

**IN THE HIGH COURT
AT AUCKLAND**

CIV-2013-404-002890

BETWEEN

GRACE HADEN,
Fraud Investigator
23 Wapiti Avenue Epsom
Appellant

AND

NEIL EDWARD WELLS, Barrister
1308 State Highway 3, Rd 5, Te Kuiti
First Respondent

AND

WINIFRED NORIEN HOADLEY,
Solicitor
74 Castor Bay Rd Castor Bay
Second Respondent

AND

GRAEME JOHN COUTTS
15A Saltaire St Avondale
Third Respondent


AFFIDAVIT OF GRACE HADEN IN SUPPORT OF SUBMISSIONS

8 July 2013

Next court date : 9 July 2013

Filed by: Ms Grace Haden
23 Wapiti Avenue ,Epsom
Phone 5201815
Grace@verisure.co.nz

My full name is Grace Haden I am a licenced Private Investigator, director Verisure Investigations, I am a Former Police prosecutor and appellant in this matter. *and*


I hereby swear 

Residency

1. I am a New Zealand citizen and reside in the family home which is owned by a family trust. I have a 21 year old son who depends on me he is a university student studying engineering (3rd year)

Financial circumstances

2. I have the ability to pay the respondents but have fought long and hard to withhold the payment until my claim to have the judgement set aside on the basis of fraud can be heard and determined. I believe that once paid the funds will not be recoverable
 - a) To date I have paid \$150,000 in the past year alone
 - b) They have liquidated my company on false affidavits **Annexure A**
 - c) The liquidation and reinstatement has done considerable damage to trade confidence and decreased my income
 - d) They currently have demands on me for a further \$41,000 , \$16,000 and \$6,000 (in round figures)
3. I believe that they plan to financially cripple me before I can prove the gross miscarriage of justice which has occurred, I do not believe that I will be able to recover the money once paid.
4. I do not currently have sufficient funds to pay the respondents and am trying to obtain a loan , if I cannot get a loan the family home will have to be sold , the respondents have no room for negotiation and **have provided for time payment only if I fore go my right to justice by withdrawing the appeal .**
5. I can make payments to my lawyers to prevent the liquidation of my company but will be living in hardship until I manage to get a loan or the house is sold, this is an action which cannot be undone, it is for this reason that I ask for payments to cease until the matter is finally determined.
6. The respondents have not suffered hardship as the funds have been paid from a charitable trust set up after litigation commenced.

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Background

7. In 2006 I asked questions in the public interest with regards to the Animal Welfare institute of New Zealand (AWINZ), an approved organisation under the animal welfare act section 121. (the RNZSPCA and incorporated society is the only other approved organisation) Approved organisations have coercive law enforcement powers.
 - a) I ascertained conclusively that the AWINZ but a trading name for unidentified person or persons. Mr Wells was the only person associated with it
 - b) I had been provided with documents from MAF and council, they did not have a trust deed but I obtained the application for approved status dated 22 November 1999 made By Mr Wells who told the minister that the application was being made by an existing trust, he supplied an unsigned trust deed and no one else's signatures accompanied the application.
8. Mr Wells had written the bill for the new Animal Welfare Act and had been independent advisor to the select committee , my questions exposed him and he commenced a cover up by using the court to re write history.
9. My evidence which I have been prevented from placing before the court shows that the proceedings were won by (put extremely simplistically)
 - a) Filing meritless claims by persons of no standing.
 - b) The interlocutory applications arising from these claims brought about significant costs
 - c) These costs were demanded on very short notice
 - d) The cost demand was not met due to the tight time frame and My defence of truth and honest opinion on the defamation claim was stuck out , the meritless claims were withdrawn.
 - e) The defamation claim went straight to Quantum there was no formal proof.
 - f) No evidence has ever been produced by the plaintiffs in those proceedings except two "original trust "deeds for persons other than the plaintiffs and the uncorroborated evidence of Neil Wells.

Am *and*

10. His honour Judge Joyce relied upon the evidence of Neil Wells and the statement of claim being true. It was upon the basis of this evidence that His honour awarded \$57,500 damages in favour of Mr Wells and costs of \$41,000.
11. I made official information requests based on the evidence of Wells at the quantum hearing, the evidence I obtained from MAF and from Council conflicted with the evidence which the court had relied on as being true
12. Subsequent appeals and application have failed, having been blocked vigorously by the original plaintiffs and their lawyers as the truth would expose them for having deceived the court. The lawyers have had so many affidavits and so much evidence that they must be aware that their office is being used to conceal fraud.
13. In 2011 when I had exhausted the appeal process I received vital new evidence
 - a) The ombudsmen's office had spent 2 ½ years seeking the release of a MAF audit report dated **20 JULY 2009**, this was released to me on **29 August 2011. Annexure G**
 - b) The law society received information for Wells with regards to the trust this information was sent **25 May 2011. Annexure H**
14. In April 2012 I filed proceeding in the District Court seeking to rescind the judgement for fraud and deceit, I was accused of re litigating and was called vexatious. His honour was persuaded to strike out the proceedings and he did so quoting at paragraph 25 of his decision *"that the documents obtained by the plaintiffs after the determination of the earlier proceedings could not have been obtained through discovery procedure ... and even if he plaintiffs had the documents before the earlier hearing that would not have availed them as their statement of defence was struck out and they were debarred from the proceeding."*

Prospect of success in the appeal

Judge Gibson's decision

15. A summary of the documents and when I obtained them is at **annexure B** this shows that His honour erred when he said that I could have obtained the documents before the hearing. It is only when the documents from different sources are read in conjunction with each other that the deceit on the court is revealed.



16. It was on the belief that I could have discovered the documents prior to the hearing that his honour labels me vexatious. The reality is that there simply was no possibility that I could have discovered these crucial documents prior to March 2008 and the knowledge that the plaintiffs in the original proceedings were deceiving the court was their knowledge alone.
17. The documents impact on the proceedings by having the effect of proving that the statement of claim was materially false and that Mr Wells committed perjury.
18. The impact on the statement of claim means that if the truth had been known from the onset my defence would not have been struck out as there would not have been a cost order.

Perjury before Judge Joyce

19. **Annexure C** are the relevant pages of the transcript of evidence which was provided to me by the court for the Quantum hearing in March 2008. I have highlighted passages and provided just the pages from the transcript where he misleads the court on just Two points (there are more) relevant to my points in my submission.

20. Chronology is essential to this matter I had pointed out that the application 22 November 1999 was materially false as no trust existed at the time.

- a) Logic dictates that a trust formed three months later 1.3.2000 could not have made the application.
- b) Mr Wells persuaded the court that the application 22 November 1999 was not the application. He does so by telling the court

"The Bills were not passed until October 1999 and the Act itself did not come into force until the 1 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 formal application at that time."

RM *SL*

"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."

*"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 then**"*

c) The difference in shifting time frames ensured that there was no deceit in the application and made me out to be a liar, it also allowed Mr Wells to have a court judgment which prevented any investigation into the matter as truth is taken from the judgment. This judgment was flawed as the uncorroborated evidence was false.

d) This in turn translates into a finding of fault as opposed to a finding in my favour.

21. Proof that Mr Wells deceived the court lies in many documents which I obtained from MAF as a result of an official information act request which I made as a result of the evidence Mr Wells gave.

a) In **December 2008** I obtained a copy of the letter which the then Minister of agriculture sent to Neil Wells, this document as do others records that the application for approved status was the application made on 22 November 1999. **Annexure D** proving conclusively that Mr Wells evidence deceived.

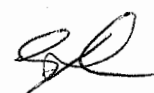
22. I had no way of knowing what explanation he was going to have and I could not have produced this evidence in any case as my defence was struck out, however just because some ones defence is struck out there is still an obligation to truth.

23. But my defence would not have been struck out if it had not been for the action which preceded this.

Identity fraud - Original Plaintiffs have no standing.

24. The original statement of claim was filed by the respondents in this matter as trustees in the Animal Welfare Institute of New Zealand.

25. The evidence I uncovered proves that they had no standing and if they had had standing as AWINZ due to the unincorporated nature and the dates of their

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relationship together they could not have brought claims of passing off and breach of fair trade.

26. For their existence they relied upon a trust deed dated 1.3.2000 **annexure E** this document had been sent to us in June 2006 by the respondents Lawyers the Electronic properties for this documents show :

Document Properties

Description Security Fonts Initial View Custom Advanced

Description

File: trust-deed

Title:

Author: Neil Wells

Subject:

Keywords:

Created: 27/06/2006 10:46:55 p.m.

Additional Metadata...

