

REPORT TO
THE PRIME MINISTER
UPON INQUIRY INTO MATTERS RELATING TO
TAITO PHILLIP FIELD

N. W. INGRAM, QC

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1. INTRODUCTION

1.1 *Background to the inquiry*

[1] In September 2005, various allegations were made in the media concerning Taito Phillip Field who at that time was Associate Minister of Pacific Island Affairs, Associate Minister of Justice, and Associate Minister of Social Development and Employment. Those reports involved an allegation of assistance given by Mr Field to Mr Sunan Siriwan, a Thai overstayer. Mr Field made a request to the then Associate Minister of Immigration, Hon. Damien O'Connor, to intervene and direct the Department of Labour Immigration Service to issue a work visa upon application by Mr Siriwan; that request was made in circumstances where Mr Siriwan, who is a tiler, worked for Mr Field on a house in Samoa owned by Mr Field.¹

[2] Following those allegations, you, as Prime Minister, ordered an investigation into the allegations concerning the circumstances surrounding Mr Field's involvement in applications for work visas in New Zealand for Mr Siriwan and his partner, and other matters raised in the media.² At your request, I was engaged by the Solicitor-General to conduct that investigation.

[3] A summary of this report is contained in Section 7.

1.2 *Terms of reference*

[4] On 21 September 2005, I received the Terms of Reference, the full text of which forms Appendix I to this report. Those Terms of Reference provide inter alia:

“Ministers are required to ensure that no conflict exists or appears to exist between their private interests and the use of their influence

¹ See TVNZ 12 September 2005; *NZ Herald* 12 September 2005; *NZ Herald* 13 September 2005; Newstalk ZB 13 September 2005; *NZ Herald* 14 September 2005; *NZ Herald* 15 September 2005; *Dominion Post* 15 September 2005; *NZ Herald* 16 September 2005; *NZ Herald* 20 September 2005; TVNZ 20 September 2005; Newstalk ZB 20 September 2005.

² See Radio NZ/TVNZ Interactive 20 September 2005.

as Ministers. The Prime Minister has determined that an inquiry should be held to investigate these allegations, in the light of that requirement.

This inquiry will:

- 1. investigate and determine the nature of Hon Taito Phillip Field's relationship with Sunan Siriwan and his wife, and the extent of any involvement he may have had in applications for work permits for them;*
- 2. identify whether any conflict of interest existed concerning the Hon Taito Phillip Field's involvement in this matter;*
- 3. identify any other matters arising from or during the inquiry, as are necessary to provide a complete report.*

Mr Ingram will report the findings of this inquiry to the Prime Minister by 4 October 2005."

[5] That reporting date of 4 October 2005 presented a quest for the unattainable. In terms of the first matter of inquiry referred to in [4] above, for my report to have been provided by the stipulated date would have required at the very least the interviewing in New Zealand of Mr Field, Mr O'Connor, Mr Tim Spooner,³ and various public service officials, and the interviewing in Samoa of Mr Siriwan, Mr Siriwan's partner, members of the Field family who were reported to have provided accommodation to Mr Siriwan, and a building expert capable of advising upon the value of the services provided by Mr Siriwan at the Field house in Samoa.⁴

³ Mr Spooner, an immigration consultant, provided to the inquiry a written submission dated 22 September 2005 upon various factual and policy issues associated with the proposed granting of work visas to Mr Siriwan, and his partner and child. That submission was also provided to the Department of Labour which forwarded a copy to me. See further [100] and [160] et seq. below.

⁴ Had the scope of the inquiry been restricted to matters relating to Mr Sunan Siriwan and his partner, my investigations would have required interviews with at least eleven persons in New Zealand, and a further six in Samoa.

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- [6] Further difficulties in relation to that reporting date arose in the form of additional allegations relating to the conduct of Mr Field. Between 24 September and 30 September 2005, four separate allegations concerning Mr Field were reported in the media.
- [7] First, there was the allegation that in 2002 Mr Field's wife, Mrs Maxine Field, had improperly accepted money in consideration for work in Mr Field's Mangere electorate office, notwithstanding the requirements of the Parliamentary Services that a spouse or dependent of a member of Parliament cannot be engaged as an out-of-Parliament support staff member.⁵ Secondly it was alleged that, in 2004, Mr Patrick Cole, a Samoan suffering from Parkinson's disease and who was in a state of financial crisis, approached Mr Field, in his Mangere electorate office, seeking assistance in avoiding the sale of Mr Cole's property at 51 Church Street, Otahuhu, Auckland at an impending mortgagee's sale. After examining refinancing options, Mr Field purchased the house from Mr Cole and Simon Tupou, the son of Mr Cole, for \$259,000. Some 15 months later, Mr Field sold 51 Church Street for \$395,000.⁶ Thirdly, there was the allegation that Mr Field had assisted another Thai immigrant, Mr Phongphat Chaikhunpol in obtaining a work visa, and that in return Mr Chaikhunpol had painted three or four houses owned by Mr Field, one of which was 51 Church Street, Otahuhu.⁷ The fourth allegation, was that a school principal in South Auckland had told Mr Rodney Hide M.P. of families approaching the school with letters from Mr Field urging the school to enrol the children of those families. According to Mr Hide, it transpired that the children were not eligible for schooling in New Zealand because of their immigration status.⁸

⁵ *NZ Herald* 24 September 2005. As to the Parliamentary Services requirement, see further [427] note 146 below.

⁶ See TVNZ 27 September 2005; Radio NZ "Nine to Noon" 28 September 2005; *Dominion Post* 29 September 2005; *Dominion Post* 30 September 2005.

⁷ See Radio NZ Newswire 28 September 2005; *Dominion Post* 29 September 2005; TVNZ 29 September 2005; *NZ Herald* 30 September 2005; *Dominion Post* 30 September 2005. Mr Field issued a press statement, dated 28 September 2005, specifically stating that he welcomed the allegations concerning the sale of 51 Church Street and relating to Mr Chaikhunpol, being considered by the inquiry as "*other matters*" under Clause 3 of the Terms of Reference.

⁸ See Newstalk ZB 30 September 2005; *Dominion Post* 4 October 2005. I observe that a foreign student who satisfies the requirements of the Education Act 1989 ss.4(1) and 4B may be enrolled as a foreign fee paying student; see further [423] below.

[8] It is not surprising in the circumstances outlined in [5] to [7] above that on 3 October 2005, you, as Prime Minister, varied the reporting date of the inquiry by advising that the inquiry will take as long as it needs, and that every allegation that arose in the media was being referred to me.⁹

1.3 *Procedure adopted*

[9] The procedure adopted during the course of the inquiry has been to a large extent determined by the powers that flow from my appointment. In that regard, it is my view that my appointment is based upon the corporal powers of the Crown to appoint an independent person to conduct an inquiry and to report. That corporal power of the Crown is no different from the ability of any natural person either to inquire into a matter or to appoint an agent to conduct that inquiry. As a result, in strict legal terms, the same limitations apply to my powers to inquire and report as would apply to an inquiry being conducted by any other citizen. As a consequence, given the nature of my appointment I have not enjoyed the power to compel the attendance of witnesses before me to give evidence, or to administer oaths in relation to those who I do examine or interview, or to compel the production of documents. Those limited powers are to be contrasted with the powers to administer oaths, to compel attendance, and to compel the production of documents which are enjoyed by Royal Commissions and by Commissions of Inquiry appointed under the Commissions of Inquiry Act 1908.¹⁰

[10] Given those limitations attaching to my investigatory powers, and given that the issues raised by the inquiry required the investigation to be conducted not only in New Zealand but also in Samoa, at the outset I concluded that rather than holding a public hearing the appropriate procedure was to conduct interviews or examinations, and to request the production of specified classes or categories of documents from Mr Field and others.

⁹ See *NZ Herald* 4 October 2005; *Dominion Post* 4 October 2005.

¹⁰ For those statutory powers enjoyed by Royal Commissions and by Commissions of Inquiry see Commissions of Inquiry Act 1908, s.4B (power to administer oaths), s.4C (power to compel the production of documents), and s.4D (power to compel attendance). And as to the entitlement of those involved in or having an interest in an inquiry to which the powers provided by the Commissions of Inquiry Act 1908 apply, see Sir Ivor Richardson "F.W. Guest Memorial Lecture 1989. Commissions of Inquiry" (1989) 7 *Otago Law Review* 1, 3-4.

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- [11] Those limitations associated with the nature of any appointment have had a practical effect over the course of the inquiry. Various intended witnesses to whom requests for interviews were made either expressly declined to be interviewed or ignored the request. Within this report, intended witnesses who did not participate are identified. In some instances the supply of documents was sought but not provided.¹¹ As a consequence of that lack of co-operation, in relation to some aspects of the inquiry, in some instances I have needed to proceed on the basis of inference to be drawn from established facts rather than being able to have regard to either oral statements or documentary evidence, while in other instances I have been unable to reach a conclusion.
- [12] In identifying those potential procedural deficiencies which flow from the limitations of the investigating powers which I hold, I am merely seeking to indicate the shortcomings rather than to express complaint. I accept that those limitations are inherent in an investigation conducted on the basis of the present inquiry. Even if I had possessed the power to administer oaths, and to compel the attendance of witnesses and the production of documents, the process of inquiry may not have been significantly more satisfactory. I could still have faced the prospect of witnesses consciously attempting to mislead or deceive me.¹²
- [13] I do observe that while that lack of coercive powers has hindered aspects of my investigation, I have no doubt that my appointment by the Prime Minister has assisted in securing the co-operation of public servants and Ministers of the Crown.¹³ And in that regard, I record the co-operation which I generally received, with particular inference to public service officials within the Department of Labour, Housing New Zealand Corporation, Hon. Damien O'Connor, and Hon. Paul Swain, together with a number of other participants included in the schedule of persons interviewed which forms Appendix II of this report.

¹¹ See [287] note 107, and [325] note 115 below.

¹² See for example [289] and [290] below.

¹³ The analogy may be drawn with ministerial inquiries; see Geoffrey Palmer and Matthew Palmer *Bridled Power* (4th ed. 2004) p.311.

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- [14] As to Mr Field, at this point in the report it is sufficient that I note that at all times he was co-operative in terms of making himself available for interview or examination, and in arranging for the production of requested documents.
- [15] In the course of the investigation a total of 44 persons participated in the inquiry by being interviewed on record. Of those 44 persons, seven were interviewed on more than one occasion for the purposes of clarification or for consideration of developing aspects of the inquiry. In the case of Mr Field, an additional purpose of the further interviews was to provide Mr Field with the opportunity to respond to matters raised by others. In addition, written reports were obtained from the following: Mr A. M. R. Dean, quantity surveyor and building consultant, upon the value of specified work conducted on certain residential properties owned by Mr Field in Auckland; and Mr Robert Garner, contracts supervisor, upon the value of work done on a house and a bakery in Samoa. In relation to an alleged abuse of influence by Mr Field within Housing New Zealand Corporation, a detailed letter of response to specific questions was provided by the Chief Executive of Housing New Zealand.¹⁴
- [16] I obtained some 11 volumes of documents, principally from various public service officials, and from Mr Field. All of that material has been considered in the course of the inquiry.
- [17] During the inquiry, Mr Field was initially represented by Ms Mai Chen of Chen Palmer and Partners, solicitors, to whom I am grateful for providing me with extensive written explanations, and with chronologies of relevant events, together with banking material as requested by me. That material has been considered during the course of the inquiry. For a time following the involvement of Chen Palmer and Partners, Mr Field elected to be without representation, a situation which I did not consider to be in the best interests of either Mr Field or the course of the inquiry. Accordingly, I welcomed Mr Field's appointment of Mr Satiu Simativa Perese as counsel representing Mr Field shortly prior to the second occasion of my interviewing Mr Field. With one exception, at each of my many

¹⁴ See Section 6.6 below.

interviews with public service officials within the Department of Labour, Mr George Mason acted as counsel for the departmental participant; the one exception was my interview with Mr Murray Gardiner of the New Zealand Immigration Service who was represented by Ms Shona Carr. That legal representation of those various participants was of significant assistance to me in the conduct of the inquiry.

- [18] Not only for reasons of procedural fairness and the satisfaction of the rules of natural justice¹⁵ but also to ensure the accuracy of the report, a copy of the report in draft form was provided to Mr Field, and copies of portions of that draft report were provided to others who were in a position where either their interests may have been adversely affected by preliminary findings expressed in that draft or who were able to comment upon the accuracy of relevant portions of the report. In the case of Mr Field, whose interests were adversely affected by preliminary findings, following the provision of the draft report to Mr Field on 28 April 2006, further submissions from counsel for Mr Field were heard on 11 May 2006. A further interview with Mr Field took place on 8 June 2006 and further submissions from Mr Field's counsel were heard on 8 and 9 June 2006. While I have had due regard to any comments and submissions upon the draft report which those various participants have submitted to me, this report remains mine alone.

1.4 Assistance provided

- [19] During the course of the inquiry I have received extensive, able assistance from Gareth Kayes, an associate with Gilbert Walker, Lawyers, who were instructed by the Solicitor-General for the purpose of providing such support. I record my appreciation to Gilbert Walker, and to Gareth Kayes in particular.

¹⁵ Those requirements of the rules of natural justice in the context of the exercise of investigatory powers are articulated in *Re Erebus Royal Commission; Air New Zealand Ltd v Mahon* [1983] NZLR 662 (PC) 671 per Lord Diplock, and *R v Deputy Industrial Injuries Commissioner, ex parte Moore* [1965] 1 QB 456 (CA) 488, 490.

1.5 *Matters investigated*

[20] Clause 1 of the Terms of Reference is directed at the relationship between Mr Field and Mr Siriwan and his wife.¹⁶ I have referred at [7] above to four additional allegations concerning the conduct of Mr Field which were discussed in the media by 30 September 2006. Since that time, a number of other allegations have emerged either in the media or as a result of my investigations. In terms of Clause 3 of the Terms of Reference whereby I am to identify any other matters arising from or during the inquiry, as may be necessary to provide a complete report,¹⁷ I address those further allegations in the course of this report.

[21] As part of the overall introduction to this report, the following provides an outline of the principal matters into which I have inquired.

(a) Under the broad umbrella of Mr Field knowingly deriving benefit from skilled labour in exchange for or in response to his provision of assistance in matters of immigration, the relevant allegations fall within two separate, but related, spheres.

(i) First, the benefit of labour in relation to the Field house in Samoa, such labour being provided by:

(1) Mr Sunan Siriwan, who is referred to in clause 1 of the Terms of Reference;¹⁸ and

(2) additional Thai immigrants who travelled to Samoa and may have provided their labour in relation to the Field house.¹⁹

(ii) Secondly, the benefit of labour in relation to:

¹⁶ See [4] above. The person referred to as Mr Siriwan's wife in clause 1 of the Terms of Reference, I identify as Ms Aumporn Phangarm, who is the partner of Mr Sunan Siriwan; see further Section 3.1 below, [48] et seq. In this report I will refer to Ms Phangarm as Mr Siriwan's partner.

¹⁷ See [4] above.

¹⁸ Ibid; see Section 3.1 below, [43] et seq.

¹⁹ That aspect emerged during the course of the investigation; see Section 3.2 below, [202] et seq.

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- (1) the refurbishment of Mr Field's residential property at 51 Church Street, Otahuhu;²⁰
 - (2) two further residential properties owned by Mr Field in Auckland;²¹ and
 - (3) work upon a residential property at 57 Kinghorne Street, Strathmore, Wellington owned by Mr Field.²²
- (b) The purchase of the residential property at 51 Church Street, Otahuhu, from Patrick Cole and Simon Tupou.²³
 - (c) A miscellaneous collection of further alleged conduct on the part of Mr Field²⁴ relating to:
 - (i) alleged directions issued to the principals of certain South Auckland state primary schools in respect of the enrolment of specified children;²⁵
 - (ii) an alleged direction by Mr Field for the improper payment of money to be made to Mrs Maxine Field in consideration for services rendered in Mr Field's Mangere electorate office, and the acceptance of that payment by Mrs Field;²⁶

²⁰ That allegation to the extent that it relates to Mr Phongphat Chaikhunpol, is referred to in [4] above. See Section 4.2 below, [265] et seq.

²¹ That allegation is traversed in [7] above. See Section 4.3 below, [314] et seq.

²² That allegation is also traversed in [7] above; see Section 4.4 below, [336] et seq.

²³ That allegation is traversed in [7] above; see Section 5.1 below, [364] et seq.

²⁴ There was indication of an intended article in the *Sunday Star-Times* upon the alleged involvement of Mr Field in a rest home in South Auckland. My investigations revealed nothing which could usefully be put to Mr Field in relation to that allegation. In addition, there was an allegation which came to my notice of Mr Field's involvement in a supermarket in South Auckland. Again my investigations did not reveal any matter which usefully could be put to Mr Field in relation to that allegation. I record that information relating to both allegations was provided to the New Zealand Police, that the New Zealand Police passed that information to the Serious Fraud Office, and that the Serious Fraud Office, in turn, provided that information to me. In addition, I record that the Serious Fraud Office advised that it has not opened a file in relation to Mr Field, and that it is not investigating any matter relating to Mr Field. See further [418] note 139.

²⁵ See [7] above; see Section 6.1 below, [419] et seq.

²⁶ See [7] above; see Section 6.2 below [428] et seq.

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- (iii) the acceptance by Mr Field of monetary payments by way of *lafo* in connection with his role as a Minister of the Crown, and a member of Parliament;²⁷
 - (iv) alleged breaches of the Local Electoral Act 2001 in relation to the 2004 local body elections;²⁸
 - (v) the alleged exporting of tiles to Samoa under a foreign aid package for use upon the Field house in Samoa;²⁹ and
 - (vi) an alleged abuse of influence within Housing New Zealand Corporation.³⁰

1.6 *Duration of the inquiry*

[22] In the circumstances where the Terms of Reference prescribed a period of nine working days within which I was to provide my report upon this inquiry, it is not surprising that the period which has elapsed between my appointment and the provision of this report has been the subject of media comment.³¹ Given the need for independence in undertaking the inquiry, and given that my report is directed to you, as Prime Minister, and not the public, during the course of the investigation I have declined to comment to the media upon progress with and developments within the inquiry. Having adopted that approach, it seems appropriate that I provide some brief account of the time taken in the investigation and reporting process.

[23] First, there was the matter of my availability. At the time of my proposed engagement in this matter I informed the Solicitor-General of a prior commitment

²⁷ That allegation was raised during the course of the investigation. Mr Field's response was that such payments constitute *lafo*. See Section 6.3 below, [445] et seq.

²⁸ That allegation arose during the course of the investigation. See Section 6.4 below, [454] et seq.

²⁹ Again, that allegation arose during the course of the investigation. See Section 6.5 below, [462] et seq.

³⁰ See *Sunday Star-Times* 26 February 2006 and *Dominion Post* 27 February 2006. See further Section 6.6 below, [468] et seq.

³¹ See, for example, NZPA 21 March 2006.

in the form of preparation for and participation in a lengthy trial. At the time of my appointment that prior engagement was not seen as a significant impediment to overall progress; however that was before the emergence of the array of additional issues which I have identified.³²

- [24] Secondly, the arranging and conducting of the interviews of those who have participated in the inquiry proved to be an extended, difficult logistical exercise. The extent of the task is reflected in the approximately 700 pages of typed transcript, amounting to some 300,000 words. Some of the participants in the inquiry had to be interviewed in Samoa. In addition, the fact that a number of those participants in the inquiry were Thai nationals with a limited understanding of English, and a limited ability to speak English served to compound the difficulties. As a consequence, it was necessary to engage the services of independent interpreters to assist in the interviewing of most of those Thais, a process which inevitably lengthened the time involved in each of those interviews.
- [25] Thirdly, the wealth of issues which flowed from the additional matters arising in the inquiry, as referred to in [21] above, inevitably increased the difficulties in attempting to achieve any expeditious conclusion to the investigation.
- [26] Fourthly, there was the time-consuming task of considering and analysing the 11 volumes of documentary material referred to in [16] above. The nature of that task was at times exacting, as in the instance of the ministerial file relating to the ministerial intervention in the application for work visas for Mr Siriwan and his partner, and the events associated with that action. Close analysis was required of the records of a number of exchanges within the Department of Labour in order to acquire sufficient an understanding of the sequence and significance of those exchanges so as to enable the effective conducting of interviews with not only the public service officials involved in the matter but also Hon. Damien O'Connor and Hon. Paul Swain.

