

**BEFORE THE INDUSTRIAL RELATIONS COMMISSION
OF NEW SOUTH WALES**

NO IRC 3124 OF 2000

VALDA JUNE KERRISON

APPLICANT

**TECHNICAL AND FURTHER
EDUCATION**

RESPONDENT

AFFIDAVIT

**INCLUSION OF
FURTHER DOCUMENTS**

Deponent

VALDA JUNE KERRISON

Sworn

Date: September 2001

Filed by

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On the 2001, I Valda June Kerrison of Unit 5, 71 Probert Street, Newtown, NSW, TAFE teacher, MYOB appointed trainer, bookkeeper, say on oath

- 1 On 26 and 27 April 2001 Her Honour Schmidt J. gave leave for me to supply further documents.
- 2 On 27 April 2001 Her Honour suggested that I might put in further material and that perhaps "the best way of doing that would be to attach them to an affidavit."
- 3 In the year 2000 I received by way of service an affidavit sworn on 20 October 2000 by Mr Raoul Salpeter, Crown Solicitor (**See affidavit filed at Industrial Relations Commission on 20 October 2000**).
- 4 In that affidavit Mr Salpeter, swore as fact that "the Managing Director of the TAFE Commission authorised the medical assessment in a letter dated 17 January 1995 (annexure 'E') sent to the Director of North Coast Institute"
- 5 Mr Salpeter was referring to a letter written by Dr Gregor Ramsey to Dr Gary Willmott NCI TAFE 17 January 1995 headed "Irregular Student Enrolment and Student Practices".
- 6 Since then I read a newspaper article in "The Daily Telegraph" published 23 November 2000 (**Attached marked 1**)
- 7 I read in paragraph 2 of this article: "When the ... teacher needed additional qualifications, he awarded them to himself."

- 8 When I read the article it reminded me of incidents referred to in Mr Salpeter's affidavit and Dr Gregor Ramsey's letter 17 January 1995 in which Dr Ramsey referred to "Irregular Student Enrolment and Assessment Practices"
 - 8.1 Because I believed that Ms Hayes enrolled herself in course/s she was teaching and awarded herself the TAFE award or awards for that course or those courses, in 1994 I reported this belief to Dr Ramsey's investigators.
 - 8.2 I read in the same newspaper article at paragraphs 3 and 4: "Yesterday Atkins [TAFE teacher] was told his actions had also earned him a criminal record. Atkins, of Concord, pleaded guilty to five counts of making false entries on a public register when he appeared before Ryde Local Court."
- 9 I saw in his letter dated 17 January 1995 to Dr Willmott Dr Ramsey referred to grievance that I had raised.
 - 9.1 I read in this letter words which I took to mean: Dr Ramsey was satisfied that the allegations I had made of irregular student enrolment and assessment practices by a teacher Ms Rhonda Hayes were true.
 - 9.2 I read in this letter words which I took to mean: Dr Ramsey enclosed a copy of a further letter he had received from me together with his reply to me.
 - 9.3 I read in this letter words which I took to mean: Dr Ramsey urged Dr Willmott to have me "medically examined by Health Quest to determine [my] fitness to continue in employment."
- 10 At this time (17 January 1995) I believe that my total days of absence for sick leave since 1983 was zero.
- 11 I believe that on 31 January 1994 Dr Ramsey signed in the presence of Phillip Carroll the "TAFE Commission Teachers and Other Educational Staff Enterprise Agreement" because words to that effect are written on the Enterprise Agreement.
- 12 I have read Clause 32.9.3 of the "TAFE Commission Teachers and Other Educational Staff Enterprise Agreement" which says words to the effect: "requires that:all staff should be afforded 'natural justice' insofar as they should know what has been alleged, have the right to seek advice, reply to allegations and the right to be heard by an unbiased person."
- 13 I did not know on the 17 January 1995 that Dr Ramsey had authorised me to be "medically examined by Health Quest to determine [my] fitness to continue in employment".
- 14 I believe that Dr Ramsey did not inform me at any time before on or after the 17 January 1995 of any allegations made against me upon which he had based his authorisation.
- 15 I believe that Dr Ramsey did not give me the right to seek advice/ or to reply to any allegations if they were made against me.
- 16 I believe that Ms Kerrison, because I did not know of allegations against me, or decisions made against me that I have not been given the right to be heard.
- 17 I read in TAFE's Enterprise Agreement at Clause 27.5 words which I took to mean: " the TAFE Enterprise Agreement requires that any assessment of unsatisfactory performance should be based solely on job criteria; and performance is unsatisfactory when a staff member consistently fails to meet set work objectives and where the objectives are deemed to fair and reasonable for that staff member."
- 18 I read at Clause 27.6 of the TAFE Enterprise Agreement words which I took to mean: "The Enterprise Agreement requires that when a line manager has concerns in relation to a staff member's performance, a discussion is to be arranged. The staff member shall be provided with details of the concerns in relation to performance. The discussion will centre on performance expectations and how these can be achieved..."

