welfare. Do you see those roles as being complimentary or in conflict?

A. Very much complimentary. This is a very small country and the number of  
people engaged in the area of profession of animal welfare is quite small. We  
come across each other all the time. In a country of this size it's inevitable that  
people will find themselves in various roles, none of them are in conflict with  
each other.

Q. Do you perceive any potential in your fulfilling these various roles of gaining in  
a financial sense from any of them other than your employment role?

A. No I haven't gained financially in any of these matters except that fact that I am  
employed by Waitakere City for a salary to be manager of Animal Welfare.

Q. Finally Mr Wells, the various bodies involved MAF, Waitakere, UNITECT and  
AWINZ, are they cumulatively aware of the various roles you play, or is that an  
open –

A. Absolutely. Those organisations are intertwined in delivering a very successful  
project, and that is whether territorial authorities can successfully deliver  
animal welfare services alongside dog control services. It's been operating  
since 1995 and it's important that those organisations all work together.

Q. Is anyone other than Mrs Haden, or anyone involved in any of those  
organisations ever raised any concern whatsoever about any conflict of  
interest?

A. They have not.

**QUESTIONS FROM THE COURT - NIL**

**WITNESS EXCUSED**

**MR WRIGHT CALLS****MR COUTTS (SWORN)**

Q. Is your full name Graeme John Coutts.

A. Yes it is.

5 Q. Can you affirm for the Court the contents of the affidavit you have sworn, or is that the affidavit you've sworn?

A. Yes it is.

Q. Can you affirm its contents?

A. Sorry;

10 Q. Can you affirm its contents?

A. Yes.

**THE COURT:**

Q. Its date Mr Coutts?

A. I'm sorry?

15 Q. The date of the affidavit?

A. Fourth of February.

Q. Fourth of February this year, thank you.

**EXAMINATION CONTINUES: MR WRIGHT**

20 Q. Now Mr Coutts just a few additional questions. You relay in your evidence one specific example of one of your dealings with Mrs Haden. I wonder whether you can offer any more generalised perspectives with your dealings with Mrs Haden?

A. Your Honour this is the first time I've seen Mrs Haden through the course of this situation. I've spoken to her several times on the phone and every time  
25 I've been civil, I have always spoken with her and answered her questions. My wife and I were subjected to telephone calls, there was no great problem there but there was one in particular, I think on page 42 of Mrs Haden's affidavit, there is a statement made there that she rang me. I told Mrs Haden that I was not allowed to talk to her and then turned the answerphone in my office on.  
30 That's not correct, because I missed getting to the answerphone and it clicked in and I listened to Mrs Haden's conversation to me, which was really a bit of a tirade and ended up in obscenities which didn't make me very happy. There

was another occasion that I'd had phone calls, we also had one at home to my wife, where Mrs Haden swore at her then rang back immediately afterwards and apologised because she was upset which is probably understandable, but went on to mention that I could go to jail for fraud and she would arrange people to come to my street with placards telling my neighbours what sort of person I was. My wife said that it wasn't really my wife's problem, but that is bordering on something more sinister than what we're here for, and that is my only contact with Mrs Haden through this whole thing.

Q. When was your first involvement with Mr Wells and this concept of the Animal Welfare Institute of New Zealand?

A. I would recall round about 1998 when I was invited to become a trustee of the Animal Welfare Institute. The initial invitation was made through a previous CEO (inaudible 2.39.40) and I accepted and it's gone on from there.

Q. Mr Wells gave evidence to the Court that the draft Deed of Trust that was sent to the Minister of Agriculture and Fisheries in December 1999 reflected the common intention of he and the other trustees of which you were one. Would you agree with his evidence?

A. Yes.

#### **CROSS-EXAMINATION: MRS HADEN**

Q. Do you recall the very first time I spoke to you?

A. You spoke to me lots of times Mrs Haden but not I don't. I can recollect you ringing me and warning me that the road that this was going down and to take very special care, but that's about it.

Q. Do you recollect the conversation I had the very first time when I asked you if you were a member of the Board of Trustees of the animal Welfare Institute of New Zealand?

A. No I don't recall that.

Q. I asked you for some documents?

A. Relating to?

Q. To the Trust Deed, and you said you'd phone me back, and from that time on you wouldn't speak to me;

A. No, no. The documents relating to what?

Q. I asked about the Trust Deed?

A. The number of times with due respect Mrs Haden that you have rung me and said you won't ring me back, I won't talk to you again and then a week or two later I get another phone call.

5 Q. Is it not true that from the onset I have attempted to seek resolution by discussing matters with the Board of Trustees and that this has been averted me?

A. No not by me, no.

Q. The transcript that you produced to the Court. You could say that I was quite angry at the time?

10 A. I would say more than that Mrs Haden.

Q. Are you aware of the setting in which I was subjected to that left me in pure desperation because I was going to be denied my family holiday yet again?

A. No, I wasn't.

15 Q. Were you aware, or have you been kept in touch with the proceedings as to what has been happening with the proceedings?

A. Yes.

Q. You have. Were you aware that in 2007 we had a series of communications regarding the setting down of fixtures in the middle of the school holidays which was my time with my family?

20 A. No, I wasn't aware of that.

Q. Are you aware that in 2008 after several months of inactivity the fixture was put down for the very first day of Court and that this was opposed as being changed by your solicitor, and that this was causing me great stress because for two years in a row I was not able to be with my family?

