

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

Private Hearing - CW4

Court 4, Level 5, 55 Market Street, Sydney

On Friday, 30 May 2014 at 10am

Before the Commissioner: The Hon John Dyson Heydon AC QC

Counsel Assisting: Mr Jeremy Stoljar SC
Mr Michael Elliott

. 30/05/2014

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1 THE COMMISSIONER: Yes, Mr Stoljar.

2

3 MR J STOLJAR SC: Commissioner, I appear with Mr Elliott
4 at the private hearings which are scheduled to take place
5 today.

6

7 MR S CRAWSHAW SC: If the Commission pleases, I seek
8 authorisation to appear with Mr G Liddy, solicitor from
9 Taylor & Scott, initially for the first witness today,
10 CW4.

11

12 Do you want me to deal with the other two witnesses
13 today or do that separately?

14

15 THE COMMISSIONER: I will grant authorisation in relation
16 to CW4.

17

18 I think you might as well deal with the other two as
19 well. You make the same application?

20

21 MR CRAWSHAW: Yes.

22

23 THE COMMISSIONER: It gets the same treatment.

24

25 MR STOLJAR: Commissioner, just before we start, there is
26 a form of non-publication direction which you have before
27 you in respect of CW4's evidence. I would ask,
28 Commissioner, that you make a direction in those terms, and
29 in due course I will be asking you to make directions in
30 similar form in respect of the next two witnesses.

31

32 THE COMMISSIONER: Are you content for this direction to
33 be made, Mr Crawshaw?

34

35 MR CRAWSHAW: We don't know the reason for it, but we
36 don't have a particular problem.

37

38 THE COMMISSIONER: It is protective of CW4.

39

40 MR CRAWSHAW: It's protective of her?

41

42 THE COMMISSIONER: Yes. It is intended to protect her.

43

44 I make the non-publication direction which Mr Stoljar
45 has referred to, and I sign it.

46

47

1 <CW4, affirmed: [10.03am]

2

3 <EXAMINATION BY MR STOLJAR:

4

5 MR STOLJAR: Q. CW4, can you tell us your full name?

6 A. My full name is CW4.

7

8 Q. And your address?

9 A. My work address?

10

11 Q. Yes.

12 A. [Address suppressed].

13

14 Q. And your occupation?

15 A. I'm a legal/industrial officer for the CFMEU.

16

17 Q. I take it you have legal training?

18 A. Yes, that's correct.

19

20 Q. Where did you study?

21 A. I studied at the University of Technology Sydney.

22

23 Q. When did you graduate?

24 A. I can't remember that, sorry.

25

26 Q. Approximately?

27 A. I think 2006.

28

29 Q. Where did you work? Did you start off at the CFMEU or
30 somewhere else?

31 A. I started off at the CFMEU, work experience.

32

33 Q. And then you obtained a full-time position?

34 A. That's correct.

35

36 Q. What was the position?

37 A. I first started off as a research officer in that
38 role, and then in about 2007 I became an industrial
39 officer.

40

41 Q. You have a law degree, do you?

42 A. That's correct, yes.

43

44 Q. Have you been admitted as a solicitor?

45 A. Yes.

46

47 Q. That occurred in about 2005 or so?

1 A. In 2006.
2
3 Q. What's your position now?
4 A. Legal/industrial officer.
5
6 Q. When did the legal part of your position start?
7 A. At the end of 2011.
8
9 Q. Who do you report to at CFMEU?
10 A. Leah Charlson, who's in charge of the legal
11 department, and also Keryn McWhinney, who's in charge of
12 the wage claims department.
13
14 Q. How big is the legal department?
15 A. There's three of us plus a legal secretary.
16
17 Q. Who are the three of you? There's yourself,
18 Ms Charlson?
19 A. And then Sherri Hayward.
20
21 Q. Is that S-H-E --
22 A. S-H-E-R-R-I, H-A-Y-W-A-R-D.
23
24 Q. Where is the legal team physically? Is it at
25 Lidcombe?
26 A. It's at Lidcombe, yes.
27
28 Q. What floor is it on?
29 A. Level 1.
30
31 Q. I just want to start off with asking you some
32 questions about EBAs --
33
34 THE COMMISSIONER: Just before we proceed, Mr Stoljar,
35 with previous witnesses in this category, they have
36 previously been referred to as CW and then a number.
37 Are you proposing to adopt that course with this witness?
38
39 MR STOLJAR: I wasn't proposing to seek a non-publication
40 direction that restricted even the identity of the witness.
41 If the witness feels more comfortable with me doing that,
42 I of course will do that, but I hadn't proposed to do that
43 at this stage. That's something I will perhaps take up
44 with Mr Crawshaw in due course.
45
46 THE COMMISSIONER: Yes, very well.
47

1 MR STOLJAR: Q. I was just going to ask you some
2 questions about EBAs. Can you tell me about the general
3 process by which the union enters into EBAs?
4 A. I don't know that, because I'm not in the EBA
5 department. I just have in the past gone and certified
6 EBAs in the commission when, at that time, you needed to go
7 to the Fair Work Commission to do that.
8
9 Q. What's the EBA department?
10 A. So in the EBA department, we have Warren Kelly, who is
11 head of that department - he's currently on leave; then we
12 have Suzie Redfern; and also the assistant for the EBA
13 department - her name is Tianne Wagner.
14
15 Q. Do you know whether there are policies and procedures
16 in place by which the CFMEU approves, or otherwise, EBAs?
17 A. I don't know that information.
18
19 Q. You're not familiar with that?
20 A. No, I don't know.
21
22 Q. Do you know who decides, who makes the decision, as to
23 whether to sign off on an EBA or not?
24 A. I'm not sure. Sorry.
25
26 Q. Do you know if there is any process of auditing
27 companies that have EBAs, for example, if the EBA doesn't
28 work?
29 A. No.
30
31 Q. You haven't heard mention of that in the office - no?
32 A. "Auditing" meaning?
33
34 Q. Suppose a company enters into an EBA with the CFMEU.
35 Is there any check of that company before it does that?
36 A. I don't know any of that information.
37
38 Q. You don't know?
39 A. No. The EBA department deals directly with that.
40
41 Q. So that would be something Mr Kelly would know about,
42 would it?
43 A. Yes.
44
45 Q. Can I ask you about some of the other people in the
46 office. Does Ms Mallia work in the office or is she
47 somewhere else?

1 A. She works in our Lidcombe office. She's our
2 president.
3
4 Q. How long have you worked with her?
5 A. I've been at the CFMEU for ten years, so ten years
6 I've worked with her.
7
8 Q. So that means you started before you qualified as
9 a lawyer?
10 A. Yes.
11
12 Q. What were you doing when you first started there?
13 A. A research officer. I used to help them prepare
14 statements, prepare calculations.
15
16 Q. That was in 2004, was it?
17 A. Yes, that's correct.
18
19 Q. And you were doing your law on the side, as it were?
20 A. I just had my practical legal training to complete,
21 and also one subject, legal accounting.
22
23 Q. Do you report to Ms Mallia at all?
24 A. On some things.
25
26 Q. What are the sorts of things?
27 A. She's in charge of the public sector. I do a lot of
28 the industrial work for the public sector, so if I need any
29 help or assistance in that, or advice, I'll ask her.
30
31 Q. What about Mr Parker - do you work with him?
32 A. Yes, I work with him as well.
33
34 Q. How long have you known Mr Parker?
35 A. For ten years.
36
37 Q. Do you have a close relationship with him or just
38 a working relationship?
39 A. Working relationship.
40
41 Q. What sort of work do you do for him?
42 A. If I'm needing some assistance with an industrial
43 matter and he's the organiser allocated for that matter,
44 we'll work together on a case.
45
46 Q. What are some examples of the cases that you've worked
47 on together?