³² See [21](a)(i)(2); [21](a)(ii)(1), (2) and (3); [21](b), and [21](c)(i) to (vi) above.

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- [27] Fifthly, following the preparation of the draft report, there was the provision of that draft, or portions of the draft, to those participants whose interests may have been adversely affected by preliminary findings contained in that draft or who were able to comment upon the accuracy of aspects of the draft report, and the subsequent receipt of further evidence and submissions from those participants who chose to respond.³³
- [28] Following the variation of the initial reporting date, the message from you, as Prime Minister, was that the inquiry would take as long as it needs.³⁴ Given the complexity and range of the factual matters, that approach could be the only appropriate path to follow if the investigation was to be thorough, if there was to be a proper analysis of the application of the proper standards of conduct to the actions of Mr Field, if the requirements of fairness and the rules of natural justice were to be fulfilled, and if the findings of the inquiry contained in this report were to be complete.

³³ See [18] above.

³⁴ See [8] note 9 above; and see NZPA 21 March 2006.

2. ANALYSIS OF THE TERMS OF REFERENCE

2.1 *Introduction*

[29] To set the stage for my report, it is appropriate that I discuss the Terms of Reference with particular regard to the three clauses which specify the matters into which I am to inquire.

2.2 *Terms of Reference: Clause 1*

[30] Clause 1 of the Terms of Reference requires that the inquiry will “*investigate and determine the nature of Hon Taito Phillip Field’s relationship with Sunan Siriwan and his wife, and the extent of any involvement he may have had in applications for work permits for them*”. By way of elaboration, the introductory statement in the Terms of Reference refers to, inter alia, allegations concerning the circumstances surrounding Mr Field’s involvement in applications for work permits in New Zealand for Thai citizen Sunan Siriwan and his wife.

[31] The requirements of the inquiry under Clause 1 are clear and require no further discussion.

2.3 *Terms of Reference: Clause 2*

[32] Clause 2 of the Terms of Reference provides that the inquiry will “*identify whether any conflict of interest existed concerning the Hon Taito Phillip Field’s involvement in [the matter referred to in Clause 1 of the Terms of Reference]*”. That provision does require further consideration.

[33] The introductory statement in the Terms of Reference states inter alia:

“Ministers are required to ensure that no conflict exists or appears to exist between their private interests and the use of their influence as Ministers. The Prime Minister has determined

that an inquiry should be held to investigate these allegations, in the light of that requirement.”

[34] I proceed on the basis that the use of the term “*conflict of interest*” in Clause 2 is intended to refer back to the type of conflict described in the introductory statement, namely a conflict between a Minister’s private interests and the use of his or her influence as a Minister. I am supported in this interpretation by the phrase in the introductory statement that the inquiry should investigate “*in the light of that requirement*”.

[35] The introductory statement in the Terms of Reference adopts similar, but not identical, wording to paragraph 2.49 of the Cabinet Manual 2001.³⁵ The Cabinet Manual provides guidance to Ministers in relation to, inter alia, ethical conduct and standard of behaviour. Paragraph 2.49 of the Cabinet Manual provides:

“Ministers must ensure that no conflict exists or appears to exist between their public duty and their private interests. Conflicts of interest can arise because of the influence and power they wield – both in the individual performance of their portfolio responsibilities and as members of Cabinet. Ministers must conduct themselves at all times in the knowledge that their role is a public one; appearances and propriety can be as important as actual conflict of interest in establishing what is acceptable behaviour.”

[36] It is not necessary for me to determine the breadth of the duty described in paragraph 2.49. Nor is it necessary for me to determine whether the duty in paragraph 2.49 to ensure that no conflict exists between a Minister’s *public duty* and his or her private interests is wider than the requirement referred to in the Terms of Reference that a Minister ensure that no conflict exists or appears to exist between his private interests and his or her *use of influence as a Minister*.

³⁵ *Cabinet Manual 2001*, Cabinet Office, Department of Prime Minister and Cabinet.

The Terms of Reference state that I am to identify whether the latter type of conflict existed.

- [37] Clause 2 only relates to the “*matter*” described in Clause 1 of the Terms of Reference, namely the relationship between Mr Field and Mr Siriwan and his partner, and any involvement of Mr Field in relation to work permit applications for them. The Terms of Reference requires that the inquiry shall identify whether any conflict of interest existed in relation to that matter, but not other matters.

2.4 *Terms of Reference: Clause 3*

- [38] Clause 3 of the Terms of Reference requires that the inquiry will “*identify any other matters arising from or during the inquiry, as are necessary to provide a complete report*”.
- [39] When considering what those “*other matters*” may be which are necessary to provide a complete report, it is important to observe that Ministers of the Crown, as holders of high public office, have duties of conduct that accompany their status.³⁶ A high standard of conduct is expected of Ministers whether they be acting in their capacity as a Minister, or as a member of Parliament, or privately. Mr David McGee Q.C., Clerk of the House of Representatives, refers to the fundamental obligation of a member of Parliament, including Ministers, as being “*‘the duty to serve’ and, in serving, to act with fidelity and with a single-mindedness for the welfare of the community*”.³⁷
- [40] This broad obligation on Ministers is reflected in Rodney Brazier’s *Ministers of the Crown*,³⁸ a commentary which, although limited to the United Kingdom, provides some useful general principles upon the issue of ministerial responsibility. In particular, Brazier notes that the accountability of Ministers to Parliament imposes a general duty to behave properly.³⁹
- [41] The Prime Minister is the ultimate arbiter of the ethical conduct and behaviour of her Ministers. When considering such conduct and behaviour, the Prime Minister may have due regard to not only the conduct of the Minister in his or her ministerial capacity but also the conduct of that Minister when acting as a member of Parliament or a private individual. However, whether a Minister retains the confidence of the Prime Minister is not a legal issue, it is a political matter which is appropriately left to the Prime Minister to determine.⁴⁰

³⁶ D McGee, *Parliamentary Practice in New Zealand* (3rd ed, 2005) 36; *R v Boston* (1923) 33 CLR 386, 399-405 (per Isaacs and Rich JJ).

³⁷ D McGee op.cit. at 35, citing *R v Boston* (1923) 33 CLR 386, 400 (per Isaacs and Rich JJ).

³⁸ Rodney Brazier *Ministers of the Crown* (Oxford, 1997).

³⁹ *Ibid* p.107.

⁴⁰ See further, Brazier, op cit, 261.

[42] Therefore, under Clause 3 of the Terms of Reference, this report discusses any other matters that might be of assistance to you, as Prime Minister, when considering Mr Field's conduct and behaviour. Clause 3 requires the inquiry to "*identify*" any such other matters. It does not extend to requiring that the inquiry make findings or conclusions based on such conduct and behaviour. This is appropriate given that the Prime Minister is the ultimate arbiter of a Minister's conduct and behaviour.

3. PROVISION OF SKILLED LABOUR IN EXCHANGE FOR IMMIGRATION ASSISTANCE – PART ONE: THAI LABOUR IN SAMOA

3.1 *Sunan Siriwan*

3.1.1 *Introduction*

[43] The principal allegation that resulted in the present inquiry relates to the circumstances surrounding Mr Field's involvement in immigration applications for Thai citizen Mr Sunan Siriwan and his partner, Ms Aumporn Phanngarm.⁴¹

3.1.2 *Mr Siriwan's and Ms Phanngarm's immigration histories*

[44] Mr Sunan Siriwan was born in Lampang, Thailand in 1957. Mr Siriwan has a wife and two children who continue to live in Thailand. On 17 January 1997, Mr Siriwan entered New Zealand. He remained in New Zealand unlawfully after the expiry on his visitor's permit on 24 January 1997.

[45] Over four years later, on 18 July 2001, Mr Siriwan applied for refugee status. In that application,⁴² Mr Siriwan stated that he was a member of the Thammagay (Wat Thai) Group based in New Lynn.

[46] The Refugee Status Branch has received approximately 285 similar applications, all from Thai nationals who are members of the 'Wat Thai temple'.⁴³ In those applications, the applicants claim to fear persecution by the Thai government and from Thai Muslims but provide no credible evidence for these claims. The applicants, despite being fluent in Thai, request that their interviews with the Refugee Status Branch be conducted in Pali, an ancient language not used for everyday communication in Thailand. In Western terms, the nearest analogy to

⁴¹ See [1] above.

⁴² Part 6A of the Immigration Act 1987 refers to "claims" for refugee status, rather than "applications". Similarly, "applicants" are referred to as "claimants" in the Act. The terms "application" and "applicant" are used in this report in a non-technical sense.

⁴³ Decision of the Refugee Status Appeals Authority, Refugee Appeal No. 7275/01, 15 November 2001 <<http://www.refugee.org.nz/Fulltext/72752-01.htm>> [2].

Pali is Latin. There are no known Pali interpreters in New Zealand.⁴⁴ The Refugee Status Appeals Authority has held that such applications are “*an abuse of the New Zealand refugee determination system*”.⁴⁵ Mr Siriwan’s application was typical of such applications.

[47] Mr Siriwan failed to attend an interview with the Refugee Status Branch and provided no reasons for his absence. As a result, Mr Siriwan’s application was declined by the Refugee Status Branch on 19 February 2002.⁴⁶

[48] Ms Aumporn Phangarm was born in Chiang Rai, Thailand in 1974. Ms Phangarm entered New Zealand on 7 May 2000. She remained in New Zealand unlawfully after the expiry on her visitor’s permit on 7 August 2000.

[49] On 28 September 2000, Ms Phangarm applied for refugee status. Her application was declined by the Refugee Status Branch on 15 February 2001. The Branch held that Ms Phangarm was “*an entirely incredible witness who has moved to New Zealand solely for economic purposes*”. Ms Phangarm’s appeal against that decision was declined by the Refugee Status Appeals Authority on 17 May 2001.

[50] On 23 April 2001, Ms Phangarm made a second application for refugee status. That application was made through the Thammagay (Wat Thai) group and, as is typical, alleged fear of Muslim persecution and requested that Ms Phangarm’s interview be conducted in Pali.⁴⁷ Her application was declined by the Refugee Status Branch on 2 July 2001. Ms Phangarm again appealed, but that appeal was declined on 26 November 2001.

⁴⁴ Decision of the Refugee Status Appeals Authority, Refugee Appeal No. 7275/01, 15 November 2001 <<http://www.refugee.org.nz/Fulltext/72752-01.htm>> [3].

⁴⁵ Decision of the Refugee Status Appeals Authority, Refugee Appeal No. 7275/01, 15 November 2001 <<http://www.refugee.org.nz/Fulltext/72752-01.htm>> [1].

⁴⁶ Refugee claims are determined in the first instance by a refugee status officer of the Refugee Status Branch (see Immigration Act 1987 s.129E). Any appeal from that decision is heard by the Refugee Status Appeals Authority, normally consisting of one member (Immigration Act 1987 s.129N(5)).

⁴⁷ See further [46] above.

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- [51] Mr Siriwan and Ms Phangarm met some time in 2001. In December 2002, Ms Phangarm and Mr Siriwan had a baby boy, H.
- [52] In 2004, Monk & McClymont, solicitors, began acting for Mr Siriwan and Ms Phangarm. On 13 July 2004 and 25 August 2004, Mr Monk wrote to the Hon. Damien O'Connor, who was at that time the Associate Minister of Immigration. Mr Monk requested that the Minister grant work permits to Mr Siriwan and Ms Phangarm under s.35A of the Immigration Act 1987, a provision which confers a wide discretion on the Minister to grant a permit of any type to a person who is unlawfully in New Zealand. On 21 October 2004, Mr O'Connor declined Mr Monk's request to intervene.
- [53] On 2 February 2005, Ms Phangarm was located by chance, at an address in New Lynn, by Murray Gardiner, a Compliance Officer with the New Zealand Immigration Service. She was served with a removal order and arrested. As a result of being served with a removal order, Ms Phangarm would usually be unable to return to New Zealand for five years.⁴⁸ On 5 February 2005, Ms Phangarm was removed from New Zealand, and returned to Thailand.
- [54] After Ms Phangarm was removed, Mr Siriwan discussed his situation with a friend, C. Ms C asked her friend, M, to make inquiries with Timothy Spooner, a friend of Ms M's. Mr Spooner, who is an immigration and re-settlement consultant, advised Ms M that Mr Siriwan's case was hopeless.
- [55] Mr Siriwan also contacted Keith Williams and asked if he could help him in relation to Ms Phangarm's removal. Mr Siriwan was, at the time, employed by Mr Williams to do tiling work. Mr Williams also made contact with an immigration adviser or advisers and was told that Mr Siriwan did not have a strong case.

3.1.3 *The meeting at Mr Field's electorate office*

⁴⁸ Immigration Act 1987, s.57.

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- [56] On 24 February 2005, Mr Siriwan, Mr Williams and Ms C met with Mr Field at his Mangere electorate office.⁴⁹ Also present was Mr Field's electorate secretary, Elizabeth Jones-Ataongo. Ms C was present to act as an interpreter.
- [57] During an interview before me, Mr Field stated it was clear to him at that meeting on 24 February 2005 that Mr Siriwan needed to leave New Zealand as soon as possible, for he would then be able to apply for a work permit from outside New Zealand. Mr Field further stated that Mr Siriwan had disclosed that he did not want to return to Thailand. As Mr Siriwan told the inquiry, "*I told C to tell him, please ask him to help me so I don't have to go home. Not to go home, anywhere but home*".
- [58] Mr Field had previously assisted with the case of a Ghanaian man with a Samoan wife who had travelled to Samoa to apply for a New Zealand work permit.⁵⁰ With that case in mind, Mr Field suggested that Mr Siriwan could consider travelling to Samoa and applying for a New Zealand work permit from there. Mr Field told me that his desire to help Mr Siriwan was motivated by the fact that Mr Siriwan had a New Zealand born child.
- [59] It is unclear exactly what was discussed at that meeting on 24 February 2005. In our first interview on 29 September 2005, Mr Field told me that he did mention to Mr Siriwan and Mr Williams that he had purchased a house in Samoa that was undergoing work.⁵¹
- [60] Mr Field stated that there was no discussion about the possibility of Mr Siriwan working on the house. Mr Field did acknowledge that at that meeting on 24 February 2005 there was mention of Mr Siriwan being a tiler, but that was in the context of a discussion as to whether Mr Siriwan would be able to find work in

⁴⁹ In a chronology provided by Mr Field's solicitors on 6 October 2005, it is stated that there was a possible meeting between Mr Field and Mr Siriwan in December 2004. The chronology states that: "*Mr Field has no recollection of this, however his electorate staff have reminded him of this.*" Mr Siriwan told the inquiry that he did meet with Mr Field an earlier time, but he was unable to recall what occurred at that meeting.

⁵⁰ I have viewed the New Zealand Immigration Service file for the Ghanaian; that file contains confirmation that the Ghanaian did travel to Samoa as described by Mr Field.

⁵¹ The house was purchased in October/November 2004 from Mr K.

New Zealand. Mr Field advised me that the reference to Mr Siriwan being a tiler led to a discussion between Mr Field, Mr Williams and Mr Siriwan about building techniques and products. Ms Jones-Ataongo, Mr Field's electorate secretary, recalls a discussion as to the amount of grouting that might be required for the house at Afiamalu, and the type of sealant that Mr Field had purchased. In a statement dated 19 September 2005, Ms Jones-Ataongo stated:

“The Minister was seeking advice on tiling from a professional point of view and was actually asking advice from Mr Williams on tiling products he had purchased for his home back in Samoa.”

[61] Mr Williams declined to be interviewed by me unless the inquiry would pay his costs to be legally represented at the interview.⁵² However, Mr Williams directed me to two statements he had already made on relevant issues. In that regard, I have a copy of a letter which either he wrote or was written on his behalf, to the Hon. Paul Swain dated 3 August 2005 and a statement dated 23 August 2005 which he made to the Police. I also have the transcript of an interview with Mr Williams on Morning Report on National Radio on 22 September 2005. No explanation was provided to me by Mr Williams as to why he waited for four and a half months after leaving Samoa before sending a letter of complaint to Mr Swain.

[62] In his statement to the Police dated 23 August 2005, Mr Williams stated that, at the first meeting with Mr Field, on 24 February 2005:

“Taito asked what Sunan's profession was, I told him he was a tiler. He said he was building a house in Samoa that required 400m2 of tiles to be laid.

Taito said this mans [sic] an expert tiler, I can help you with a section 35, that he would leave the country for 3 months minimum and that he would talk to the Minister about it [Minister of Immigration]. He said SWAIN.

⁵² Mr Williams notified the inquiry of his decision on 6 December 2005.

And that he would arrange a work permit for Sunan in Samoa, and that he could tile his house in the 3 months that he was waiting to come back to N.Z.”

[63] In the Morning Report interview, Mr Williams stated that Mr Field:

“was interested in Mr... in Sunan Siriwan as a tiler because he had 400 square metres of tiling to do, and he was also interested in... he said that he had showers to do and that they would need waterproofing... so he offered me a ticket to go there and I'd do the waterproofing and come back and that would help Mr Siriwan”.

[64] Given that Mr Williams was not prepared to be interviewed by me, I am not prepared to accept his untested evidence unless corroborated.

[65] Mr Siriwan's recollection of the meeting appeared confused. He told the inquiry that there was no discussion at the first meeting about the possibility of moving to Samoa. That does not appear to have been the case.⁵³

[66] Ms C was also present at that meeting, but declined to be interviewed by me. On 25 February 2005, Mr Spooner emailed Inspector SP. As previously discussed, Mr Spooner was an immigration consultant who had previously provided informal advice to Ms M on Mr Siriwan's situation. In that email, Mr Spooner provided Mr SP with information that he had received from Ms M which had in turn been received from Ms C. The email states:

“I am told that Phillip Field told the man that if he did some extensive tiling work at Field's new house in Samoa (apparently a very large place) that Field would pay his airfare there. Then the man's wife could join the man in Samoa...”

⁵³ See further [58] above.

Given the number of people through which it passed, little weight can be placed on the veracity of that information. Furthermore, Ms C was not prepared to be interviewed by me. However, given the date of that email, it does provide evidence that some discussion was had at the meeting in the electorate office about the possibility of Mr Siriwan working on the house at Afiamalu upon arrival in Samoa.

[67] Following that first meeting with Mr Siriwan, Mr Field wrote to Mr O'Connor on 25 February 2005 requesting that Mr O'Connor grant Mr Siriwan a work permit under s.35A of the Immigration Act "*to allow him to continue working and supporting his child*". In that letter, Mr Field stated that he understood that Mr Siriwan was a "*professional tile layer*" and had a New Zealand born child. The letter neglects to mention that Mr Siriwan's child was no longer in New Zealand, having left the country when his mother was removed.⁵⁴

[68] Mr Field also advised me that he had informal discussions with Mr O'Connor who indicated that he was likely to decline the request for the grant of a permit under s.35A of the Immigration Act. However, Mr O'Connor indicated that he would reconsider the request for the grant of a permit if made from abroad and that case was not "*hopeless*".

3.1.4 *The meeting at Mr Field's home*

[69] Not long after the first meeting between Mr Field and Mr Siriwan, there was a second meeting, this time at Mr Field's home. Mr Field believes that this meeting occurred on either 26 February 2005 or 27 February 2005. Mr Siriwan's recollection was that it occurred on the same day as the initial meeting, 24 February 2005.