25 A. I find this, to me, irrelevant as far as I'm concerned because as a trustee of AWINZ we're guided by the people that head it up. I'm very sorry that you missed your Christmas holidays. I nearly missed mine, but I haven't gone down that track.

Q. How often does the Trust meet?

30 A. The Trust doesn't meet weekly or monthly. It was formed as a tool to help the Waitakere City Council and the other operations. It's not as if we meet daily or weekly because there's not a lot to talk about.

Q. So when you have a consultation amongst the trustees, how does it occur? Do you have formal meetings at all?



A. To my recollection we've never had a confrontation [sic].

Q. Well when you've got something that needs to be resolved like the administration of the animal welfare people. How do you administer that?

A. The administration of the animal welfare people?

5 Q. Yes, AWINZ has a duty to supervise and instruct and look after the animal welfare warranted officers. Do these issues with people not necessitate any meetings?

A. We, to my knowledge that situation hasn't arisen, but I'm sure if it did we would be called together to discuss it.

10 Q. So there have been two animal welfare officers who have been dismissed within the past year. Did the AWINZ Trust meet to discuss these people?

A. I'm sure if that had have been the case we would have been advised to do that.

15 **MRS HADEN:**

Your Honour I've got a study Employment Court decision here of one of those officers who was an animal welfare officer of proof that this has in fact happened, and my concerns all the way along have been that this Trust is not normal in the sense that it doesn't seem to have any meetings. Mrs Coutts very first telephone  
20 talk with me was the fact that the Trust hadn't met and he couldn't recall any meetings and he couldn't recall any –

**THE COURT:**

Is this Employment Court case that you're referring to one between the trustees and some person employed by them?

25

**MRS HADEN:**

It was an animal welfare officer who was warranted under AWINZ.

**THE COURT:**

Who were the parties to the case, that's really my question?

30

**MRS HADEN:**

The people are employed by Waitakere City Council Your Honour.

**THE COURT:**

Is the case between Waitakere City and the individual or individuals?

**MRS HADEN:**

5 It was, but the Animal Institute of New Zealand under its contract with MAF has responsibilities for the officers that they warrant, and as such they've got to report to the Minister as to anything that's happened regarding these animal welfare officers and therefore it's perhaps presumptuous of me that if you are warranting someone and need to observe these people that the committee that oversees them would  
10 meet and discuss the issues.

**THE COURT:**

I fear we are starting to get away from what this case is all about Mrs Haden, into internal activities of these trustees vis a vis officers, who in fact as I gather it from what you have just then told me, once duly qualified have been employed by a local  
15 authority rather than by the trustees themselves, is that correct?

**MRS HADEN:**

Yes, but they're still required to sign a contract with the Animal Welfare Institute of New Zealand who undertakes to keep them up to date –  
20

**THE COURT:**

In terms of skills and so on, upskilling I think is the expression commonly used these days.

**25 MRS HADEN:**

The obligations, I've actually been given that Your Honour. They have the responsibility to monitor their performance and to ensure that these people are acting accordingly. There is a real responsibility –

**THE COURT:**

30 What's that got to do with our case today?

**MRS HADEN:**

My point is, if the Trust doesn't meet, if the Trust doesn't discuss these issues then --

**THE COURT:**

What are the issues, if there were such, to do with the case today?

5

**MRS HADEN:**

I guess you're right Your Honour.

**THE COURT:**

We seem to be going down a side street.

10 **MRS HADEN:**

That's fine, I accept that Your Honour.

**CROSS-EXAMINATION CONTINUES: MRS HADEN**

15 Q. On the recording that you've produced to the Court, I'm just wondering why you would have said "why have you hung up on me", if that was not in fact what had happened?

A. That was your statement. I did not hang up on you. The answerphone clicked in before I could reach it, it has a very short ring cycle before it clicks in and I did not hang up on you, I never touched the phone.

20 Q. I put it to you that we had a conversation and it was because you hung up on me and the answerphone clicked on that that's what triggered me to become so angry at the time of stress?

25 A. I may have said Graeme Coutts Associates and then the phone clicked in. Now it's a waste of time we trying to talk over an answerphone system that's going in my ear. There was no way I was being rude to Mrs Haden, none whatsoever.

**RE-EXAMINATION: MR WRIGHT -- NIL**

**QUESTIONS FROM THE COURT - NIL**

WITNESS EXCUSED

**GRACE HADEN (SWORN)****THE COURT:**

Q. Mrs Haden, your full name is Grace Haden, is that correct?

A. That's correct Your Honour.

5 Q. You are by occupation a private investigator and I think a company director;

A. A licensed private investigator and Verisure Investigators is my company, also licensed.

Q. And you obviously reside in Auckland?

A. Yes I do.

10 Q. And I take it so far as Verisure is concerned that you are the majority shareholder, if not the sole shareholder in that company;

A. I am the majority shareholder.

Q. Are you the governing or sole director?

A. I am the only director.

15 **WITNESS REFERRED TO AFFIDAVIT**

Q. Mrs Haden open at page 47 please. The document there, the affidavit including the various Exhibits to it, that you swore on, if you'd remind me of the date, was it the 19<sup>th</sup> of February?

A. 19<sup>th</sup> of February that's my signature.

20 Q. 2008?

A. Yes.

Q. And that's your signature?

A. That's right.

25 Q. To you, to the best of your knowledge and belief confirm that the matters of fact that are referred to in your affidavit are true and correct?

