This week the Commission returns to its inquiry into the Health Services Union.

The Commission first heard evidence concerning the Health Services Union in the week beginning 16 June 2014. Those hearings concentrated on three themes.

The first theme was the treatment by officials in the HSU of whistleblowers who spoke out against corrupt conduct or who were otherwise perceived as threats to those officials. On this theme, the Commission received evidence from Mr Mark Hardacre, Ms Katrina Hart, Mr Marco Bolano and Ms Kathy Jackson.

The second theme was the scope and content of the duties owed by union officials to the members. Much of the evidence given to the Commission in respect of this theme related to the conduct of Mr Michael Williamson and the culture of intimidation, fear, excess and corruption within the union that he promulgated for many years.

It was not only Mr Williamson’s conduct which was criticised as falling well short of the duties owed by union officials to members.

The evidence disclosed that the culture within the HSU East at that time, and the processes adopted by, or acquiesced in, by others, assisted with the continuation of that unsatisfactory state of affairs. This week the Commission will receive evidence from a number of other officers and staff who were involved in HSU East at that time. They include the former Assistant Branch Secretary, Mr Peter Mylan, who acted as Acting General Secretary of HSU East after Mr Williamson stood aside. Mr Gerard Hayes, then Divisional Secretary of HSU East and now Secretary of the NSW Union and NSW Branch will also give evidence. So too will Mr Bob Hull, a former Acting Assistant Divisional Secretary of HSU East and the former Financial Controller of HSU East, Mr Barry Gibson. Finally, the current Acting National Secretary of the Union, Mr Chris Brown, will also appear at the Commission in connection with these, and other, matters.
The third and final theme explored by the Commission in its first HSU hearing was the funding of union elections and the solicitation and expenditure of funds to or from relevant entities established by the HSU or its officers.

Commissioner, as you will recall, it was to the third theme—the solicitation and expenditure to or from relevant entities established by the HSU or its officers—that evidence concerning the National Health Development Account, or NHDA, was directed.

Later this week the Commission’s hearings will return to the affairs of the No. 3 Branch in the period 2003 to 2010, and in particular, to the topic of the NHDA.

Before then, the focus of the Commission’s hearings will be on the conduct of other officers in the No 1 branch of the HSU.

**No. 1 Branch**

In early 2009 Mr Jeff Jackson was the Secretary of the No. 1 Branch of the HSU. He had held that position since 2002. Traditionally this Branch of the Union has represented the majority of staff employed in hospital, pathology, dental and aged care.

The period from 2006 to 2009 was a fraught and bitter one in the history of the No. 1 Branch. Mr Jackson was at loggerheads with the elected No. 1 Branch President, Ms Pauline Fegan. There was much litigation. The conduct of Mr Jackson, Ms Fegan and Mr Shaun Hudson was the subject of an investigation by Fair Work which resulted in proceedings being brought by the General Manager of the Fair Work Commission in the Federal Court against those officeholders for breaches of statutory fiduciary obligations and also against the union. Justice North has reserved his decision on the appropriate amount of penalty to be ordered.

The conflict within the No. 1 Branch reached such intransigence in 2009 that the Federal Court put the No. 1 Branch into administration. The Administrator arranged for fresh elections to be held. Those elections were held in the latter half of 2009. Mr Jeff Jackson did not stand in that election. Mr Marco Bolano and Ms Diana Asmar ran for the position of Branch Secretary.

The Commission has heard evidence previously about the funding of Mr Bolano’s campaign in the 2009 election. Mr Bolano was the winning candidate. During the course of his term the No. 1 Branch amalgamated with the No. 3 Branch and the NSW Branch to form HSU East. When HSU East was put into administration in June 2012 by the Federal Court, Mr Bolano, along with all HSU East officeholders, was dismissed.
Fresh elections for the No. 1 Branch were held in the latter part of 2012. Ms Asmar and Mr Bolano again ran rival tickets for positions of office in the No. 1 Branch. This time, by a slim margin, Ms Asmar prevailed. However three members of Mr Bolano’s ticket were individually successful.