27. By registering and an identically named trust in April 2006 we had conclusively proved that nobody corporate existed by the name of Animal welfare institute of New Zealand other than the registered legal entity of which we were trustees
28. In **February 2009** by way of OIA I received a copy of an email to Neil Wells from the ministry of economic developments; the registrar advises that Wells trust is not a body corporate, He also advises as to the proper course to take for resolution.

Annexure F

29. I had been working with the ombudsmen to obtain an audit document which had been withheld on the request of Wells and his associates, the ombudsmen had to consult with the privacy commissioner before the document could be released. I have attached the cover letter and the relevant page of this documents at **annexure G** showing that the documents was dated **20 JULY 2009** and that it was released by **MAF 29 August 2011**. Both these dates postdate the hearing .

- a) This document is important as it refers to an audit done on **8 August 2008** being a date after the hearing in March 2008 it states

Neil told us that a recent computer problem with his personal laptop meant that many of AWINZ governance and business activity records

RM *SL*

(e.g , emails concerning agreements and discussions-between Trustees) had been lost."

- b) This statement is significant in view of the fact that I received documents from the law society on **6 July 2011** which had been sent to them by Mr Wells in his letter dated **25 May 2011** .He provides a list of documents the most relevant of which are attached at **annexure H**
- c) **Annexure H1** is what he alleges to be an email from Hoadley giving authority to proceed with the filing of the statement of claim, this unsigned document is not a response from her and the electronic properties of this documents show that this document allegedly dated **9 July 2006** was created **25/5/2011**.

Document Properties

Description | Security | Fonts | Initial View | Custom | Advanced

Description

File: Email to Wyn 9Jul06

Title:

Author: Neil Wells

Subject:

Keywords:

Created: 25/05/2011 8:58:59 a.m. Additional Metadata...

Modified: 25/05/2011 8:58:59 a.m.

Application: Microsoft® Office Word 2007

- d) **Annexure H2** are minutes of the meeting dated 10 May 2006, these minutes were missing in 2008 according to the audit report **Annexure G** It appears from the documents properties that these minutes have been re-created on **20/5/2011**

Document Properties

Description | Security | Fonts | Initial View | Custom | Advanced

Description

File: AWINZ MEETING MINUTES.doc 10-05-06

Title: MEETING MINUTES

Author: sundarp

Subject:

Keywords:

Created: 20/05/2011 10:25:17 a.m. Additional Metadata...

Modified: 20/05/2011 10:25:17 a.m.

Application: Microsoft® Office Word 2007

- e) The unsigned document **H2** speaks volumes and is the key to the standing of the original plaintiffs as trustees

am SPL

- I. It records that the trust deed was missing on 10 May 2006 " Neil advises that the original signed deed has been misfiled"
- II. It alleges that this as the date when Hoadley was appointed ,She claims to have been appointed under section 7.2 of the deed but the deed which was provided to us by Mr Neutze as proof of existence of AWINZ does not have such a section number. **Page 4 Annexure E**
- III. Legislation sets down a formal process for appointing trustees, this has not been followed.
- IV. There are other points of conflict with this documents but for simplicity will confine them to the standing issue.
- V. The only conclusion can be that there is no evidence of Hoadley being a trustee therefore she had no standing. Consequently Hoadley Wells and Coutts together have no standing.

30. The Trust deed **annexure E** signed 1.3.2000, has missing more times than it was present. **Annexure I** is an excerpt from a letter to the minister from Neil Wells dated 25 March 2000 . Again, as in the minutes there is reference to a single trust deed this letter was obtained December **2009** . it states

A signed copy of the Deed of trust will follow. The original is being submitted to the Ministry of Commerce for registration as a charitable trust in accordance with clause 20 (a) of the Deed.

a) **Two original copies** of the deed turned up before his honour judge Joyce
Annexure C page 8

b) There is no section 20 (a) in the deed

c) Originals are not sent for registration, Mr Wells knew this he had just registered two other trusts by sending certified copies to the ministry of economic developments

31. I received a copy of the trust deed from **MAF in 2012** I discounted it because I already had a copy I then found that the central documents of the deed provided to them had ben substituted and the deed was actually another version with the

am *SP*

same front page and the same signature pages and no signatures on the substituted pages.

32. Before Judge Calender in settlement conference a deed was produced, it was nothing like the copy which we had been sent, we were told this was the "other original" the other one being lost, apparently they found it before the hearing.

a) If there were two originals why could the minister not have received a copy of the second one ?

33. I can therefore show that the new evidence

a) Could not have been reasonably obtained prior to the hearing

b) It proves that the plaintiffs had no standing and would have affected the strike out

c) It proves that perjury was committed and his honour Judge Joyce and subsequent judges were deceived into acting on false evidence .

SWORN at Auckland)

this 8th day of July 2012)

before me:)

A.T. Mitchell

Solicitor of the High Court of New Zealand

A.T. MITCHELL

DEPUTY REGISTRAR

**IN THE HIGH COURT OF NEW ZEALAND
AUCKLAND REGISTRY**

CIV-2012-404-660

BETWEEN

NEIL EDWARD WELLS

Original Plaintiff (discontinued)

WINIFRED NORIEN HOADLEY

Substituted Plaintiff

AND

VERISURE INVESTIGATIONS

LIMITED

Defendant

Hearing: 27 July 2012

Counsel: B Atkins for plaintiffs
Ms Haden as a director of the defendant

Minute: 27 July 2012

MINUTE of ASSOCIATE JUDGE R M BELL

Solicitors: Brookfields, Auckland
Email: atkins@brookfields.co.nz

Copy for: Ms Haden, Auckland
Email: grace@verisure.co.nz

Case Officer: robert.gibney@justice.govt.nz

This document is marked with the letter "A" and is attached to the affidavit of Grace Haden

Dated this day 8th of July 2013

^{sworn}
Affirmed before me at Auckland

Solicitor, Registrar J.P.

Aime Z Mitchell

A.T. MITCHELL

DEPUTY REGISTRAR, High Court

[1] On 20 July 2012 at 11.37 am, Associate Judge Sargisson made an order placing Verisure Investigations Limited (the company) into liquidation. She appointed the Official Assignee, the liquidator.

[2] The Judge made that order in reliance on an affidavit of service by Mr Tony Parker sworn on 8 July 2012, that he had served the proceeding on the registered office of the company on 29 June 2012.

[3] That affidavit was incorrect. It turned out that Mr Parker had not served the documents at the registered office of the company on that day. He has provided an unsworn explanation. He gives an explanation that he went to the premises, knocked on the door, received no response, and then placed the documents for service on the back seat of his vehicle intending to effect service at some later stage. He claims that the documents then became misplaced and he did not realise where they were until they came to light on 24 July 2012, when he served them. By then, Associate Judge Sargisson had already made the liquidation order.

[4] It is clear just on Mr Parker's own account, that the company had not been properly served in accordance with the Companies Act 1993, and the company had no opportunity to be heard on the liquidation application.

[5] That was a clear miscarriage of justice. Both parties have recognised that and sought orders recalling the order so that it can be set aside.

[6] Accordingly, I recall the liquidation order and I set aside the order of liquidation.

[7] That, however, does not conclude matters. In the meantime, the company has discharged its liability to Ms Hoadley, being the substituted plaintiff. The original plaintiff was Mr Wells. In this proceeding, he was claiming under a judgment given against the company by the District Court in 2008.

[8] Mr Wells later withdrew the proceeding once that judgment was paid and Ms Hoadley became substituted. Ms Hoadley has now been paid but Mr Wells wants to

re-enter the proceeding. He says that he is also a creditor of the company and that there are other orders for costs. The matter in contention which I have to decide is whether I should allow Mr Wells to re-enter the proceeding, or whether I should dismiss the proceeding in its entirety, now that Ms Hoadley has been paid and is satisfied.

[9] As far as I am aware, this is the first time that there has been a case where an original plaintiff has withdrawn from the proceeding and has been paid in respect of one debt, and then wants to re-enter the proceeding after other creditors have been paid, to claim in respect of other debts.

[10] The relevant rule is r 31.24. The way r 31.24 reads is that it contemplates that someone who has come into the proceeding be substituted as a plaintiff who had not previously been a plaintiff in the proceeding. Nevertheless, I do not see that r 31.24 can be read in a way that would prevent an original plaintiff from re-entering the proceeding. Instead the matter seems to turn on the exercise of discretion under r 31.24(4), whether to allow an original plaintiff who has left the proceeding to re-enter.

[11] As a matter of discretion, I decline to allow Mr Wells to come back in as a fresh plaintiff in the proceeding. It is important to remember that when a person begins an application under s 241(4), to have a company wound up as a creditor, they can bring their proceeding as creditor, not only for debts that are presently due, but also in respect of contingent debts and prospective debts.


[12] Mr Atkins says that orders in favour of Mr Wells had not been sealed at that time. Nevertheless, even though orders may not have been sealed, orders for costs in favour of Mr Wells against the defendant, would still be debts which could give Mr Wells standing to apply for a liquidation order.