- 19 I believe that neither on nor before 17 January 1995 had any line manager raised concerns to me about my work performance.
- 20 I read at Clause 27.9.1 of the TAFE Enterprise Agreement words which I took to mean: "TAFE Enterprise Agreement allows for a medical assessment to be arranged if either the manager or staff member believe, on reasonable grounds, that there are medical reasons for a performance concern
- 21 I believe that there were no concerns about my work performance on or before 17 January 1995 and therefore no reasons for a manager to arrange a medical assessment on a ground allowed by the TAFE Enterprise Agreement.
- 22 On 20 October 2000, Mr Raoul Salpeter at paragraph C ii a) swore on oath words including: "the New South Wales Government Medical Officer ("GMO") issued a certificate recommending the retirement of the applicant for health reasons. That certificate was issued on 16 June 1995, a copy of that certificate is attached and marked "A" [of Mr Salpeter's affidavit] "
- 22.1 When I read the HealthQuest document headed "Retirement Certificate" I cannot see a word "recommending" or similar as stated by Mr Salpeter.
- 23 On 6 June 1995 Stacks the Law Firm sent a letter and documents to the Minister Mr Aquilina. This is referred to in my affidavit 9 August 2000 Paragraph 135. It is Exhibit 3 Attachment 16.
- 23.1 The last paragraph of the letter states in part: "We confirm that we have forwarded a copy of this letter and the information to the State Ombudsman..."
- 24 On or around late June 1995 TAFE somehow stopped my pay apparently using Form SP B22112 but despite my requests to TAFE I do not believe that I have seen that document and do not have a copy to supply.
- 24.1 On or about 5 September 1995 TAFE formulated a Release Pay Advice which includes words to the effect: "Remaining on Paid Leave Pending Outcome of Medical Appeal" and "Amends SP B22112" and "From: 30.6.95" "To: Until Further Notice" This document referred to in my affidavit 8 August 2000 paragraph 83.1 (**See attachment marked 3**)
- 24.2 On 7 September 1995 the Minister Mr Aquilina MP wrote a letter to Stacks the Law Firm. . This is referred to in my affidavit 9 August 2000 Paragraphs 86, 87, and 135-136. It is Exhibit 3, Attachment 5
- 24.2.1. Mr Aquilina's letter of 7 September 1995 included amongst other things, words to the effect: "*The NSW TAFE Commission has provided advice which indicates that Ms Kerrison was medically retired on June 22, 1995.*"
- 25 On 26 June 1995 when I telephoned Kempsey TAFE Manager Ms Elizabeth McGregor I recall that I said words to the effect: "*Was anyone else threatened with danger as I was?*" Ms McGregor answered words to the effect: "*No*". I recall because I wrote it down at the time.
- 26 Around mid-July 1995 I recall that I saw Ms Gail Robison in Kempsey Woolworths, standing facing a display.
- 26.1 I recall that I spoke to her saying words to the effect that it was more damaging to people to repeatedly rely on people with titles that did not reflect their actions than to know they must do it on their own. I remember saying words to the effect: "It's like trying to cross a ravine on a bridge that collapses half-way and the person plummets and falls on the rocks below. It would be better to know there was no bridge, and then clamber down the ravine and up the other side."
- 26.2 I recall that I felt reminded of what I believed to be past non-action by Ms Robison despite her positions as Kempsey TAFE Rehabilitation and OH&S officer.
- 26.3 I recall that I then said words to the effect: "HealthQuest suggested that I go to the media about what happened to the Aboriginal students."
- 26.4 I recall that I had shown Ms Robison and Mr Quinn my file containing documents on 10 April 1995.