A. I certainly do Your Honour.

Q. Is there anything that you wish to add by way of evidence to what's in your affidavit?

30 A. Yes Your Honour. I believe that in any role in the public sector that the public have a right to know what is going on, especially when it comes to enforcement of the law and bodies that have a public role. I am very much old fashioned perhaps, and I believe that we have to have a society that is open and transparent, because only through open and transparency in Government

bodies, local Government bodies and AWINZ is very, very closely connected to a local Government, we should have the ability to question what is going on. I guess initially it happened because I had been severely aggrieved by Mr Wells telling lies about me and disposing of me from the Auckland Air Cadet Trust, where I have three children who are air cadets. I had been the treasurer and I had tried to save \$8,000 by changing Banks and I was severely reprimanded for this. I attended a meeting and I can only call it being set upon, and for the next three months Mr Wells hounded me off the Trust and treated me like no other human being should treat someone who is willing to give their time. I have throughout my life been involved in scouting, girl guides and I have always supported my children, and of the very few people who are involved with Air Training Corp, I was there the longest because I've got three children and they're all in the air cadets, and of course over the years I'm the one who's seen projects from the beginning to the end, and I've heard the promises made at the beginning and I see how they've turned to nothing but dust in the end. I've seen these children who've put \$50,000 in a project lose their investment, and all I was trying to do was to assist the Trust in remaining solvent. We were losing \$1,500 a month. I expressed my concerns that the contract that was being given away to UNITEC, who was Neil Wells employer at the time, and for a project for which he received a citation was not a wise thing to do because we as the trustees of the Auckland Air Cadet Trust had a fiduciary duty to look after the children's wellbeing and the outcome. Now for expressing that and trying to invoice accurately I was kicked off the Trust. Now as a long serving ex police officer and a person who is community minded, I have to ask questions why this happens. I'm naturally suspicious and I can say that I did send an email to the trustees and say "hell have no fury like the wrath of a woman scorned". I was very, very angry, but that anger passed but from there on in I was already hauled before the Court and this whole thing just continued and I can only describe it to being held under in a swimming pool and every time you come for breath someone pushes you under again and there was another wave of attack. All I was doing when it came to AWINZ was to seek public accountability. I simply asked questions of the elected members of the Waitakere City Council as to what an Unincorporated Trust, who were the members, how did it come about and when we couldn't find an

Incorporated Trust, myself and two others incorporated the name. We did that for no other reason than to prove that the assertions which were made at that time to it being a Body Corporate were false. The very first approach we have was at the beginning of June when Mr Wright's wife, calling herself Vivienne Parr phoned me late at night on a Friday night. She told me that I had to give up the name of the Trust and give up our website. Our website was there to advertise our Trust and we drew a distinction between what our Trust was and the one in Waitakere because we did not want the two to be confused. Now Vivienne Wright, Vivienne Parr, followed up her communications with me by saying that she would make a complaint against my private investigators licence. She then harassed our internet provider and Mr Wells and Mr Wright also tried to get out internet provider to take our website down. When all that failed we received the letter from Brookfields which said "you have to comply, you have to give up the name, you have to give up the website and you must give this undertaking and if you don't we'll sue you". We simply said "can we please met and discuss this and resolve it". By this stage we had paid for the website, we had paid for the name. It was a small amount and we were willing to discuss and resolve it because what we were seeking was accountability. Instead we were bombarded and bullied. I'm perhaps, having been an ex cop I've get this real thing about bullying. We've got too much bullying in our society. We look at children at school and we say you mustn't bully, yet they seem to get it from the adults out there, who don't give anyone an alternative, but do as I say, or else. So that's how the Court proceedings began and I filed against the Auckland Air Cadet Trust because I wanted to have the Trust examined. I believed that the administration of the Trust was destined to run the Trust into insolvency so that the assets would then default and the children would have nothing. I did not realise I'd filed in the wrong Court. At the very first opportunity before Judge Everitt I sought to withdraw it. I should not have even been able to file in the Court. The Registrar overlooked it, then under the rules of Barristers and Solicitors I should have been advised by Mr Wright, I wasn't and I removed it as soon as I found out but Judge Everitt said "lets do it on the papers, I want it done through interlocutory. We went to Court and it was supposed to be a defamation conference, there was supposed to be an interlocutory and then there was supposed to be a settlement conference and

in the summer of 2007 I was overwhelmed by the paper work I had to do for Court. I checked with the Registrar as to the form of the proceedings and they said prepare for all three. I had this monstrous pile of documentation that I had to comply. We then came before Judge Sharp who decided that I had to have \$6,800 payment for Mr Wright's bill for the striking out of the Auckland Air Cadet Trust, something I hadn't opposed and I have counter claimed for defamation for what had happened on the Auckland Air Cadet Trust and that was struck out on case law without the facts being heard, and somehow this one remained live. Now I'm a great believer that truth has got to be welcome in society, because if we conceal truth we allow corruption grow. Corruption grows in secrecy and two women at the Waitakere Animal Welfare have lost their jobs because of me. One, I went and saw the head of the North Shore, a guy called Robertson, Warwick Robertson. Warwick Robertson used to be a prosecutor with me in the police, and Warwick said to me "Grace what we say in this room stays in this room". He said to me "who's your informant, who's giving you this information about AWINZ". Not wanting to disclose my informant, I mentioned a name, I just picked a name at random, Jane Charles. Jane Charles was sacked not long after because she had been (inaudible 3.01.23) to everybody in Waitakere City or rather all the ratepayers. I can back this up with her Employment Court thing. At the same time North Shore City Council decided that they weren't going to have any further dealings with Waitakere. Now I helped Jane put the papers together and that's where it became clear from the patter of what was said that we can trace it right back to March 2006 with my meeting with Warwick Robertson that that was the start of the end for her where she lost her job. The other lady was Lyn McDonald who is known as the bird lady. She puts an incredible amount of time into voluntary work and she cleaned up the birds that were hurt at Western Springs. Now somehow someone decided that Lyn was the lady who was the issue with me and Lyn was taken away and given an employment relations conference. I have since learned because I'm now helping her with more legal action which is being taken at the instigation of Neil Wells that it was because they thought that she was my informant that she lost this job. She had returned a dog to a person who lived in Kaukapakapa who couldn't make it back before 4 o'clock on the Friday. She had got the dog out of the pound and then she went to pay.