[13] When a company satisfies a creditor applicant in respect of the debt that is the subject of the proceeding, and that creditor applicant then retires from the proceeding, there is an injustice to the company if the creditor applicant then seeks to re-enter the proceeding, having given way to allow other creditors to be substituted. It is that inconsistency in the course taken by Mr Wells that inclines me not to exercise the Court's powers in his favour.

[14] The secondary matter is blight on the proceeding caused by Mr Parker's false affidavit.

[15] A further consideration is the fact that liquidation proceedings do need to be determined promptly. It is unsatisfactory that liquidation proceedings should be protracted or drawn out by new creditors or original creditors re-entering the proceeding. Against that, Mr Wells says that he is a creditor of the company and is entitled to apply for order that the company be put into liquidation. It still remains free to him to take other steps as a creditor to enforce his debt. Those steps he could take may include serving a statutory demand and then making a fresh application. It is not for me to advise him what steps he should take. But for the present, I decline a fresh order substituting him as a plaintiff in this proceeding.

[16] As the liquidation order has been set aside, as Ms Hoadley has been paid in full, and as Mr Wells is not to be substituted as a plaintiff, I dismiss the application against the company.



R M Bell
Associate Judge

	Event	Date obtained.
21-Nov-99	Wells makes application for approved status to minister in name of AWINZ no other person signs application he claims a trust deed exists and is being registered under the charitable trust act 1957	
1.3.2000	Alleged date of deed, these people did not meet not even to sign the deed. Trustees allegedly are Coutts, Grove, Giltrap and Wells	28-Jun-06 supplied by Neutze
28-Mar-00	Wells tells minister deed is not available as it is being registered (only certified copies are sent.. No trust was ever registered)	
Mar-06	MAF and council admit that they have not seen a deed	
27-Apr-06	AWINZ incorporated by myself and two others there by proving conclusively that no legal person by the name of AWINZ exists	
10-May-06	Hoadley Wells Coutts meet. No trust deed available ..this document was created in May 2011	July 2011
21 June 2006	Email to Wells from Ministry of economic developments advising him that his trust is not a body corporate	February 2009
18-Jul-06	Hoadley Wells Coutts file claim of passing off and breach of fair trade against legal entity AWINZ and myself. Wells defamation against me and my company Verisure	
5.12.2006	new trust deed signed by Hoadley Wells Coutts Didovich	
Jan March 2007	interlocutory applications cost award \$12,200 used to strike out defence of truth and honest opinion ..	
20-Jun-07	Incorporated legal entity AWINZ changes it name claims against it were dropped.	
3.11.2007	trust deed 5.12.2006 lodged with charities	

	commission	
Mar-08	Quantum hearing before judge Joyce wells produces 2000 deed as evidence of trust existing there are now 2 originals of the deed	
Dec 08 Jan 09	using evidence of Wells for OIA and LGOIMA obtained substantial evidence	December 08 January 09
20-Jul-09	MAF complete their audit report , this report is withheld and required intervention of ombudsmen	late 2011
25-May-11	Following a complaint to the law society by me Wells produces evidence to them to allege the existence of a trust, it is this evidence read in context with the audit report and the other events which highlight the lack of standing of the plaintiffs.	late 2011

This document is marked with the letter
"B "And is attached to the affidavit of
Grace Haden

Dated this day 8th of July 2013

~~Affirmed~~ ^{sworn} before me at Auckland

~~Solicitor~~ , Registrar J.P.

Ane T. Mitchell

A.T. MITCHELL
DEPUTY REGISTRAR, High Court

IN THE DISTRICT COURT
AT AUCKLAND

CIV- 2006-004-001784

BETWEEN NEIL WELLS

Plaintiff

AND GRACE HADEN

Defendant

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

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 –

This document is marked with the letter
"C "And is attached to the affidavit of
Grace Haden

THE COURT:

Dated this day 8th of July 2013

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.

^{sworn}
Affirmed before me at Auckland
Solicitor, Registrar of the Court

Aimee J. Mitchell
DEPUTY REGISTRAR, High Court

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MR WRIGHT:

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

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 until the 1st 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 formal application at that time. *- C.R. 12: The Trust should be an approved organisation first*

15 Q. But given the common intention stated the fact that the Deed of Trust had not 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 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.

25 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 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. 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

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 then.

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

WARRANT FOR ARREST

I, Neke Zander, have applied to my predecessor, on behalf of the Annual Welfare Institute, of New Zealand, Inc. (AWINZ), for declaration as an approved organisation under section 114 of the Annual Welfare Act 1969 (the Act).

Since you are all that in May this year I invited you to comment on a report MEM prepared for the on your application. At your request Emer with you in June to discuss your comment. When we returned that the legal issues would be explored further. I also advised you that I would look at the views of Cairns as the application raised new policy issues. Following meeting with you on 14 February I briefed Cairns and Cabinet colleagues.

17. After comparing and discussing, we satisfied that the application, and the applicant, met all the requirements of the sections 121 and 122 of the Act. Having considered the application of Mr. Xepou and our opinion provided by both Crown Law Office and KPMG Legal, we have concluded that the application meets all the requirements of the Act.

The latter is a statement of the fact that I approve the application from AWINZ. My role will be to monitor and measure the quality of AWINZ's statistical performance and technical competence, to make any amendments to the standards and submit them to the for approval by the 30th March 2001. The main consistency between approved organisations and MME, MME Regulators, will be to prepare a set of standards and provide them to AWINZ before January 2001. MME will also advise AWINZ early in 2001 setting out the requirements of the Licence, the role of MME and respect inspectors to meet pending compliance and audit of AWINZ's standard.

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- * The "Status of Application" column, however, the status of application is not printed in the "Application Status" column. The status of application is printed in the "Application Status" column.

... as respects the ...
... the Registrar General's Office ...

WINZ ...
... 11/07/2013

...
...

This document is marked with the letter "D "And
is attached to the affidavit of Grace Haden
Dated this day 8th of July 2013
Affirmed before me at Auckland
~~Solicitor~~ ^{sworn}, Registrar ~~G.P.~~

A.T. Mitchell

A.T. MITCHELL
DEPUTY REGISTRAR

Animal Welfare Institute of New Zealand

Deed of Trust

DEED

dated the

1st

day of

March

2000

PARTIES

Neil Edward Wells of Auckland, barrister ("the Settlor")

AND

This document is marked with the letter "E"

Nuala Mary Grove, of Auckland, retired

"And is attached to the affidavit of

Grace Haden

AND

Dated this day 8th of July 2013

Affirmed before me at Auckland

Sarah Catherine Giltrap, of Auckland, company executive

Solicitor, Registrar J.P.

Aime Z. Mitchell

AND

A.T. MITCHELL
DEPUTY REGISTRAR *High Court*

Graeme John Coutts, of Auckland, recruitment consultant

AND

Neil Edward Wells, of Auckland, barrister

(collectively referred to as the "Trust Board").

BACKGROUND

- A. The Settlor wishes to establish a trust for charitable purposes by creating the trust provided for in this Deed.
- B. The Settlor has accordingly paid or caused to be paid into the joint names of the Trustees the sum of ten dollars (\$10.00) (the receipt of which is acknowledged by the Trustees) to be held by the Trustees together with any further sums or other assets acquired or vested in the Trustees upon the trusts and with and subject to the powers and discretions set out or implied in this Deed.
- C. The Trustees have agreed to act as Trustees of the Trust and constitute the initial Trust Board of the Trust.
- D. The parties have agreed to enter into this Deed specifying the purposes of the Trust and providing for its control and government.

Mr. A. Wells

COVENANTS

1. Establishment of Trust

The Settlor **DIRECTS AND DECLARES** and the Trustees **ACKNOWLEDGE AND DECLARE** that the Trustees shall stand possessed of the Trust Fund upon trust to apply the same for the objects and purposes set out in clause 4 and with the powers and discretions set out or implied in this Deed.

2. Name of Trust

The name of the Trust shall be "The Animal Welfare Institute of New Zealand" or such other name as the Board determines from time to time.

3. Declaration of Trust

It is hereby irrevocably covenanted agreed and declared that the Trustees shall hold the sum paid to them by the Settlor, together with any future assets which may at any time or times be paid given or transferred to the Trustees by any other organisation, company, body or person to be held by the Trustees upon the Trusts and subject to and with the powers and provisions expressed and declared in this Deed.