- 26.5 I walked away. I recall that when I glanced back I was surprised to see Ms Robison quickly walking out the door of Woolworths.
- 27 When TAFE directed me to go to HealthQuest, and I went, neither TAFE nor HealthQuest told me of their documents.
- 28 Commencing approximately July 1995, I sought information from HealthQuest files.
- 28.1 I remember that I lodged an FOI and paid the money requested.
- 28.2 When HealthQuest released some documents to me I read a letter sent to them by TAFE. The TAFE dated 1 May 1995 included words to the effect: *"What is of greatest concern though is the fact that on a number of occasions recently she has said that the only way to solve the situation is with a gun. This has been both in relation to herself and another staff member."* I saw that this had been underlined by hand.
- 29 I felt shocked. I felt horror and pain.
- 30 I believed that HealthQuest people did not know me because I had only been there for about an hour on 19 May 1995.
- 31 On or about 24 November 1995 I wrote to HealthQuest seeking information and substantiation, and stated amongst other things: "I utterly refute having said or implied the stated information"
- 31.1 This is referred to in my affidavit 9 August 2000 Paragraphs 93 and 96. As the original is faded I have attached at the top typewritten transcript. (See **5-page Attachment marked 4**)
- 32 In December 1995 I received under FOI and payment of fee, I received from TAFE a TAFE letter written by Mr Michael Quinn. **This letter is attachment 3 of Mr Quinn's Affidavit.**
- 33 This letter was similar to the letter TAFE sent to HealthQuest without my knowledge and right of rebuttal at the time (1 May 1995).
- 34 I felt further shock, horror and grief.
- 35 I recalled that I had last seen/spoken to Mr Quinn at the meeting with him and Ms Gail Robison on 10 April 1995. Both Mr Quinn and Ms Robison were paid OH&S officers for TAFE.
- 36 In January 1996 after further FOI and payment of money, amongst further information sent to me by TAFE I received two pages written by Kempsey TAFE OH&S and Rehabilitation officer Ms Gail Robison. These pages have my reference notes at the top "139" and "140" (See **Attachment marked 5**)
- 36.1 When I read the pages written by Ms Robison I felt sick.
- 36.2 Not only did I believe that the things that Ms Robison wrote were not true, but it appeared to me that even simple phrases were jumbled around, and I could not see a date in any of the paragraphs or document.
- 36.3 According to the Notice to Admit Facts and Documents I filed and served to the respondents more than 14 days ago, I take it that my belief that these two documents were formulated in the last quarter of 1995 to be so.
- 37 I had already spent time writing and trying to disprove the previous allegations.
- 37.1 I felt in the dark as to why anyone would ever say such things in relation to me.
- 37.2 I did not think that anyone that I had ever met or spoken to would say such things.
- 38 Commencing January 1996 I again went to my computer and tried to write words to prove that Ms Robison's words were not true. I typed and typed.
- 39 Through the years I have felt tortured and written reams of documents trying to prove my innocence.
- 40 I have frequently dry-retched when I try to deal with their documents of allegations including those using the words "gun" and "killing" and "suicide/suicidal".