[70] Mr Field and Maxine Field, his wife, have stated that it was not unusual for Mr Field to have meetings at his home. In a statement dated 6 October 2005, Mrs

⁵⁴ Such a letter from Mr Field to Mr O'Connor seeking immigration assistance was not unusual. According to information provided by Mr O'Connor, Mr Field made 166 personal representations to him as Associate Minister of Immigration in 2005. In 2004, the figure was 182. In 2003, the figure was 90.

Field stated: *“I would estimate that at least twice a week people come to the house on matters relating to his job as a Member of Parliament”*.

[71] Present at the meeting were Mr Field, Mr Williams and Mr Siriwan. Also in the house at different times were Mrs Field, Mr Faatasiga Sulusulu and Ms L. Mr Sulusulu, a builder, was present because he was finishing off work on a two bedroom extension to a unit behind the house.⁵⁵ Ms L lives with the Mr and Mrs Field.

[72] Mr Field stated that at the second meeting they discussed:

“If it was an option for him to go to Samoa... how was he going to survive, how was he going to be accommodated, how was he going – for three or four months, possible a longer period, we don’t know – how in a foreign country, how he was going to survive there. So that became a situation that I had to grapple.”

[73] At his first interview with me, Mr Field stated that Mrs Field came up with the idea of Mr Siriwan staying at their house in Apia. In a written statement dated 6 October 2005, Mrs Field stated that she *“felt moved by Sunan’s story and wanted to help him out in whatever way I could”*. Mrs Field confirmed in her interview with me on 16 January 2006, that it was she who suggested that Mr Siriwan stay with her family in Samoa.

[74] Mr Siriwan’s recollection of the meeting is not good. That may be explained by the fact that Mr Siriwan’s English at the time was, and still is, limited and he had no one present acting as interpreter. He does, however, state that it was Mrs Field who suggested that he travel to Samoa.

[75] Solicitors for Mr Field submitted that such generosity was not uncharacteristic of Mr and Mrs Field. The solicitors provided me with testimonials from various people who had received money from Mr Field in support of various causes. In

⁵⁵ As to that extension on the unit see further Section 4.3.2 below, [327] et seq.

one example, Mr Field assisted a student by paying for her airfare to Dunedin to enable her to attend university

[76] In his second interview with me, Mr Field stated that he contemplated that Mr Siriwan would have to remain in Samoa for at least a couple of months to await the outcome of his application and that he was prepared for Mr Siriwan to live at Mr Field's house during that time. Mr Field also stated that Mr Williams made it clear at that second meeting that he wanted to travel with Mr Siriwan to Samoa. According to Mr Field, Mr Williams argued that Mr Siriwan would need help settling in to Samoa. Mr Williams had previously worked in American Samoa and said that he was familiar with the Samoan people. Mr Williams asked Mr Field to pay for his airfare, arguing that he would be losing his earnings for the time he was away.

[77] Mr Field told me that, as part of justifying why Mr Field should pay his airfare, Mr Williams also offered to do waterproofing on Mr Field's house in Afiamalu. According to Mr Field, Mr Sulusulu, who was co-ordinating the building work on the house at Afiamalu, stated that such assistance was not necessary. However, the possibility of Mr Siriwan working on the house was raised at that second meeting. As stated by Mr Field:

“There was certainly a suggestion by the two that they could contribute, they could help out, but my builder made it clear at that meeting... that all his workers had been organised. But Mr Williams seemed to be quite keen to push that upon him. But I think it was quite clear, that Mr Sulusulu made the position quite clear to them.”

[78] In a written statement made in September 2005 which was provided to the inquiry, Mr Field stated:

“Upon Mr Siriwan's [sic] decision to go to Samoa the question became apparent of [sic] how he was going to support himself and his family in Samoa. At this point I may have mentioned that I had a house project in Samoa that he could be accommodated at which also

needed the tiling and the gib stopping to be finished which a builder and a workman were working on.”

[79] Mr Sulusulu’s recollection was that Mr Williams offered his services as a builder and Mr Siriwan as a tiler. Mr Sulusulu told that inquiry that, at that stage, he had already organised a tiler, a painter, a stopper and a blocklayer in Samoa. Mr Sulusulu confirmed that he declined Mr Williams’s offer and that, at that stage, there was no arrangement for either Mr Siriwan or Mr Williams to work on the Afiamalu house. Mrs Field’s statement confirms that *“Faatasiga said that no extra workers, equipments or materials were required”*. However, notwithstanding his declining the offer for the services of Mr Williams and Mr Siriwan, Mr Sulusulu did recall being advised by Mrs Field, prior to the arrival of Mr Siriwan and Mr Williams in Samoa, that Mr Siriwan and Mr Williams were *“coming over just for observing, see if they could give me a hand... She said Keith [Williams] wants to come and give me a hand in the building and get Sunan away from immigration.”*

[80] On the evidence of Mr Field, a reasonably detailed discussion was had about the project at Afiamalu. Mr Field told me that Mr Williams discussed the project with Mr Sulusulu and that they may have looked at plans of the house at that meeting. Mr Sulusulu confirmed that, during that meeting, plans for the house at Afiamalu were viewed.

[81] A discussion about a work permit for Mr Siriwan was also had at that meeting. Mr Field told me that this was in relation to Mr Siriwan finding other work in Samoa, and it was not contemplated in relation to his house at Afiamalu.

[82] In his letter to Mr Swain dated 3 August 2005, Mr Williams claims that the following arrangements were made:

“First, if Sunan Siriwan went to Samoa for three months to tile Mr. Field’s house he would be given a work permit after three months by the New Zealand Immigration Service and then be allowed to return to

New Zealand. Following this outcome his wife and child would return to New Zealand from Thailand.

There was a further agreement that Mr. Williams would accompany Sunan Siriwan to Samoa to do the water proofing for Mr. Field's house in Samoa. Mr. Taito Phillip Field also arranged for the visitor visas to Samoa for both gentlemen and furthermore purchased two return air tickets."

[83] In his statement to the Police, dated 23 August 2005, Mr Williams stated:

"Taito said he had arranged it with the Minister, he'd spoken with the Minister, there will be no assurance in writing, but everything was looking good and that he would arrange a work permit for Sunan in Samoa. Bit [sic] it would be a little difficult to organise.

Then Taito asked his wife Maxine to come in on the conversation. For Maxine to make some phone calls to the Government in Samoa, I think they had some family ties there.

Taito gave me some Samoan visa forms to fill out for Sunan. I filled them out there and then with Sunan."

[84] On the matter of the payment of airfares for Mr Williams's and Mr Siriwan's travel to Samoa, in his statement to the Police dated 23 August 2005, Mr Williams stated that he and Mr Siriwan met with Mr Field a further time at his home. *"Taito gave us the air tickets. He had paid for the tickets. Taito said not to mention anything to anybody. He said 'I don't want this mentioned to anybody' that was his words."*

[85] As previously stated, Mr Williams declined to be interviewed by me. In those circumstances, I am not prepared to accept Mr Williams's untested evidence unless corroborated.

- [86] Mr Field told me in our first interview that he paid the airfare for Mr Williams. He elaborated on his reason for doing so in our second interview on 18 January 2006:

“I made the decision to pay for his airfare on the basis that he was making a sacrifice and loss of income to help a friend and I could see that with Mr Siriwan’s limited English, he would have some difficulty in Samoa in that environment and given that he was making a sacrifice and to help another human being and there were cheap airfares at the time, I made the decision but the whole focus was purely on helping this man who had to get out of the country.”

However, Mr Field is clear that Mr Siriwan paid his own airfare. I asked Mr Field whether he recalled meeting with Mr Siriwan or Mr Williams a third time in New Zealand, before they departed for Samoa. Mr Field’s response was *“Not really. There may have been a communication by telephone...”*.

- [87] Mr Siriwan told the inquiry that he paid for his own airfare. He stated that Mr Williams gave him the ticket and deducted the cost, some \$300-\$345, from pay that Mr Williams owed him. Unlike Mr Williams, Mr Siriwan did not have any recollection of any third meeting.
- [88] The information I received from the New Zealand Police⁵⁶ was that informal inquiries had established that Mr Williams’s air tickets were paid for with Qantas airpoints from the account of Mr Field. While the Police did not establish who paid for Mr Siriwan’s tickets, they advised that Mr Field’s Ministerial Secretary was the contact person for Polynesian Airlines for both tickets.
- [89] I do not find any evidence to support Mr Williams’s statement that Mr Field paid for Mr Siriwan’s airplane ticket to Samoa.

3.1.5 Mr Siriwan travels to Samoa

⁵⁶ See [203] below.

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- [90] On or about 4 March 2005, Mr O'Connor met with Mr Field. I was provided with a copy of Mr Field's notes for that meeting. Those notes show that 11 immigration cases were discussed. In relation to Mr Siriwan, the notes state: "*Minister Field had advised Mr Siriwan that he needs to leave the country immediately while he lodges a request for a work visa under Special Direction to allow him to be re-united with his child*". There is nothing to suggest that Mr Field informed Mr O'Connor that Mr Siriwan was intending to travel to Samoa, or that he would stay at Mr Field's house in Samoa, or the possibility that Mr Siriwan might work on that house. There is also nothing to suggest that Mr Field informed Mr O'Connor that the child with whom Mr Siriwan sought to be reunited, was currently in Thailand.
- [91] After that meeting, Mr S (a member of Mr Field's Ministerial staff), emailed Ms Nicola Scotland, Mr O'Connor's Private Secretary. Mr S advised that Mr Siriwan "*is now making plans to leave New Zealand for a period of 3 months and the Minister has asked if he can be granted a work permit to allow him to return and be reunited with his child*". It is difficult to understand the reference to Mr Siriwan being reunited with his child in New Zealand. Since 5 February 2005, H had been in Thailand with Ms Phanngarm. This oddity was identified in the case notes prepared by the New Zealand Immigration Service in early March 2005.
- [92] On 15 March 2005, Mr O'Connor replied to Mr Field's letter. Mr O'Connor declined to issue a work visa or work permit to Mr Siriwan. He stated:
- "I have previously made a decision in this case based on almost identical information and I declined to intervene. In the absence of any further significant information for consideration I must advise that my decision has not changed... . Mr Siriwan is here unlawfully and if he chooses to leave he may apply for a work visa through the normal channels."*
- [93] Mrs Field's son from a previous marriage, David Hunter, and his wife, Sonja Hunter, were informed of the forthcoming arrival of Mr Siriwan. Mrs Hunter's

recollection is that she assisted with an application for a work permit for Mr Siriwan prior his arrival. Similarly, at her interview with me, Mrs Field confirmed that the application was made prior to Mr Siriwan's arrival, and that she had paid the application fee of approximately 700-900 tala. Mrs Field stated that she paid for the work permit "*because he didn't have any money. Because I felt sorry for him...*".

- [94] Mr Williams claims that those forms were completed at the second meeting at Mr Field's house. Mrs Field and Mrs Hunter were unable to recall when or where those forms were completed.
- [95] On 17 March 2005, Messrs Siriwan and Williams departed from New Zealand. Due to the time difference, they arrived in Apia on 16 March 2005.
- [96] Mr Sulusulu told the inquiry that Mr Siriwan and Mr Williams brought with them a tile cutter, and a roll of DPC butynol, waterproofing material. Mr Sulusulu stated that the DPC was the wrong material for the project at Afiamalu and was never used; he also stated that he learnt subsequently that the tile cutter belonged to Mr Siriwan.
- [97] On the matter of waterproofing material, in his letter dated 3 August 2005, Mr Williams stated that, at the request of Mr Field, he took that material with him to Samoa. Mr Field's response is that, although at their second meeting Mr Williams did offer to do waterproofing work in Samoa, Mr Field was told by Mr Sulusulu that waterproofing was already organised, and as a result Mr Williams's offer was declined.
- [98] Upon arriving in Apia, both Mr Siriwan and Mr Williams stayed at the house at Afiamalu which was in a state of partial completion.
- [99] On 18 March 2005, Joint Ministerial Consultations were held in Apia. The New Zealand delegation was led by Hon. Phil Goff, Minister of Foreign Affairs and Trade and Minister of Pacific Island Affairs. As Minister of Immigration Hon. Paul Swain was part of the delegation as Minister of Immigration. Mr Field was

also part of the delegation, as Associate Minister of Pacific Island Affairs. I spoke with Mr Swain about his visit to Apia. At the time, Mr Swain was also Minister of Corrections and had arranged to visit one of the Samoan penal institutions. After that visit, Mr Field suggested that the delegation visit the house that he was having built at Afiamalu. Mr Swain stated that Mr Goff was present as were other members of the delegation, including senior members of the New Zealand Police. Mr Swain recalls being introduced by Mr Field to two or three people in the house – *“They were obviously people working on the place and we kind of shook hands and moved on...”*.

[100] Mr Spooner wrote a ‘submission’ to me dated 22 September 2005.⁵⁷ In that submission, Mr Spooner stated that Mr Williams had claimed that:

“Field had met with Peter [sic] Swain, Damien O’Connor and Phil Goff at the house. Keith told me that Field had a talk with either Swain or O’Connor at the house and came back to Keith when they had left and said that he had ‘had a word’, that the Thai man should stay out of NZ for three months and that he would then be granted a work visa for NZ.”

That proposition is entirely implausible. Mr O’Connor did not travel to Samoa as part of this trip. Mr Swain had no involvement at all in Mr Siriwan’s immigration applications. There is nothing whatsoever to suggest that any such arrangement occurred.

3.1.6 *Work done by Mr Williams*

[101] Mr Williams alleges that he was asked to do waterproofing work on the house at Afiamalu. As discussed, that claim is refuted by Mr Field. That issue is of relevance when considering whether there was any arrangement, prior to their

⁵⁷ See [5] note 3 above.

departure from New Zealand, that Mr Siriwan and Mr Williams would work on the house at Afiamalu.

[102] In his letter dated 3 August 2005, Mr Williams stated that the house was not ready for waterproofing when he arrived so he did concrete screening of the floors of the house for the three weeks he was in Samoa.

[103] Mr Sulusulu was in charge of the building project at Afiamalu. According to Mr Sulusulu, the only work Mr Williams did was to help with lifting some bricks, after Mr Sulusulu had demolished a few brick walls. In addition, Mr Sulusulu mentioned that Mr Williams had helped him sweep and do “*the odd job here and there*”.

[104] In her statement dated 6 October 2005, Mrs Field referred to her observing Mr Williams and Mr Siriwan doing some preparation on the house during the period that Mr Williams was in Samoa. The statement does not specify the particular work. In our interview, Mrs Field stated that Mr Williams hardly did any work; and Mr Siriwan told the inquiry that Mr Williams did not do any work.

[105] During his time in Samoa, Mr Williams had a falling out with the Field family, the details of which are not relevant to the inquiry. However as a result of that dispute, Mr Williams left Samoa on or about 29 March 2005. After Mr Williams left Samoa, Mr Siriwan moved out of the house at Afiamalu and moved into a room at Mr and Mrs Hunter’s house in Apia.

3.1.7 *Work done by Mr Siriwan on the house at Afiamalu*

[106] The time at which Mr Siriwan began working on the house at Afiamalu is relevant when considering whether there was any arrangement entered into, prior to his departure from New Zealand, that he would work on the house at Afiamalu.

[107] As discussed, in her statement dated 6 October 2005, Mrs Field referred to observing Mr Siriwan doing some preparation on the house during the period that Mr Williams was in Samoa. Mrs Field states that she saw Mr Siriwan do

preparatory work such as levelling. This was after Mr Williams departed from Samoa, but before Mrs Field returned to New Zealand on 16 April 2005.

[108] In her statement Mrs Field states that she did not see Mr Siriwan doing any tiling work before she left Samoa to return to New Zealand on 16 April 2005. Mrs Field returned to Samoa on 18 May 2005 and recalls seeing Mr Siriwan doing tiling on the house at Afiamalu around this time.

[109] According to Mr Sulusulu, Mr Siriwan began work at the house at Afiamalu by assisting with levelling the floors and concreting. Mr Sulusulu estimates Mr Siriwan would have worked around four hours a day, for a couple of weeks before the shipment of tiles arrived from New Zealand.

[110] Mr Sulusulu told the inquiry that the container of materials, including the tiles, did not arrive until after Mr Williams had left. Mr Sulusulu's reference to the container is problematic. Mr Field provided me with the PFL Cargo receipt dated 22 February 2005. That receipt estimated that the container was to arrive on 3 March 2005. Even taking into account delays and the time taken to unload, I can see no reason why the materials would not have been available either when Mr Williams and Mr Siriwan arrived or shortly thereafter.⁵⁸

[111] Mr Siriwan's evidence as to when he started working on the house at Afiamalu was not precise. Mr Siriwan told the inquiry that he did no work while Mr Williams was in Samoa. He stated that, although he did do some work prior to Ms Phanngarm's arrival in early May 2005, work proper on the house did not commence until after her arrival. He estimates that that would have been around a month and 20 days after his arrival in Samoa, i.e. some time in early May 2005.

[112] Mr Siriwan's evidence was that Mr Sulusulu asked him to work on the house. Mr Sulusulu stated that Mr Siriwan offered to help with the project.

[113] Mr Sulusulu stated that Mr Siriwan did all in the tiling and that the tiling was done over a period of two to three months. Mr Siriwan was assisted by Mr

⁵⁸ As to that February-March 2005 shipment, see further Section 6.5 below [462] to [467].

Sulusulu's workers, two Samoan men. Mr Siriwan told the inquiry that he did less than half of the work and that much of it was done, under his direction, by the two Samoans.

[114] I instructed Robert Garner, a self-employed contracts supervisor, to inspect the tiling work on the house at Afiamalu. Mr Garner has been living and working in Samoa for 30 years. He is a registered member of the Building Officials Institute of New Zealand and has worked on a number of large building projects in Samoa. Mr Garner estimated that approximately 460 square metres of the house had been tiled. He assessed the quality of the tiling to be reasonable to good, and he estimated that the job, including preparation, would have taken between a month to five weeks to complete. Mr Garner estimated that a fair rate in Samoa for work of that standard would have been between 20-30 tala per square metre, being a total amount of 9,200 – 13,800 tala for the whole job. That amount would not have included any preparation undertaken prior to the commencement of the tiling.

[115] As to Mr Siriwan being remunerated for his work, no formal payment was made. However, during his time in Samoa, Mr Siriwan has been provided with money, accommodation and food. Mr Siriwan stated that at the beginning of his stay in Samoa he was given 200 tala by Mrs Field. After that, he received from Mr Hunter 200 tala every week. Mr Hunter explained that Mr Sulusulu paid 250 tala per week for the use of Mrs Field's car; and Mr Hunter gave 200 tala per week of that money to Mr Siriwan. Both Mrs Field and Mr Sulusulu confirmed that arrangement. Mr Field's evidence to me was that he was unaware of these payments until around June 2005.

[116] In addition, Mr Hunter provided the inquiry with a schedule of costs by Mr and Mrs Hunter in relation to Mr Siriwan. According to Mr Hunter, he paid approximately 480 tala on telephone bills in relation to toll calls made by Mr Siriwan between April 2005 and May 2005. Mr Hunter produced to the inquiry telephone accounts in support of that claim. Mr Siriwan and Ms Phanngarm have also been provided with accommodation and food throughout their stay in Samoa.

Mr Hunter estimated that, as of 12 November 2005, Mr Siriwan had received benefits totalling some 20,000 tala.

[117] I am not in a position to assess the value of some of the items on the schedule Mr Hunter provided, such as the estimate of 200 tala a week for “*accommodation, electricity, water transportation, food etc*”. However, it is not disputed that Mr Siriwan and Ms Phanngarm have been looked after during their time in Samoa. Mr Siriwan has spent long periods of time living with the Hunters and they have shown him a hospitality that is difficult to value in monetary terms.