1 A. Recently we had a case - our member was Solomon
2 Grieve, his surname is - and it was a general protections
3 claim and it also had a wage claim component, and he was
4 dealing with the wage claim component and I was dealing
5 with the general protection claim.
6
7 Q. On a day-by-day basis, who do you work with most at
8 the office?
9 A. Leah Charlson and Sherri and David Holmes, who's the
10 legal assistant, and Keryn McWhinney, who's also my
11 supervisor.
12
13 Q. Do you work with a Mr Greenfield at all?
14 A. He's an organiser. In the past I have, but I don't
15 have much contact with him.
16
17 Q. Any particular reason for that?
18 A. He's in the city and he doesn't come to the Lidcombe
19 office that much.
20
21 Q. What are his responsibilities in the union?
22 A. He is an organiser, so he deals with industrial
23 disputes, but he deals with them in the city.
24
25 Q. Do you have a mobile phone that's issued to you by the
26 CFMEU?
27 A. That's correct, yes.
28
29 Q. And do you use that for work matters?
30 A. Yes, work and personal.
31
32 Q. Do you ever use any other phone for work matters?
33 A. No.
34
35 Q. Do you use your husband's phone from time to time?
36 A. I have, yes.
37
38 Q. Why was that?
39 A. Because I felt I needed to.
40
41 Q. Why did you feel that?
42 A. Because I was questioned on someone calling me.
43
44 Q. On who calling you?
45 A. On Andrew Quirk calling me.
46
47 Q. Who questioned you?

1 A. Leah was told by someone that Andrew Quirk had called
2 me.
3
4 Q. When was this?
5 A. I can't remember the date.
6
7 Q. I don't mean the date. Is it in the last 12 months,
8 in the last 10 years?
9 A. In the last, probably, 12 months.
10
11 Q. So somebody called you on your mobile phone. How did
12 anyone know that that person had called you on your mobile
13 phone?
14 A. I don't know that answer.
15
16 Q. Well, did Leah mention to you how someone had become
17 aware that you had received this call on your mobile phone?
18 A. No, she didn't tell me that.
19
20 Q. So you were using a mobile phone which the CFMEU had
21 given to you - and tell me if I'm getting this right or
22 wrong, please; it's your evidence - and someone came to you
23 and said, "Don't take calls from a particular person"?
24 A. That's correct.
25
26 Q. And you didn't ask any questions as to how they had
27 come by that particular piece of information?
28 A. I assumed.
29
30 Q. What did you assume?
31 A. Well, it's all assumption, so --
32
33 Q. That's all right. Tell me what you assumed?
34 A. That they didn't want me to speak to Andrew Quirk.
35
36 Q. Let's take it in steps. Firstly, why would they not
37 want you to do that?
38 A. Because Andrew Quirk was going a bit crazy, like
39 saying that he'll go to the media, and so they didn't want
40 me to become involved.
41
42 Q. Who's "they"?
43 A. Kylie Price - she's the manager of the union; Leah was
44 concerned for me; and also Rita.
45
46 Q. What do you mean she was concerned for you?
47 A. She was concerned that he was involving me.

1
2 Q. When you say Kylie Price is the manager, what do you
3 mean by that?
4 A. She is the general manager of the CFMEU.
5
6 Q. Is that her title?
7 A. Yes, it is.
8
9 Q. What does she do in the office?
10 A. I don't know.
11
12 Q. What do you mean, you don't know?
13 A. I don't know. Look, I think she looks after the cars;
14 she looks after the mobile phone contracts; she looks - she
15 cooks barbecues for the delegates; she organises the
16 workplace dinner. She manages the staff.
17
18 Q. How do you get on with Ms Price?
19 A. We have a working relationship.
20
21 Q. Have you ever seen a Mr George Alex come to the
22 office?
23 A. No.
24
25 Q. Have you ever had any dealings with Mr Alex?
26 A. No.
27
28 Q. Have you had any dealings with a Mr Doug Westaway?
29 A. No.
30
31 Q. Do you know who he is?
32 A. No.
33
34 Q. Can I show you a bundle of documents. You should have
35 it on the table in front of you.
36 A. Is it "Private" - which?
37
38 Q. Yes, "Private Hearing 30 May 2014 Enterprise
39 Agreements." I know that you have said that you really
40 have no involvement in enterprise bargaining agreements and
41 I won't go through each one but I just want to ask you some
42 questions about a few things in them. Perhaps if you go to
43 tab 6.
44
45 Commissioner, there should be a copy of that folder
46 for you.
47

1 THE COMMISSIONER: Yes.

2

3 MR STOLJAR: Q. Tab 6 is an EBA involving a company
4 called Active Labour, and just to orient you in the
5 agreement, if you go to page 3, paragraph 3.1 refers to
6 labour hire. And you understand what that is, I take it?

7 A. Yes, I do.

8

9 Q. You know that Active Labour is a company that had an
10 EBA with the CFMEU?

11 A. Yes.

12

13 Q. And that's a company associated with Mr Alex?

14 A. Yes, I know that.

15

16 Q. Now, if you go to page 8, and I'm bearing in mind your
17 evidence that you're not in the EBA department so I'm not
18 going to ask you details about it, but come to page 8,
19 12.3.3. There's a reference to the Australian Construction
20 Industry Redundancy Trust"; do you see that?

21 A. Yes, I do.

22

23 Q. What's that?

24 A. So that's a trust fund that - so in the event of a
25 redundancy, the employee can claim the money. So a certain
26 amount goes in every week to the trust fund from the
27 employer.

28

29 Q. What's the relationship, to your knowledge, between
30 that fund and the CFMEU?

31 A. I don't know any of that.

32

33 Q. Who knows about that, to your knowledge?

34 A. Probably Rita or Brian Parker.

35

36 Q. Have you been called upon to give advice, and I am not
37 asking you what the advice was, but have you given advice
38 from time to time about ACIRT?

39 A. Advice from who?

40

41 Q. Advice to the people at the CFMEU or --

42 A. Do I give advice or?

43

44 Q. Yes.

45 A. I don't give advice about ACIRT, no.

46

47 Q. No-one has ever raised that in the legal department,

1 to your knowledge?
2 A. Sorry, I don't understand the question.
3
4 Q. I'm just wondering, in the context, whether, for
5 example, the EBA team or department has come to legal and
6 said, "Look, you know, we're looking at putting this into
7 our - putting something about ACIRT into the EBAs" and
8 raised that issue?
9 A. Okay, then they would probably raise it with Rita.
10
11 Q. But she's not in the legal department, is she?
12 A. No, but she does oversee as well the EBA department.
13 So does Kylie Price.
14
15 Q. Where does Jennifer Glass fit into this?
16 A. She is Brian Parker's secretary.
17
18 Q. Now, do you know anything further about the
19 arrangements between CFMEU and ACIRT?
20 A. No, I don't know anything about that.
21
22 Q. You don't know anything?
23 A. I don't.
24
25 Q. Do you know whether any commissions or other payments
26 are made?
27 A. To ACIRT?
28
29 Q. From or to ACIRT.
30 A. By the union?
31
32 Q. Yes.
33 A. No, I don't know of any commission.
34
35 Q. In 12.5.1, there's a reference to top-up workers comp
36 and income protection insurance provided by UPlus. What
37 can you tell me about that?
38 A. I'm the little fish on the food chain in the union;
39 like, I don't know about this.
40
41 Q. The answer is you don't know anything?
42 A. I don't know.
43
44 Q. That's fine.
45 A. It's just in the EBA and that's it.
46
47 Q. That's okay. In 12.8, there's a reference to

1 something called the Construction Industry Drug and Alcohol
2 Foundation. Now, what's that?
3 A. Yes, that's a foundation set up for employees who, in
4 the event they have an alcohol problem or a drug problem,
5 they go to Foundation House and they can stay there either
6 for free or for a subsidised rate.
7
8 Q. And does that fund operate or does it have a separate
9 bank account and so forth from the union?
10 A. I don't know that information.
11
12 Q. Do you know how it's set up - you yourself I mean?
13 A. No, I don't.
14
15 Q. Have you ever been asked to give any advice, I'm not
16 asking you what the advice was, but asked to give any
17 advice or comment about that fund?
18 A. No.
19
20 Q. Do you know anything about how that fund operates?
21 A. Nothing.
22
23 MR STOLJAR: Commissioner, could that folder be marked for
24 identification.
25
26 THE COMMISSIONER: Would CW4 MFI1 be the appropriate name?
27
28 MR STOLJAR: Yes.
29
30 THE COMMISSIONER: That will be CW4 MFI1.
31
32 **CW4 MFI #1 DOCUMENT HEADED "PRIVATE HEARING 30 MAY 2014**
33 **ENTERPRISE AGREEMENTS"**
34
35 MR STOLJAR: Q. I'll give you another folder, CW4. If
36 you have a look at tab 1 of this folder, there's a
37 statement that you gave back in April 2013. Can you tell
38 me about how this statement came to be prepared?
39 A. I'm surprised you've got it because it was only given
40 to Rita Mallia.
41
42 Q. Well, can you tell me about how that statement came to
43 be prepared?
44 A. So Don McDonald was conducting an internal
45 investigation and as part of that investigation I prepared
46 a statement.
47