She couldn't pay because the cashier had cashed up. By the Monday it became an employment issue on the basis of this, which should have been a public, you know it was a goodwill gesture and something in the public field. She's since been taken back to the Employment Court by Neil Wells and Waitakere City Council because I named her in the settlement conference in the confines of the confidentiality of settlement conference. The following week she was served with documents which took her back to the Employment Relations Authority for breach of contract because I had stated that she had been forced to sign a confidentiality clause, and no more than that. It's absolutely bizarre and the pressure that's been put on this lady. This is just an example Your Honour of how the Court is being used as an abusive process. I welcome openness and transparency and I welcome the ability for people to discuss and resolve, but when people have to use the Court to beat people into submission I think it's an abusive process. I have all the way through asked questions and probably my attack by putting things on the internet of late has been because my defence has been struck out. When I'm speaking the truth I believe I've got a right to speak the truth and I've got a right for people to ask questions about what's happening and when we seek to silence people like myself I have to ask why, why couldn't we discuss it, why couldn't we sit down and resolve it. Why do we have to have a two year Court case which gives so much stress to other people. It has crippled my business. The amount of time of spent, the only way I can look at it as positive is that I have probably done part of law degree on the way through because I've learnt a huge amount about how the Civil Court functions and I can actually help my clients. I stand by everything I've said Your Honour. I as a private investigator have no greater access to information than any other member of the public. The police and Serious Fraud Office will not touch it because it's before the Court and they think that I'm trying to get out of Court by getting them to take action. I used to work in CIB in Criminal Investigations Branch and when I left the police in 1989, three year before that I can vouch exactly for what they are saying now. Their stacks of files are so high, they cannot get round to investigating things and they certainly don't want to investigate a large complicated fraud because it doesn't give them the potential to get a clearance and it's extremely difficult. Because I do deal in the fraud field in my work and I

can only explain with a very simple matter where a vehicle was stolen. A young man took his car in, back to the dealer because he had rust in it and he couldn't get a warrant of fitness. The dealer said "I will take the car and I'll fix it for you". The car was on sold. I said to him take it to the police, report it as stolen. The police wouldn't touch it. The next time I gave him some more information he went back. On the fourth occasion the police took the complaint and a man was convicted. Now I bring this up as an indication of how difficult it is in today's society to report anything to the authorities, and because things are difficult to report to the authorities nothing gets done about them but we do tend to pick on the person who starts asking questions because it is a great way of making them stay quiet. It's been done before, it's been done throughout history. It's using the law as a sword, it is by attacking the person who's asking questions because in normal circumstances the person would back off and go away. Once I had a financial interest to the tune of \$18,000 of which incidentally bankruptcy notice was filed 10 days ago to coincide with this hearing, as last year a statutory demand was filed by Mr Wright on my business, again 10 days before a hearing, a statutory demand that was not followed up. It is continual persistent vindictiveness and that's the plea I make to this Court Your Honour that this is malicious mitigation designed to conceal criminal offending. Criminal offending which will be conclusively proved once the authorities get into all the documents and be able to see the transparency

**CROSS-EXAMINATION: MR WRIGHT**

Q. A brief question about your name Mrs Haden. You co-own with your husband the property at which you live at 23 Waipati Avenue, is that correct?

A. Yes I do.

Q. The name on the Certificate of Title is Grada Haden?

A. That's correct.

Q. Can you explain that?

A. I was born in Holland and that was my Dutch name and it's been changed and even my Dutch passport now has the name Grace Haden on it.

Q. Thank you for that clarification. There's three websites which we're aware of which contain information about Mr Wells, one [www.publicwatchdog.org.nz](http://www.publicwatchdog.org.nz). Are you the author of the material on that website?

A. I must thank you for drawing it to my attention because I became aware of that website when you brought it up before the Court and I know do subscribe to them.

Q. So are you the author of the material that is posted on that website concerning Mr Wells?

A. I guess I have to say yes because I had those pages up on the AWINZ website and when I removed it I found that they had been harvested from my website and moved onto publicwatchdog's.

Q. So you're also the author of the material on the website [www.awinz.co.nz](http://www.awinz.co.nz)?

A. Yes that's the website that you sent me the email for saying that you didn't find anything defamatory on that website.

Q. And you're also the author of all of the material on your company website [www.verisure.co.nz](http://www.verisure.co.nz)?

A. That basically has the document which I've relied on in the affidavits yes.

Q. If I can take you to your affidavit. Just take you through a few of the points that you raise. Just going through it in order. If I can take you to page 7 of your affidavit first. You refer here at paragraph 14(d) and several times following on from this reference to contracts between AWINZ and Waitakere City Council and MAF. Are you aware of the legal distinction between a contract and a Memorandum of Agreement?