- 41 I recall that on 8 September 1994, TAFE Managers Ms Maureen O'Sullivan and Ms Elizabeth McGregor said to me words to the effect "*The Managing Director will not allow it [a further complaint/grievance from me] to happen again. If you lodge another complaint and it is found to be baseless and without foundation it will be very dangerous to you.*"
- 42 I recall that I reported to TAFE officers, including 10 April 1995 document to TAFE OH&S/Rehabilitation officers Gail Robison and Mike Quinn headed "Problems Arising From Difficulties Experienced in Kempsey TAFE" **(See 3-page Attachment marked 6)**
- 42.1 I recall that at the end of that meeting Ms Robison said words to the effect that she was going to speak further with Mr Quinn
- 42.2 I recall that after meeting with Ms Robison and Mr Quinn I went and taught my next class and the students and I together worked, laughed, and joked as usual. I recall because that was the way I conducted all my classes.
- 43 On or about 10 April 1995 Ms Robison and Ms McGregor signed documents which included my name addressed to GIO. **(See 6-page attachment marked 7)**
- 43.1 Near Ms McGregor's signature are what appear to be the words: "*Val's absence was for the date 31/1/95. This was not a work day for her according to her EC [timetable] for that week. I mentioned this to Val, when she submitted a leave form for that day. She has none theless, expressed severe work-related stress.*" "10/4/95"
- 43.2 I dispute Ms McGregor's version including that Ms McGregor said to me words to the effect: "this is/was not a work day".
- 43.3 I also dispute that the EC attached, which bears a date for teaching weeks in March 1995 ,was the relevant EC for the non-teaching week of 31 January 1995.
- 43.4 I was scheduled to work on 31 January 1995.
- 43.5 GIO later refused a Workers Compensation claim.
- 44 On 5 September 1995 I was not aware at that time, but FOI documents released by TAFE show TAFE "Stop/Release Pay Advice" form dated 5 September 1995. This record states in part: "Kerrison... Remaining on paid leave pending outcome of medical appeal..." and "Amends SP B22112". Despite requests, TAFE have not released SP B22112. This is the document relevant to my affidavit of 9 August 2000 Paragraph 83.1. **(See Attachment marked 8)**
- 45 Around March 1996 I telephoned Ms Kerrie Walshaw of NCIT (North Coast Institute of TAFE) and said words to the effect: "Why can't I come back to work. Simply keeping me out of my job because of a HealthQuest document seems like presumed disability discrimination -- the ADB sent me a pamphlet on this with the part marked. Would you like to look at it?" I recall that Ms Walshaw said words to the effect: "I know all about discrimination." I remember because she sounded quite angry on the telephone.
- 46 On 20 March 1996 I sent letters to places including (then) TAFE Managing Director Ms J Diplock saying in part: "*Cancellation of permit for transfer of medical information. With regard information provided by TAFE and HealthQuest I find the information to be grossly incorrect, misleading and unsubstantiated. 1. I hereby cancel any authorisation/permission to obtain and/or distribute my medical information...*" and "*I request that in future each authorisation for examination or transfer of medical information be directed to me and be for clearly identified purposes...*" **(See Attachment marked 9)**
- 47 I received from Ms Walshaw a letter dated 22 April 1996 informing me that I had been somehow placed on "Sick Leave Without Pay".
- 47.1 I do not know when that decision was made.
- 47.2 I was not given an no opportunity to put my side of things before that decision was made.
- 47.3 I had not put in a claim that I was sick at that time.

- 47.4 I recall that I had said to Ms Walshaw words to the effect: "...can't I come back to work?"
- 48 I understood from this that my employment status was something like: "Teacher" "Sick Leave Without Pay".
- 49 I wanted to resume my teaching.
- 50 Ms Walshaw also sent me a letter to take to Social Security to seek sickness benefits. I did not do so, and as I was quite capable of working I did so. I left my home and husband in Kempsey and came to Sydney where I soon obtained work and income.
- 51 In December 1996 I had been working and supporting myself with my wages for some months while still trying to progress matters .
- 52 In day-to-day conversations work experiences were sometimes discussed between workers, I had told the other people that I was working with about my experiences with TAFE and what had happened with HealthQuest
- 52.1 I quoted to them allegations which TAFE had made including the one written by both TAFE and HealthQuest to the effect: "She has been heard to say on a number of occasions recently the only way to solve the problem is with a gun both in relation to herself and another person in TAFE."
- 52.2 I recall that the other staff had laughed.
- 53** On or around 16 December 1996 I received a letter from State Super which stated in part: "Your employer has advised that you left work due to illness or injury...." **(See 5-page Attachment marked 10)**
- 53.1 I telephoned and wrote to State Super and disputed that I had "left work...". (See 5-page Attachment marked 10)
- 53.2 My belief was that TAFE were simply keeping me out of my appointed position as TAFE teacher.
- 54 On or around 29 November 1996 a friend gave me the name and telephone number of a TAFE officer saying words to the effect: "Heather might be able to help."
- 54.1 I telephoned the person, Ms Heather Crawford A/Director Access and Equity South Sydney Institute of TAFE and spoke with her.
- 54.2 A few days later I received a telephone call from Ms Crawford and I recall that she said words to the effect: "I telephoned Kerrie Walshaw and she will contact you in the new year and tell you what your employment status is."
- 54.3 I remember because I wrote it down at the time.
- 54.4 I also remember waiting to find out what my employment status was.
- 55 I did not receive contact from Ms Walshaw in the new year.
- 56 On or around 30 January 1997 I sent a package to Ms Crawford. This is referred to in my affidavit of 9 August 2000 Paragraph 128. **(See Attached marked 11)**
- 56.1 The package included sub packages which I and others had put together and sent to relevant people at the relevant time including:
- 56.1.1. 12 July 1996 Mary Turco solicitor letter to
The Minister, Mr Aquilina, and
Dr John Harley Chairman of the Department of Health's Medical Appeals Panel,
and