1 Q. Who asked you to prepare the statement?
2 A. Brian Fitzpatrick told me that Rita would like me to
3 prepare a statement, but Rita never asked me.
4
5 Q. So you prepared a statement, did you?
6 A. That's correct.
7
8 Q. Did you show it to someone in draft first?
9 A. No.
10
11 Q. And who did you give it to?
12 A. I handed a copy to Rita Mallia and she said, "I want
13 you to email it to me." So I emailed it to Rita Mallia.
14
15 Q. Then what happened.
16 A. With the statement?
17
18 Q. Yes.
19 A. And then there was an internal investigation and
20 no-one told me the result.
21
22 Q. All right. You say in your statement that you
23 received a phone call from Mr Fitzpatrick on your internal
24 phone. So this is on 27 March 2013?
25 A. Yes, that's correct.
26
27 Q. You were in your office, I take it?
28 A. Yes.
29
30 Q. Where's Mr Fitzpatrick's office relative to yours?
31 A. Downstairs and towards the back of the building.
32
33 Q. This call came through on your internal line, did it?
34 A. Yes.
35
36 Q. You say in your statement that he told you, "It can't
37 wait until tomorrow", in effect?
38 A. Yes.
39
40 Q. And then you went straight down to see him, did you?
41 A. Yes.
42
43 Q. Did you take a pad and pen?
44 A. I can't remember.
45
46 Q. So you went down to his office and you say that he was
47 there alone. You've set out a conversation and he refers

1 to a [REDACTED] Now, who's [REDACTED]?
2 A. So he was - I'm not sure if he still is a CFMEU
3 member, and that gave him some death threats.
4
5 Q. Then you said:
6
7 *Let me go and grab the file upstairs.*
8 *Let's contact the police ...*
9
10 Et cetera. You go upstairs and then you saw Leah Charlson?
11 A. Yes.
12
13 Q. And she tells you to call the police. You get the
14 file and you come back downstairs. I'm now on to paragraph
15 5 - and then you say:
16
17 *I noticed that Peter Thomas was in the*
18 *room.*
19
20 A. Yes.
21
22 Q. And Peter Thomas - now, tell me what he does?
23 A. He is the IT person.
24
25 Q. Was anyone else in the room?
26 A. No.
27
28 Q. Then you say, "I dialled Auburn police station." Did
29 you use your mobile or what?
30 A. The landline, Brian Fitzpatrick's phone.
31
32 Q. So you reported what had occurred and you quoted the
33 event number. So you took that from the [REDACTED] file,
34 I take it?
35 A. Yes.
36
37 Q. Then you have the conversation that you set out in
38 paragraph 5 and then Fitzpatrick tells you you need to call
39 000?
40 A. Yes.
41
42 Q. Then at paragraph 7 you describe a further
43 conversation. There's one thing I couldn't quite follow in
44 that paragraph, and it's just the punctuation, I think, but
45 if you come down to the third last paragraph on page 2, you
46 put Brian Fitzpatrick on and he says some things --
47 A. Sorry, I just can't follow where you're saying.

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Q. The third last paragraph on page 2, so the one that begins:

Brian Fitzpatrick: Yeah, Brian Fitzpatrick here.

A. Okay, yes, I've got it.

Q. You record him as saying, "I'm going" --

A. Yes, I've found that as well. So it's:

I'm going to get you tomorrow regardless of the police being there.

Q. So close quote?

A. Yes:

Just call him and sort it out with him.

Q. Then he read out a number from his notepad. Now, what happened to that notepad, do you know?

A. Brian Fitzpatrick must still have it.

Q. Was anyone else in the room at this stage, was Mr Thomas still there?

A. Yes, he was still there?

Q. No-one else?

A. No-one was there.

Q. And then at the top of the page:

Brian Fitzpatrick hung up and Peter Thomas said ... "That is one of our office numbers."

A. Yes.

Q. And you checked it against the file and saw it wasn't the same?

A. Yes.

Q. Then you say:

We then looked at the CFMEU Officer mobile phone number list ... and identified the

1 *number as Darren Greenfield's ...*
2
3 Where was that list?
4 A. Brian Fitzpatrick's desk.
5
6 Q. What, on the desk or --
7 A. On the desk.
8
9 Q. On the desk?
10 A. Yes.
11
12 Q. Then you say:
13
14 *We realised that it was Darren Greenfield*
15 *and not [REDACTED] who made the call --*
16
17 A. Actually --
18
19 Q. I'm sorry, yes?
20 A. Actually, that's not correct. It's Peter Thomas
21 realised it. He was the one that identified it was
22 Darren Greenfield's number.
23
24 Q. But by looking at the list --
25 A. Yes.
26
27 Q. -- on Brian Fitzpatrick's desk? I see; so the
28 correction is in 12. When you say, "We realised", you mean
29 "Peter Thomas realised"?
30 A. That's correct, yes.
31
32 Q. But as soon as he pointed it out, you agreed with him?
33 A. Yes.
34
35 Q. And then Fitzpatrick says:
36
37 *I need to call Brian Parker.*
38
39 You say:
40
41 *I saw him in his office when I was coming*
42 *down.*
43
44 He says:
45
46 *Go and get him to come here immediately.*
47

1 So you go upstairs and you interrupt Mr Parker's meeting.
2 Who was he meeting with, can you remember?
3 A. No, I can't remember.

4
5 Q. What did you say?

6 A. I can't remember what I said, but he wanted to know
7 why I interrupted him and I said it was a private matter.

8
9 Q. All right, and then what happened? You say:

10
11 *I replied it was a private matter.*
12

13 So you said that to Brian Parker and, what, did you then go
14 back downstairs? Where's Parker's office, sorry? Is his
15 on the same level as Fitzpatrick's office?

16 A. That's correct. So Brian Fitzpatrick is at the back
17 and Brian Parker is more towards the stairwell.

18
19 Q. All right. So you go across to Brian Parker and you
20 say, "It's a private matter"?

21 A. Mmm-hmm.

22
23 Q. And then you leave his office, do you, and you go back
24 to Fitzpatrick's office?

25 A. Yes.

26
27 Q. Who's in Fitzpatrick's office now?

28 A. Oh, Peter Thomas is still there.

29
30 Q. No-one else?

31 A. No.

32
33 Q. Then you tell him - how did you know that Parker would
34 be 10 or 15 minutes? Did he say that to you?

35 A. He must have said that to me.

36
37 Q. Then you go back to Fitzpatrick's office and he says:
38 "You've got to get him out of this meeting immediately."
39 So you went back?

40 A. Yes.

41
42 Q. And Brian Parker said he'd be a few minutes longer; is
43 that right?

44 A. Sorry, I'm just trying to follow it. I'm just all
45 confused. Sorry, where are you reading from, please?

46
47 Q. I was reading from paragraph 14.