3.1.8 *Arrival of Ms Phanngarm*

[118] In early May 2005, Ms Phanngarm arrived in Samoa. Mrs Hunter believes that either she or Mrs Field would have paid the fee for Ms Phanngarm’s work permit which allowed Ms Phanngarm to remain in Samoa. Upon Ms Phanngarm’s arrival in Samoa, Mr Siriwan moved out of the Hunters’ house in Apia, and he and Ms Phanngarm moved to Mr Field’s house at Afiamalu. The couple continued to live in the house at Afiamalu until media interest in Mr Siriwan and that house became too great, at which point Mr Siriwan and Ms Phanngarm moved into Mrs Hunter’s mother’s house. Mrs Field informed me that they have since moved back to the house at Afiamalu.

[119] As to the payment for Ms Phanngarm’s trip from Thailand, on 22 April 2005, there was a telegraphic transfer of 5,052.30 tala for Ms Phanngarm’s airfare. That money was paid by Mr and Mrs Hunter. However, the understanding was that the fare was paid out of money that Mr and Mrs Hunter owed Mrs Field for supplies which Mrs Field had provided to the Hunter’s bakery, *Maxine’s Bakery*. Mr Field has stated that he was not aware of the arrangements for Ms Phanngarm’s flights until after they had been made.

3.1.9 *Other work done by Mr Siriwan*

[120] After Ms Phanngarm arrived, Mr Sulusulu did some renovation work on the bakery owned by Mr Hunter. According to Mr Hunter, Mr Siriwan saw Mr

Sulusulu doing that work, and offered to tile the bakery. Mr Siriwan told the inquiry that he offered to do the tiling and he estimated that the job took him six days. Again, no formal payment for that work was made to Mr Siriwan.

[121] At my request, on 16 November 2005, Robert Garner examined that tiling work at the bakery. Mr Garner measured the area of the tiling work on the bakery at 74 square metres. Mr Garner estimated that the tiling work would have taken approximately three days, and that a reasonable rate in Samoa for that work would have been between 20-30 tala per square metre, being at a total amount of between 1,480 tala and 2,220 tala for the tiling job. That amount did not include the work involved in preparation prior to the commencement of the tiling.

[122] Between March and November 2005, Mr Siriwan worked on another seven jobs in Samoa. One of those jobs was levelling the floor and then laying linoleum at Maria's Healthcare Pharmacy which is run by Mrs Field's daughter-in-law MA. According to a schedule prepared by Mr Hunter and signed by Mr Siriwan, that job took eight days for which Mr Siriwan was paid 2,600 tala. Mr Siriwan told the inquiry that it took "*many weeks*". I was not able to assess the value of the work done at Maria's Healthcare Pharmacy.

[123] Other jobs were done for friends of the Fields and other people. The inquiry was not able to assess the work undertaken on those other jobs. However, there appears to be little relationship between the amounts Mr Siriwan was paid and the amount of work he claims to have done. In many instances, he would appear to have been overpaid, while in others he appears to have been underpaid. I am not prepared to draw any conclusions from his evidence on that issue.

3.1.10 Mr O'Connor's decision to grant a special direction

[124] On 23 June 2005, Mr O'Connor wrote to Mr Field stating that he had directed that the New Zealand Immigration Service issue Mr Siriwan and Ms Phanngarm work visas as exceptions to policy.

[125] Mr O'Connor told me that he did not know of allegations that Mr Field had Thai people living in, and working on Mr Field's house in Samoa at the time he made that decision. However, at that time, allegations concerning Thais living and working at Mr Field's house in Samoa were being made within the New Zealand Immigration Service. It is therefore necessary to consider the extent to which Mr O'Connor knew of the allegations as at 23 June 2005. That exercise involves the review of a series of events which occurred prior to that letter.

[126] The starting point is 4 May 2005, being 3 May 2005 in Samoa, when Mr James Dalmer, manager of the Apia branch of the New Zealand Immigration Service, was provided with information from an informant. He summarised that information in an email to two members of the Immigration Intelligence Unit and the Director of the Pacific Division of the New Zealand Immigration Service. The email stated:

“Yesterday I came across some very rough intelligence alleging that 2 Thai nationals are working in Samoa on renovations at the house of a former Samoan Cabinet Minister.

The allegations are that these Thai nationals are working for the former Samoan Cabinet Minister for free, and have been promised work visas for New Zealand on completion of the work. One of the Thai nationals is said to be married to a woman who was previously removed from New Zealand.”

[127] On 10 May 2005, being 9 May 2005 in Samoa, Mr Dalmer once more met again with his informant. Again, he summarised the information he had received in an email. The information is detailed, and warrants being set out in full.

“The wife and two children (including a son named H) of one of the two Thai nationals working at the house have now arrived in Samoa;

The wife is said to have been removed from NZ previously, and is subject to a 5 year ban;

There was an attempt made in NZ to have one of the children involved adopted out to enable the wife to remain in NZ but this was unsuccessful;

Four more Thai workers are expected to arrive in Samoa within the next week to work on the house;

All the Thai workers are living in the garage of the house;

The Thai workers are not getting paid, and they have been promised work in NZ on completion of their work in Samoa;

The house is owned by a Samoan and NZ dual citizen politician, who has gone to NZ with his family for the election in NZ;

The owner of the house has a son who owns a construction company in Samoa;

The house is a large mansion, on the Cross-Island Road, at the top of the hill on the right hand side of the road, past Tiapapata, near Malolelei, near the Grey family compound (owners of Aggie Grey’s Hotel);

The former owner of the house is a Swiss man called K (sp?) who is married to a Chilean national, who is involved in the Rotary Club of Samoa, and who paid 800,000 Tala to a contractor who ran away, therefore he sold the house to the politician;

The current owner (the politician) is said to be helping a local Thai restaurant owner (not clear how).

One of the Thai workers lived in NZ and the photo in his passport does not look the same as the photo in his Work Permit;

The newly arrived wife of the Thai workers is not happy as her husband is working for free, however the husband is happy as he has been promised work in NZ following their time in Samoa.”

[128] As a result of my investigations, I have determined that much of the information contained in that email is correct.

- (a) The “wife” referred to in the first paragraph I identify as Ms Phanngarm who arrived in Samoa shortly before this email was sent. Ms Phanngarm arrived with her son H. I note that Ms Phanngarm arrived with only one child rather than two. I am unaware of a second Thai national working on the house as stated in the email.
- (b) As previously described, Ms Phanngarm had been removed from New Zealand by the New Zealand Immigration Service and was subject to a five year ban.
- (c) There is some evidence in the New Zealand Immigration Service file for Ms Phanngarm, that she considered leaving her son H with a friend in New Zealand to avoid him having to leave New Zealand when she was removed.
- (d) The allegation that further Thai workers worked on the house at Afiamalu is discussed later in this report.⁵⁹
- (e) Upon arriving in Samoa, Mr Siriwan stayed at the house at Afiamalu in a room that was originally intended to be a garage but was being converted

⁵⁹ See [202] et seq.

into a games room. After Ms Phangarm arrived, they both moved down to stay with Mr and Mrs Hunter.

- (f) As discussed, there was no formal arrangement of remuneration for the work Mr Siriwan was doing. However, he was receiving money from Mr Hunter. I have found no evidence to support an allegation that Mr Siriwan or Ms Phangarm were promised work in New Zealand.
- (g) The house at Afiamalu was owned by Mr Field.
- (h) I am not aware of Mr Field having a son who owns a construction company. It is possible that this is a mistaken reference to Mr Sulusulu who coordinated the project at Afiamalu.
- (i) The description of the location of the house at Afiamalu is accurate.
- (j) The former owner of the house is actually K. From my inquiry, the description given of Mr K is broadly accurate.
- (k) I have no evidence of any assistance being provided by Mr Field to a local Thai restaurant owner.
- (l) I have no evidence in relation to an alleged discrepancy between the passport photograph and work permit photograph of any person in relation to this inquiry.
- (m) I have no evidence to support this final allegation.

[129] On 17 May 2005, Mr O'Connor and Mr Field met to discuss 15 immigration cases. I have the notes prepared for Mr Field for that meeting. In relation to Mr Siriwan the typed notes state "*Case to be discussed with Min O'Connor on a Special Direction to allow Mr Siriwan to re-enter the country*". There is a handwritten notation stating "*2 Year work permit*". This suggests that the possibility of a two year work permit was at least discussed at that meeting.

[130] On 18 May 2005, Mr Field wrote to Mr O'Connor "*following up on discussions*" in relation to Mr Siriwan and Ms Phanngarm. The letter states:

"As a result of my representations on behalf of Mr Siriwan, you have decided that you would consider favourably a two year work permit to allow him to re-enter New Zealand from Apia, Samoa where he has been living for the past 3 months, together with his partner and New Zealand born child provided that he has an offer of employment that would support him and his family.

You further decided that a Special Direction will be granted to cancel the 5 year penalty for his spouse provided all the cost of airfares and removal is paid, and that you would allow the reunification of this family in New Zealand by granting 2 year work permits for both Mr Siriwan and Ms Aumporn Phanngarm to be issued at the New Zealand Immigration Service office in Apia, Samoa."

[131] I discussed that letter with Mr O'Connor, who believes it was likely that he indicated a possible way forward at that meeting on 17 May 2005, but that the matter was not "decided" as stated in Mr Field's letter. I also discussed the letter with Ms Nicola Scotland, Private Secretary for the Associate Minister of Immigration, who was present at the meeting on 17 May 2005. Ms Scotland agreed that the outcome of that meeting was more in the nature of a proposal than a decision. However, the particularised nature of Mr Field's 18 May 2005 letter – the express references to the cancellation of the five year penalty which applied to Ms Phanngarm,⁶⁰ the repayment of removal costs, the issuing of the proposed work permits at the Apia office of New Zealand Immigration Service – suggests that the proposal must have been discussed by Mr O'Connor and Mr Field in some detail at that meeting on 17 May 2005.

[132] There followed, on 25 May 2005, an exchange of emails between Mr S (a member of Mr Field's Ministerial staff), and the New Zealand Immigration

⁶⁰ See [53] above.

Service in which Mr S asked the amount of Ms Phangarm's removal costs, and stated that Ms Phangarm was living in Samoa with her partner.

[133] On 26 May and 27 May 2005, those emails referred to in [132] above were forwarded to Mr Murray Gardiner who, as previously discussed, was a Compliance Officer with the New Zealand Immigration Service; it was Mr Gardiner who had served the removal order on Ms Phangarm in February 2005.⁶¹ Following the receipt of those emails, on 27 May 2005, being 26 May 2005 in Samoa, Mr Gardiner emailed Mr Dalmer, Ms Scotland and the team Leaders of the Short Term Overstayers Compliance Team and the Failed Refugee Compliance Team. That email from Mr Gardiner discussed an unrelated immigration issue. However, believing that there was a connection between that issue and the information he had received in relation to Ms Phangarm, Mr Gardiner advised that Mr Field's office had requested the amount of removal costs for Ms Phangarm, and that Mr Siriwan was in Samoa.

[134] Mr Dalmer made the connection between that information from Mr Gardiner concerning Mr Siriwan and Ms Phangarm and previous information he had received referred to in [126] and [127] above. He forwarded Mr Gardiner's email to two members of the Immigration Intelligence Unit and the Director of the Pacific Division.

[135] On 9 June 2005, being 8 June 2005 in Samoa, Mrs Field went to the Apia Branch of the New Zealand Immigration Service. Mrs Field asked the branch Service Leader what the applicants needed to do to in terms of the direction of Mr O'Connor. Mrs Field left a copy of Mr Field's 18 May 2005 letter at the Apia office. In addition, she told the Service Leader that the people referred to in that letter were staying with her at her house.

[136] That information was emailed by the Service Leader to Mr Dalmer who in turn, forwarded the email on to Immigration Intelligence Unit staff stating:

⁶¹ Ibid.

“The question I have is whether our Assoc Minister was aware of the information we have received and all of the circumstances involved (as we have been advised of them) regarding these Thai nationals when he apparently made these decisions following discussions with Hon Taito Philip [sic] Field.”

That question assumes importance in relation to the issue raised in [125] above: the extent of Mr O’Connor’s knowledge of Mr Siriwan and Ms Phanngarm living with Mr Field’s family and Mr Siriwan working on Mr Field’s house in Samoa at the time that Mr O’Connor signed the letter dated 23 June 2005. In that letter, Mr O’Connor informed Mr Field that he had directed the New Zealand Immigration Service to issue work visas to Mr Siriwan and Ms Phanngarm, upon their application for such visas.

[137] Mr Kerupi Tavita, Group Manager for Service International, Department of Labour,⁶² told me that Mr Dalmer faxed him a copy of that email dated 8 June 2005, being 9 June 2005 in New Zealand, referred to in [136] above. The email not only contained the new information but also contained the previous information received from Mr Dalmer’s informant.⁶³

[138] Mr Tavita further advised me that, on 9 June 2005 after receiving the email from Mr Dalmer referred to in [136] above, he telephoned Ms Scotland and discussed the contents with her. I was provided with Mr Tavita’s telephone records which show a five minute telephone call to Ms Scotland’s direct dial at 2.41pm on 9 June 2005. I also spoke with Ms Scotland who does not recall being told of this information by Mr Tavita at that time. That conflict of evidence, which assumes importance in relation to the issue of Mr O’Connor’s knowledge at the time of his letter to Mr Field dated 23 June 2005, is a matter to which I shall return.⁶⁴

[139] On 16 June 2005, case notes were prepared by the New Zealand Immigration Service in relation to Mr Siriwan and Ms Phanngarm. The notes record that Mr

⁶² Mr Tavita has, under his helm, the Pacific Division, the Refugee Division and the Settlement Division.

⁶³ See [126] and [127] above.

⁶⁴ See [155] and [156] below.

Siriwan and Ms Phanngarm are currently offshore and summarise Mr Field's letter of 18 May 2005. The notes conclude:

“Normally the advice tendered in this case would be to maintain the Associate Minister's non-intervention stance. However, if Mr Field's account of his discussion with the Associate Minister is correct and accurate, the Minister may wish to intervene or request further information. A direction is sought in this case.”

[140] Such a direction was given by Mr O'Connor on 17 June 2005. Mr O'Connor has written a note on a sheet recording Mr Siriwan's personal details, directing *“Grant 2yr WP as exceptions to policy”*.

[141] There followed on 23 June 2005 Mr O'Connor's letter to Mr Field⁶⁵ in reply to Mr Field's letter dated 18 May 2005.⁶⁶ In that letter, Mr O'Connor stated:

“It is not my normal practice to intervene in the established immigration application process, however, I have decided to make an exception in this case. I have directed the Department of Labour Immigration Service to issue Mr Siriwan and Ms Phanngarm with work visa, as exceptions to policy, entitling them to two year work permits on arrival in New Zealand. The issue of the visas is subject to completion of the appropriate forms, payment of the relevant fees and meeting health and character requirements. In the case of Ms Phanngarm she will need to repay to the Department removal costs of \$1,931.95 before her visa can be issued. Once she has done this she should request the Department of Labour Immigration Service in Apia to ensure that her removal order is cancelled by the Border and Investigations branch prior to arrival in New Zealand.”

[142] To complete the sequence of events in relation to the direction to issue work visas and grant work permits to Mr Siriwan and Ms Phanngarm, on 16 July 2005, being

⁶⁵ See [124] above.

⁶⁶ See [130] above.

15 July 2005 in Samoa, Mrs Field went to the New Zealand Immigration Service, Apia Branch, and attempted to pay Ms Phangarm's removal costs. Mrs Field was advised at the Apia Branch that she should pay the money to the Auckland branch. On 9 August 2005, Mrs Field paid the removal costs for Ms Phangarm, totalling \$1,931.95, to the New Zealand Immigration Office at 450 Queen Street, Auckland.

[143] It is against that background to the direction issued by Mr O'Connor to grant work permits to Mr Siriwan and Ms Phangarm that I return to the question of the likely knowledge of Mr O'Connor when he wrote to Mr Field on 23 June 2005. In addition to the statements made by Mr O'Connor to me in relation to that matter, the statements of Ms Scotland, Mr Gardiner, Mr Tavita, and Mr Dalmer all assume importance.

[144] As discussed in [138] above, on Mr Tavita's evidence, he informed Ms Scotland of the substance of the allegations on 9 June 2005, immediately after receiving the information from Mr Dalmer. Ms Scotland does not recall that conversation. Instead, Ms Scotland believes that she first became aware of the allegation that Thais were being employed or accommodated by Mr Field during a telephone call from Mr Murray Gardiner. At that stage, the information was off-the-record and unverified. Ms Scotland told me that, as soon as she had finished speaking to Mr Gardiner, she "*went straight into Mr O'Connor's office and advised him of the details of the conversation. He expressed concern and was not aware of this information*". Unfortunately, Ms Scotland was unable to recall when that telephone call occurred. However, she is clear that she was unaware of the information at the time Mr O'Connor made his decision.

[145] Mr Gardiner's recollection is that his conversation with Ms Scotland happened some time in June or July 2005; he can be no more precise. He had received the information from Inspector SP. There is no suggestion of any period of delay between Mr Gardiner receiving the information from Inspector SP, and his advising Ms Scotland of the matter.

[146] Inspector SP advised the inquiry that he telephoned Mr Gardiner on 31 May 2005, and that it was he who informed Mr Gardiner of the allegation of a Thai person working on Mr Field's house. While he has a written record of having a telephone discussion with Mr Gardiner on 31 May 2005, that record does not indicate the contents of that conversation. Furthermore, Inspector SP stated that he was in regular contact with Mr Gardiner and others within the New Zealand Immigration Service. In the circumstances, I consider that there is no reliable evidence before the inquiry which established that it was on 31 May 2005, as opposed to some later date, that Inspector SP informed Mr Gardiner of that allegation.

[147] Given the matters referred to in [144] – [146] above it is difficult to establish when the conversation between Mr Gardiner and Ms Scotland occurred and, therefore, when Ms Scotland first informed Mr O'Connor of the issue.

[148] Mr Dalmer spoke with Ms Scotland on 28 June 2005, being 27 June 2005 in Samoa. Mr Dalmer's notes of this conversation state: "*Knowledge of Thai cases – knows that Taito has had these people working for him – Damian [sic] knew that before he made the decision – tight labour market has been a factor...*". I discussed that note with Mr Dalmer and Ms Scotland.

[149] Mr Dalmer had no independent recollection of the conversation other than what he had recorded in his file note. He conceded that it was possible that he may not have recorded all of the information in the file note correctly. However, his best recollection is that Ms Scotland stated that Mr O'Connor knew of the information before he made his decision.

[150] Ms Scotland, in an email to the inquiry dated 9 January 2006, stated that:

"I did not tell [Mr Dalmer] that Damien knew about Thai nationals working for Taito in Apia before a decision was made in the Sunan Siriwan case or any other Thai case from that period..."

James [Dalmer] asked me whether I was aware that Taito had Thai nationals working for him in Apia. I replied that I had been told of this and I had advised Damien accordingly. Damien was certainly not aware of this fact when I told him and I was told about this by a Compliance Operations staff member many weeks if not several months after Damien made a decision on Sunan Siriwan's case."

[151] Having reviewed the documents, Ms Scotland sent a further email to the inquiry dated 25 January 2005. In that email, she stated that she may have become aware of the allegations within a day or two after Mr O'Connor had signed the 23 June 2005 letter. Ms Scotland was again clear that Mr O'Connor did not know of that information at the time he made his decision.

[152] It is possible that when Ms Scotland states that Mr O'Connor had made a decision many weeks before, the decision referred to is the proposal agreed at the meeting with Mr Field on 17 May 2005. This could in part explain Ms Scotland's recollection that Mr Connor's decision had been made weeks before. It does not explain the evidence of Mr Tavita, or Mr Dalmer's file note.

[153] Mr O'Connor was unable to recall precisely when he became aware of the allegation that Thai people were working for Mr Field, and staying in his house in Samoa. However, Mr O'Connor is clear that he was not aware of that information at the time he signed the letter dated 23 June 2005. He told me at our interview on 24 January 2004 that the information "*certainly didn't form part of my decision-making otherwise I would have absolutely rejected it*".