4. Purpose

The purpose of the Trust is to promote the welfare of animals principally in New Zealand and in furtherance of this purpose:

- (a) To prevent ill treatment to and the relief of suffering of animals,
- (b) To provide animal welfare services;
- (c) To encourage and develop by humane education individual responsibility for the welfare of animals, and the promotion of humane attitudes in society to animals and people;
- (d) To establish a quality assurance body for the enhancement of quality assured standards in animal welfare compliance activities, animal care and animal utilisation;
- (e) To support and encourage the study of animal welfare issues;
- (f) To co-operate with Government agencies in the reform of laws for the welfare of animals, and the promotion of humane attitudes in society to animals and people;
- (g) To advance the aims of the Trust by seeking the support and advice of all available moral, educational, legislative and scientific institutions, and strategic partners;
- (h) To maintain effective liaison and to seek co-operation with organisations in New Zealand and elsewhere in the world having similar objectives.



5. Tangata Whenua

In attaining its purpose the Trust Board shall have regard to the views and expectations of the Tangata Whenua.

6. Powers

In addition to the powers implied by the general law of New Zealand or contained in the Trustee Act 1956 the powers that the Board may exercise in order to carry out its charitable objects are as follows:

- (a) To incorporate as a Trust Board under the Charitable Trust Act 1957.
- (b) To seek accreditation as an approved organisation under the provisions of the Animal Welfare Act 1999; and
- (c) To use the funds of the Trust as necessary or expedient for the purpose of attaining the objects of Trust and in payment of the costs and expenses of the Trust; and
- (d) To purchase, take on lease or licence, or in exchange or hire or otherwise acquire any land or personal property and any rights or privileges as necessary or expedient for the purpose of attaining the objects of the Trust, and to sell, exchange, bail or lease, with or without option of purchase, or in any manner dispose of any such property, rights or privileges as aforesaid; and
- (e) To carry on any business; and
- (f) To invest surplus funds in any way permitted by law for the investment of trust funds; and
- (g) To seek any declaration or Court order or promote any Act of Parliament or initiate or participate in any similar proceedings for the enabling of the Board to carry any of its objects into effect, or to better achieve its objectives and to oppose any proceedings or application which may seem likely directly or indirectly to prejudice the interests of the Trust; and
- (h) To provide funds for the Trust's objects, or any of them and for that purpose to borrow or raise money from time to time without security and upon such terms as to priority and otherwise as the Board thinks fit, to give security by way of mortgage, debenture guarantee or otherwise over the whole or part of the property of the Trust; and
- (i) To employ staff or enter into contracts for the provision of services, for any purpose as necessary or expedient for the purpose of attaining the objects of the Trust and to manage, dismiss or terminate such contracts. The Board may employ as professional advisers, agents, officers and staff persons who are members of the Board; and
- (j) To effect insurances of whatever nature in respect of any property, by whatever means, for whatever consideration and upon terms and conditions as the Board thinks fit; and
- (k) To do all things as may from time to time appear desirable to enable the Board to give effect to and to attain the charitable purposes of the Trust.

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7. Trust Board

A Trust Board shall administer the Trust.

Name of the Board

The name of the Board shall be "The Animal Welfare Institute of New Zealand Trust Board" or such other name as the Board determines from time to time.

Appointment to the Board

- (a) The Board shall consist of not less than 4 nor more than 8 members, provided that where a vacancy occurs the remaining trustees may act until a replacement Trustee is appointed. The initial members of the Board shall be the four signatories who signed this Deed as Trustees.
- (b) The Trustees may appoint up to 4 additional Trustees. Before appointing additional Trustees under this clause the Board will consult with its strategic partners and have regard to the needs of the Trust, the Trust's activities and the skills required by the Board, and the extent to which the appointee will enhance the balance of those skills.
- (c) A Trustee may, with the consent of the Board, appoint any person to be an alternate Trustee in the Trustee's place but such appointment shall have effect only during such period as the Trustee shall be absent from New Zealand, and the Trustee may by written notice to the Board revoke or alter any such appointment of an alternate Trustee.

Term of Office and Vacancies

- (a) The term of appointment of each Trustee shall be 3 years provided that upon the expiry of any term of any term of appointment each Trustee, unless a person to whom any of the provisions of clause 7.3 (b) (i), (iii), (iv), (v) or (vi) applies, shall be eligible for reappointment.
- (b) The office of a Trustee shall become vacant if a Trustee:
 - (i) Dies or is found to be a mentally disordered person within the meaning of the Mental Health Compulsory Assessment and Treatment Act 1992; or
 - (ii) Resigns office as a Trustee by giving 30 days notice in writing to the Board; or
 - (iii) Is removed from office by unanimous resolution of the other Trustees, in the case of a Trustee appointed by the Board; or
 - (iv) Is declared bankrupt or makes an assignment to creditors; or
 - (v) Fails to attend 3 consecutive meetings; or
 - (vi) If an event occurs as specified in section 43 of the Trustee Act 1956.

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- (a) Every vacancy occurring among the Trustees shall be filled as soon as is convenient. The Board may appoint any suitable person to be a Trustee to fill any vacancy in the office of Trustee.

Payments to Trustees

- (a) Subject to sub-clause (c) Trustees shall be honorary PROVIDED THAT Trustees may be reimbursed for reasonable expenses incurred while on Board business at the sole discretion of the Board.
- (b) Any Trustee may retain any remuneration properly payable to that Trustee by any company or undertaking with which the Trust may be in any way concerned or involved where that Trustee has acted in any capacity whatever, notwithstanding that the Trustee's connection with that company or undertaking is in any way attributable to that Trustee's connection with the Trust.
- (c) Any trustee who is a barrister, solicitor or accountant is entitled to make all usual and proper charges for his or her professional and other services in connection with the administration of the trust.

Duties of the Board

- (a) The Board shall be responsible for furthering the objects of the Trust and for declaring general policy relating to the implementation of the objects of the Trust
- (b) The Board shall:
- (i) Prepare strategic and annual business plans and an annual operating budget with specific strategies and operational objectives and performance targets;
 - (ii) Implement the necessary transparent processes, systems, structures and resources to support the proper operation of the Trust, including an appropriate accounting system and systems of performance measurement and reporting;
 - (iii) Provide for accountability arrangements, financial arrangements and management of the trust required by the Animal Welfare Act 1999 of an approved organisation;
 - (iv) Regularly review the administration, performance and affairs of the Trust and prepare the reports required by clause 12.3;
 - (v) Implement sound management and risk management practices consistent with prudent and commercial business and the objects of the Trust.

8. Office

The office of the Trust shall be such place in Auckland as the Board may determine.

9. Officers of the Board

The officers of the Board shall consist of the following:

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- (a) A Chairperson who shall be a Trustee and who shall be appointed by the Board. The Chairperson shall retire from that office at each annual meeting of the Trust and shall be eligible for reappointment by the Board;
- (b) A Deputy Chairperson who shall be a Trustee and who shall be appointed by the Board. The Deputy Chairperson shall retire from that office at each annual meeting of the Trust and shall be eligible for reappointment by the Board;
- (c) A Secretary who shall be appointed by the Board and whose duties shall be to give notices of all meetings, to keep minutes and records of all meetings of the Board and of any committees, and perform such other duties as the Board may direct and as are normally incidental to the office of secretary. The Secretary may also carry out the duties of Treasurer. The Secretary shall attend all meetings of the Board, unless the Trustees otherwise direct but shall not be entitled to vote;
- (d) A Treasurer who shall be appointed by the Board and who shall have custody of the books of account and financial records and, subject to the directions of the Board, shall be responsible for the funds of the Trust. It shall be the duty of the Treasurer to see that all statutory and other requirements with reference to the financial affairs of the Trust are complied with and that the provisions of this Deed as to such matters are carried out within the Treasurer's powers, and perform such other duties as the Board may determine and as are normally incidental to the office of treasurer. The Treasurer may attend all meetings of the Board unless the Trustees otherwise direct but shall not be entitled to vote.

10. Chief Executive Officer

- (a) The Board may appoint a Chief Executive Officer upon such terms and for such period and with such duties and at such remuneration as the Trustees shall determine. Such person may by virtue of this appointment, also act as Secretary and/or Treasurer of the Trust responsible to the Board but be directly responsible to the Chairperson of the Board.
- (b) The Chief Executive Officer shall
 - (i) Attend and participate in all meetings of the Board unless the Trustees otherwise direct;
 - (ii) Be responsible to the Board for the day to day functioning of the Trust and the Board may delegate to the Chief Executive Officer any of the duties and powers of the Board either subject to later confirmation by the Board or in a manner which does not require subsequent confirmation by the Board. The Board shall have the right to revoke the delegation to the Chief Executive Officer of any duty or power of the Board;
 - (iii) Be responsible for day to day management of the Trust and shall take every lawful means to secure the due observance of the objects of the Trust and to protect the Trust Fund for rightful administration.