1 A. Yes, okay.
2
3 Q. So you go back and forth a couple of times?
4 A. Just twice.
5
6 Q. So you go back to Fitzpatrick's room and sit down.
7 Peter Thomas asked if you wanted a coffee?
8 A. Yes.
9
10 Q. And then about 10 minutes later, Brian Parker comes
11 in?
12 A. Yes.
13
14 Q. And Peter Thomas is still there, is he?
15 A. I don't know.
16
17 Q. In any event, there's at least yourself,
18 Mr Fitzpatrick and Mr Parker in the room?
19 A. Yes.
20
21 Q. And you say:
22
23 *Brian, we have made a mistake. We thought*
24 *[REDACTED] rang up and threatened Fitzy.*
25 *After ringing Auburn Police and 000 we*
26 *realised it was Darren Greenfield and now*
27 *the police are coming to the union office.*
28
29 A. Yes.
30
31 Q. And what did Mr Parker say?
32 A. I couldn't follow the conversation and I can't
33 remember now.
34
35 Q. Let's take that in steps. You say in paragraph 17 he
36 talked about a wage claim?
37 A. Yes, mmm.
38
39 Q. But his first reaction can't have been to talk about a
40 wage claim, can it? You've just delivered a bombshell
41 announcement. You've said that you've called the police
42 and they are on the way to the union office about a threat
43 made by Darren Greenfield. What was his immediate
44 reaction?
45 A. Yes, it was talking about a wage claim.
46
47 Q. But did he express any surprise that Mr Greenfield had

1 made such a threat?
2 A. I can't comment on it. It's just an opinion.
3
4 Q. No, I asked you did he express any surprise?
5 A. I think he was pissed off with everything, why we
6 called the police.
7
8 Q. What did he say? What made you think --
9 A. I can't remember the exact words he said.
10
11 Q. I'm not asking you for a verbatim account, just words
12 to the effect of what was said?
13 A. He was - oh, they were saying names that I couldn't
14 even understand. I couldn't follow it. They were talking
15 about names and companies and --
16
17 Q. No, but I'm asking his immediate reaction. You say.
18
19 *... we realised it was Darren Greenfield*
20 *and now the police are coming to the union*
21 *office.*
22
23 What did he say?
24 A. I told you I don't know what he said.
25
26 Q. All right. And then Fitzpatrick tells Parker to call
27 Darren Greenfield to sort it out?
28 A. That's correct.
29
30 Q. Then Parker leaves the room?
31 A. Yes.
32
33 Q. You obviously don't know what he did when he was out
34 of the room but, to your understanding, he went back to his
35 room?
36 A. And called Darren Greenfield, I assume.
37
38 Q. Then he comes back in five minutes later. Did he say
39 anything when he came in the door?
40 A. Yes, he asked me to leave.
41
42 Q. Don't worry about your statement. Just try and think
43 back. So he has just walked in the door. Tell me what he
44 said exactly.
45 A. I can't be certain what he said.
46
47 Q. Well, I'm not asking you verbatim, but just the effect

1 of what he said.
2 A. Something like, "He's going to get you - he's going to
3 come after your work."
4
5 Q. Who is - Mr Greenfield?
6 A. Yes.
7
8 Q. So Parker said that to Fitzpatrick?
9 A. Yes.
10
11 Q. And did he say anything else?
12 A. I can't remember anything else.
13
14 Q. What did Mr Fitzpatrick say?
15 A. No, he was angry. He was very upset. He was angry
16 and he was scared. And he was - we were shocked because we
17 really thought it was [REDACTED]
18
19 Q. That's why if you could just go back - just don't
20 worry about your statement for a minute - and just try and
21 think back to the time. Mr Fitzpatrick is upset. You've
22 just found out it's not [REDACTED]; it's Greenfield. Parker
23 comes into the room and you said, "Look, we thought it was
24 [REDACTED]. It turns out to be Mr Greenfield. We've called
25 the police and they're on the way to the union office."
26 What did Mr Parker say?
27 A. He was pissed off that we called the police.
28
29 Q. He said something to that effect, did he?
30 A. Yes.
31
32 Q. Was he annoyed at Mr Greenfield? Did he say anything
33 about that then?
34 A. No.
35
36 Q. And then he goes and calls Mr Greenfield, to your
37 knowledge. But in any event, he comes back to
38 Fitzpatrick's room and he says something about him coming
39 to "get you at work"?
40 A. Yes.
41
42 Q. And you don't remember what else he said?
43 A. They were discussing some sort of wage claim, but
44 I'm unable to remember who the company was, who the member
45 was.
46
47 Q. And then he asked you to leave, did he?

1 A. That's correct.
2
3 Q. Did he offer any reason for you leaving?
4 A. No, he didn't.
5
6 Q. Why did he ask you to leave, to your knowledge?
7 A. Well, he wanted to discuss - see, I told you I'm a
8 little fish in the food chain. The executive don't discuss
9 certain things with - with us. So I don't know why he
10 wanted me to leave.
11
12 Q. So you went back upstairs?
13 A. Yes, I did.
14
15 Q. Did you make any complaint to Mr Parker on that day?
16 A. Complaint for?
17
18 Q. Well, did you say to him, "Look, are you doing the
19 right thing"? Did you make any comment to him?
20 A. No, I didn't.
21
22 Q. Did you say to him then or any time, "You're being
23 unfair to Mr Fitzpatrick"?
24 A. No, I didn't.
25
26 Q. Are you sure about that?
27 A. I didn't ever tell him that he's being unfair to
28 Mr Fitzpatrick.
29
30 Q. All right. Did you make any comment to him about
31 these events?
32 A. No, I didn't make any comment.
33
34 Q. Now, you go back to your office and if you go to the
35 next page, page 4, you say:
36
37 *Approximately 20 minutes later, I received*
38 *a call from Brian Fitzpatrick ...*
39
40 Do you see that?
41 A. Yes.
42
43 Q. And now the police have arrived. They're from Auburn
44 police station, are they?
45 A. Yes.
46
47 Q. So are they responding to your call about the AVO or

1 are they responding to the 000 call or do you not know?
2 A. I don't know.
3
4 Q. How did you get their names?
5 A. I would have documented it in the file.
6
7 Q. Which file?
8 A. I had a file with me.
9
10 Q. You mean the [REDACTED] file?
11 A. Yes.
12
13 Q. And you took some notes, did you, on that day?
14 A. I did.
15
16 Q. On that day?
17 A. Yes.
18
19 Q. And where are those notes now?
20 A. I think they're with the CFMEU's lawyers.
21
22 Q. You mean Slater & Gordon?
23 A. I think so. I'm not sure what it is. I think it's
24 with them.
25
26 Q. Anyway, you made notes on the day --
27 A. Mmm-hmm --
28
29 Q. -- and put them in the file? Then did you make notes
30 of the discussions that you'd had with Mr Fitzpatrick and
31 Mr Parker?
32 A. No, I didn't.
33
34 Q. In paragraph 20, you say, "Brian Parker,
35 Brian Fitzpatrick and I were in the room" and you describe
36 a conversation. What room do you mean?
37 A. Oh, in Brian Fitzpatrick's room.
38
39 Q. And was anyone else there?
40 A. No, it was just us and the police.
41
42 Q. And then Brian Fitzpatrick says the words that you've
43 set out there?
44 A. Yes.
45
46 Q. And Constable Miller looked at Mr Fitzpatrick's phone
47 and saw that there'd been a call for about 12 seconds?

1 A. Yes.
2
3 Q. Then he asked for Darren Greenfield's personnel file?
4 A. That's correct.
5
6 Q. Where is that personnel file?
7 A. It's in Sudesh's office, who is the payroll person.
8
9 Q. Could you spell that name, please?
10 A. S-U-D-E-S-H. And the surname is Singh, S-I-N-G-H.
11
12 Q. Then in paragraph 23, you say, "I became involved"?
13 A. Yes.
14
15 Q. And then you say:
16
17 *I was directed by Leah ... and*
18 *Brian Fitzpatrick to attend Auburn Police*
19 *Station --*
20
21 A. That's correct.
22
23 Q. --
24
25 *With Joe Ratana and Jock Miller?*
26
27 A. Yes.
28
29 Q. And who's Joe Ratana?
30 A. Joe Ratana is an organiser for the CFMEU and so is
31 Jock Miller.
32
33 Q. And what was the purpose of that meeting?
34 A. Once when [REDACTED] called, they were in
35 Brian Fitzpatrick's office and the phone was on speaker
36 and [REDACTED] was making a whole lot of threats to
37 Brian Fitzpatrick.
38
39 Q. All right. In paragraph 24, you come back to the
40 events of 27 March and you say:
41
42 *I left work about 7.15 ... I went down to*
43 *inform Brian Parker and Brian Fitzpatrick*
44 *that I was leaving work. They were both*
45 *still in his office*
46
47 A. That's correct.