[154] Having regard to the requirement contained in clause 3 of the Terms of Reference that I identify any matters arising from or during the inquiry as are necessary to provide a complete report,⁶⁷ I recognise the need to attempt to resolve the conflict which emerges from those various accounts and recollections of events. As a preface to that exercise it is important that I recognise that Mr O'Connor, Mr Tavita, Mr Dalmer, and Ms Scotland each acknowledged that he or she could be

⁶⁷ See [4] and [38] to [42] above.

mistaken in his or her recollections. I consider that all four provided me with their recollections on an honest basis, and that none was attempting to mislead me.

[155] Notwithstanding Ms Scotland's not recalling a discussion with Mr Tavita on 9 June 2005, it does seem likely that, in their telephone discussion on 9 June 2005, Mr Tavita did refer to the allegations of Thais living in and working on Mr Field's house in Samoa, advice of which Mr Tavita had received that same day, as is referred to in [137] and [138] above.

[156] An explanation for Ms Scotland not recalling such a discussion with Mr Tavita may be that, by 9 June 2005, Ms Scotland attached no particular importance to the information being relayed by Mr Tavita, and instead she treated that conversation as being merely advice of unconfirmed intelligence from Mr Dalmer's informant.

[157] Having regard to the matters referred to in [143] to [156] above, I consider that the following represents the possible sequence of events surrounding Mr O'Connor being informed of the allegations concerning a Thai or Thais working upon and living at Mr Field's house in Samoa: on 9 June 2005, Mr Tavita advised Ms Scotland of the allegations relayed by Mr Dalmer's informant, but Ms Scotland did not advise Mr O'Connor of that development because of the unconfirmed nature of the intelligence; after Mr O'Connor's signing the letter dated 23 June 2005 but prior to the telephone discussion between Ms Scotland and Mr Dalmer on 28 June 2005, Mr Gardiner advised Ms Scotland of the information provided by Inspector SP; with that advice from Mr Tavita, Ms Scotland immediately relayed to Mr O'Connor that information provided by Mr Gardiner; and, on 28 June 2005, when Mr Dalmer told Ms Scotland of the information provided by his informant, Ms Scotland was already aware of those allegations, having received the information from Mr Gardiner which she had relayed to Mr O'Connor.

[158] In conclusion, real uncertainty results from the available evidence as to when Mr O'Connor became aware of the allegations in relation to Mr Field. I consider the most likely sequence is that developed in [157] above whereby not until shortly

after his signing the letter to Mr Field dated 23 June 2005, did Mr O'Connor become aware of the allegations of Mr Siriwan living at, and working on, Mr Field's house in Samoa.

3.1.11 *The exercise of discretion by Mr O'Connor in relation to Mr Siriwan and Ms Phanngarm*

[159] I have referred in [139] above to the New Zealand Immigration Service case notes provided to Mr O'Connor in relation to Mr Siriwan and Ms Phanngarm, and to those notes concluding, inter alia, "*Normally the advice tendered in this case would be to maintain the Associate Minister's non-intervention stance.*" And, in [141] above, I have referred to the letter from Mr O'Connor to Mr Field, notifying the direction issued in relation to Mr Siriwan and Ms Phanngarm, in which Mr O'Connor records "*It is not my normal practice to intervene in the established immigration application process, however, I have decided to make one exception in this case.*" That exception to the recommended non-intervention stance was one of the aspects which Mr Spooner, immigration consultant, raised both in his submission to me and in his interview with me in relation to what Mr Spooner viewed as favoured treatment being enjoyed by Mr Field with regard to requests to Mr O'Connor for ministerial intervention on immigration matters.⁶⁸ Those allegations of favoured treatment require consideration.

[160] From the matters raised by Mr Spooner, I identify the following four issues as warranting discussion:

- (a) whether requests to the Associate Minister made by members of Parliament were given any greater weight than requests made by others;
- (b) whether Mr Field was receiving accelerated processing of applications upon immigration matters;

⁶⁸ As to Mr Spooner, see [5] note 3, and [66] above.

-
- (c) whether an applicant for a work permit, who on the basis of the recognised criteria would not obtain permanent residence in due course, would be granted that work permit; and
 - (d) whether an applicant for a work permit, who was a failed applicant for refugee status in New Zealand, would be granted that work permit.

That issue referred to in (a) was raised by Mr Spooner on a general basis in relation to the treatment which Mr Field was receiving in immigration matters, while the issues referred to in (b), (c) and (d) relate expressly to the request made by Mr Field to Mr O'Connor for ministerial intervention in the case of Mr Siriwan and his partner, Ms Phangarm.

[161] Before addressing those issues, I record a further matter raised by Mr Spooner. Given that the overall tenor of the complaints by Mr Spooner was directed at favourable treatment being received by Mr Field, during the course of my interview with Mr Spooner I was concerned to establish whether Mr Spooner considered that the source of the alleged preference enjoyed by Mr Field came from within the New Zealand Immigration Service or directly from the Associate Minister. Mr Spooner's response was to the effect that he was not questioning the integrity of Mr O'Connor, and that the favourable treatment could only stem from a person or persons within the New Zealand Immigration Service.

[162] The Terms of Reference were not so expansive as to require me to conduct an investigation into such alleged malpractice within the New Zealand Immigration Service. Had I identified a sound basis for such allegation, I would have merely identified that concern in this report in terms of Clause 3 of the Terms of Reference. However I can report that I found no basis whatsoever for that allegation.

[163] As emerges in due course from my discussion of the issues referred to in [160] above, I have no criticism of the practices of the New Zealand Immigration Service.

[164] In addition, there was a suggestion by Mr Spooner that an unidentified individual or individuals within the New Zealand Immigration Service may be influencing the decisions of the Associate Minister of Immigration in relation to requests by Mr Field for ministerial intervention by the recommendations contained in case notes prepared by those Immigration Service officials. During the course of my investigations I had access to the New Zealand Immigration Service files dealing with applications by immigrants who were allegedly involved in various matters relating to Mr Field which are discussed in this report. I found that on those files, in the instances involving requests for ministerial intervention, the relevant case notes provided to the Associate Minister generally did not contain any recommendation. An exception occurred in the case notes for Mr Siriwan where, as appears in [139] above, it was stated that the normal advice would be to maintain a non-intervention stance, but that if Mr Field's account of his discussion with the Associate Minister was correct and accurate, the Minister might wish to intervene or to request further information. It follows that on the basis of my investigations I have found no support for the proposition suggested by Mr Spooner concerning inappropriate conduct within the New Zealand Immigration Service.

[165] I turn to the first of the issues identified in [160] above – whether requests to the Associate Minister of Immigration made by members of Parliament were given any greater weight than similar requests from other sources. That issue arose against the background of a suggestion by Mr Spooner that Mr Field enjoyed significantly greater success in requests to the Associate Minister than that which occurred in such requests from other sources, such as immigration consultants. The contention of Mr Spooner was that such success could not be explained by Mr Field's being a member of Parliament.

[166] Mr O'Connor, in his interview with me, was clear that he would always give preferential consideration or treatment to an request made to him by a member of Parliament as opposed to an request by an immigration consultant. As explained by Mr O'Connor, the foundation for that preference is the reliance which he as Associate Minister could place upon the submissions of the member of Parliament. As stated by Mr O'Connor in relation to those submissions by

members of Parliament: *“I say to each and every one of them that I assume you are advocating for this person to come in and you are happy for this case to be on the front page of any paper. If this [applicant] turns sour and becomes a criminal or ... a vagabond, then your name will be associated with this individual and that to me was a very good method of accountability.”* In Mr O’Connor’s opinion, where a member of Parliament was advocating the intervention of the Associate Minister there was an additional level of security in that in his experience *“with MPs ... they would only advocate for somebody who they were very confident would be a good citizen because their reputation is on the line”*.

[167] The second issue is whether Mr Field was receiving preferential treatment in the form of an accelerated processing of requests upon immigration matters. In that regard, Mr Spooner claimed that the absolute minimum period for a decision from the Minister on an immigration request is four months, yet, in the case of Mr Siriwan, Mr Field received a formal response from Mr O’Connor within weeks. According to Mr Spooner that rapid processing of any request by Mr Field is a matter of concern.

[168] Mr Spooner was correct in assessing in weeks the period between Mr Field’s approach to Mr O’Connor in relation to Mr Siriwan and the response from Mr O’Connor. On 17 May 2005, Mr Field and Mr O’Connor met to discuss inter alia the prospect of ministerial intervention in the cases of Mr Siriwan and Ms Phangarm.⁶⁹ On 23 June 2005, Mr O’Connor wrote to Mr Field advising of the decision to direct the issue of work visas.⁷⁰ However, Mr O’Connor explained that in the instance of an application to the Minister by a member of Parliament there was a one month turnaround, whereas for applications by others the period was three months. That turnaround relates to the period between the receipt of the application and the completion of the review of the file by the New Zealand Immigration Service.

[169] The third issue for consideration is whether an applicant for a work permit who, on the basis of recognised criteria, would not in due course qualify for permanent

⁶⁹ See [129] above

⁷⁰ See [141] above.

residence, would be granted that work permit. Mr Spooner expressed the strong view that unless the applicant for a work permit would ultimately qualify for permanent residence through the skilled migrant policy, or through the partnership policy, that person would not qualify for a work permit. In Mr Spooner's words "*there had to be an end in sight*".

[170] That suggested approach to applications for work permits simply does not accord with the approach generally adopted by Mr O'Connor who advised me of the tight labour market in New Zealand in 2005, particularly in the horticultural and agricultural industries, in the fishing industry, and in the construction industry in respect of which Mr O'Connor referred to the growing number of requests for skilled tradesmen particularly in Auckland. He referred to one request for 100 persons comprising tilers, bricklayers, and cooks to go on to one site in circumstances where the entire workforce was to come from Asia. Another instance cited by Mr O'Connor was a request to bring carrot pickers from Asia in order to meet the demands of an export market. Mr O'Connor indicated that, in such instances, matters of concern included the genuineness of the need, the inability to service the industry from within New Zealand, and the need to ensure that the level of remuneration within that industry was not lowered.

[171] In addition to hearing from Mr O'Connor on that matter, I had the benefit of considering a compilation of materials provided by the Department of Labour which not only identified government immigration policy relevant to meeting the demands for labour but also provided examples of particular applications. That material served to confirm that in 2005 applications for work permits were being granted on a basis which was directed towards satisfying labour demands within New Zealand, without reference to the prospects of the particular applicant qualifying for New Zealand residence in the longer term.

[172] Further confirmation of a practice of granting work permits without regard to the likelihood of the applicant in due course obtaining residence was provided by Mary Anne Thompson, Deputy Secretary Work Force within the Department of Labour. In explaining the government immigration policy set by the Minister in

existence in 2005 in relation to the issuing of work visas, during the course of an interview with me on 10 February 2006, Ms Thompson stated:

“We do have a process that has been underway at the service for quite some time about the issuing of work visas and essentially work visas are given to individuals in which the Service deems there is a good contribution to New Zealand either through a skill shortage or any other significant labour shortage and so anybody approaching the service will be considered for a work permit if we believe that it won’t be displacing New Zealand labour and indeed there is a shortage in that area.”

[173] Ms Thompson continued by advising that the government policy in relation to the granting of work permits was not restricted to the agricultural and horticultural sector, and that there was a flexible approach which in 2005 extended to the building industry. Ms Thompson confirmed to me a statement made by Mr O’Connor, during his interview, to the effect that whereas previously the Minister of Immigration may have acted as a gatekeeper, by 2005 a more liberal approach had been adopted which recognised the need to meet market demands. Ms Thompson elaborated upon that aspect as follows:

“The tight labour market has been incredible really for the last two years and the tightness of the labour market is not just at the very skilled end and top talent, it is right throughout the labour markets and the labour force so there has been and still is a lot of focus on meeting the demand for skills and talent otherwise the constraining nature of that on the economy would be profound.”

[174] The fourth issue raised by Mr Spooner is whether an applicant for a work permit, who is a failed applicant for refugee status in New Zealand, would be granted that work permit. In that regard, it is to be recalled that Mr Siriwan and Ms Phannarm had failed in their respective applications for refugee status.⁷¹

⁷¹ See [45] to [50] above.

[175] Ms Thompson advised me that in the case of Mr Siriwan, applying the caveat of putting aside the failed refugee status, there was nothing particularly different from normal Immigration practice in granting a work visa to that applicant. However, Ms Thompson continued by stating that the issuing of a work visa to a failed applicant for refugee status could be viewed as a true exception to normal practice; she believed that if the application by Mr Siriwan for a work visa had been made not to the Associate Minister but to the New Zealand Immigration Service, the expectation would have been that the application would have been unsuccessful.

[176] That the New Zealand Immigration Service, as a matter of practice, would not have granted applications for work permits to Mr Siriwan and Ms Phanngarm does not mean that Mr O'Connor was precluded from granting such permits. Under the Immigration Act 1987, Mr O'Connor enjoyed a wide discretion to grant or to refuse to grant a residence permit or any type of temporary permit including a work permit.⁷²

[177] In his interview with me, Mr O'Connor did not recall the specific reasons for exercising his discretion to direct the issue of a visa and subsequent grant of work permits to Mr Siriwan and Ms Phanngarm upon certain conditions being satisfied. However he did refer to an approach or assessment which he had held for some time: *"if you have someone who has been here, kept their nose clean, paid taxes, almost earned the right to remain here, even through they were unlawful, against someone bringing in someone to do a job who don't [sic] have a record in New Zealand, then who is the most beneficial to New Zealand in the long term and I guess I tended to opt for those who had been here rather than bringing someone new in."* In that same vein, Mr O'Connor continued by stating that *"the employment market had tightened right up so we had a large number of applications coming through and for a skilled or semi skilled person who had established their credibility here in the country, then I erred almost on their side."*

⁷² See further Laws of New Zealand "Immigration" Volume 13A para 74.

[178] In response to the question whether he had considered directing the grant of a work visa to Mr Siriwan and not Ms Phanngarm, Mr O'Connor responded that he had not, that the couple had a New Zealand born child, and that "*the last thing you would ever wanted to do ... was split up a family ...*".

[179] I do not consider that it falls within the scope of the Terms of Reference for me to make a finding upon whether the decision of Mr O'Connor to direct that work permits be granted to Mr Siriwan and Ms Phanngarm was lawful and reasonable. Indeed not only have work permits not yet been issued but also the New Zealand Immigration Service file contains no applications for the relevant permits. It is sufficient that I note that given the breadth of the discretionary decision-making power granted to the Minister under the Immigration Act 1987, given the recognition in 2005 for the needs of the labour market to be satisfied,⁷³ and given those reasons provided to me by Mr O'Connor in support of his decision to grant those work permits to Mr Siriwan and Ms Phanngarm,⁷⁴ I consider that decision by Mr O'Connor may be regarded as a justifiable exercise of that broad discretionary statutory power.

3.1.12 Conclusions

[180] The principal allegations that resulted in this inquiry relate to, as stated in the Terms of Reference, "*the circumstances surrounding the Hon Taito Phillip Field's involvement in applications for work permits in New Zealand for Thai citizen Sunan Siriwan and his wife.*"

[181] Clause 1 of the Terms of Reference requires that I "*investigate and determine the nature of Hon Taito Phillip Field's relationship with Sunan Siriwan and his wife, and the extent of any involvement he may have had in applications for work permits for them.*" Clause 2 requires that I "*identify whether any conflict existed concerning the Hon Taito Phillip Field's involvement in this matter.*" Clause 3 requires that I "*identify any other matters arising from or during the inquiry, as*

⁷³ See [170] to [173] above.

⁷⁴ See [170]-[173], and [175]-[178] above.

are necessary to provide a complete report.” I address each of those matters in turn.

[182] Mr Siriwan and Ms Phannarm have lived in Mr Field’s house at Afiamalu. They have also been housed by Mr Field’s extended family. Mr Siriwan has done extensive tiling work on Mr Field’s house at Afiamalu. Mr Siriwan was not formally remunerated for this work, but has received money from Mr Field’s family since his arrival in Samoa in March 2005 and throughout his stay in Samoa. Such payments from Mr Field’s family were directed towards supporting Mr Siriwan, and not at remunerating Mr Siriwan for his work on Mr Field’s house in Samoa. Mr Field may not have been aware of that money being provided until June 2005.

[183] Mr Field made personal representations to Mr O’Connor on behalf of Mr Siriwan and Ms Phannarm requesting ministerial intervention in relation to their immigration applications. Mr Field wrote to Mr O’Connor on 25 February 2005 and 18 May 2005. He also met with Mr O’Connor to discuss Mr Siriwan’s case, along with others, on 4 March 2005 and 17 May 2005.

[184] Having determined the nature of Mr Field’s relationship with Mr Siriwan and Ms Phannarm and Mr Field’s involvement in their work permit applications, as required by Clause 2 of the Terms of Reference, it is necessary to identify whether any conflict existed or appeared to have existed between Mr Field’s private interests and the use of his influence as a Minister.

[185] Paragraphs 2.58 and 2.59 of the Cabinet Manual provide:

“[2.58] A Member of Parliament is always entitled to make representations to a Minister on an issue of concern in the Member’s electorate or an issue of general constituency concern.

[2.59] Where a Member of Parliament is also a Minister, but has no personal portfolio responsibility in the areas relating to the issue of interest to him or her as a Member of Parliament, it is not improper

for that Minister to make representations to the Minister with the portfolio responsibility. Ministers representing the concerns of constituents... should however be clear at all time that they are acting in their capacity as Members of Parliament (by using Member of Parliament letterhead, signing as a Member of Parliament, and so on)."

- [186] At the time, Mr Field was Associate Minister of Pacific Island Affairs, Associate Minister of Justice and Associate Minister of Social Development and Employment. Mr Field had no personal portfolio responsibility in the area of immigration.
- [187] Mr Field's letter to Mr O'Connor dated 25 February 2005 and 18 May 2005 are on Mr Field's Mangere electorate office letterhead. Mr Field signs those letters as Member of Parliament for Mangere. Mr O'Connor's responses are addressed to Mr Field's Mangere electorate office. Mr Field was clear in his correspondence with Mr O'Connor that he was acting in his capacity as a Member of Parliament. As such, Mr Field was acting within the directions in paragraphs [2.58] and [2.59] of the Cabinet Manual.
- [188] I found no evidence that Mr Field told Mr Siriwan that he had any ability to control or influence Mr O'Connor's decisions. Further, I found no evidence that Mr Siriwan was influenced in his behaviour by the fact that Mr Field was a Minister. Mr O'Connor did not afford Mr Field any preferential treatment because of his position as a Minister. Therefore, in terms of Clause 2 of the Terms of Reference, I find that that no conflict existed or appeared to exist between Mr Field's private interests and the use of his influence as a Minister.
- [189] Turning to Clause 3, I am required to "*identify any other matters arising from or during the inquiry, as are necessary to provide a complete report.*" In this regard, there are two factual matters that it is necessary to identify. The first is Mr Field's failure to inform Mr O'Connor that Mr Siriwan was working on Mr Field's house, when Mr Field became aware of that fact. The second is Mr Field's failure to address the fact that Mr Siriwan was so working.

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- [190] Mr Field was present at the meeting at his house with Mr Siriwan and Mr Williams, when Mrs Field offered the house at Afiamalu as a place for Mr Siriwan to stay while he was in Samoa. He was aware that Mr Siriwan stayed in that house when he arrived in Samoa.
- [191] However, determining when Mr Field became aware that Mr Siriwan was working on the house is more difficult.
- [192] The suggestion that Mr Siriwan work on the house at Afiamalu was raised by Mr Williams at the meeting at Mr Field's house in Mangere. That suggestion was rejected by Mr Sulusulu at that meeting.
- [193] Although Mr Field was in Samoa between 17 March and 27 March 2005, and had contact with Mr Siriwan during that time, there is little evidence of any work being done by Mr Siriwan during that time. Mrs Field stated that she observed Mr Siriwan doing some preparation on the house during that period. However, on the evidence, any such work would have been of a minor nature. The evidence does not support a finding that Mr Field was aware of Mr Siriwan doing any work up to the time when Mr Field left Samoa at the end of March 2005.
- [194] Mr Siriwan began preparatory work for the tiling of the house some time in April 2005. Mr Siriwan's evidence is that Mr Sulusulu asked him to assist. Mr Sulusulu states that Mr Siriwan offered. The important fact is that Mr Siriwan did begin working on the house. In early May 2005, Mr Siriwan began tiling work on the house.
- [195] Mr Field's evidence is that he was not aware in early May that Mr Siriwan had started working. He told me that Mr Sulusulu did not discuss with him whether or not to engage Mr Siriwan, and that any such decision would have been Mr Sulusulu's to make given that he was the project manager. Mr Field was unable to recall precisely when he did discover that Mr Siriwan was working on the house.