Mr Graham Hawkins Director of Administration NSW Department of Health and attachments; and

56.1.2. 4 August 1996 letter entitled "Victimisation By Medical Appointment" addressed to union solicitor Ms Joanne Macara with attachments; and

56.1.3. Summary: "Letters showing Discrepancies in Information on Employment Status and Entitlements of Val Kerrison" together with attachments.

57 On 14 March 1997 the local Member for Oxley Mr Bruce Jeffery M.P wrote to Mr Aquilina. . This is referred to in my affidavit 9 August 2000 Paragraph 129. **(See Attachment marked 12)**

58 On 19 March 1997 Mr Aquilina replied to Mr Jeffery M.P's letter of 14 March 1997 and stated in part: "I note your concerns and am having the matters you have raised investigated ". This is referred to in my affidavit 9 August 2000 Paragraph 130. **(See Attachment marked 13)**

59 . On 16 May 1997 I wrote to Mr Aquilina, and also sent a copy to Ms J Diplock TAFE Managing Director. This is referred to in my affidavit 9 August 2000 Paragraph 131. **(That letter and the documents referred to form the 10-page Attachment marked 14)**

60 On 18 November 1997 Ms Lorelle Thurston wrote to Mr Brian Mortimer "Subject: Medical Retirements" and TAFE released a copy to me when they released other documents in files relating to me. These documents are relevant to my affidavit 9 August 2000 Paragraphs 151, 152, 153 **(See 3-page Attachment marked 15)**

60.1 When I read this document I noticed dates in 1997 and that there were references including the words "Appeal Disallowed".

60.2 I read the document carefully specially looking for a reference to section20 of the Technical and Further Education Act but I could not find one.

60.3 I noticed the document dated the following day, 19 November 1997 was seemingly from Ms Lorelle Thurston to Mr Brian Mortimer, and copied to Ms Rosalyn Williamson and stated in part: "I wish to confirm the details for the following Medical Retirement: Valda Kerrison...".**(See 3rd page of the 3-page Attachment above marked 15)**

61 In documents supplied to me from TAFE and State Super I read the following documents and I referred to in my affidavit dated 9 August 2000 Paragraphs 154-155.1.:

61.1 A TAFE document dated 26 March 1998 supplied by State Super **(See Attachment marked 16)**

61.1.1. I read the document included the words "Details supplied in regard to SASS Bill Report 28.2.98"

61.1.2. When I read that I remembered that I had disputed to State Super that I had "left" TAFE, and formed the opinion that State Super had sent TAFE a bill for my superannuation payment.

61.1.3. It also included "Kerrison Valda June" and "From: 15.4.96" and "To: 13.9.96" and "Sick Leave Without Pay"

61.2 I read a State Super document which I have 'dated' 8 May 1998 because that is the last date at the bottom of what appears to me to be a chronology. **(See Attachment marked 17)**

61.2.1. I read the top two lines. They stated in part: "30/03/98...lwop [I believe this to represent Leave Without Pay] to be processed . then case to be sent to benefits to exit member record.

61.2.2. I read the next line: "8/04/98...14:59" which I took to be the date and time.

61.2.3. I read the next lines: "member on sick leave without pay lwop cannot be processed case returned to mru for action."