1
2 Q. And was anyone else there, in his office?
3 A. No, it was just them two.
4
5 Q. So they'd been talking for quite some time by this
6 stage, to your knowledge?
7 A. Yes.
8
9 Q. In paragraph 23, you say:
10
11 *I have a file in my office.*
12
13 Is that the file you're talking about?
14 A. Yes, it is.
15
16 Q. The [REDACTED] file?
17 A. Yes.
18
19 Q. Which is now in the hands of Slater & Gordon, to your
20 knowledge?
21 A. Yes.
22
23 Q. Did you open a file in respect of Mr Greenfield?
24 A. I can't remember.
25
26 Q. Well, he'd made threats, too, hadn't he?
27 A. He had made threats.
28
29 Q. So did you open a file in respect of Mr Greenfield?
30 A. I can't remember.
31
32 Q. What, you can't remember? It wasn't that long ago.
33 A. It was a long time ago.
34
35 Q. Well, it was last year, wasn't it, about a year ago?
36 A. I just can't remember.
37
38 Q. You mentioned before that somebody called Don McDonald
39 had made a report?
40 A. Yes.
41
42 Q. Did you see the report?
43 A. No, I didn't.
44
45 Q. Were you involved in the investigation that was
46 carried out?
47 A. No.

1
2 Q. Well, you prepared a statement?
3 A. Yes.
4
5 Q. That was the sum total of your involvement?
6 A. That was it.
7
8 Q. Did anyone come and talk to you?
9 A. Don talked to me a little bit.
10
11 Q. Who?
12 A. Don McDonald talked to me a little bit.
13
14 Q. When was that?
15 A. At the time I gave him my statement.
16
17 Q. Now, what's happened to Mr McDonald's report, do you
18 know?
19 A. No.
20
21 Q. Do you monitor the minutes of committee and management
22 meetings?
23 A. No, I don't.
24
25 Q. Do you know what goes on at those meetings?
26 A. I don't.
27
28 Q. Do you know whether there was discussion about
29 disciplining Mr Fitzpatrick?
30 A. There have been some discussions, yes.
31
32 Q. At committee and management level?
33 A. I don't know about discussions.
34
35 Q. All right, you just don't know?
36 A. No.
37
38 Q. Well, what were the discussions that you were talking
39 about?
40 A. There was - and this is obviously hearsay, but there
41 was one committee/management meeting where everyone
42 was just slandering and saying bad stuff about
43 Brian Fitzpatrick.
44
45 Q. And when was that? Was that after this incident or
46 before?
47 A. After the incident.

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Q. And why were they doing that, to your knowledge?

A. Because in the past he has bullied some people and they're not happy with the way he has treated them.

Q. Could you go, please, to tab 5 of the black folder headed "Private Hearing 30 May 2014, Additional Documents. Volume 1 of 1."

A. Yes.

MR STOLJAR: Commissioner, it may be convenient to mark that for identification.

THE COMMISSIONER: That will be CW4 MFI2, that's the whole folder?

MR STOLJAR: Yes.

**CW4 MFI#2 DOCUMENT HEADED "PRIVATE HEARING - 30 MAY 2014
ADDITIONAL DOCUMENTS. VOLUME 1 OF 1"**

MR STOLJAR: Q. Tab 5 is a letter to Mr Fitzpatrick. Did you have any role in drafting this letter?

A. No.

Q. Have you seen it before?

A. No, this is the first time.

Q. If you have a look at tab 6, did you have any role in drafting that letter or have you seen it before?

A. I think Brian Fitzpatrick showed me this letter.

Q. When did he show you it?

A. It must have been around the time that he received it.

Q. To your understanding, were attempts being made to force Mr Fitzpatrick to resign?

A. Yes.

Q. And who was making those attempts?

A. Brian Parker and Kylie.

Q. To your understanding, they wanted to get rid of him; is that right?

A. Yes.

Q. And the accusations they were making - and if you need

1 to read through this letter by all means do, the one at
2 tab 5 or the one at tab 6 - to your understanding, they
3 were things that were being put forward as bases to get rid
4 of him; is that right?
5 A. Sorry, I got distracted. What did you say?
6
7 Q. Well, they were trying to get rid of him and they had
8 put forward a number of matters in correspondence for the
9 purpose of setting up a dismissal of Mr Fitzpatrick; that's
10 right, isn't it?
11 A. I believe so, yes.
12
13 Q. Did you regard that as a fair thing to do?
14 A. No.
15
16 Q. Did you make any complaint to Mr Parker about that?
17 A. No, I didn't.
18
19 Q. There'd been no issue of that kind about
20 Mr Fitzpatrick before these events occurred, had there, to
21 your knowledge?
22 A. Yes, but not - people just accepted him as he is.
23 Sometimes he can say inappropriate things and --
24
25 Q. I imagine - correct me if I'm wrong - probably quite
26 a few people down there are not shrinking violets?
27 A. That's correct.
28
29 Q. So there are some forceful personalities?
30 A. Yes.
31
32 Q. Some strong language from time to time; people aren't
33 too shocked by that sort of thing?
34 A. No.
35
36 Q. Mr Fitzpatrick ultimately left in September 2013; is
37 that about right?
38 A. I can't remember the date.
39
40 Q. But, anyway, some time last year?
41 A. Yes.
42
43 Q. Did you have any involvement in that process yourself?
44 A. No.
45
46 Q. Just what you've heard from Mr Fitzpatrick?
47 A. Yes.

1
2 Q. Do you know what offers were made to him before he
3 left?
4 A. Only from the TV.
5
6 Q. No, I'm not worried about what you might have seen on
7 TV; I'm just --
8 A. Okay. No, I don't know any offers.
9
10 Q. From your work at the office, you don't --
11 A. No.
12
13 Q. There's a deed of settlement in tab 8. Have you seen
14 that before?
15 A. No, but this is all confidential information.
16
17 Q. I just asked you if you had seen it before?
18 A. I haven't seen it, no.
19
20 Q. There was an investigation by a Mr Slevin. What was
21 that all about?
22 A. The little bit of information I know is that he
23 requested some documents from the union and he was going to
24 investigate. I don't know any report. I've not seen any
25 report. I don't know what documents he asked for. That's
26 all I know.
27
28 Q. Could you go to tab 15. This is a statement by
29 Brian Parker on - I think it's on the CFMEU website. Have
30 you seen that one before?
31 A. I don't think it'll be on the CFMEU website.
32
33 Q. In any event, have you seen it before?
34 A. No, I haven't seen this before.
35
36 Q. By all means read through it if you need to put it in
37 context, but I just want to ask you about the dot points in
38 the bottom third of the page.
39 A. Sorry, this is 16?
40
41 Q. No, tab 15.
42 A. Oh, okay, sorry, sorry, I'm on 16. Oh, no, I'm on 15,
43 yes.
44
45 Q. Is yours tab 15 or 16?
46 A. This is 15. Oh, okay, I see it, that's 16, and that
47 is on the website. You're right.