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- [196] In my second interview with Mr Field he stated that “*It was sometime down the track. As to when I found out, that would be quite a significant period of time down the track. I knew from just the odd comment that [Mr Siriwan] was just sort of helping out with the builder.*”
- [197] Mr Siriwan’s evidence was that Mr Field visited the house at Afiamalu while Mr Siriwan was working. According to Mr Siriwan, Mr Field “*said good, good. He said good and he commented on the colour and said who did the cutting and I said I cut and drew a line and the other two people did the job. He said good, good, very pretty, very beautiful*”. Mr Sulusulu confirmed a visit by Mr Field to the house when Mr Siriwan was present, and that Mr Siriwan showed Mr Field work he had been doing.
- [198] Mr Field was in Samoa from 26 to 30 May 2005. I find that Mr Field’s visit to the house, described in [197] above, occurred during that visit. Therefore, I find that the latest at which Mr Field was aware of the fact that Mr Siriwan was working on his house was at this time.
- [199] On 17 May 2005, Mr Field met with Mr O’Connor to discuss Mr Siriwan, along with other cases. Mr Field followed up this meeting with a letter dated 18 May 2005. As discussed, the evidence does not support a finding that Mr Field knew that Mr Siriwan was working on his house at the time he wrote that letter.
- [200] However, Mr Field was certainly aware of that fact shortly after that letter was written, and before he received Mr O’Connor’s response on 23 June 2005. Notwithstanding that knowledge, Mr Field took no steps to inform Mr O’Connor that Mr Siriwan was working on his house and that, although he was receiving money from Mr Field’s family to support him, Mr Siriwan was not being remunerated for the work. I asked Mr Field why he did not do so and his response was that “*in my mind there was nothing untoward*” and, as a result, it did not occur to him to mention it to Mr O’Connor.
- [201] Mr Field also took no steps either to ensure that Mr Siriwan stop working, or to ensure that he was formally remunerated for the work that was being done.

3.2 *Further alleged Thai labour in Samoa*

3.2.1 *The allegations*

[202] The inquiry had two sources of allegations relating to Thais, in addition to Mr Siriwan, working on Mr Field's house in Samoa.

[203] The first source was the New Zealand Police making available to the inquiry information that they had received. That information was passed to me by the Serious Fraud Office in circumstances where I was advised that the Serious Fraud Office neither had opened a file in relation to Mr Field nor was investigating any allegations surrounding Mr Field. The second source was material contained on a file provided by the Department of Labour, being a compilation of ministerial and other materials relating principally, but not exclusively, to Mr Sunan Siriwan.

[204] Both the information provided by the Police and the material on the ministerial file contained allegations of Thais travelling in or about May 2005 and June 2005 from New Zealand to Samoa in order to work on Mr Field's house in Samoa. I address the allegations from each of those sources in turn.

[205] I consider that these matters should be identified, under Clause 3 of the Terms of Reference, for your consideration.

3.2.2 *The information provided by the New Zealand Police*

[206] The information provided by the Police identified four Thais who were alleged to have travelled to Samoa where they had worked on Mr Field's house.

[207] The first two Thais referred to in that information received by the Police were identified as Mr Banleng Prachanan, who is also known as Mr Aphisak Prachanan, and Ms Somboon Ngaosri. Mr Prachanan is a Thai male who is a New Zealand permanent resident. Ms Ngaosri is a Thai female in a relationship with Mr Prachanan and who, at the relevant time, was an illegal overstayer. That

Police information alleged that Mr Prachanan and Ms Ngaosri sought immigration assistance from Mr Field, and, in return for Mr Field's assistance, both Ms Ngaosri and Mr Prachanan went to Samoa where, at no charge, Mr Prachanan painted a house for Mr Field.

[208] The third person to receive mention in that Police information concerning work for Mr Field in Samoa is Mr Bulakorn Nakhen, a Laotian, who is married to Ms Jinda Thaivichit. As is explained in [285] below, Ms Thaivichit is a friend of both Mr and Mrs Field, and is closely connected with the Labour Party in Mangere. While Ms Thaivichit has permanent residence in New Zealand, Mr Nakhen was an overstayer. The couple sought immigration assistance from Mr Field for Mr Nakhen. The information alleges that in return for Mr Field assisting Mr Nakhen in the obtaining of a work permit, Mr Nakhen went to Samoa and completed gib stopping and plastering on a house owned by Mr Field in Samoa; that work for Mr Field is alleged to have been done either for a very cheap rate or for free.

[209] The fourth person to be referred to in relation to allegations of Thais working on Mr Field's house in Samoa is Mr Somjit Kaewbabpha, who is also known as Gao. The allegation is that Mr Kaewbabpha, who previously was unlawfully in New Zealand, was assisted by Mr Field in the obtaining of a work permit, and in return Mr Kaewbabpha travelled to Samoa and worked upon Mr Field's house.

3.2.3 *The material contained in the Department of Labour files*

[210] I have previously referred to an email dated 5 May 2005 from Mr James Dalmer, the then Branch Manager of the New Zealand Immigration Service, Apia to two members of the Immigration Intelligence Unit and the Director of the Pacific Division of the New Zealand Immigration Service. That email concerned “*very rough intelligence*” alleging that two Thai nationals were working in Samoa on the renovations of a house.⁷⁵ One of the Thais who was subject to the allegation was Mr Siriwan. I was unable to establish who the second Thai was, if indeed

⁷⁵ See [126] above.

there was a second Thai person. I have also discussed the subsequent email, dated 10 May 2005, from Mr Dalmer which provided more information on the matter of Thais in Samoa.⁷⁶ As discussed, the information in that email included that “[f]our more Thai workers are expected to arrive in Samoa within the next week to work on the house”. In his interview on 2 February 2006, Mr Dalmer stated that, at the time of the drafting of the email dated 10 May 2005, he deduced on the basis of the information provided to him by his informant that the house being referred to was that owned by Mr Field. Mr Dalmer continued by recalling that, in discussion with the Manager of the Immigration Intelligence Unit at the time of the drafting of that email dated 10 May 2005, it was agreed that the mentioning of Mr Field’s name in that email was not necessary and possibly not prudent.

[211] In that email, dated 10 May 2005, Mr Dalmer issued a caveat concerning the reliability of the information, stating:

“Some of the information has come from the person I have been speaking to, as a result of that person speaking directly to the Thai workers/their family. I have no reason to doubt the credibility or integrity of the person I have been speaking to, however I have no knowledge of the people that this person has been speaking to, and therefore cannot comment in respect of their credibility or integrity.”

[212] Before proceeding to consider further the matters referred to in [206] to [210] above, I record that while the allegations contained in the information provided by the Police and in the email dated 10 May 2005 from Mr Dalmer served as a basis for my investigation into Thais allegedly working on Mr Field’s house in Samoa in consideration for Mr Field’s assistance in immigration applications for those persons, I have placed no reliance upon that information unless reliable confirmation is to be found.

⁷⁶ See [127] – [128] above.

3.2.4 *Immigration assistance provided by Mr Field*

[213] I have established from the relevant New Zealand Immigration Service files that Mr Field did provide some assistance in immigration matters as alleged in information provided to the New Zealand Police.

[214] Dealing first with Mr Prachanan, who has permanent residence, and his wife, Ms Ngaosri, prior to the involvement of Mr Field, Ms Ngaosri had sought refugee status in 2002 and had been declined; her subsequent appeal against that decision was declined in October 2003; and on 14 August 2001 a request for the grant of a permit under s.35A of the Immigration Act 1987 had been declined. Ms Ngaosri had subsequently, in 2005, sought the assistance of Mr Field who in a letter dated 23 March 2005 to Mr O'Connor, sought favourable consideration in allowing Ms Ngaosri to leave New Zealand and apply for a work permit. There followed a letter dated 20 April 2005 from Mr Field to the New Zealand Immigration Service in support of Ms Ngaosri's application for a work permit. By a letter dated 9 May 2005, Mr O'Connor advised Mr Field that he would grant Ms Ngaosri a 12 month work permit. There followed a formal application by Ms Ngaosri to the New Zealand Immigration Service, dated 20 May 2005, in which Mr Field's Mangere electorate office was specified as the address for correspondence to Ms Ngaosri, and Ms Jones-Ataongo, Mr Field's electorate secretary, was named as the person assisting Ms Ngaosri in that application.

[215] As to Mr Bulakorn Nakhen, prior to the involvement of Mr Field, Mr Nakhen had twice applied for refugee status and was declined on each occasion; he had unsuccessfully appealed against each of those decisions. Mr Field's assistance began with a letter dated 31 August 2004 to Mr O'Connor requesting that Mr O'Connor intervene under s.35A of the Immigration Act 1987 by granting a work permit. Following a discussion between Mr Field and Mr O'Connor, Ms Naomi Aliva, who was then Private Secretary for Mr Field, emailed Ms Nicola Scotland, Private Secretary for Mr O'Connor, on 13 October 2004. That email recorded an alleged agreement whereby Mr O'Connor "*would grant [Mr Nakhen] a work permit if he voluntarily left the country for 2 months*".

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- [216] In a letter dated 14 October 2004, Mr O'Connor wrote to Mr Field suggesting that Mr Nakhen should depart from New Zealand and apply for a permit from overseas.
- [217] There followed a letter from Mr Field, dated 27 October 2004, to the New Zealand Immigration Service in which Mr Field purported to "*clarify the understanding*" he had allegedly reached with Mr O'Connor whereby Mr Nakhen "*would be allowed to re-apply for re-entry via a legal permit preferably a Work Permit ...*".
- [218] In an application dated 10 December 2004 by Mr Nakhen for a work permit, the electorate office of Mr Field was specified as the address for correspondence to Mr Nakhen, and Ms Jones-Ataongo, Mr Field's electorate secretary, was named as the person assisting Mr Nakhen in his application for a work permit. And on 17 February 2005, the New Zealand Immigration Service advised of the approval of a work visa for Mr Nakhen.
- [219] The assistance to Mr Nakhen continued in an application for New Zealand residence by Mr Nakhen dated 5 April 2005 in which once again the electorate office of Mr Field was specified as the address for correspondence, and Ms Jones-Ataongo was named as the person assisting in that application.
- [220] Moving to Mr Somjit Kaewbabpha, named in the information supplied by the Police as allegedly being the fourth Thai involved in work on Mr Field's house in Samoa, the immigration assistance given by Mr Field extended over two years. It commenced with a letter dated 10 September 2003 from Mr Field to Mr O'Connor seeking, as an exception to policy, residence for Mr Kaewbabpha and his partner, Ms Khane Muangphuak. On 18 September 2003, Mr O'Connor decided to exercise his discretion under s.35A of the Immigration Act 1987 by agreeing to grant work permits for six months to Mr Kaewbabpha and Ms Muangphuak, subject to the normal formal application procedure. By a letter dated 8 October 2003, Mr O'Connor advised Mr Field of that decision. Further assistance was provided by Mr Field in relation to an application dated 14 October 2003 by Mr Kaewbabpha for a work permit in which, following the

pattern emerging in [214], [218] and [219] above in which Mr Field's electorate office is named as the address for correspondence to Mr Kaewbabpha, and Ms Jones-Ataongo is specified as the person assisting Mr Kaewbabpha in his application. On the front of that application the words "Ministerial Direction" are handwritten.

[221] That course of assistance by Mr Field to Mr Kaewbabpha continued in 2004: on 12 May 2004, Mr Field met with Mr O'Connor to discuss Mr Kaewbabpha and Ms Muangphuak whose work permits were to expire the following day. Following that meeting, there was a letter dated 13 May 2004 from Ms Jones-Ataongo to Mr O'Connor; there followed a letter dated 18 May 2004 from Mr O'Connor to Mr Field in which Mr O'Connor advised that he had directed the New Zealand Immigration Service to grant three month work permits to Mr Kaewbabpha and Ms Muangphuak; that three month permit was issued on 9 June 2004. On 3 August 2004, Mr Field made oral representations to Mr O'Connor in relation to Mr Kaewbabpha; and that same day Mr Field wrote a letter to Mr O'Connor seeking an extension of the work permits for Mr Kaewbabpha and Ms Muangphuak. In response, by a letter dated 11 August 2004, Mr O'Connor advised Mr Field that he has directed the New Zealand Immigration Service to grant one year work permits to Mr Kaewbabpha and Ms Muangphuak, and in Mr Kaewbabpha's work permit application dated 16 November 2004, Ms Jones-Ataongo is named as the person assisting Mr Kaewbabpha. In 2005 there was similar assistance: Mr Field's electorate office was the address for correspondence and Ms Jones-Ataongo was named as the person assisting on an application dated 2 September 2005 by Mr Kaewbabpha for a long term business permit; by a letter dated 1 September 2005 from Mr Field, signed by Ms Jones-Ataongo, support was given for that application by Mr Kaewbabpha for a long term business permit; and on a work permit application dated 9 September 2005 by Mr Kaewbabpha, Mr Field's electorate office was the address for correspondence, and Ms T (a member of Mr Field's electorate staff), was named as the person assisting on that application.

3.2.5 *Thai people travelling to Samoa in May and June 2005*

[222] Mr Prachanan, Ms Ngaosri, Mr Nakhen, and Mr Kaewbabpha all declined to participate in the inquiry. Despite that lack of assistance, I am satisfied that all four were in Samoa during May-June 2005.

[223] I have established that Mr Nakhen and Mr Kaewbabpha, both of whom are gib stoppers and plasterers, travelled to Samoa departing from Auckland on 24 May 2005 and flying to Apia, and departing from Apia and returning to Auckland on 16 June 2005. As for Mr Prachanan, and Ms Ngaosri, both of whom are painters, they travelled by air on 4 June 2005 from Auckland to Niue, and on 27 June 2005 from Tonga to Auckland. While I have been unable to establish the travel undertaken by that couple during the period between their arrival in Niue and their departure from Tonga, Mrs Field has stated that while in Samoa during the Samoan Independence holidays in June 2005 she met up with a group of four Thais which included Mr Prachanan, Ms Ngaosri, and Mr Nakhen.

[224] There was another person, Mr Wichian Phimpadcha, a painter by trade, who travelled on the same flights as Mr Prachanan and Ms Ngaosri from Auckland to Niue, and from Tonga to Auckland. In an interview with me, Mr Phimpadcha advised that he had flown to Samoa with Mr Prachanan and Ms Ngaosri, and that he had seen not only Mrs Maxine Field but also Mr Nakhen during that Samoan visit. Mrs Field confirmed that she had met with Mr Phimpadcha during her stay in Samoa in June 2005. Mr Phimpadcha received no immigration assistance from Mr Field.

3.2.6 *Events in Samoa during May and June 2005*

[225] As previously noted, those four Thais who are alleged to have worked on Mr Field's house in Samoa in May-June 2005 all declined to participate in the inquiry.⁷⁷ As a consequence, in attempting to establish whether those Thais did assist Mr Field in the manner alleged, it is necessary to have regard to not only

⁷⁷ See [222] above.

that which others suggest were the activities in which those Thais were involved in Samoa but also the circumstances surrounding the visit.

[226] A suitable starting point is Ms Thaivichit who had originally intended to travel to Samoa with the other Thais, and who, according to both Mr Field and Mrs Field, had been responsible for organising the group.

[227] Ms Thaivichit confirmed that those who went to Samoa were Mr Nakhen, who is her husband, Mr Prachanan, Ms Ngaosri, and Mr Phimpadcha, a long-standing friend of Ms Thaivichit. According to Ms Thaivichit, her husband went to Samoa for two or three weeks, and he told Mr Phimpadcha that he should go on holiday to Samoa. Ten days after Mr Nakhen's departure to Samoa, Mr Phimpadcha left for Samoa.

[228] Ms Thaivichit further stated that, while in Samoa, Mr Nakhen, Mr Prachanan, Ms Ngaosri, and Mr Phimpadcha had all seen Mrs Field who had taken them on a cruise of the island. Ms Thaivichit also advised that, during Mr Phimpadcha's stay in Samoa, he had been to see Mr Field's new home in Samoa, but Ms Thaivichit was uncertain whether the other Thais had been to the house.

[229] While Ms Thaivichit did not know whether any of the Thais worked while they were in Samoa, she did state that Mr Phimpadcha had gone to Samoa for a holiday and to look at the painting of Mr Field's house.⁷⁸

[230] In her interview, Mrs Field referred to Ms Thaivichit as being "*one of the group of people that was going to come and visit the house in Samoa*" but that ultimately Ms Thaivichit did not travel to Samoa. Mrs Field stated that she met up with Mr Nakhen, Mr Phimpadcha, Mr Prachanan, and Ms Ngaosri. She confirmed that she had taken them on a tour around the island, and she stated that she had taken them to visit the Field house at Afiamalu and had gone out to dinner with them one evening.

⁷⁸ See further [241] to [244] below.

[231] Mrs Field stated that Mr Siriwan was not at the house at Afiamalu at the time of the group's visit to the house, that she was uncertain whether the group met with Mr Siriwan while they were in Samoa, and although Mr Siriwan frequently mentioned Ms Thaivichit,⁷⁹ Mrs Field did not know whether Mr Siriwan knew the members of the group.

[232] When questioned during the course of her interview as to whether any of the members of the group did any work during their stay in Samoa, Mrs Field replied "*No they were looking for jobs. They did offer to me to help but most of the work was already [sic] and the boys were there to do the job so they just mainly went around holidaying, sightseeing and all that.*" Mrs Field continued by stating that while she did not know about the work intentions of the others in the group, in the case of Mr Phimpadcha she had been told by Ms Thaivichit that one of the reasons why Mr Phimpadcha went to Samoa was to attempt to find a job, particularly at the Mormon church which was in the process of being constructed.

[233] Mr Faatasiga Sulusulu, to whom I have referred in relation to Mr Sunan Siriwan,⁸⁰ was responsible for organising tradesmen and labour for the work on the Fields' house at Afiamalu. In addition to his having organised a tiler for that project prior to the arrival of Mr Siriwan, Mr Sulusulu also made arrangements for a blocklayer, whose services were not used, and a gib stopper. And following a request to Mrs Field, Mr Sulusulu had been supplied with two Samoan labourers. Some other local labourers were employed to clear weeds and do landscaping. Mr Sulusulu indicated that apart from those people, Mr Siriwan, and, to a very limited extent, Mr Williams, no other tradesmen and labourers were involved. Mr Sulusulu did state that he did not know Mr Prachanan, Ms Ngaosri, or Mr Nakhen, and that he was not aware of any Thai immigrants from New Zealand having worked in Samoa.

[234] Mr Siriwan acknowledged knowing Mr Nakhen, whom he identified as a Laotian, with the nickname of Yao, with whom he had worked for three years in

⁷⁹ Mrs Field stated that "*I know [Mr Siriwan] knows Jinda. He keeps on talking about Jinda.*" When the inquiry interviewed Mr Siriwan, he stated he had only seen Ms Thaivichit once and had not spoken to her.

⁸⁰ See [71] et seq. above.