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11. Proceedings of the Board

Meetings

The Board shall meet not less than 4 times per year, including the annual meeting, at such places and times as the Board shall determine. Meetings other than the annual meeting and a special meeting shall be convened on no less than 14 days' notice in writing to each Trustee who is in New Zealand.

Annual Meeting

The Board shall in each year convene an annual meeting to be held within 3 months of the end of the Financial Year at a time and place to be fixed by the Board. Not less than 28 days prior notice in writing of the annual meeting shall be given to each Trustee who is in New Zealand and such other persons as the Board shall determine from time to time.

11.3 Special Meeting

Upon the written request of 4 Trustees specifying the purpose of the meeting, the Chairperson shall convene a special meeting within 21 days of the request at such place and time as fixed by the Chairperson. A special meeting shall be convened on no less than 14 days notice in writing to each Trustee who is in New Zealand and such other persons as the Board shall determine from time to time specifying the business to be transacted at the meeting.

Telephone meetings

- (a) The contemporaneous linking together by telephone of a number of the Trustees not less than the quorum, whether or not any one or more of the Trustees is out of New Zealand, shall be deemed to constitute a meeting of the Board if:
- (b) All the Trustees for the time being entitled to receive notice of a meeting of the Board receive notice of a telephone meeting and are linked by telephone for the purposes of such meeting. Notice of such meeting may be given on the telephone;
- (c) Each of the Trustees taking part in the meeting by telephone is able to hear each of the other Trustees taking part at the commencement of the meeting; and
- (d) At the commencement of the meeting and at or about the closure of the meeting each Trustee acknowledges his or her presence for the purpose of a meeting of Trustees to all the other Trustees taking part.
- (e) No Trustee may leave the meeting by disconnecting his or her telephone unless he or she has previously obtained the express consent of the chairperson of the meeting. A Trustee shall be conclusively presumed to have been present and to have formed part of the quorum at all times during the meeting by telephone unless he or she has previously obtained the express consent of the chairperson of the meeting.
- (f) A minute of the proceedings at such meeting by telephone shall be sufficient evidence of such proceedings and of the observance of all necessary formalities if certified as a correct minute by the chairperson of the meeting For the purposes of

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this clause "telephone" shall include television or any other audio and visual device which permits instantaneous communication.

Chairperson

At every meeting of the Board, the Chairperson or in the Chairperson's absence, the Deputy Chairperson shall preside as chairperson. If at any meeting the Chairperson or Deputy Chairperson is not present within 10 minutes after the time appointed for the holding of such meeting or is present but unwilling or unable to act as chairperson, the Trustees present shall appoint one of their number to act as chairperson of the meeting.

Quorum

- (a) At any meeting of the Board a majority of members shall form a quorum and no business shall be transacted unless a quorum is present.
- (b) For the purpose of determining whether there is a quorum, the absence of a Trustee at some point during the meeting shall not affect the quorum, if there was a quorum at the commencement of the meeting.

Voting

All questions before the Board shall be decided by consensus. However, where a consensus decision cannot be reached on a question, it shall, unless otherwise specified in this Deed, be put as a motion to be decided by a majority of votes. Subject to clause 11.8 every Trustee personally present at a meeting shall have one vote. In the case of an equality of votes, the chairperson shall not have a casting vote.

Trustee's Interests

Any Trustee who is or may be in any other capacity whatever interested or concerned directly or indirectly in any property or undertaking in which the Trust is or may be in any way concerned or involved shall be counted in the quorum and shall disclose the nature and extent of that Trustee's interest to the other Trustees, and shall not take any part whatever in any deliberations or voting of the Trustees concerning any matter in which that Trustee is or may be interested other than as a Trustee of the Trust.

Absences

Whenever a Trustee is absent from a meeting, the Secretary shall record the fact of and any reason given for the absence of that Trustee.

11.10 Resolution in Writing

A resolution in writing signed by all the Trustees for the purpose of becoming an entry in the minute book of the Trust shall be as valid and effectual as if it had been passed at a meeting of the Trustees duly called and constituted for that purpose. Any resolution may be contained in one document or in several documents in like form signed by one or more Trustees.

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11.11 Minutes of Meetings:

Minutes of all resolutions and proceedings of all meetings of the Trustees shall be prepared by the Secretary and, if confirmed at a subsequent meeting of the Trustees, shall be signed by the chairperson of the meeting as a true and correct record of those proceedings

12. Accounts and Reporting

True and fair accounts

The Board shall keep true and fair accounts of all money received or expended

Audit

The Board shall as soon as practicable after the end of every financial year of the Board cause the accounts of the Trust for that financial year to be audited by an accountant appointed by the Board for that purpose.

Reporting

- (a) The Board shall prepare a report on the administration, performance and affairs of the Trust in respect of each 6-month period. The report will be prepared within 6 weeks of the conclusion of the 6-month period to which the report relates.
- (b) The Board shall prepare an annual report on the administration, performance and affairs of the Trust within 3 months after the conclusion of each Financial Year. The report shall include the annual business plan and operating budget required by clause 7.5 (b) (i) prepared for the current Financial Year.

13. Delegation Powers

Power to delegate

The Board may from time to time appoint any committee and may delegate in writing any of its powers and duties to any such committee or to any person, and the committee or person as the case may be, may without confirmation by the Board exercise or perform the delegated powers or duties in like manner and with the same effect as the Board could itself have exercised or performed them.

Delegate bound

Any committee or person to whom the Board has delegated powers or duties shall be bound by the charitable terms of the Trust.

Delegation revocable

Every such delegation shall be revocable at will and no such delegation shall prevent the exercise of any power or the performance of any duty by the Board.

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Delegate need not be a Trustee

It shall not be necessary that any person who is appointed to be a member of any committee or to whom any delegation is made be a member of the Board.

14. No Private Pecuniary Profit for any Individual and Exceptions

No private pecuniary profit:

No private pecuniary profit shall be made by any person from the Trust, except that:

- (a) any Trustee or Officer may receive full reimbursement for all expenses properly incurred by that Trustee or Officer in connection with the affairs of the Trust
- (b) the Board of Trustees may pay reasonable and proper remuneration to any officer or servant of the Trust (whether a Trustee or not) in return for services actually rendered to the Trust
- (c) any Trustee or Officer may be paid all usual professional and business charges for services rendered, time expended and all acts done by the Trustee or Officer or by any firm or entity of which that Trustee or Executive;
- (d) any Trustee or Officer may retain any remuneration properly payable to that Trustee or Officer by any company undertaking with which the Board of Trustees may be in any way concerned or involved for which that Trustee or Officer has acted in any capacity whatever, notwithstanding that that Trustee's or Officer's connection with that company or undertaking is in any way attributable to that Trustee's or Officer's connection with the Trust Board.

PROVIDED ALWAYS—

The Trust Board shall not lend money nor lease property or assets at less than current commercial rates, having regard to the nature and terms of the loan and lease to any person (as defined in the Income Tax Act 1976).

- (a) who is a member of the Trust Board or is an Officer; or
- (b) who is a shareholder or director of any company by which any business of the Trust Board is carried on; or
- (c) who is a settlor or trustee of a trust that is a shareholder of any company by which any business of the Trust Board is carried on; or
- (d) if that person or that company and the settlor or trustee or shareholder or director referred to in any one of the foregoing paragraphs of this proviso are associated persons as that term is defined in the Income Tax Act 1976.

Trustees to comply with restriction

The Board of Trustees, in determining all reimbursements, remuneration and charges payable in terms of this clause, shall ensure that the restrictions imposed by the above clauses are strictly observed.

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Interested Trustee/Member

Any person who is or may be in any other capacity whatever interested or concerned directly or indirectly in any property or undertaking in which the Board of Trustees is or may be in any way concerned or involved, shall disclose the nature and extent of that person's interest to the Trustees, and shall not take any part whatever in any deliberations of the Board of Trustees concerning any matter in which that person is or may be interested other than as a member of the Board of Trustees.

Professional account and influence

A person who is in the course of and as part of the carrying on of his or her business of a professional public practice shall not, by reason of his or her rendering professional services to the Board of Trustees or to any company by which any business of the Board of Trustees is carried on, be in breach of the terms of this clause.

15. Limitation of Liability

- (a) No trustee shall be liable for any loss suffered to the trust fund arising from any act or omission of the trustee or any of the trustees if that act or omission is not attributable to the trustee's or any trustee's own dishonesty or to the wilful commission or omission by them or any of them of an act when that commission or omission is known by the Trustees or the relevant Trustee to be a breach of trust. No Trustee shall be bound to take any proceedings against a co-Trustee for any breach or alleged breach of trust committed by such co-Trustee.
- (b) Subject to clause 15 (a) the trustees shall be completely indemnified out of the trust fund for any liability they may incur arising in any way out of or in connection with acting or purporting to act as Trustees.