1
2 THE COMMISSIONER: So just to get things straight, the
3 document headed "Statement by Brian Parker in response to
4 allegations made by Brian Fitzpatrick" was on the website.
5 It's actually tab 15 in my volume.
6

7 MR CRAWSHAW: It's tab 16 in mine and apparently in the
8 witness's.
9

10 THE COMMISSIONER: Yes. Should we try to get in step?
11

12 MR STOLJAR: Yes.
13

14 THE COMMISSIONER: Whose will be the master volume?
15

16 MR STOLJAR: Commissioner, if you are marking your
17 version, that should be the - at morning tea, we will
18 uplift them and work out what has gone wrong. There is
19 obviously an extra tab in someone's.
20

21 Q. Can I just ask you to look at the statement by
22 Brian Parker that is on the website, whether it is tab 15
23 or tab 16 in your folder.
24

25 A. Sure.
26

27 Q. I just want to ask you about the dot points in the
28 bottom third or so of the page. The first dot point says:

29 *CFMEU legal department called the*
30 *police ...*
31

32 So that would be you?

33 A. Sorry, what dot point?
34

35 Q. The first dot point.

36 A. Yes, that was me.
37

38 Q. Then there's a couple of dot points and then the
39 fourth dot point says:

40 *Mr Greenfield denied making the threat.*
41

42 A. Yes, I can see that.
43

44 Q. Is that correct, to your knowledge?
45

46 A. No, that's not correct.
47

1 Q. So to your knowledge, what did Mr Parker say about
2 that to you at the time?

3 A. He made the threat, but he wasn't after him. He was
4 after his work. He was not going to attack him. He was
5 going to attack his work.
6

7 Q. I'm not sure I understand what that distinction is.
8 How do you mean, he was going to attack his work?

9 A. He wasn't going to kill him, but he was going to go
10 after his work.
11

12 Q. You mean the work that Mr Fitzpatrick was doing?

13 A. Yes.
14

15 Q. When did Mr Parker say that to you?

16 A. I already told you that when the telephone
17 conversation took place and then Brian Parker came in to
18 the office and it was us three there, the first - oh, and
19 then he went outside and he made the telephone call. Then
20 he came back and he said, "He doesn't want to attack you.
21 He wants to go after your work."
22

23 Q. But to your understanding, Mr Greenfield accepted
24 that he said what Fitzpatrick said - that Fitzpatrick's
25 account of what he said on the phone was accurate; is that
26 right?
27

28 MR CRAWSHAW: Could I just ask the question to be more
29 specific: the understanding from what Mr Parker said or
30 some --
31

32 MR STOLJAR: Q. To your understanding, there is no
33 challenge by Mr Parker or Mr Greenfield as to the accuracy
34 of what Mr Fitzpatrick recounted as being said to him by
35 Mr Greenfield in the conversation at about 5 o'clock on
36 27 March?

37 A. Well, that was too long --
38

39 MR CRAWSHAW: With respect, I don't know whether that was
40 a response to what I said, but it made it much more
41 convoluted.
42

43 MR STOLJAR: I'll take it in steps.
44

45 THE COMMISSIONER: It may be convoluted. I, at least,
46 understood it. However, since the witness has trouble, you
47 may as well take it in steps.

1
2 MR STOLJAR: Q. Yes, I'll take it in steps, CW4.
3 Mr Fitzpatrick gave the basic account of what had been said
4 to him by Mr Greenfield in the 12-second phone call at
5 about 5 o'clock on the evening of 27 March 2013; that's
6 right?
7 A. That's correct.
8
9 Q. And he recounted that to you and to Mr Parker later
10 that evening?
11 A. Yes.
12
13 Q. You accepted, yourself, that he was telling the truth?
14 A. Yes.
15
16 Q. Mr Parker, so far as you could determine from what he
17 said, accepted that he was telling the truth?
18 A. Yes.
19
20 Q. And Mr Parker, after speaking to Mr Greenfield, came
21 back to Mr Fitzpatrick's office, you told us?
22 A. Yes.
23
24 Q. And Mr Parker indicated that Mr Greenfield accepted in
25 substance that what Mr Fitzpatrick had said was correct?
26 A. Just say the last one again?
27
28 Q. Well, Mr Greenfield didn't deny what was being said;
29 he accepted it?
30
31 MR CRAWSHAW: With respect, I think this is most unfair to
32 the witness, to have to summarise what another conversation
33 between two other people recounted by Mr Parker was rather
34 than just being asked the words that were used, which she
35 has already given evidence about.
36
37 THE COMMISSIONER: Yes, the witness said earlier in
38 indirect speech that Mr Parker came back and said he made
39 the threat, but he is not after him; he was after his work.
40 That means, I take it, that Mr Greenfield made the threat.
41
42 MR CRAWSHAW: I don't have any problems with the
43 conversation being the subject of questioning, but when
44 this witness is asked to characterise the conversation that
45 occurred between two other people, it gets very difficult
46 for her and I don't think it assists the Commission.
47

1 THE COMMISSIONER: You can form an impression of what is
2 going on by means other than just the words. If the
3 witness has difficulty with the question, then that is
4 a matter that may have to be dealt with.

5
6 Do you remember what the question was, Mr Stoljar?

7
8 MR STOLJAR: Q. I think it was to the effect that
9 Mr Parker, when he came back in after speaking to
10 Mr Greenfield, as I understand it, did not suggest that
11 Mr Greenfield denied the account that had been given by
12 Mr Fitzpatrick; is that right?

13 A. Thank you. I understand the question now, and that's
14 correct.

15
16 Q. That's why, I take it, when I asked you earlier about
17 the document headed "Statement by Brian Parker in response"
18 that's on the website, where it says that Mr Greenfield
19 denied making the threat, you told me that wasn't correct?

20 A. Sorry, you need to repeat that.

21
22 Q. Oh, it's okay.

23 A. I'm sorry, look, I haven't slept for three days and
24 I'm really unable to focus that well.

25
26 Q. Okay. I think we covered that before. I asked you
27 some questions about the letters behind tabs 5 and 6. In
28 fairness to you, you said that you hadn't seen them before.
29 Do you know whether anyone in the legal team at the CFMEU
30 was involved in crafting these letters or was it done
31 externally or what?

32 A. No-one in the legal team was involved.

33
34 Q. So who was involved?

35 A. I can only guess. I'm thinking Rita Mallia and
36 Brian Parker.

37
38 Q. Did they have external solicitors helping them with
39 it?

40 A. I don't know that information.

41
42 Q. Would the legal department usually be consulted before
43 a letter of this kind was sent, as a matter of practice?

44 A. You know for internal disciplinary matters, we don't
45 get involved.

46
47 Q. But this is more than that, isn't it? This is

1 really - it's demanding a response within 48 hours and it
2 seems to be - I withdraw that. Who does get involved?
3 A. It's an executive decision.

4
5 Q. When you say "executive", what do you mean by that?
6 A. So on the executive is Brian Parker, Rita Mallia,
7 Robbie Kera, Rebel Hanlon and Kylie Price. She's not on
8 the executive, but she plays an important role.

9
10 Q. Is Kylie Price the same person as Kylie Wray?
11 A. Oh, yes. Sorry. She's changed her name. Excuse me,
12 can you give me a minute and I can talk to my lawyer for
13 a sec?

14
15 MR STOLJAR: I have no objection.

16
17 THE COMMISSIONER: Q. Do you want to talk to him in here
18 or do you want --
19 A. Just outside, if that's okay?

20
21 THE COMMISSIONER: If you're happy, Mr Crawshaw, perhaps
22 you and the witness could just go outside and accommodate
23 her request.

24
25 MR CRAWSHAW: Yes.

26
27 THE WITNESS: Thank you.

28
29 (A break in proceedings)

30
31 MR CRAWSHAW: Commissioner, the witness wants to add to an
32 earlier answer.

33
34 THE COMMISSIONER: Yes. Is there any problem with that,
35 Mr Stoljar?

36
37 MR STOLJAR: No.

38
39 THE WITNESS: When you asked me why I used my husband's
40 phone and I said to you that the union didn't want me
41 to speak to Andrew Quirk, it was also - I was worried they
42 didn't want me to speak to Brian Fitzpatrick as well.

43
44 MR STOLJAR: Q. I see. When you say "they", you mean
45 the executive?