Auckland. However, he stated that he did not know Mr Prachanan, Ms Ngaosri, or a man named Gao, being the nickname for Mr Kaewbabpha. Furthermore, he stated that during his time in Samoa he did not know of any other Thai immigrants from New Zealand visiting Samoa, apart from his partner and son; the only Thai tradesmen he had met in Samoa were a group who had come directly from Thailand to work on the project of a new church. Mr Siriwan stated that the painting and plastering work on the house at Afiamalu was done by Mr Sulusulu's workers.

[235] Mr Siriwan's partner, Ms Phanngarm, had even less to contribute in relation to the matter of Thais in Samoa. She stated that she did not know Mr Prachanan, Ms Ngaosri, Mr Nakhen, or a man named Gao, the nickname for Mr Kaewbabpha. During her time in Samoa she had not seen any other Thais from New Zealand

[236] Mr Robert Garner, the building supervisor in Samoa who reported upon the value of the tiling work undertaken at Mr Field's house at Afiamalu,⁸¹ was unaware of any Thai immigrants doing work on building projects in Apia.

[237] Mr Field's account to the inquiry upon the matter of the group of Thais in Samoa in May-June 2005 is rather sparse. Dealing first with the members of that group, Mr Field understood that Mr Phimpadcha was in Samoa at that time; Mr Field did not know at the time of Mr Nakhen's visit to Samoa that Mr Nakhen, Ms Thaivichit's husband, was travelling to Samoa; Mr Field had heard from Ms Thaivichit that a couple was going to Samoa for a honeymoon, and Mr Field considered that couple could be Mr Prachanan and Ms Ngaosri.⁸² Mr Field did not know of a Thai called Gao, the nickname for Mr Kaewbabpha. Mr Field further stated that he did not know whether those in that group did any work while they were in Samoa in May-June 2005.

[238] When Mr Field was asked whether he understood if the whole group had met up in Samoa at any time he responded: "*I don't know I wasn't there.*" That advice is

⁸¹ See further [114] above.

⁸² However, I note that Mr Prachanan and Ms Ngaosri were married in January 2003.

in conflict with the evidence of Mrs Field who stated that Mr Field met with at least some of these Thai people during a visit to Samoa in late June 2005.

[239] According to his solicitors, Mr Field was in Samoa from on or about 26 May 2005 to on or about 30 May 2005, and from on or about 26 June 2005 to on or about 14 July 2005. Mr Nakhen and Mr Kaewbabpha were in Samoa from on or about 23 May 2005 to on or about 15 June 2005; and Mr Phimpadcha, Mr Prachanan, and Ms Ngaosri were in Samoa for on or about 4 June 2005 to on or about 27 June 2005. On the basis of those movements, it is possible that Mr Field could have met with Mr Nakhen and Mr Kaewbabpha in Samoa during the period 26 May to 30 May 2005; it is possible that Mr Field could have met with Mr Phimpadcha, Mr Prachanan, and Ms Ngaosri in Samoa during the period on or about 26 June to 14 July 2005. However it would not have been possible for Mr Field to have met with all five visiting Thais in Samoa on the one occasion.⁸³

[240] As I have noted in [222] and [225] above all four Thais who, in the information provided to the Police, are alleged to have worked on Mr Field's house in Samoa declined to participate in the inquiry. Mr Phimpadcha, the fifth member of the group who travelled to Samoa in May to June 2005 did participate. However, statements made by Mr Phimpadcha in relation to a separate matter during the course of his interview before me⁸⁴ gave me cause to treat with circumspection all of Mr Phimpadcha's evidence, including that relating to his activities in Samoa.

[241] Prior to Mr Phimpadcha travelling to Samoa, according to Ms Thaivichit, Mr Field requested that Ms Thaivichit obtain through Mr Phimpadcha, who is a house painter, paint for the interior of Mr Field's house at Afiamalu. Ms Thaivichit was involved in the selection of that paint which was purchased by Mr Phimpadcha.

[242] During his interview, Mr Phimpadcha confirmed his involvement in the purchase of that paint. On the basis of the square metre areas of the house provided by Mr Field, Mr Phimpadcha estimated the quantities of paint that were required. Mr

⁸³ See further [260] below.

⁸⁴ See [287] to [290] below.

Phimpadcha stated that the paint cost approximately \$5,200, that he had paid the account, and that Mr Field had given him a cheque for that amount.

[243] While Mr Phimpadcha agreed to provide through Ms Thaivichit a copy of the receipt for that purchase, that document was not produced to the inquiry. Mr Field provided me with a copy of a cheque to Mr Phimpadcha for \$5,018.81 dated 15 July [no year stated]. According to Mr Field's solicitor, that cheque was post-dated. Mr Field's bank account shows the cheque was paid on 11 July 2005.

[244] Ms Thaivichit advised the inquiry that one of the reasons Mr Phimpadcha had travelled to Samoa was to look at the interior of the Field house once that painting was completed. If that was the true purpose of Mr Phimpadcha's Samoan visit, it would have been necessary for the paint purchased by Mr Phimpadcha to have been sent to Samoa in advance of Mr Phimpadcha's arrival. The only documentation produced to the inquiry which would seem to relate to the freighting of that paint relates to a shipping container. I was provided with a Samoa Ports Authority entry permit which records an arrival date of 20 May 2005. I also have a copy of the Customs Department receipt recording a payment on 23 May 2005. Given that the paint appears to have arrived at the port at Apia on 20 May 2005, given the likely period of time involved in transferring the paint from the port at Apia to the house at Afiamalu, and it seems unlikely that the painting of the interior was commenced prior to Mr Phimpadcha's arrival in Samoa in early June 2005.⁸⁵

[245] Mr Phimpadcha stated that he knew neither Mr Siriwan nor Mr Kaewbabpha.

[246] There are inconsistencies between Mr Phimpadcha's evidence and that of Mrs Field.

[247] First, Mr Phimpadcha referred to having seen Mrs Field one day in the market in Samoa, a statement which does not properly reflect Mrs Field's description of her having taken Mr Nakhen, Mr Phimpadcha, Mr Prachanan, and Ms Ngaosri on a

⁸⁵ As to Mr Phimpadcha's trip to Samoa, see [223] and [224] above.

tour of the island, on a visit to the Field house at Afiamalu, and that she had gone out to dinner with those four one evening.⁸⁶ And it is to be remembered that Ms Thaivichit also expressed her understanding that Mrs Field had taken all four Thai visitors, including Mr Phimpadcha, on a tour of the island.

[248] Secondly, Mr Phimpadcha stated that he did not see Mr Field in Samoa. On Mrs Field's evidence, Mr Field did meet with some of the Thai people when he was in Samoa in June 2005. Mrs Field did not specify who of Mr Phimpadcha, Mr Prachanan and Ms Ngaosri met with Mr Field.

[249] On the matter of what Mr Phimpadcha had done whilst in Samoa, in what to me appeared to be a rehearsed answer, Mr Phimpadcha responded "*Just look around, nothing to do, no work*".

[250] Mr Phimpadcha was provided with relevant draft extracts of this report so as to allow him an opportunity to respond or provide further evidence. Mr Phimpadcha declined this opportunity through Ms Thaivichit.

3.2.7 Discussion

[251] At the commencement of my discussion upon the matter of the alleged Thai labour, in addition to Mr Siriwan, working on Mr Field's house in Samoa, I outlined the sources and the substance of the allegations.⁸⁷ In doing so, I observed that while those allegations served as a basis for my investigation, I could place no reliance upon that information unless reliable confirmation existed.⁸⁸

[252] That investigation addressed the following issues: first, whether those named as having assisted on Mr Field's house in Samoa had themselves received immigration assistance from Mr Field; secondly, whether those named persons

⁸⁶ See [230] above.

⁸⁷ See [203] to [211] above.

⁸⁸ See [212] above.

had been in Samoa during the relevant period; and thirdly, whether those named persons did work on Mr Field's house.

[253] In relation to the first two of those issues, the evidence is clear. In respect of immigration assistance, Mr Prachanan and Ms Ngaosri⁸⁹ had sought and received from Mr Field such assistance, as had Mr Nakhen,⁹⁰ and Mr Kaewbabpha;⁹¹ and all four, together with one other Thai, Mr Phimpadcha, had travelled to and stayed in Samoa during the relevant period.⁹²

[254] The third issue, whether those Thais did work on Mr Field's house, has proved more difficult to address as a result of, to a significant extent, a refusal by all but one of those involved to participate in the inquiry. That difficulty was in no way diminished by the unsatisfactory evidence of Mr Phimpadcha, the only one amongst that group of Thais who travelled to Samoa who was prepared to participate in the inquiry.⁹³

[255] My investigation revealed no direct evidence of any of those who travelled to Samoa in May to June 2005 having worked on Mr Field's house: Mrs Field stated that the visiting group of Thais did not work at the house; that group of Thais was not amongst the small number of tradesmen and labourers whom Mr Sulusulu identified as having worked on the house; Mr Siriwan, who in May to June 2005 was living at the Field house at Afiamalu, stated that he did not know of any Thai immigrants from New Zealand working in Samoa; and Mr Phimpadcha, whose evidence I approached with significant circumspection, stated that while prior to his departure from Auckland he was responsible for purchasing the paint to be used on the interior of Mr Field's house, he did no work while in Samoa.

[256] The matters referred to in [255] above, taken collectively might lead to the finding that the group of Thais did not work on Mr Field's house were it not for the following concerns.

⁸⁹ See [214] above.

⁹⁰ See [215] to [219] above.

⁹¹ See [220] and [221] above.

⁹² See [223] to [224] above.

⁹³ See [241] to [250] above.

[257] First, there is Mr Phimpadcha's allegedly travelling to Samoa once the painting of Mr Field's house had been completed. On the basis of the matters related in [244] above, I consider that there was insufficient time following the likely date of the arrival of the paint at Mr Field's house for that paint to have been applied to the house prior to Mr Phimpadcha's departure from New Zealand for Samoa. However, there is still a possibility that the house was painted prior to Mr Phimpadcha's returning from Samoa to New Zealand.

[258] Secondly, there are issues of plausibility surrounding the alleged activities of the group whilst they were in Samoa. In that regard I have two principal concerns. First, Mr Siriwan stated that during his time in Samoa he did not know of any other Thai immigrants from New Zealand being in Samoa. The question which arises is whether it is plausible that Mrs Field, who was in Samoa during the visit of the Thai immigrants from New Zealand – a visit which had been organised by Ms Thaivichit who had originally intended visiting Samoa with Mrs Field – did not at least tell Mr Siriwan of the group of Thai tradesmen from Auckland who were visiting Samoa. The second concern flows from the first. Mrs Field stated that she was uncertain whether the group of Thais, during their stay in Samoa, met with Mr Siriwan; and Mr Phimpadcha stated that he did not know Mr Siriwan. Given that Mr Field was responsible for Mr Siriwan travelling to Samoa, given that during his time in Samoa Mr Siriwan had not only worked on the Fields' house at Afiamalu but also lived at that house and given that Mrs Field was in contact with and entertained the group of Thais, the question arises whether it is likely that Mrs Field did not introduce Mr Siriwan to the group of visiting Thais during their stay in Samoa. And if there was such an introduction, the question becomes why are Mrs Field, Mr Siriwan, and Mr Phimpadcha not acknowledging that event.

[259] Before moving on from that issue of plausibility surrounding Mr Siriwan allegedly not meeting with the group of Thais, it is appropriate that I express my observations in relation to relevant aspects of the character of Mrs Field. During the course of her interview she impressed me as being an hospitable, friendly, gregarious person. That trait is well-demonstrated not only in the hospitality

which she extended to the visiting group of Thais in Samoa⁹⁴ but also in the generosity she extended to a group of Thais visiting Wellington, with whom she shared her house – a matter to which I refer in due course.⁹⁵ It is also to be recalled that, according to Mrs Field, she had been moved by the plight of Mr Siriwan, with his partner and young child having departed from New Zealand to Thailand, and it was she who suggested that Mr Siriwan stay with her family in Samoa.⁹⁶ In the circumstances, I consider that it would have been out of character if Mrs Field had not, at the very least, introduced Mr Siriwan to the visiting Thais from Auckland.

[260] A third matter of concern, to be weighed against the matters referred to in [255] above, is the denial by Mr Field that he met with the group of Thais in Samoa. He was in Samoa at the same time as some of the group. On the basis of Mrs Field's evidence, he did meet at least some of the group.

[261] The final concern is the possible inferences which may be drawn from the chronology of events. Mr Nakhen and Mr Kaewbabpha, both gib stoppers and plasterers, arrived in Apia on or about 23 May 2005. Mr Field arrived shortly after, on or about 25 May 2005. The paint, purchased by Mr Phimpadcha, arrived at the house at Afiamalu in late May 2005 and Mr Phimpadcha, Mr Prachanan and Ms Ngaosri, three painters, arrived in early June 2005. Mr Field was back in Samoa on or about 26 June 2005, around the time that Mr Phimpadcha, Mr Prachanan and Ms Ngaosri departed from Samoa.

[262] Mr Field's solicitors provided me with a chronology which stated that Mr Field was in Samoa in late May 2005 to have a chiefly title bestowed upon him and that Mr Field was in Samoa in late June to early July 2005 on Matai matters. If the Thai people did do work on Mr Field's house as alleged, it is possible that a further purpose of Mr Field's two visits was to oversee the work being done.

⁹⁴ See [230] above.

⁹⁵ See [342] below.

⁹⁶ See [73] above; see further [93]above.

[263] If the allegations in relation to further Thai labour on Mr Field's house in Samoa are to be resolved, it would be necessary for an authority with appropriate powers of investigation to inquire further.

4. PROVISION OF SKILLED LABOUR IN EXCHANGE FOR IMMIGRATION ASSISTANCE – PART TWO: THAI LABOUR IN NEW ZEALAND

4.1 *Introduction*

[264] Included amongst the allegations relating to the conduct of Mr Field which appeared in the media shortly after my appointment to this inquiry was the claim that Mr Field had assisted another Thai immigrant, Mr Phongphat Chaikhunpol, in obtaining a work visa, and that in return Mr Chaikhunpol had painted three or four houses owned by Mr Field, one of which was situated at 51 Church Street, Otahuhu.⁹⁷ I proceed to consider that claim first as it relates to 51 Church Street, secondly in relation to two other properties in Auckland, and finally in relation to a property which was owned by Mr Field in Wellington. I discuss these allegations as part of Clause 3 of the Terms of Reference.

4.2 *51 Church Street, Otahuhu, Auckland*

4.2.1 *The refurbishment of 51 Church Street*

[265] In May 2004, Mr Field settled the purchase from Mr Patrick Cole and Mr Simon Tupou of a residential property situated at 51 Church Street, Otahuhu.⁹⁸ On that property there is a 1960s single level, brick and tile house of 106m² with a double garage in the basement and three bedrooms, lounge, separate dining room, kitchen, bathroom and laundry.

[266] At the time that Mr Field purchased the property, the house required significant remedial work: the hot water cylinder was not working; a toilet was inoperative; the interior, including the ceilings, required a complete repainting; and the carpet required replacement. Mr Field arranged for those remedial or refurbishment works, including some interior painting, to be undertaken during the period between August and October 2004.

⁹⁷ See [7] note 7.

⁹⁸ That property is first referred to in this report in [7] above; and in Section 5.1.1 below, at [367] to [398] the circumstances surrounding Mr Field's purchase of that property are considered.

[267] On or about 25 October 2004, Ms Jinda Thaivichit and her husband, Mr Bulakorn Nakhen, moved into 51 Church Street and became Mr Field's tenants.⁹⁹ On 10 March 2005, Ms Thaivichit vacated the premises and another tenant moved in and remained a tenant until July 2005.

[268] In October 2005, the property was transferred by Mr Field to a third party. Prior to that sale, but after Ms Thaivichit vacated the premises, further painting was undertaken on the interior of the house. That work has been described by Ms Thaivichit, who was responsible for organising that work, as being the painting of all bedrooms, hallways, the lounge, the kitchen, and the outside window frames. Mr Chaikhunpol, to whom Mr Field provided assistance during 2003 and 2004 in the obtaining of a New Zealand work visa and subsequently permanent residence,¹⁰⁰ undertook that painting in about August 2005 at 51 Church Street.¹⁰¹ He describes the painting as involving all of the inside, and the windows outside. I attained the expert opinion of Mr A. M. R. Dean, quantity surveyor and building consultant, upon the painting of 51 Church Street. His advice was that, judging by the fresh condition of the paint, it was probably completely repainted internally in 2005. Mr Dean estimated that the cost (inclusive of GST) in 2005 of repainting the complete interior of the house would be: for a whole contract, \$5,300 to \$6,300; for labour only, \$4,400 to \$5,100.

[269] On 11 May 2005, at a meeting with me, Mr Field's counsel indicated that Mr Field might himself adduce expert evidence of the value of the work done. On 18 May 2005, Mr Field's counsel advised that Mr Field had decided not to provide any further valuation evidence.

[270] Two matters for examination arise from the foregoing.

⁹⁹ Ms Thaivichit, a friend of Mr and Mrs Field, has previously been referred to in Sections 3.2.2, and 3.2.6 of this report; see [208] and [226] et seq.

¹⁰⁰ See further [297] to [303] below.

¹⁰¹ Evidence on the timing of that painting was provided by Ms Thaivichit and Mr Chaikhunpol; see further [304] and [310] below.

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- (a) First, the identity of the painter or painters who undertook the painting exercise in August to October 2004; and the terms upon which their work was undertaken.
 - (b) Secondly, the terms upon which that painting exercise in August 2005 was undertaken.

4.2.2 *Painting undertaken in August to October 2004*

[271] Mr Field engaged the services of Mr J. S. Milne to co-ordinate aspects of the refurbishment works undertaken on 51 Church Street during that August to October 2004 period. The works organised by Mr Milne included kitchen materials, carpets, plumbing, electrical and glazing but did not involve painting. The period of Mr Milne's services at 51 Church Street extended from 28 August 2004 to 1 October 2004, during which time he visited the property frequently.

[272] Mr Milne observed that painting had commenced by the time that the work began, that painters were working during the period of his involvement at the property, and that the painting was not finished by the time that Mr Milne completed his services. The painters were not at the property every day, and Mr Milne estimates that the painters spent a couple of weeks on the Church Street job during that period. A complete repainting of the interior took place, including ceilings and doors. Much of the work, including the painting of the walls, involved spray painting.

[273] While Mr Milne had no direct contact with the painters, he did observe that they were Asian, and that there were perhaps four of them. Mr Milne considered that the quality of the painters' workmanship was not particularly good, with no sanding by way of preparation, and with a build-up of paint in places.

[274] Beyond the work which was co-ordinated by Mr Milne, Mr Faatasiga Sulusulu was involved in some carpentry work at 51 Church Street during the renovation period in fixing the kitchen door, putting on a few handles, planing a window frame on which there was too much paint, and the painting of a few windows. Mr

Sulusulu noted that the house had been freshly painted at the time that he commenced his work. He described the quality of the painting as being “*a bit dodgy*”.

[275] Mr Simon Tupou, one of the vendors of 51 Church Street, stated that after the sale to Mr Field, he remained living at the house for a period which included at least part of the time during which the renovations were taking place.¹⁰² Mr Tupou saw Asians painting the interior of the house.

[276] Should further confirmation be required of the fact that the interior of 51 Church Street was painted as part of the 2004 renovation works, Ms Thaivichit described the state of the paint when she commenced renting the house in October 2004 as being like a new house.

[277] At the time of my first interview with Mr Field on 29 September 2005, the matter of Mr Chaikhunpol’s involvement in painting 51 Church Street was a matter for examination. News of that matter had broken the previous day.¹⁰³ Mr Field provided an explanation for Mr Chaikhunpol’s involvements on the basis that, at the request of Ms Thaivichit, Mr Chaikhunpol had undertaken painting at 51 Church Street which was required to rectify damage caused by Ms Thaivichit’s children. According to Mr Field, it was Ms Thaivichit and not Mr Field who engaged Mr Chaikhunpol; and the work was undertaken for Ms Thaivichit and not for Mr Field. The painting in question is that done in August 2005 referred to in [268] above.