16. Alteration of Deed

The Board may by consensus or pursuant to a motion decided by a two-thirds majority of votes by supplemental deed make alterations or additions to the terms and provisions of this deed provided that no such amendment shall:

- (a) Take effect unless it is confirmed in writing by the board;
- (b) Detract from the exclusively charitable nature of the trust or result in the distribution of its assets on winding up or dissolution for any purpose that is not exclusively charitable.
- (c) Be made to clause 14 unless the Inland Revenue Department first approves it in writing.

17. Common Seal

The board shall have a common seal which shall be kept in the custody of the secretary, or such other officer as shall be appointed by the Board and shall be used only as directed by the Board. It shall be affixed to documents only in the presence of and accompanied by the signatures of two members of the Board.

Two handwritten signatures are visible at the bottom left of the page. The first signature is a large, stylized cursive 'M' followed by a smaller signature. The second signature is a smaller, more compact cursive signature below the first.

18. Winding Up and Distribution of Surplus Assets

On the winding up of the trust or on its dissolution by the Registrar, all surplus assets after the payment of costs, debts and liabilities shall be given to such exclusively charitable organisation or organisations within New Zealand of a similar nature to the trust as the Board decides or, if the board is unable to make such a decision, shall be disposed of in accordance with the directions of the High Court pursuant to section 27 of the Charitable Trusts Act 1957.

19. Interpretation

In this deed, the following terms have the following meanings except to the extent that they may be inconsistent with the context:

"Auditor" means either a person who is a holder of a certificate of public practice as an auditor issued by the Institute of Chartered Accountants of New Zealand and who is a principal in a firm of chartered accountants in public practice or a firm of chartered accountants in public practice.

"Board" and "Trust Board" means the trust Board of the Trust constituted in accordance with this deed.

"Chairperson" means the person appointed by the board as chairperson pursuant to clause 9 (a) or the person appointed to act as chairperson at a meeting of the Board.

"Charitable purpose" means and includes that term as defined by the charitable Trusts Act 1957 and the Income Tax Act 1994 and also means and includes every charitable purpose (whether religious, educational or otherwise) within New Zealand and which shall be regarded as charitable by the law for the time being in New Zealand, provided that any such charitable purpose shall also be regarded as charitable under any statute, regulation or ordinance of New Zealand relating to income tax, estate duty, gift duty or any other relevant statute for the time being in force in New Zealand.

"Chief Executive Officer" means the person appointed by the board as Chief Executive Officer pursuant to clause 10.

"Deputy Chairperson" means the person appointed by the board as Deputy Chairperson pursuant to clause 8(b).

"Deed" means this deed of trust as amended from time to time in accordance with clause 16 or as amended in any other manner permitted by law.

"Financial year" means the year ending on 30 June or any other date adopted by the Trustees as the date up to which accounts shall be made in each year for the trust.

"Secretary" means the person appointed by the board as secretary pursuant to clause 9 (c).

"Treasurer" means the person appointed by the board as treasurer pursuant to clause 9 (d).

"Trust" means the Animal Welfare Institute of New Zealand as constituted by this deed.

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"Trustees" means the Trustees for the time being of the trust whether original, additional or substituted.

"Trust fund" means:

- (a) All property of any kind, including any right, claim or interest, contingent or vested, future or present, legal or equitable
- (b) All moneys, investments and property, both real and personal, which may be received and accepted by the trustees as part of the trust fund; and
- (c) The investments and properties from time to time representing the above and accretions to those investments and properties.

IN WITNESS WHEREOF this deed is duly executed

SIGNED by Neil Edward Wells as
Settlor in the presence of

Diane L. Fraser
signature of witness

DIANE LYNN FRASER
full name of witness

94 ANNANDALE RD, RD1 KUMU
address

Lecturer
occupation

SIGNED by Nuala Mary Grove as
Trustee in the presence of

780
signature of witness

Thomas Stanley Didovich
full name of witness

37 Cates Rd Waitakere
address

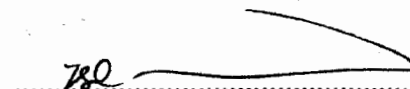
Manager
occupation

[Signature]

Nuala M Grove

PC
14/18

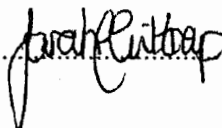
SIGNED by Sarah Catherine Giltrap as
Trustee in the presence of


signature of witness

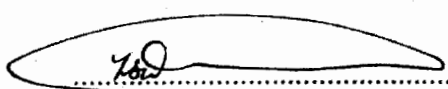
Thomas Stanley Didovich
full name of witness

37 Caton Rd Waitakere
address

Manager
occupation



SIGNED by Graeme John Coutts as
Trustee in the presence of


signature of witness

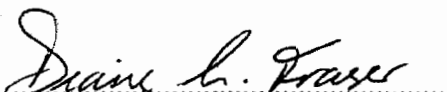
Thomas Stanley Didovich
full name of witness

37 Caton Rd Waitakere
address

Manager
occupation



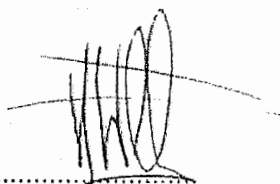
SIGNED by Neil Edward Wells as
Trustee in the presence of


signature of witness

DIANE LYNN FRASER
full name of witness

94 ANNANDALE RD, RDI, KUMU
address

Teacher
occupation



David Josland

10056885783

From: David Josland
Sent: Wednesday, 21 June 2006 2:05 p.m.
To: 'neil.wells@waitakere.govt.nz'
Subject: Companies Office - Animal Welfare Institute of New Zealand - 1809454

Dear Mr Wells,

I have received on behalf of the Registrar of Incorporated Societies ("the Registrar") your facsimile concerning the registration of the Animal Welfare Institute of New Zealand - 1809454 ("the trust").

I have considered your submission that the trust's application was in breach of section 15 of the Charitable Trusts Act 1957 ("the Act") because Ms Haden used "a name that is identical with that of...a body [corporate] established in New Zealand".

Although your organisation (also called the Animal Welfare Institute of New Zealand) is an "approved organisation" under section 121 of the Animal Welfare Act 1999 the Registrar is of the opinion that this has not conferred "body corporate" status on your organisation for the purposes of section 15 of the Charitable Trusts Act. Even if your organisation was a body corporate the Act does not give the Registrar the power to direct a trust to change its name.

You have invited the Registrar to use his powers under section 26 of the Act to dissolve the Board of the Animal Welfare Institute of New Zealand. The Registrar is not of the opinion that the trust has been registered by reason of a mistake of fact or law and therefore is not prepared to dissolve the Board. The application to incorporate the trust was accepted in good faith by the Registrar and finding that the application was in registrable form he duly registered the trust.

I note that your organisation is in the process of issuing proceedings in the High Court for an interim injunction restraining Haden and another party from passing off and publishing defamatory statements on their Internet site.

You may also wish to consider section 25 of the Charitable Trusts Act which states that "a Board may be wound up by the Court if the Court is satisfied that it is just and equitable that the Board should be wound up". Under section 25(2)(f) an application to wind up the Board may be made by "any...person who adduces proof of circumstances which in the opinion of the Court make it proper that he should make the application". The circumstances that you have outlined to the Registrar in your facsimile may bring your organisation within this section of the Act.

I am happy to accept documents on behalf of the Registrar if you wish to bring anything further concerning this matter to the Registrar's attention.

My postal address is:

David Josland
 Solicitor
 Companies Office
 Private Bag 92061
 Auckland Mail Centre
 Auckland

This document is marked with the letter "F" And is attached to the affidavit of Grace Haden

Dated this day 8th of July 2013

Affirmed before me at Auckland

Solicitor, Registrar J.P.

A.T. MITCHELL

DEPUTY REGISTRAR, High Court

Yours faithfully,

David Josland | Solicitor | Northern Business Centre - Business Services Branch | Ministry of Economic Development

DDI +64 9 916 4542 | Fax +64 9 916 4559
www.med.govt.nz

21/06/2006



29 August 2011

Grace Haden
Verisure Investigations Ltd
P O Box 17463
Greenlane
AUCKLAND 1546

Dear Grace Haden

**OFFICIAL INFORMATION ACT REQUESTS
MAF AUDIT OF AWINZ - FINAL REPORT
AWINZ CORRESPONDENCE TO THE MINISTER OF AGRICULTURE SEEKING REMOVAL
OF APPROVED STATUS OF AWINZ UNDER THE ANIMAL WELFARE ACT 1999**

The Ombudsman has formed his final view on the request for the Report by MAF Internal Auditors into the operation of AWINZ. In accordance with section 30(1) of the Official Information Act he has recommended that MAF release a full copy of the report to you without delay. Please find a copy attached without any deletions.