46 A. Yes.

47

1 Q. Mr Parker and Ms Mallia?
2 A. It came from Rita Mallia.
3
4 Q. Didn't you say it came from Ms Charlson?
5 A. Yes, but she's my immediate manager. It came from
6 her, Rita Mallia, to Leah Charlson.
7
8 Q. Why did they not want you to speak to Mr Fitzpatrick?
9 A. No, they didn't want me to speak to Andrew Quirk, but
10 they - I think I felt they didn't want me to speak to
11 Brian Fitzpatrick.
12
13 Q. Why did you feel that way?
14 A. Because of everything that was happening at that time.
15
16 Q. But he's an employee, isn't he? So's Quirk, for that
17 matter. And you're an employee. How are you supposed to
18 do your job if you can't speak to them?
19 A. No. Like outside telephone calls, like after-work
20 telephone calls.
21
22 Q. They didn't want you to have any social contact?
23 A. That's it.
24
25 Q. What was going on that made you think that they had
26 that concern?
27 A. Obviously, you know, the telephone incident, and then
28 I believe Darren Greenfield said he didn't make that call
29 or - actually, I don't know what he said, so - and maybe
30 things that I didn't know about, either.
31
32 Q. What do you mean by that?
33 A. Well, there's - like I've said a few times, you know,
34 I only know a little bit. The executive know a lot. The
35 organisers talk; they know a lot. And the executive and
36 organisers don't tell us office officers what's going on.
37 It's just the culture.
38
39 Q. Mr Fitzpatrick had raised concerns about Mr Alex,
40 hadn't he, to your knowledge?
41 A. Yes.
42
43 Q. And was there, to your knowledge, concern in the
44 executive about those allegations?
45 A. To my knowledge, yes.
46
47 Q. All right, why don't you tell me what was going on?

1 A. Brian Fitzpatrick told me that we'd been - the union
2 had been turning a blind eye to entitlements and wages owed
3 to members, and I think something to do with Cbus.
4
5 Q. When did he tell you that?
6 A. Oh, no, I just remember what he told me, that
7 Active Hire [sic] had not paid their Cbus and we had
8 allowed this to happen.
9
10 Q. Active Labour?
11 A. Active Labour, yes.
12
13 Q. When did he tell you that?
14 A. Oh, he told me numerous times. I can't pinpoint the
15 dates.
16
17 Q. But you mean while he was working there?
18 A. Yes.
19
20 Q. When you say "Cbus", did you have any conversation
21 with Mr Fitzpatrick or anyone else, for that matter, about
22 obtaining information from Cbus?
23 A. Yes.
24
25 Q. What sort of information - tell me about those
26 conversations?
27 A. One day - beginning of the year - I was working on
28 the counter organiser job, which is - you get all the
29 telephone calls and deal with it, and that's when that
30 young worker died on Barangaroo. So in that position,
31 I was asked to ring up Cbus and find out if they had paid
32 the worker's Cbus up to date and convey the information
33 to the organiser, which I think at that time was Sammy
34 Manna.
35
36 Q. Is that something, to your knowledge, that people at
37 CFMEU did from time to time - ring up Cbus and ask for
38 information?
39 A. Yes.
40
41 Q. Who would you tend to ring at Cbus? Was there
42 a particular individual?
43 A. No, just - I call the general Cbus number. They
44 actually wouldn't give me the information because I'm
45 not an organiser and I wasn't on the list, so I didn't get
46 it.
47

1 Q. So who then rang?
2 A. Jock Miller.
3
4 Q. So a list is maintained of people that Cbus will give
5 information to?
6 A. I don't know that.
7
8 Q. Well, you said "I'm not on the list". I'm just asking
9 what list?
10 A. Okay, I think I got confused because what they asked
11 me is what is my job role, and I said I'm an
12 industrial/legal officer, and they were unable to - I think
13 there must be a list, yes.
14
15 Q. You said earlier on that you had made no complaint to
16 Mr Parker about his handling of the Fitzpatrick threat.
17 Did you make any complaint to anyone else?
18 A. Yes, I did.
19
20 Q. Who did you complain to?
21 A. Peter McClelland.
22
23 Q. Just tell us a bit more about Peter McClelland?
24 A. He was the ex-president of our union, and he now works
25 for MATES in Construction. They look after people who are
26 not well or have mental issues and their wellbeing, and so
27 I told Peter McClelland that day, when it happened, because
28 I was worried about Brian Fitzpatrick.
29
30 Q. What did you tell Peter McClelland?
31 A. I told him exactly what happened, that Darren
32 Greenfield rang up and threatened Brian Fitzpatrick.
33
34 Q. What time of day, roughly, did you do that?
35 A. As soon as I got home that day, the day of the phone
36 call, because I was very worried about his wellbeing,
37 Brian Fitzpatrick.
38
39 Q. Were you concerned about the fact that Mr Parker
40 didn't seem to be taking it seriously?
41 A. Yes, I was.
42
43 Q. And is that why you rang Mr McClelland?
44 A. Yes.
45
46 Q. Because you were worried nothing was going to be done?
47 A. Well, I was worried that Brian would start drinking or

1 something.
2
3 Q. Which Brian?
4 A. Brian Fitzpatrick - or he might harm himself or
5 something.
6
7 Q. Because of what had been said to him by Mr Greenfield?
8 A. Yes. He was very, very upset.
9
10 Q. What sort of a person is Mr Greenfield?
11 A. He's about 6 foot - actually, more than 6 foot. He's
12 a big, strong person.
13
14 Q. But you certainly took the threat from Mr Greenfield
15 seriously; you yourself regarded it as a serious matter?
16 A. No, because, you know, we all work together. I mean,
17 why would you harm a work mate? So I didn't regard that as
18 serious, but I regarded Brian Fitzpatrick's reaction as
19 serious.
20
21 Q. By the way, when that statement appeared on the
22 website, did you read it?
23 A. Yes, I did.
24
25 Q. And did you notice that it was wrong when it said that
26 Greenfield denied making the threat?
27 A. Yes, I did.
28
29 Q. Did you tell anyone that it was wrong?
30 A. No, I didn't.
31
32 Q. Why not?
33 A. I was scared for my job.
34
35 Q. Why were you scared for your job?
36 A. Because if I was to go against the executive, then
37 they wouldn't want to employ me.
38
39 Q. Why do you say that?
40 A. That's my own opinion.
41
42 Q. Is that based on what you've seen happen to others?
43 A. Yes.
44
45 Q. Can you give any examples?
46 A. Brian Fitzpatrick. I can't think of any right now.
47 Sorry.

1
2 Q. Just explain that to me a bit? When you say
3 Brian Fitzpatrick - please tell me if this is not correct -
4 do you mean that you didn't want what was happening to him
5 to happen to you?
6 A. Yes.
7
8 Q. You've mentioned a Mr Quirk a few times. He works in
9 the office, too?
10 A. Mmm.
11
12 Q. Where is his office in relation to Mr Fitzpatrick's?
13 A. I can't remember right now, sorry.
14
15 Q. Is he still there?
16 A. He's been - I haven't seen him for a while.
17
18 Q. Did you see him on the day that all this happened with
19 Mr Fitzpatrick?
20 A. No.
21
22 Q. Who is Mr Tom Roberts?
23 A. Oh, he is the industrial/legal officer for the
24 national office.
25
26 Q. So he is not in your legal team?
27 A. No.
28
29 Q. You've seemed at times, in giving your evidence -
30 I may have the wrong impression - concerned about giving
31 your evidence?
32 A. Yes, I am.
33
34 Q. Concerned or worried?
35 A. Mmm.
36
37 Q. Is there something in particular that worries you
38 about the way that the CFMEU is conducting its affairs or
39 something that's causing you that concern?
40 A. I'm worried that this information will get back to the
41 CFMEU.
42
43 Q. Which information in particular are you worried about?
44 I'll just explain. Let me tell you about the
45 non-publication directions. Have you seen them? Do you
46 have a copy?
47 A. No, I don't have one.

1
2 Q. Here, I'll give you a copy. It's just to make you
3 feel a bit more comfortable, CW4. At the moment,
4 a direction has been made that no questions asked or any
5 information you give can be communicated to anyone,
6 including anyone at the CFMEU. And if you feel more
7 comfortable, we can, as it were, go to the next step of not
8 even having your name disclosed on the transcript, and
9 you'll just be referred to by initials, like CW, which
10 would mean "confidential witness".

11 A. Okay.

12
13 Q. So that that won't even appear on the transcript.
14 Would that make you feel more comfortable?

15 A. Yes. Thank you.

16
17 Q. All right. I'll reformulate that perhaps at morning
18 tea and we'll do that.

19 A. Thank you.

20
21 Q. Would that make you feel more at ease about talking
22 about your concerns?