Ms Leonie Flynn was a member of Mr Bolano’s ticket in the 2012 elections. She successfully stood against Ms Asmar’s candidate, Mr Daniel Govan, for the position of Branch Assistant Secretary / Treasurer. That position is one of the most senior of the elected officials. Under the HSU Rules it carries with it significant responsibilities designed to ensure accountability and transparency of the No. 1 Branch’s finances.

Ms Flynn will today give evidence as to the culture and processes within the No. 1 Branch that have prevailed since Ms Asmar assumed the position of Secretary of the No. 1 Branch. Other officeholders and employees of the No. 1 Branch will also give evidence. They raise allegations against Ms Asmar of breaches of union rules and a culture of bullying, harassment and intimidation.

Serious allegations have also been raised against Ms Asmar and her General Manager concerning Right of Entry Permits. Right of Entry Permits are issued by the Fair Work Commission under s 512 of the *Fair Work Act* 2009 (Cth). It is a requirement that an applicant for a Right of Entry Permit undertake the appropriate training and sit the requisite online test. The seriousness of that requirement is concomitant with the rights such a permit gives to a holder to enter and remain on employers’ premises.

An applicant for a Right of Entry permit must make a declaration that he or she has received the training. A member of the Branch Committee of Management must make a declaration in support of the application that, having made proper inquiries, including inquiries of the proposed permit holder, and having reviewed the records of the organisation, the proposed permit holder is a fit and proper person to hold a Right of Entry Permit.

A number of the applications for Right of Entry Permits made by or on behalf of officers and employees of the No. 1 Branch since December 2012 were signed by Ms Asmar. The Commission today will hear evidence that Ms Asmar directed Ms Kitching and Ms Peggy Lee to sit the online tests on behalf of other employees and organisers. The Commission will hear evidence that Ms Kitching told other people she followed that direction. Ms Peggy Lee will give evidence that, although deeply uncomfortable with and upset by Ms Asmar’s direction that she sit other organisers’ tests, she carried out that instruction.
In September 2013 a complaint was raised to the Fair Work Commission about these matters. In March this year Mr Chris Enright, Director of the Regulatory and Compliance Branch of the Fair Work Commission, gave notice to a number of people connected with No. 1 Branch of his intention to make adverse findings against them in connection with these matters and inviting a response by the end of April 2014. The deadline for Ms Asmar and others to provide responsive material to the Fair Work Commission has been extended on a number of occasions. That responsive material has not yet been provided either to the Fair Work Commission or to this Commission.

**No. 3 Branch**

As indicated earlier, later this week the Commission’s hearings will return to the affairs of the No. 3 Branch in the period during which Ms Kathy Jackson was the Branch Secretary.

The HSU has sought leave to cross-examine six witnesses who gave evidence in June on matters relating to the No.3 Branch. Those witnesses have been summonsed for that purpose. They are: the auditors of the Branch’s financial accounts, Mr Iaan Dick and Mr John Agostinelli; Ms Kate Wilkinson and Mr Reuben Dixon who were both members of the No. 3 Branch Committee of Management; the branch bookkeeper, Ms Jane Holt; and Ms Jackson herself.

In addition to that cross-examination, the Commission will also receive fresh evidence relevant to the affairs of the No. 3 Branch from a number of other witnesses.

Two witnesses will give evidence concerning the circumstances in which Peter Mac agreed to the arrangement it did with the No. 3 Branch. Those witnesses will be: Dr Heather Wellington, Chair of the Board of the Peter MacCallum Cancer Institute at the relevant time; and Mr Brian Cook, whose company, SIAG, was retained by the Peter MacCallum Cancer Institute to perform human resources functions and negotiate the new workplace agreement that was designed to overcome disputes about unpaid wages and entitlements to cancer researchers at Peter Mac.

Slater & Gordon were the solicitors retained by the No. 3 Branch in connection with the cancer researchers’ claims against the union for unpaid wage entitlements. As far as our inquiries have ascertained, and according to the evidence of Ms Jackson on 30 July 2014, Slater & Gordon were the only external solicitors retained by the No. 3 Branch in connection with the matter. The Commission will hear evidence from the lawyer principally responsible for that firm’s work and billing in respect of the matter.
Finally, Mr Jeff Jackson will also be called to give evidence, including as to the circumstances in which he received the $50,000 cheque from Ms Jackson in March 2009, and how that money was thereafter expended.