You have also sought a copy of the AWINZ request for revocation of its "approved status". Consultation is being undertaken with the ex-trustees of AWINZ in accordance with the undertaking of the previous Director-General of MAF to the Ombudsman.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'A C David Bayvel'.

A C David Bayvel
Director Animal Welfare Standards

This document is marked with the letter
"G "And is attached to the affidavit of
Grace Haden

Dated this day 8th of July 2013

~~Affirmed~~ before me at Auckland

~~Solicitor~~, Registrar, J.P.
A.T. MITCHELL A handwritten signature in dark ink, appearing to read 'A.T. Mitchell'.

DEPUTY REGISTRAR, High Court





Assurance and Risk
Strategy & Performance Group

FINAL REPORT

**AUDIT OF THE ANIMAL WELFARE INSTITUTE OF
NEW ZEALAND**

20 JULY 2009

Audit of The Animal Welfare Institute of New Zealand (August 2008)

1.6 Audit approach

An Auditor from the MAF Assurance and Risk team (Eric Rose), supported by a MAF Business Accountant (Richard Paterson), visited AWW offices on 7 - 8 August 2008 to carry out the audit⁶

Neil Wells (AWINZ Secretary and Chief Executive Officer) was the only person formally interviewed during the audit and we reviewed copies of Trust Board meeting minutes and financial records provided by Neil Wells. We also reviewed the AWINZ files maintained by MAFBNZ Animal Welfare Directorate at Pastoral House in Wellington.

AWINZ Trustees had been involved in a series of court proceedings prior to this audit. At the time of this audit those court proceedings had not finally concluded. Against that background, the AWINZ trustees were very concerned that material they provided to assist the audit would become available to the public by means of an Official Information Act request. We could provide no assurance that this would not be the case.

Neil Wells was unwilling to allow MAF's auditors to sight all AWINZ papers and records on the basis that some papers and records were either confidential or unrelated to AWINZ's role as an approved organisation. This limited the evidence available to us to form our opinion. We were advised that AWINZ does not own any computers or other assets and that Neil Wells uses his own personal laptop for AWINZ business. Neil told us that a recent computer problem with his personal laptop meant that many of AWINZ's governance and business activity records (e.g., emails concerning agreements and discussions between Trustees) had been lost.

A close out meeting with AWINZ Trustees was held on 11 August 2008, attended by Neil Wells, Wyn Hoadley and Graeme Couffts. The fourth Trustee, Tom Didovich, was unavailable. We did not interview any employees of Animal Welfare Waitakere (other than Neil Wells) during our visit.

Our assessment of AWINZ's management and governance systems was primarily conducted against the MAF Criteria for considering applications to be an approved organisation – 18 October 1999 (the MAF Criteria), the MAF/AWINZ MOU, the AWINZ Deed of Trust and Revocation (2000 & 2006) and our understanding of best practice for running charitable organisations.

⁶ AWINZ does not have offices. Neil Wells arranged for the Audit to take place at AWW offices.



Neil Wells

Barrister

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25 May 2011

Sally Quigley
Legal Standards Solicitor
New Zealand Law Society
P O Box 4417
Shortland Street
AUCKLAND

This document is marked with the letter
"H "And is attached to the affidavit of
Grace Haden

Dated this day 8th of July 2013

Subscribed and Affirmed before me at Auckland

Solicitor, Registrar J.P. *A.T. MITCHELL*

Deputy Registrar, Hugh Cart

Dear Sally

FILE 3345 Complaint by Mrs Grace Haden

As discussed last week, below is a sequence of events related to the formation of The Animal Welfare Institute of New Zealand, the making of the original deed in 2000, the appointment, resignation and replacement of trustees in 2006, and the giving of authority to file proceedings.

The Animal Welfare Institute of New Zealand was registered with the Charities Commission on 28 September 2007 (registered number CC11235).

Attached are the relevant supporting documents. Nick Wright properly sought this information in the process of taking instructions in 2006. Nick was also particular about each trustee individually signing an authority to proceed with the filing of the statement of claim. Wyn Hoadley, at that time was in New York, and her signed authority was faxed from there.

Sincerely

Neil Wells
Barrister

Sequence of appointment of Trustees of The Animal Welfare Institute of New Zealand.

1 March 2000	Deed of trust signed by: Neil Edward Wells Nuala Mary Grove Sarah Catherine Giltrap Graeme John Coutts
10 May 2006	Wyn Norien Hoadley appointed
22 May 2006	Sarah Catherine Giltrap resigned
4 July 2006	Nuala Mary Grove resigned
10 July 2006	Neil Wells, Graeme Coutts and Wyn Hoadley jointly and severally authorised the filing of defamation proceedings against Haden
18 July 2006	Statement of claim filed in the names of Wyn Hoadley, Graeme Coutts and Neil Wells
14 August 2006	Thomas Stanley Didovich appointed trustee
5 December 2006	Deed revoked and new deed signed by: Neil Edward Wells Wyn Norien Hoadley Graeme Coutts Thomas Didovich
28 September 2007	Registered with Charities Commission (CC11235)

9 July 2006

Hello Wyn

I do apologise having to do this by email while you are overseas and I realise the timing is awful for you.

Nick took the initial action of sending a letter to Haden et al with a deadline for response based on our instructions by email —

- "1. I approve the legal action taken to date.
2. I authorise the drafting and filing of legal proceedings for passing off should an acceptable response to the letter not be received. (The defamation will need to be taken in Neil Wells' name).
3. I approve Neil Wells writing to IRD for tax exemption and approval for donations."

Nick's comments about ensuring that there was an unassailable paper trail was based on his correct reading of our Deed that a resolution to instruct Brookfields must be signed by the trustees.

Clause 11.10 provides: A resolution in writing signed by all the Trustees for the purpose of becoming an entry in the minute book of the Trust shall be as valid and effectual as if it had been passed at a meeting of the Trustees duly called and constituted for that purpose. Any resolution may be contained in one document or in several documents in like form signed by one or more Trustees.

You have rightly queried whether our other processes are robust and unassailable

First, was your appointment as a Trustee made in accordance with the Deed.

This is what was recorded in the minutes of 10th May 2006:

"Appointment of additional trustee

Clause 7.2 of the Deed provides:

- (a) The Board shall consist of not less than 4 nor more than 8 members, provided that where a vacancy occurs the remaining trustees may act until a replacement Trustee is appointed. The initial members of the Board shall be the four signatories who signed this Deed as Trustees.
- (b) The Trustees may appoint up to 4 additional Trustees. Before appointing additional Trustees under this clause the Board will consult with its strategic partners and have regard to the needs of the Trust having regard to the Trust's activities and the skills required by the Board and the extent to which the appointee will enhance the balance of those skills.

Neil advised that he had written to MAF and advised them that Wyn had been nominated as a trustee. The Memorandum of Understanding with MAF is that we will advise them of the nomination of any new trustee. Joanna Tuckwell has written back advising that MAF supports the appointment of Wyn as a Trustee.

IT WAS RESOLVED that Wyn Hoadley be appointed in terms of clause 7.2(b) as an additional Trustee.

The following appointments were agreed to:

Chairperson — Wyn Hoadley
Secretary — Nuala Grove
Treasurer — Chris Wells."

It's my view that your appointment is valid.

Secondly, given Nuala's resignation can the remaining three Trustees act.

Clause 7.2(a) provides: The Board shall consist of not less than 4 nor more than 8 members, provided that where a vacancy occurs the remaining trustees may act until a replacement Trustee is appointed. The initial members of the Board shall be the four signatories who signed this Deed as Trustees.

So it is clear that the three remaining trustees can instruct Brookfields and of course can appoint replacement trustees in due course.

Thirdly, will the Trustees be exposed to paying for the Court proceedings personally.

AWINZ has around \$31,000 in its current account and two term deposits of \$5000 and \$90,000. Debtors (Waterhorse Productions) are about \$3000 – total liquid assets of \$129,000.

In the case *O'Brien v Brown* decided in the Palmerston North District Court by Judge GM Ross in 2001, the facts are very similar to ours but the defamation was only published on web site – there were no emails, and the defamatory statements were mild when compared to Haden's statements. In the *O'Brien* case the damages awarded were \$30,000, punitive damages \$12,000 plus costs. In our case there are nine causes of action, each attracting ordinary damages and punitive damages. Based on the *O'Brien* precedent punitive damages alone could not be less than \$12,000.

We might question whether the defendants have the means to pay any damages and costs awarded. Vivienne has done her homework The assets of Verisure Investigations Ltd could also be called on. I doubt whether the bogus AWINZ has any assets.