23 A. Yes. So if I say something, will you put
24 Darren Greenfield in the witness box and say, "CW4 said
25 this, this, and this. I put it to you"?

26
27 Q. That's a very good question. On the face of it, at
28 the moment, no. Once we've got this in private session and
29 once you've given your evidence, then that applies, so
30 I couldn't put that to him in those terms. But we would
31 need to think about how to use the information that you
32 give us.

33 A. Okay.

34
35 Q. So we would have to work out what we could do with it
36 in a way that met your concerns. That's kind of in
37 a nutshell, but you would want to speak to your lawyers to
38 get some advice about that to make sure that you feel
39 comfortable with it. I can't really advise you. That's
40 the job of your lawyers. Do you understand?

41 A. Okay, thank you.

42
43 MR CRAWSHAW: Mr Commissioner, if I was to advise her,
44 I would say certain things additional to that about what
45 I would envisage as possibilities and I'm quite willing
46 to raise that with you and my learned friend in front
47 of the witness now. It's quite simple; namely, I don't

1 see that there's any bar to the Commission lifting the
2 non-publication direction and publishing all this evidence
3 and it will be known to the whole world.

4
5 THE COMMISSIONER: It wouldn't be done without notice to
6 your instructing solicitor.

7
8 MR CRAWSHAW: Well, that may be, but the witness should
9 know that it's not as simple as that. It is not a simple
10 process of keeping what she is saying away from the rest of
11 the world necessarily or forever.

12
13 Now, that should not matter, because she is here to
14 tell the truth, in any event, but my learned friend is
15 trying to give her some comfort about the way she is giving
16 her evidence and she should know the full context.

17
18 THE COMMISSIONER: Well, she has learned something from
19 what you've just said.

20
21 MR CRAWSHAW: Yes.

22
23 THE COMMISSIONER: Is there anything further you wish to
24 put to her or explain to her, Mr Crawshaw. You can do so
25 at 11.30.

26
27 MR CRAWSHAW: No, I don't need to. I'm just making the
28 point really to my learned friend and the witness at the
29 same time that it is not as simple as not revealing her
30 identity in terms of this private transcript or indeed the
31 transcript being private.

32
33 THE COMMISSIONER: You're talking about paragraph 3 of the
34 non-publication direction?

35
36 MR CRAWSHAW: Well, certainly, and just the way these
37 private sessions normally work in commissions of inquiry,
38 that quite often what occurs in the private session comes
39 out in the public sessions.

40
41 THE COMMISSIONER: Yes, but that's some distance off.

42
43 Now, Mr Stoljar, you've heard the questions.

44
45 MR STOLJAR: I have. It may be that if we could take the
46 adjournment now, if that suited you, Commissioner, I could
47 then reformulate this in a way that expunges the witness's

1 name and that would at least take us to that level. Then
2 I'll provide that to you, Commissioner, immediately upon
3 resumption.

4
5 THE COMMISSIONER: We will adjourn for 15 minutes.

6
7 **SHORT ADJOURNMENT**

8
9 MR STOLJAR: Q. CW4, we're just having brought down a
10 copy of the non-publication direction that will be amended
11 in the way that I indicated so that your name won't appear
12 anywhere on the transcript.

13
14 Just before we got into the discussion of the
15 variation to the non-publication order, I was asking you
16 whether there was some concerns that you had about giving
17 your evidence or concerns that you had about the operations
18 of the CFMEU and that's when we, as it were, got diverted
19 into talking about the non-publication direction. Can we
20 go back to that question. Are there those concerns and, if
21 so, what are they?

22 A. Well, my major concern would be that, you know,
23 I would be telling you private information about what
24 happens in the CFMEU, and we do pretty amazing things and
25 you may focus on the negative things and so that's my major
26 concern.

27
28 Q. Well, before you gave your evidence here today, did
29 you have any discussion with anyone about the fact that you
30 were giving evidence here today?

31 A. Yes, with Rita Mallia and with Leah Charlson, and
32 that's it.

33
34 Q. And what did they say to you?

35 A. Leah said, "Don't worry. You'll be fine. I think
36 it's about the Brian Fitzpatrick thing." And Rita
37 said, "Just go there. You'll be fine and just tell the
38 truth."

39
40 Q. Are any of your concerns about the fact that you've
41 seen or heard of anyone from the union receiving any
42 inducements or awards from contractors?

43 A. Can you repeat that, please?

44
45 Q. Let me put it in another way: have you seen or heard
46 of anything that has given you cause to be concerned that
47 anyone at the CFMEU is engaged in corrupt conduct?

1 A. No.
2
3 Q. Have you heard anything to that effect?
4 A. Yes, in the media.
5
6 Q. In the media, but you say you haven't heard anything
7 like that in the office?
8 A. No.
9
10 Q. All right. Have you seen or heard of any matter
11 that has given you cause to be concerned that the union
12 is or anyone from the union is engaged in unlawful conduct?
13 A. No.
14
15 Q. You said earlier on that instructions came from -
16 about not to speak. Initially you were saying that they
17 came from Ms Charlson; that is, not to speak to other
18 employees and I think you said Mr Quirk and Mr Fitzpatrick.
19 Then you said the fact that probably they emanated from
20 Ms Mallia. How did you know that? Did Ms Charlson tell
21 you?
22 A. I just want to make it clear. So no-one said, "Don't
23 speak to these people." Rita told Leah that Andrew Quirk
24 has called me and it was a long conversation on the phone
25 and Rita was concerned for me.
26
27 Q. And were you surprised that they knew about the call?
28 A. Yes.
29
30 Q. Did you ask how did they know?
31 A. No, I didn't.
32
33 Q. You didn't ask?
34 A. I assumed they checked my phone bill.
35
36 Q. Is that something that happened before?
37 A. Not - no.
38
39 MR STOLJAR: Commissioner, I don't have anything further
40 but I was going to provide a revised version of the
41 non-publication direction.
42
43 THE COMMISSIONER: In substitution for the non-publication
44 direction made at approximately 10am, I make a new
45 non-publication direction in the form in which I have just
46 signed.
47

1
2 MR STOLJAR: I wonder if, for the purposes of
3 record-keeping, Commissioner, the first non-publication
4 direction might be marked for identification.

5
6 THE COMMISSIONER: Yes, I'll mark it for identification
7 CW4 MFI3.

8
9 **CW4 MFI #3 FIRST NON-PUBLICATION DIRECTION**

10
11 MR STOLJAR: Commissioner, could I also ask for a
12 direction that any occasion during the course of this
13 morning's hearing the witness's name has been mentioned be
14 taken from the transcript and that there be inserted "CW4";
15 and, likewise, that the witness's address not appear on the
16 transcript.

17
18 THE COMMISSIONER: You have no problem with that,
19 Mr Crawshaw?

20
21 MR CRAWSHAW: No.

22
23 THE COMMISSIONER: I make that direction.

24
25 MR STOLJAR: There's nothing further.

26
27 THE COMMISSIONER: Do you have any questions, Mr Crawshaw?

28
29 MR CRAWSHAW: No, not at this stage.

30
31 THE COMMISSIONER: Thank you for your attendance,
32 CW4.

33
34 MR STOLJAR: The question of whether the examination could
35 be - I understand CW4 is going away for a period of time,
36 but if we needed to, we could issue a fresh summons so this
37 examination could simply be concluded at this point and the
38 witness excused.

39
40 THE COMMISSIONER: Do you expect to be away for long?

41
42 THE WITNESS: I'm returning back on Saturday, 14 June.

43
44 THE COMMISSIONER: I think the course you're proposing,
45 namely, that if any further attendance is required, a fresh
46 summons could be issued, is satisfactory.

1 Is that satisfactory to you, Mr Crawshaw?

2

3 MR CRAWSHAW: Yes, Mr Commissioner.

4

5 THE COMMISSIONER: Very well.

6

7 THE WITNESS: Thank you

8

9 THE COMMISSIONER: I hope you have a good night's sleep.

10

11 THE WITNESS: Thank you.

12

13 <THE WITNESS WITHDREW

14

15 AT 11.46AM THE COMMISSION WAS ADJOURNED ACCORDINGLY

16

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