A. To me there is a very fine line, it's still a contract and an MOU to me is a contract it is an agreement, it is not something you sign if it's got no purpose.

Q. Have you ever sought any legal advice whatsoever in relation to this point?

A. I have always believed that an MOU is a form of contract and I've never sought the need to question it. It is a Memorandum of Understanding which to me implies some contractual obligation, an agreement, which is in a contract.

Q. Do you agree that this is a matter of legality, simple and short, there's no factual issue here. It's either a contract or it isn't under the law?

A. Well I have not researched that, I have always believed an MOU to be a legal obligation which if it wasn't what's the point in entering into it.

Q. So you accept that there is a distinct possibility, for example if this Court was to find that these are not contracts that they're Memoranda of Understanding, that the statements that you've made in your affidavit and on the website are incorrect?

5 A. I believe that an MOU is a type of contract.

Q. But it either is or it isn't. So if this Court finds that an MOU is not a contract would you accept the statements that you've made on your website and in your affidavit are not true?

10 A. Well if that's what the Court finds then I'm willing to make a correction of it, because at this point in time it's my honest belief that an MOU and a contract are one in the same.

15 Q. Moving onto page 11 of your affidavit. There's a very clear theme that begins here and continues throughout your affidavit and also through a lot of the material that you've published, where you question whether a Trust was in existence as at November 1999. Are you aware that a Trust does not need any evidence in writing whatsoever in order that it be formed, all that is required is a common intention of more than one person to form a Trust?

20 A. That's not what I've got here. Over here what I've questioned is the fact that the document states that a Trust has been formed by Trust Deed. Now my interpretation of that means that there's physical evidence of a document, of a Trust Deed being in existence and it could be implied that a Trust does exist if people have agreed to it but then the statement which would say that it has been formed by Trust Deed is incorrect because then the statement would have been that the Trust has been formed by mutual consent.

25 Q. Do you agree that attached to the document in question was a Deed of Trust, albeit one that hadn't been signed?

A. Yes, but I believe that a Trust Deed forms a Trust when the trustees have signed it.

30 Q. Well we've heard evidence from Mr Coutts and from Mr Wells today that that Trust Deed that existed in December 1999 reflected the common intention of the trustees named in the document. Do you have any evidence whatsoever to refute that point?

- A. What I've got is a statement which says that a Trust has been formed by Trust Deed and I have got no evidence that in 1999 a Trust has been formed by Trust Deed.
- Q. Perhaps I haven't been sufficiently clear Mrs Haden. You accept that a Trust  
5 can be formed orally?
- A. I accept that from you, but I have no proof.
- Q. You never sought any legal advice whatsoever on this point?
- A. I deal with Trusts and legal entities in my work all the time and I know that if I  
10 was to give or try and recover a debt from Unincorporated Trust which only relied on the verbal assertions of people that they comprised it, I would not be successful in getting any money back.
- Q. Mrs Haden have you ever sought any legal whatsoever on the issue of how a Trust can be formed?
- A. I'm very well aware of how Trusts can be formed but I'm also very aware that  
15 when statements are made which imply one thing, that that's what they imply.
- Q. Then let me come back. If you say Mrs Haden that you're aware of how Trusts can be formed. Let me come back to the question I asked you before. Are you aware that a Trust can be formed orally?
- A. Now you're telling me they are well perhaps –
- 20 Q. You said that you're aware of how Trusts are formed. Were you not aware of this?
- A. To me an orally organised Trust does not have any legal accountability because there's no documentation that would prove who they are.
- Q. Let's move on to matters of accountability and evidence later. Let's try and  
25 stick to the question. Are you aware that a Trust can be formed orally?
- A. No, there can be an agreement to form a Trust but a Trust if it's going to do something needs to have some documentation and some undertaking. You wouldn't be able to go to a Bank with a Trust that has been formed orally. You would not be able to open a Bank account, you would not be able to do  
30 anything with it.
- Q. So lets just posit the possibility for a moment Mrs Haden. You're incorrect about your understanding that a Trust can't be formed orally. Let's say that this Court was to find as a matter of accepted law that you can form a Trust orally and that the only evidence before it as to the existence of a Trust as at

December 1999 is the evidence of Mr Wells and Mrs Coutts saying they had formed a Trust and the common intention of that Trust is reflected in the document that was provided to the Minister of Agriculture and Fisheries in December 1999. So if the Court makes those findings, does that not render a good deal of your affidavit untrue?

A. What I have expressed is honesty and honest opinion and I do not believe that if you're going to form a Trust that is going to take on a legal responsibility with the Government that you would be so unwise as to do that on oral application, you would certainly set up your structure to have accountability.

10 Q. Mrs Haden is it the case that you have stated in your affidavit and you've stated in material that you've published that you do not believe that a Trust existed in December 1999?

A. Well we've got a registered office there, and my understanding of a registered office is a office which is registered under some Act or under some jurisdiction.

15 Q. Mrs Haden it would assist the Court if you'd answer the question.

A. I'm just trying to —

#### THE COURT:

She's entitled to respond in the way she's responding Mr Wright, let her go.

#### CROSS-EXAMINATION CONTINUES: MR WRIGHT.

20 A. It says registered office. Now registered where? Registration gives an impression that there is some writing in the background. Again we've got a statement that says has been formed by Deed of Trust and is being registered. Now you would not be able to register a Trust which has been formed orally, you would have to have some documentation before you can say it is being  
25 registered.