I agree Wyn, that the resolution I faxed to you should include reference to a fee maximum. The wording of our Deed is flexible enough for you to sign the attached and fax it back to me and it can be placed in the minute book. Graeme and I have signed a resolution but we will do that again with the fee referred to. But if you don't have access to a printer in an internet café let me know where I can fax a revised resolution to. Another option might be for you to handwrite on the Fax you already have "AND authorise legal fees up to \$10,000" and just fax that back signed.

It's Nick's intention to complete the Statement of Claim and have it out for service by Friday 14th July. That date has been mentioned in a letter that went to Haden on Friday from David Neutze, Brookfields senior partner.

Once again, my sincere apologies for interrupting your New York trip.

Warm regards
Neil

ATTACHMENT:

The Trustees of The Animal Welfare Institute of New Zealand authorise Brookfields to file proceedings against Grace Haden et al for passing off, defamation, breeches of the Trade Practices Act and such other causes of action that Brookfields recommend, AND authorise legal fees up to \$10,000.

Signed and dated

MEETING MINUTES

Date 10th May 2006 – 2.30 – 4.30 p.m.

Subject AWINZ BOARD MEETING – Held at Takapuna

Present: Neil Wells, Wyn Hoadley, Nuala Grove, Graeme Coutts, Christine Wells, Priya. Sundar.

Apologies: Sarah Giltrap

Neil signed the minutes of the meeting held June 2004

Appointment of additional trustee

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Neil advised that he had written to MAF and advised them that Wyn had been nominated as a trustee. The Memorandum of Understanding with MAF is that we will advise them of the nomination of any new trustee. Joanna Tuckwell has written back advising that MAF supports the appointment of Wyn as a Trustee.

IT WAS RESOLVED that Wyn Hoadley be appointed in terms of clause 7.2(b) as an additional Trustee.

Appointment of officers

The following appointments were agreed to:

Chairperson — Wyn Hoadley
 Secretary — Nuala Grove
 Treasurer — Chris Wells.

Financial Report

- Opening credit \$17,000 was revenue generated from movies
- There is \$29,000 in the trading account, still waiting on approximately \$5,000 from Bridge to Teribitha movie production

- BWC funds became part of operating fund but Lord Dowding Fund remains as the Lord Dowding fund
- Lord Dowding fund has funded Unitec for \$10,000 for research using artificial animals vs. real animals in teaching
- \$90,000 is held as deposit for the Lord Dowding Fund
- \$5,000 held in Trust Fund for future Conservation Medicine conferences. The last conference generated enough revenue for reimbursement of \$2,000 plus the additional \$5,000 held in Trust.
- Ma Lava overpaid reimbursement and therefore a \$68 reimbursement cheque sent
- Movie Waterhorse currently being filmed in New Zealand
- Committee must complete a National Bank form

IT WAS resolved that there must be two signatures on all outgoing payments from the Trust. Those authorised to sign cheques are: Wyn Hoadley, Nuala Grove, Graeme Coutts. and Christine. Wells.

Lord Dowding Fund/BWC:

Background: Lord Dowding was the commander of the RAF during the Battle of Britain. He and his wife Muriel jointly founded Beauty Without Cruelty, and the Lord Dowding Fund in the UK. Lord Dowding Fund finances research into animal alternatives, while BWC campaigned against the use of animals for testing of cosmetic products. BWC succeeded in their objective and was dissolved.

The New Zealand funds were generated through small donations made over the years and the balance handed to AWINZ.

In the 1980's the fund financed Massey University to digitise physiology and anatomy of animals

Neil Wells is completing a paper with Alex Davies about the Fund and the research conducted at Massey University.

Registration as Charitable Trust and tax exempt status with IRD

AWINZ has not been registered under the Charitable Trusts Act to date, this needs to be organised. IRD approvals required.

What is an approved organisation: It is an organisation approved by Ministry of Agriculture and Forestry under the Animal Welfare Act. AWINZ and SPCA are the only two approved organisations.

It was agreed to seek charitable trust approval with IRD and Charitable Trust Act.

Waitakere Fund raiser

Waitakere fund raiser letter will be incorporated with the annual Waitakere Dog Registration Run 2006. Funds generated through this will go towards establishing a community veterinary clinic to provide extra treatment for all animals at low costs, including community services card holder's discounts. Similar to the UK Peoples Dispensary for Sick Animals which operates by providing subsidies from donations. One of the main objectives of the clinic is to ensure that nothing leaves the Waitakere Animal Welfare centre without being desexed.

Report on film monitoring

Bridge to Terabithia: boy lives in rural USA girl moves in next door from the city. Friendship develops they create a mythical island on the farm.

New Zealand used dog Patty, and a possum

Filmed in Mangatawhiri, Woodhill Forest and Riverhead Forest

In the future Chronicles of Narnia will be made by Disney including Prince of Caspian likely to be filmed in New Zealand. There is a move to build a movie studio in West Auckland.

AWINZ need to progress the Draft code and submit to MAF for approval to Sheryl O'Connell in MAF

A minimum standard needs to stipulate a condition that each set must have a monitor for animals used in movies

Appears more need for film monitoring as industry grows

NAWAC would review submissions, but AWINZ would need to ensure that all those likely to be affected are consulted.

Draft then goes to MAF and NAWAC

Report on website

The AWINZ website will be getting an overhaul, with new information regarding animal care and promoting better animal welfare practices. It will include lost and founds, how to be a foster parent, remedy problem dogs, animal first aid and more. We hope to have the website up and running by mid 2006 in conjunction with the Dog registration run.

Status of Deed

Neil advised that the original signed deed had been mis-filed

Neil and Wyn will work on a revision of the deed

Deed needs to be finalised in the next 4 weeks

. Next meeting: Mid September 2007 or Late October 2007

CONFIRMED as a correct record:

Chair

/ /2006



Animal Welfare Institute of New Zealand

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 ♦ Email awinz@amcom.co.nz

25 March 2000

Hon Jim Sutton
 Minister of Agriculture
 Parliament House
 WELLINGTON

Dear Minister

Animal Welfare Institute of New Zealand

I refer to your letter of 24 December 1999.

We have met with MAF both in December and in February and new issues have been raised that have needed time to gather information.

This letter addresses the issues raised in your letter of 24 December and in a letter from MAF Policy of 28 January 2000, and other issues since raised by MAF Policy.

Further, a legal opinion has been obtained from Kensington Swan as suggested.

Principal purpose and providing animal welfare services

While the principal purpose of AWINZ is "to promote the welfare of animals" this is a multi-facet function. AWINZ has not been established for the exclusive purpose of becoming an approved organisation although this is one of its early objectives.

In the Deed of Trust the term "provide animal welfare services" includes—

- Providing the services required of an approved organisation
- Engaging inspectors other than from territorial authorities
- Training and providing natural persons for accreditation as reviewers under section 109 of the Act
- Preparing animal welfare educational material for use by inspectors and others in school programmes and for community liaison
- Establishing an animal welfare monitoring unit for animals used in film, television and other entertainment industries
- Providing services to animal user groups for the drafting of Codes of Welfare
- Contracting to animal user groups for the provision of quality assurance services and monitoring of Codes of Welfare

understanding and will be responsible for providing support but will have no role in the way the powers, duties and functions are carried out.

In the event of a failure to perform under the Animal Welfare Act 1999 the inspector will be accountable to AWINZ, not to the employer. If a breach by an inspector is also a breach of his or her contract of employment that will be a matter strictly between employer and employee.

Where an issue of neglect of duty or misconduct arises AWINZ will be responsible to account to MAF for the inquiry, not the employer. However, the employer's co-operation will be necessary in any inquiry.

The linked organisation will be accountable to AWINZ for providing funding, support, and equipment for the inspector, permitting the inspectors to operate, and facilitating compliance audits.

Technical competence and qualifications

The training standard currently determined by the Group Director, MAF Biosecurity Authority is the National Certificate in Compliance and Regulatory Control (Animal Welfare).

All officers of both Waitakere and North Shore have completed the National Certificate and will graduate in April.

Continuing education was a requirement in the pilot programme and this will continue by each inspector undertaking a 4-hour workshop each 6 months that will include—

- legal problems
- legislation updates
- review of procedures
- case studies

Duties of Approved Organisations

AWINZ will comply with section 141 by designating an area of the animal welfare refuge at The Concourse, Lincoln, as an animal shelter that will provide for animals that come into the custody of AWINZ.

Trust documentation

A signed copy of the Deed of Trust will follow. The original is being submitted to the Ministry of Commerce for registration as a charitable trust in accordance with clause 20 (a) of the Deed.

This document is marked with the letter "I "And is attached to the affidavit of Grace Haden

Dated this day 8th of July 2013

^{sworn}
Affirmed before me at Auckland

Solicitor, Registrar J.P.

A.T. MITCHELL

Andrew Mitchell
DEPUTY REGISTRAR