61.2.4. A bit further down I read: "8/04/98 15:55..."

- 61.2.5. I read the next line of text: "8/04/98 16:02..."
- 61.2.6. Down on the next line I read: "Member has ceased employment. However, we have rec'd a SASS 5 form advising that she has been on LWOP, which does not appear to have been processed. Please process asap & return to Op MRU (processing) queue.
- 61.2.7. I read and believe the next lines to be: "PLS [or something similar] DO NOT CLOSE CASE
- 61.2.8. I read further down the page and saw: "14/4/98 09:42..."
- 61.2.9. I next read on the following line: "lwop processed case returned to Mru as requested."
- 61.2.10. I read on the next line: "14/04/98 10:22..."
- 61.2.11. After that, commencing the next line I read: "Pls preserve benefit -- no application received from member..."
- 61.2.12. I know that I did not either apply for or agree to "Cease employment" because even when TAFE told me words to the effect: "You don't come in any more" I still asked to be allowed to resume my teaching.
- 61.2.13. I know that I did not apply for either "Sick Leave Without Pay" or "Leave Without Pay" because I would have known if I did. TAFE did not tell me about such actions or decisions before they made them -- I wished that they had allowed me input into what they and State Super did.
- 61.3 I read a TAFE fax dated 26 March 1998 addressed to SASS (**See Attachment marked 18**)
- 61.3.1. This document from S Scuglia Staff Officer is dated as being 26 March 1998 and when I read it in conjunction with the State Super document above at Attachment it appeared to me to fit text from State Super record: "8/04/98...14:59" which I took to be the date and time. And the next lines: "member on sick leave without pay lwop cannot be processed case returned to mru for action."
- 61.3.2. I read in this document which bears the date 26 March 1998 "V Kerrison - Exit/LWOP" and "Urgent".
- 61.3.3. I have looked for a document which might direct or authorise LWOP in 1998 or any time before that e.g. 1996 but believe that TAFE have not given me one.
- 61.4 I read a note in the State Super documents which was undated. It was headed: "Contents of Sticky Note #1" (**See Attachment marked 19**)
- 61.4.1. I read on the note: "Process the lwop and send it to benefits as exit form is attached."
- 61.4.2. I believe that any "exit form" would not bear my signature because I did not sign one. I believe that neither TAFE nor State Super told me what they were intending to do and I did not have an opportunity to put my case before they acted in relation to these changes.
- 61.5 I saw in the State Super records a computer screen-print for 13 April 1999 which showed a sequence of entries. (**See Attachment marked 20**)
- 61.5.1. I read the entries applicable to the dates from 17/07/97 at the bottom to 14/04/98 at the top.
- 61.5.2. I read "14/04/98 Retrospective Leave Without Pay LWOPSTARTS 01/05/96 LWOP ENDS 13/09/96"
- 61.5.3. I read the next lines up as: "... 14/04/98 WITHDRAWAL" and "14/04/98.WITHDRAWAL FINAL SALARY"
- 61.6 I saw in the State Super documents a document headed "BASIC BENEFIT HISTORY ADJUSTMENTS" entered and checked "14/4/98" (**See Attachment marked 21**)
- 61.6.1. I read: "ADJUSTMENT" "LWOP" and "DATE FROM 1/5/96"

61.7 In or around May 1998 I received from State Super a Statement of Benefit Preservation with Date of Issue 16/04/98. . (See Attachment marked 22)

61.7.1. I read in the Membership Details box near the bottom
"Exit Reason Withdrawal".

61.7.2. When I looked for a statement to the effect that State Super recorded that TAFE (or HealthQuest or anyone else) had retired me I found none.

61.8 I recall that I wrote to State Super disputing "withdrawal" and gave my side of events, but seemingly to no avail because I believe the words still stand.

61.9 In April/May 1998 I was working and supporting myself with my wages. I had no way of knowing that TAFE filled in forms such as: a TAFE document dated 26 March 1998 which included the words "Kerrison Valda June" "From: 15.4.96" "To: 13.9.96" "Sick Leave Without Pay" and another one which caused State Super to record "14/04/98 Retrospective Leave Without Pay LWOP STARTS 01/05/96 LWOP ENDS 13/9/96".

SWORN By the Deponent)
At Sydney)
Before me:)

On the sixth day of September in the year two thousand and one.

.....
Solicitor/Justice of the Peace

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Deponent