Q. Let's take this first statement. A Charitable Trust has been formed by Deed of Trust, and the Deed of Trust as you've agreed is attached to the document.

A. But it wasn't signed.

Q. We've heard evidence from Mr Wells and from Mr Coutts that that Deed of  
30 Trust represents the common intention of the trustees that were named at that date. Do you accept that?

A. Well that's what they can say but if on the other hand we were in completely different circumstances and there was some liability attached, they would also stand here and say "no it wasn't signed and therefore it wasn't". Legally I don't think it's got a leg to stand on.

5 Q. The question again Mrs Haden. Do you accept that evidence has been given in this Court by Mr Coutts and Mr Wells that the document attached in December 1999 and provided to the Minister of Agriculture and Fisheries represents the Trust that they had formed?

A. They had not formed the Trust. They have no conclusive proof apart from the  
10 allegation that they have got the statement to the Minister, which in my opinion is completely false because there was not –

Q. Let me repeat the question again Mrs Haden?

A. I'm sorry, you're not going to badger me into the answer you want.

Q. I'm simply asking –

15 **THE COURT:**

I'm going to intervene here. You'll need to consider at some point Mr Wright the first page of the document that is item "M" of Mrs Haden's affidavit, which is a document as described as Deed of Trust and Revocation dated the 5<sup>th</sup> of December 2006. The recitals of which include: A. Under the heading background. On the first day of  
20 March 2000 the settlor established a Trust for charitable purposes by creating the Trust provided for in this Deed and the settlor is there described as being Mr Wells.

**MR WRIGHT:**

Your Honour this is a point –

25 **THE COURT:**

I don't think this cross-examination is going to usefully take us much further than thus far it has. I can see what your clients seek to drive at and equally I can see how Mrs Haden sees it.

30 **MR WRIGHT:**

Yes, but Sir in terms of this document that you've drawn my attention to, it's very clear from –

**THE COURT:**

I accept that Mrs Haden did not draw Mr Wells attention, as I recall it, to this document, but it certainly appears to have been signed by him, amongst the others and your client has been on notice of it at least since Mrs Haden's affidavit was  
5 heard. There has been the opportunity in supplementary evidence today for him to speak of it himself. I don't want to make any more of it than needs to be made but I just rather feel that we'll spend half an hour or an hour here talking about whether there was a Trust or whether there wasn't at any particular time and orally as opposed written Trusts and so on and so forth. The position as I see it is that this  
10 witness relies on her reading of documents. They may be belied by the reality. I may have to decide those issues, but I don't see that carrying on in this direction is going to help us. If you think I'm wrong then I'm not going to stop you advancing matters a wee way further yet, but I fear we're about to start, if we haven't already, going round in circles.

15

**MR WRIGHT:**

Yes Sir. I appreciate your guidance and really the point comes down to an understanding I guess of the law that Mr Wells held. He believed certainly, it's clear throughout for example that Trust Deed "M" which I very much suspect he actually  
20 drafted as well as signed and other correspondence, that he believed that the Trust was not formed officially until 1 March 2000. The point that I have sought to raise in evidence that is in fact on the facts, not a correct conclusion on his part. That as a matter of law on the facts that are before the Court and I'm trying to establish whether they are controverted facts or non controverted facts that a Trust was  
25 formed as early perhaps as 1998, but certainly was in existence in December 1999 and all I am trying to do with this witness is to ascertain whether she has any evidential basis for refuting the evidence of Mr Wells and Mr Coutts.

**THE COURT:**

Well that's not a helpful question really to ask the witness because she's given her  
30 Evidence in Chief in the form largely of her affidavit and following that her oral evidence today. We know what the confines of the evidence are. I don't recall there being anything put before me today beyond the oral assertions of Mr Wells and Mr Coutts questioned in some respects by Mrs Haden about the fact of the matter, so I



don't see the point in saying to the witness "have you got any other evidence" because we deal with the evidence that's put before me today not what might have been given or might turn up in a week or so.

5 **MR WRIGHT:**

I appreciate that Sir, I'm happy to move on.

**CROSS-EXAMINATION CONTINUES: MR WRIGHT**

- Q. Turning to page 12. Another theme of your evidence and of other material that you've published is that Mr Wells indicated that the Trust that he had formed and was going to have executed by Deed was going to be registered. He has explained to the Court why that wasn't done and the context of discussions that took place over a year with the Minister of Agriculture and Fisheries at the conclusion of which it was agreed by all parties that registration was unnecessary. In the light of that explanation and in the light of the fact that the Minister clearly approved AWINZ as an approved organisation knowing that it wasn't registered, do you still assert in your evidence that there was some aspect of fraudulent behaviour on the part of Mr Wells and the things that he said to MAF during the early course of discussions?
- 10
- 15
- A. It's very interesting that when the approval came through for AWINZ, it was actually gazetted with words Inc at the end of it. Which gives the clear impression that through the documents which I received under the Official Information Act and the repeated assurances by Mr Wells that the Trust was being incorporated, that the documents were on the way to the Minister of Economic Developments and that it was going to registered, that the Minister actually believed that it was incorporated. I believe that Mr Wells then turned around and drew a distinction between Incorporated Societies and Incorporated Trusts. Between every entity except Incorporated Trusts. Now you've got to back to the fact that public accountability is the essence and public accountability is sought by Section 122 of the Animal Welfare Act and that criteria of public accountability was ticked off in the boxes by incorporation under the Charitable Trusts Act. The Charitable Trusts Act forms the Trust into an entity of its own and thereby giving it public accountability and all the way along in the emails which I've pointed out through the evidence of Mr Wells,
- 20
- 25
- 30

the assurances being "yes we'll give you the assurance it will be done", "yes it is on its way, I can't send you the original because the original is actually on the way to the Minister, to the Companies Office to be registered". So given these assurances and the repeated assurances, I believe that the Minister, because of Mr Wells close relationship with the Ministry in that he has been in an advisory capacity and a consultant them, he has after all drafting the Animal Welfare Act, he is trusted, he is known and they have therefore believed him that what he was saying was true and they didn't seek to sought the original any further.

10 Q. Let's take two elements of that separately Mrs Haden. When the Gazette notice was issued for Animal Welfare Institute of New Zealand Inc, is it not true that Mr Haden immediately wrote back to the Minister –

A. Mr Haden?

15 Q. Mr Wells immediately wrote back to the Ministry advising that it was inaccurate to provide the word Inc at the end because the Trust had not been registered?

20 A. No, no. what he wrote back was that it was not an Incorporated Society. He carefully circumvented the necessity of, he covered off everything except the Charitable Trusts Act. He said it's not under the Company Act, it's not under the, but he never made any mention of the Charitable Trusts Act, and what his reply was to the Minister was strictly correct but it ignored and evaded the truth.

Q. If he had registered the Trust under the Charitable Trusts Act he would be entitled to put the words Inc at the end of it, is that not correct?

25 A. Well yes and no, but it's not usual. Inc is usually reserved for anything that's put under the Incorporated Societies Act and the Incorporated Societies Act is distinctively different from the Charitable Trusts Act and yes it would be wrong for anything, it's actually illegal for something to have Inc behind it when it is not actually incorporated. Therefore that is why Mr Wells had to get those word Inc taken off because it would have given the impression that it was incorporated when it wasn't.

30 Q. Let's deal with the other aspect. Mr Wells has given evidence to this Court that virtually during the whole of 2000 there were significant negotiations going on between himself and Ministry of Agriculture and Fisheries officers, which included the preparation of legal opinions by Kensington Swann and by Crown

Law Office on this very question of whether Animal Welfare Institute of New Zealand had to be registered under the Charitable Trusts Act in order to be approved as an approved organisation?

5 A. All I can say to that is I made a specific request to the Ministry of Agriculture under the Official Information Act and asked for all documentation which discussed the issuing of the, you know the requirements of the incorporation and what I received apart from one other document which was just a, I think it might be on one of the documents from Linda Darr [sic] who was the lawyer for MAF. All those documents are there, I have not got any other proof that any  
10 further discussions were entered into except for the fact that we've got these complete recurrence of assurances from Mr Wells to the Minister. Yes we will get round to do it, yes we will do it and then the statement that this will add months to it. When we incorporated our Trust it was done in less than a week.

**COURT ADJOURNS: 3.33 PM**

15 **COURT RESUMES: 3.56 PM**

**CROSS-EXAMINATION CONTINUES: MR WRIGHT**

Q. Your page 14, under what you describe as deception 8, that an unincorporated body such as AWINZ cannot sue or be sued in that name. As a former police prosecutor do you understand the distinction between suing and prosecuting?  
20 A. When the identity of something is not known and when there is no legal entity as such a natural person, or a person created by statute through incorporation then a name in itself cannot sue or be sued because you actually need to have an entity to take the proceedings and that's probably general law as opposed to being just criminal law.

25

**MR WRIGHT:**

Your Honour I'd like to ask your assistance please. I'm finding it difficult to get Mrs Haden to provide answers to what are very simple questions, and that is with respect Sir a very simple question. "Does she understand the distinction between suing and  
30 prosecuting?" She hasn't provided an answer and she's been responding in this manner to a number of my questions. I've sought to repeat a number of them and

I've been criticised by Your Honour for doing so, but I really would like some assistance Your Honour in directing the witness to answer the questions that are put to her.

#### THE COURT:

- 5 What as I understand it Mrs Haden, Mr Wright is asking you is whether or not you appreciate the difference between the civil process where people may be sued or themselves sue and the criminal process which inevitably involves a prosecution.

#### WITNESS

- 10 In my simple terms, I think something has to exist and has to exist legally before they can take any action and if it doesn't exist and there is no foundation which is publicly available which shows that this is a Body Corporate of some sort under some legislation then you could just as well say it's these glasses prosecuting. We have to have these constraints in our society which give something the ability to act and if the statement that Mr Wright wishes me to acknowledge as being correct, it would  
15 open the door to everybody going back and saying "we set up this Trust t-10 years ago because we agreed to it, we've got no documentation, but we're prosecuting you under the name of the reading glasses."

#### CROSS-EXAMINATION CONTINUES: MR WRIGHT

- 20 Q. Let's be very clear about that Mrs Haden. Do you agree that the Animal Welfare Act makes provision for approved organisations to prosecute people for the Animal Welfare Act?
- A. I don't know about that, but I know that the Animal Welfare Act does not give an organisation the status of a Body Corporate.
- 25 Q. So what you're saying is you don't know whether the animal Welfare Act gives approved organisations the ability to prosecute?
- A. Not that I'm aware of. I believe that still to take any action in any Courts it can only be taken by a natural person or a person in the legal definition and I do not believe that the Animal Welfare Institute of New Zealand is in that name a legal person.

Q. If you accept my saying that the Animal Welfare Act authorises approved organisations to prosecute people for breaches of the Act, do you agree and accept that AWINZ is an approved organisation under the Animal Welfare Act?

5 A. I believe that AWINZ became an approved organisation under the Animal Welfare Act on the pretext that it was incorporated.

**THE COURT:**

I think that really sums up Mrs Haden's perspective doesn't it?

**MR WRIGHT:**

10 Yes I think it does.

**CROSS-EXAMINATION CONTINUES: MR WRIGHT**

Q. Just dealing with page 17. You make an issue and you place reliance on this issue. Information that you've published that you believe that the copy of the Deed of Trust which was provided to you had been falsified in some manner and did not reflect the original Deed of Trust signed. Today you've had the opportunity to look at the original Deed of Trust and compare it very closely to the Deed of Trust provided to you. Having done so, do you accept that it is indeed a true copy of the original?

15 A. I am not a forensic scientist, I am not a handwriting expert, but what I saw today is simple clarification that I've been trying to seek for two years, when I was told that the copy was lost, when I was told that there was only one original, then there were two originals. The other thing that confuses me is when I was shown a document last year, the signatures to me, although the document was shown very briefly, appeared to be denser than what they were today. They all seem to be done in pen. I have no explanation of that, it could just be a perception over time and bits and pieces, but certainly the documents you showed me today, I'd be willing to accept that they are the same documents, but it's such simple proof which could have been averted if it had been supplied a long, long time ago.

20 25 30 Q. Finally over on page 29, under what you describe as deception 39. You say the webstie of the plaintiff has three domain names. Is it correct that one of those domain names is [www.awinz.org.nz](http://www.awinz.org.nz)?

A. Yes one of them is, but always shows in the URL, like for example my Verisure website has a number of names, but the one that always shows in the website is Verisure and this one it always shows animalwelfare.org.nz and indeed that site furnishes the first strike site Animal Welfare and AWINZ.

5 Q. Do you agree that www.awinz.org.nz is substantially similar to www.awinz.co.nz?

A. Well one's an organisation and one's a company, but anyone can buy these and someone who doesn't want someone else to buy one of the other ones takes the lot and we chose awinz.co.nz because we had a legally Incorporated  
10 Trust called the Animal Welfare Institute of New Zealand for which the acronym is AWINZ and that's why we chose the name.

Q. Do you yourself or any of the trustees of the Trust that you formed have any qualifications, background, experience, expertise in relation to the field of animal welfare?

15 A. Yes we do.

Q. Which, do you yourself have any background experience, expertise in the field of animal welfare?

A. No I don't.

Q. And which of the trustees do you say has such experience?

20 A. We have a trustee called Lyn McDonald who is an ex animal welfare officer and I really live in fear of saying that because next week she'll be sued in the Courts again because this is what happened last time I used her name.

Q. Just briefly touching back upon this issue of how a Trust is formed. Do you accept that you've been told on a number of occasions of the plaintiff's view that the issues that you've raised about the formation of the Trust are of little  
25 relevance because a Trust can be formed orally and we've already given evidence that that's happened. Do you accept that this issue has been specifically identified for you, that a Trust can be formed orally and that you've been asked to seek some legal advice on the issue to clarify your point of  
30 view?

A. I go with what is written in front of me. I am a very factual person, I deal with real evidence. Throughout my life as a police officer and a private investigator people tell me many things and people tell me what they want me to believe. In the end I always verify and that's why my company's name is Verisure. I

verify everything with documents and on the documents that I have verified your claims, I have not found that to be true. I have found documents which say that the Trust was formed by Trust Deed in 1999 and was being incorporated in 1999, but despite that still was not incorporated in 2000.

5 Q. Do you agree that in previous appearance before this Court that you've in fact had Judges advise you on this point that it seemed difficult for you to pursue this line of argument, given the fact that Trusts can be formed orally?

A. Not to my recollection.

10 Q. Well can I take you to annexure Hugh to your evidence. The fourth paragraph down where I point out these points to you and the third to last line recording that this is what the Judge was trying to tell you earlier this week. The next sentence "that any competent lawyer would have confirmed this for you".

15 A. That is merely your impression and I've had a lot of experience with what you've done Mr Wright. You try and legitimise statements and this is what Mr Wells has done through the times, is legitimise statements by putting them in your own words and then putting them to me. I do not recall that and that is merely your interpretation and I don't recall it.

20 Q. Do you recall that you've now had four different Judges of this Court advise you in strong terms that you needed to seek some form of legal advice in relation to the issues that you're raising?

25 A. No. I've had four Judges who've all suggested perhaps that I should engage legal counsel, but I firmly believe that as an ex police prosecutor of three years, if I am not capable of defending myself before these Courts then no lay person is. When you have to pay out \$500 an hour for a lawyer and you do not earn anything like that in a week, you can appreciate that justice would be denied because you cannot afford to engage such legal advice.

30 Q. Does it concern you at all Mrs Haden that if it turns out that your campaign's based on a simple misunderstanding of certain aspects of the law that it would have been prudent as you've been (inaudible 4.11.42) on numerous occasions to have at least sought some clarification as to those basic points;

A. Oh I have. I've spoken to lawyers who I am in business networking groups with and they have all independently supported the views that I have put and have given me advice. They have not necessarily acted for me but I believe that what my findings are, are correct.

QUESTIONS FROM THE COURT - NIL

WITNESS EXCUSED

[These are the notes that I caused to be made]

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Roderick Joyce QC  
District Court Judge

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