[278] At that first interview of Mr Field there was no issue concerning the painting of 51 Church Street in the August to October 2004 period of renovations. The concern at that interview was the role of Mr Chaikhunpol. On the basis of the evidence referred in [277] above, Mr Chaikhunpol was not involved in those 2004

¹⁰² As part of the settlement arrangements on the sale and purchase of 51 Church Street, Mr Patrick Cole and Mr Simon Tupou, the vendors, remained in possession of the premises in the capacity of tenants for a seven week period following settlement in early May 2004. As emerges from [394], [395], and [397] below, Mr Cole and his two school-aged children remained at the house for approximately a further two weeks, until they moved to a Housing New Zealand rental home. Mr Tupou has stated that, after the departure of Mr Cole and the other two children, he remained at the house for a further period, effectively as a squatter.

¹⁰³ See [7] note 7 above.

renovations. Furthermore, the description provided by Mr Chaikhunpol to the inquiry of the painting which he had undertaken on properties owned by Mr Field did not extend to painting of 51 Church Street in 2004.

[279] At the conclusion of his first interview, Mr Field was requested to provide, inter alia, any invoices and receipts that he possessed relating to work and material on 51 Church Street. Through Chen Palmer and Partners, a bundle of copy invoices and receipts was provided to me in October 2005. An interesting feature of that bundle of invoices and receipts which was provided in response to that request was that not a single document related to either the purchase of paint or services provided by painters. In the circumstances where evidence had emerged of the entire interior of 51 Church Street having been painted by Asians in that August to October 2004 renovation period,¹⁰⁴ the details of that internal painting of Church Street in 2004 became a significant issue at the second interview of Mr Field held on 18 and 19 January 2006. In terms of assessing candour on the part of Mr Field, the response of Mr Field to questions directed at the issue of Asians painting the interior of 51 Church Street in that August to October 2004 period assumes sufficient importance as to warrant my providing a reasonably detailed account. That detail becomes all the more important when regard is had to the further matters arising from the interviews with Ms Thaivichit and Mr Wichian Phimpadcha to which I refer in due course.¹⁰⁵

[280] At the second interview, in answer to the question was there any painting work undertaken at the Church Street property at the time that Mr Milne was co-ordinating the renovations in 2004, Mr Field replied that he was not sure, he could not recall, he continued by stating that there may have been some internal painting activity, but he was not sure of the extent of such painting.

[281] To the extent that [272] to [275] above relate to the painting of the interior of the house by Asians in that August to October 2004 renovation period, the events referred to in those paragraphs were traversed before Mr Field, and he was asked whether he recalled Thai or Asian people being employed to work on the

¹⁰⁴ See [272] to [276] above.

¹⁰⁵ See [288] and [289] below.

property. His reply was that he would have to talk to Mr Sulusulu who had been involved in, amongst other tasks, the finishing of the painting. When advised that Mr Sulusulu, in the course of his interview, had advised that he was not involved in the painting of the house, but that the painting work had been freshly done before Mr Sulusulu commenced his work at 51 Church Street, Mr Field replied that he could not provide details upon who was responsible for the painting. Mr Field then added that he, Mrs Maxine Field, and Ms L, the Field's housekeeper, may have been involved in that they spent some time at the house tidying the place up. That response completely failed to address the evidence of Mr Milne and Mr Tupou of the painting of the interior of the house by Asians.

[282] Given the strong evidence that painting work was undertaken by Asians, and given, at that stage of the inquiry, the absence of any invoices, or receipts relating to either the supply of paint or painting services, the questions put to Mr Field were who were those painters, and were they paid for their services. Mr Field's reply was that he would have to talk to Ms Thaivichit about the matter because normally she would be responsible for that sort of painting job. Mr Field acknowledged that, before Ms Thaivichit undertook that sort of job, Mr Field would first instruct her to assist. However, Mr Field indicated that he could not recall whether or not he had instructed Ms Thaivichit in respect of the painting of 51 Church Street in the August to October 2004 period, and that he would try to clarify matters with her. In addition, Mr Field acknowledged that if he had arranged for Ms Thaivichit to organise the painting he would have probably made the payment to her for that work. Given the absence of any documentary evidence relating to the payment for that work, Mr Field agreed that he would have to discuss the matter with Ms Thaivichit.

[283] Following a short, routine adjournment in the interview, on his return Mr Field volunteered that he was reasonably confident that Ms Thaivichit would have been responsible for organising that painting on 51 Church Street in 2004. At our third interview, Mr Field confirmed that Ms Thaivichit organised the painting but stated that he did not know who she organised to do the work.

[284] Approximately one week after that second interview with Mr Field, I had a second interview with Ms Thaivichit which was directed at, inter alia, the painting of 51 Church Street in 2004. Mr Field had been in contact with Ms Thaivichit, in the period between their respective second interviews. Before turning to the relevant aspects of that interview, two matters need to be noted.

[285] First, in respect of Mr Field, Ms Thaivichit cannot be viewed as a truly independent witness. Mr Field described Ms Thaivichit as being like a member of his family, close to Mrs Field whom Mr Field has heard speak of Ms Thaivichit as being just like a daughter to her. In a similar vein, Mrs Field stated that Ms Thaivichit looked to Mrs Field "*like a mother*". Furthermore, Mr Field stated that Ms Thaivichit helped establish the Thai branch of the Labour Party in Mangere, and that she was very much involved in campaigning for the Labour Party in Mangere.

[286] Secondly, at the first interview with Ms Thaivichit, which occurred in October 2005, in answering the question whether she had organised any work, including painting, on 51 Church Street at any time, Ms Thaivichit referred to the painting undertaken by Mr Chaikhunpol in 2005, but made no reference to any painting in that August to October 2004 period.¹⁰⁶

[287] In respect of the painting of 51 Church Street in 2004, Ms Thaivichit stated that she had organised a Thai painter, who she identified as Mr Wichian Phimpadcha, to repaint the house one or two weeks before she moved in. Mr Phimpadcha is a long-standing friend of Ms Thaivichit. According to Ms Thaivichit, Mr Phimpadcha painted one coat over the entire interior of the house, a task which was undertaken over two Sundays for which Ms Thaivichit paid Mr Phimpadcha approximately \$400. Ms Thaivichit further stated that Mr Field had paid her more than the amount that she paid to Mr Phimpadcha, and that while she could

¹⁰⁶ Ms Thaivichit's explanation for not having mentioned the August to October 2004 painting at the first interview was that she had understood the question at the first interview to relate to whether she had organised any work in the house after she became a tenant in October 2004. Given not only the unequivocal nature of the question asked at the first interview, and the claim of Ms Thaivichit at her second interview that she organised Mr Wichian Phimpadcha to paint the entire interior of the house in 2004, I find to be unsatisfactory Ms Thaivichit's explanation for not having referred, at her first interview, to her alleged organisation of that 2004 painting.

not recall the amount, she would provide a copy of the record of the payment. No such record was ever produced to the inquiry.¹⁰⁷

[288] Following my second interview with Ms Thaivichit, I interviewed Mr Phimpadcha, whom Ms Thaivichit claimed was the person responsible for the painting of 51 Church Street in 2004. Mr Phimpadcha has been in New Zealand for eight years and has not received immigration assistance from Mr Field.

[289] When asked about the work which he did on 51 Church Street, Mr Phimpadcha stated that he had painted one coat on a Sunday and had been paid around \$400 to \$500. My impression was that the response was rehearsed. Mr Phimpadcha further stated that Ms Thaivichit had asked him to do the work, and that he had two Vietnamese boys who also assisted him with the painting. He further advised me that the paint for the job had been placed in the garage at the house, awaiting his arrival, but he did not know who had purchased the paint. Mr Phimpadcha indicated that he did no preparatory work for the painting – no filling, no sanding. He was unclear whether he had painted the whole of the house, but he did indicate that in some rooms he only did a touch up, and that he did not paint the bathroom. In answer to a question upon the method of painting that he had employed, he stated that he had used rollers on the walls and ceiling.

[290] Having outlined the available evidence, I return to the questions raised in [270] above – the identity of the painter or painters who undertook that painting exercise in August to October 2004, and the terms upon which that work was undertaken. I am satisfied that the painters were not Mr Phimpadcha and his two Vietnamese assistants. In reaching that conclusion, I refer to [271] and [272] above and accept the evidence of Mr Milne whose account conflicts in two regards with that of Mr Phimpadcha and Ms Thaivichit. First, Mr Milne stated that much of the work, including the walls, had been spray painted. In contrast,

¹⁰⁷ At my second interview with Ms Thaivichit on 24 January 2006 – the interview at which the evidence of Ms Thaivichit referred to in [287] above was given – I asked Ms Thaivichit to provide me with copies of receipts of payments made to Mr Phimpadcha, or payments received from Mr Field. On 14 February 2006, Mr Field was asked through his counsel to encourage Ms Thaivichit to produce the requested receipts together with her quotation book and her tax invoice books. On 24 February 2006, counsel for Mr Field advised that Ms Thaivichit was preparing to travel to Thailand and that she did not wish to take any further part in the inquiry. See further [292] note 109, and [325] below.

Mr Phimpadcha stated that he had used rollers on the walls and ceilings. Secondly, Mr Milne stated that the painting had commenced prior to his starting work at the house on 28 August 2004, and that the painters were working during the period of his involvement at the property which ended on 5 October 2004. In contrast, Ms Thaivichit stated that she organised Mr Phimpadcha to do his painting one or two weeks before she moved in. As Ms Thaivichit's tenancy commenced on or about 25 October 2004, her account of the timing of the works is at complete odds with that of Mr Milne.

[291] Ms Thaivichit and Mr Phimpadcha were both provided with relevant extracts of the draft report and were offered the opportunity to adduce further evidence in response. Ms Thaivichit told the inquiry that neither she nor Mr Phimpadcha wanted to participate any further with the inquiry.

[292] The value of the painting undertaken in 2004 may not have been great. On the assumption that the work involved a "tidy-up" of walls and surfaces that had been marked or scuffed, and that minimal internal preparation was undertaken, and that an average of one coat was applied throughout the bedroom and living rooms only, with no painting of the bathroom, Mr Dean, quantity surveyor and building consultant,¹⁰⁸ estimates that the reasonable cost of that work (inclusive of GST) would be: for the whole contract, including paint, \$1,800 to \$2,200; for labour only \$1,400 to \$1,700. Mr Field produced to the inquiry a photocopy of an invoice dated 21 October 2004 from Ms Thaivichit to Mr Field for painting services in relation to 51 Church Street. If that document is genuine, on the basis of Mr Dean's expert advice, that painting of 51 Church Street in 2004 would appear to have been undertaken for an amount substantially less than the market rate.¹⁰⁹ What is of greater concern is that, while I have established that Asian

¹⁰⁸ The role of Mr Dean in the inquiry is referred to in [15] above.

¹⁰⁹ In February 2006, Mr Field provided some supplementary documents which included a photocopy of what appears to be an invoice dated 21 October 2004 from Ms Thaivichit to Mr Field in the amount of \$440 for the painting services in relation to 51 Church Street. That document would appear to be directed at the alleged painting services of Mr Phimpadcha in October 2004. For the reasons which I discuss in [325] below, I have had cause to consider the authenticity of that photocopy invoice, and certain other documents contained in that bundle of supplementary documents. However, as is discussed in [325] below, my attempts to explore further that issue of authenticity were thwarted.

painters undertook that work, I have been unable to establish the identity of those painters.

[293] The degree of concern is increased significantly when regard is had for the unsatisfactory nature of the explanations provided by Mr Field in relation to that painting: first, he had no recollection, but there may have been some internal painting; he then inferred that Mr Sulusulu may have some knowledge; next he suggested that he together with his wife and housekeeper may have been involved; he then suggested that that Ms Thaivichit may have been responsible; and finally he stated that he was reasonably confident that Ms Thaivichit would have been responsible for organising that painting. In a supplementary statement, dated 22 May 2006, Mr Field responded to my concerns in relation to his evidence on this matter. He stated:

“...I struggled to recall who painted 51 Church Street in 2004 – some 17 months earlier. Dr Ingram has chosen to view my attempt to assist him in a way which was not intended. I actually did not know, and it was a stream of consciousness statement for which my Counsel admonished me afterwards – for speculating instead of simply saying what I could properly say – that I did not know. At no time have I intended to obstruct or mislead Dr Ingram, and I would have thought that the level of assistance I have given the Inquiry would have made that clear.”

[294] I discussed this with Mr Field at our third interview. The exchange was as follows:

Ingram: ...If it was Jinda [Thaivichit] who undertook that responsibility, why in relation to 51 Church Street, the work undertaken in 2004, were you initially unable to tell me that it was Jinda who organised that work?

Field: Because I do recall [Mr Sulusulu] also doing some work there and there was a mention at some point by

Sulusulu that he had done some painting and in looking at his statement that you have released to us he actually admits to painting window sills, that would be window frames. I also recall, now you can appreciate that we are talking about 17-18 months, earlier my wife and Ms Masina the girl that lives with us, also being involved with cleaning the place up, doing the curtains and I wasn't quite sure whether they participated in any of the renovation work at that time. I was in Wellington most of the time and that is really why I was trying to co-operate and help you with your questioning in recalling 17-18 months earlier who was involved in the renovations.

Ingram: Why did you say you along with your wife, your housekeeper may have been involved with that painting?

Field: Because I was involved for a short period of time in fixing, cleaning the place up and fixing some of the stuff up.

Ingram: But were you involved in the painting?

Field: I think I may have been involved in a small way.

Ingram: You think?

Field: I can't recall exactly. It is 18 months earlier.

[295] I have difficulty understanding why Mr Field would be confused as to whether or not he personally was involved in the painting of 51 Church Street in 2004.

[296] I have been unable to establish who undertook the interior painting of 51 Church Street in 2004. As a result, I cannot take this matter any further.

4.2.3 *Painting undertaken in August 2005*

[297] In relation to the Church Street property, I address the allegation that Mr Field had assisted Thai immigrant, Mr Chaikhunpol, in obtaining a work visa, and that in return Mr Chaikhunpol had painted 51 Church Street.¹¹⁰

[298] New Zealand Immigration Service records reveal that Mr Chaikhunpol arrived in New Zealand on 12 November 1997; that he was granted a visitor's permit until 12 February 1998; that he had been in New Zealand unlawfully since that date; and that he had not made any further application of any type to the New Zealand Immigration Service until September 2003.

[299] As to the assistance provided by Mr Field to Mr Chaikhunpol, the involvement appears to have begun with a letter dated 15 September 2003 from Mr Field, in his capacity as member of Parliament for Mangere, to the New Zealand Immigration Service in support of a request for the grant of a work permit under s.35A of the Immigration Act 1987. That letter refers to Mr Chaikhunpol being married to a New Zealand Permanent Resident, Ms Prajeen Promsakhan,¹¹¹ with whom Mr Chaikhunpol has been in a genuine relationship for three years, and to whom Mr Chaikhunpol was married in 2003. The letter requests that favourable consideration be given to granting Mr Chaikhunpol a permit to remain with his wife, and to test his eligibility for permanent residence.

[300] Next, in a letter dated 2 October 2003 to Mr O'Connor, Mr Field, again in his capacity as member of Parliament for Mangere, requested a work permit for Mr Chaikhunpol. In that letter, Mr Field stated that he has known the couple for some time and believed their marriage to be genuine. On 15 October 2003, Mr O'Connor approved a six month work permit for Mr Chaikhunpol under s.35A of the Immigration Act 1987. By a letter dated 23 October 2003 from Mr O'Connor to Mr Field, the granting of that six month work permit was recorded, subject to completion of the appropriate forms, and payment of the required fee.

¹¹⁰ See [7] note 7 above.

¹¹¹ I know of no assistance given by Mr Field to Ms Prajeen Promsakhan in immigration matters.

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- [301] There followed an application for a work permit dated 3 November 2003 by Mr Chaikhunpol in which the address for correspondence is Mr Field's Mangere electorate office, and Ms Jones-Ataongo, an electorate secretary for the Mangere electorate office, is named as the person providing assistance for Mr Chaikhunpol in his work permit application. On the application form the words "Ministerial Direction" are handwritten.
- [302] An application for permanent residence dated 17 March 2004 was made by Mr Chaikhunpol to the New Zealand Immigration Service. As with the application for work permit referred to in [301] above, the words "Ministerial Direction" are handwritten on the application. It is to be noted that, whereas in his letter dated 23 October 2003 Mr O'Connor had directed the New Zealand Immigration Service to grant a six month work permit, no similar direction was issued as at 17 March 2004 in relation to permanent residence for Mr Chaikhunpol. Mr Field personally witnessed the sponsorship form which was part of that application; and within the permanent residence application form, Mr Field's Mangere electorate office is given as the address for correspondence, and Ms Jones-Ataongo¹¹² is named as the person assisting Mr Chaikhunpol with his residence application.
- [303] By a letter dated 15 July 2004 to Mr Chaikhunpol, care of Mr Field's electorate office, the New Zealand Immigration Service advised that a work permit for Mr Chaikhunpol had been approved which was valid until 15 January 2005. And on 9 October 2004, New Zealand Immigration Service issued a residence permit to Mr Chaikhunpol.
- [304] The assistance provided by Mr Field to Mr Chaikhunpol having been established, the issue then becomes in what circumstances did Mr Chaikhunpol undertake painting at 51 Church Street in August 2005.
- [305] Mr Field has stated that Ms Thaivichit was responsible for engaging Mr Chaikhunpol in the painting of Church Street, work which was required to rectify damage to the interior of the house caused by Ms Thaivichit's children during the

¹¹² See [301] above.

period of Ms Thaivichit's tenancy. According to Mr Field, there was money owing to Ms Thaivichit on the tenancy bond relating to the premises; Mr Field stipulated that the bond would be refunded once the repairs were completed; and those repair works were to be undertaken by Mr Chaikhunpol.

[306] Ms Thaivichit's explanation for the painting works related to her son having caused damage to three areas in the house: the toilet door had slammed into the wall; he had drawn on the wall and doorway; and water had splashed out from the shower, damaging the carpet. Ms Thaivichit stated that the rectification of that damage, which took place after the tenant subsequent to Ms Thaivichit vacated 51 Church Street, involved the following: the wall damage was fixed by Ms Thaivichit herself with a gibraltar board and plaster repair; the drawing on the walls was painted over; and Ms Thaivichit had the piece of damaged carpet replaced when she moved out of the premises. Mr Chaikhunpol was engaged to paint that new plaster work, and to paint over drawing on the walls. But Ms Thaivichit stated that Mr Chaikhunpol's painting was not limited to these two aspects. She had Mr Chaikhunpol paint, with more than one coat, the entire interior of the house, including all ceilings, walls and doors together with the exterior window frames. Ms Thaivichit said that she paid Mr Chaikhunpol \$1,500 for his services. Her explanation for that complete repair was that, in addition to the damage done by her son, there were insect marks on the ceilings; some black finger print marks along the wall of the hallway; and, in the lounge, the edge of the sofa had left a mark on the wall. As to the exterior window frames, Ms Thaivichit stated that there was paint left over from the interior painting which she had Mr Chaikhunpol use on the exterior of the windows.

[307] Mr Chaikhunpol confirmed that he painted the entire interior of the house – walls, doors and ceilings – and the external window frames in July or August 2005. He confirmed that Ms Thaivichit provided the paint, and that she paid him \$1,500. He stated that the interior paint of the house, including the ceilings, was in good condition prior to his repainting, but he did refer to the drawing on the wall from Ms Thaivichit's children. In contrast to Ms Thaivichit, Mr Chaikhunpol stated that he used exterior, not interior, paint on the outside window frames.

[308] From the evidence of Mr Milne and others, I am satisfied that the interior of the house, at least in part, was painted in that August to October 2004 period.¹¹³ The prospect of the interior of 51 Church Street being painted twice in the space of approximately 12 months seems curious. However, I have the expert opinion of Mr Dean that the house was probably completely repainted internally in August or September 2005. In Mr Dean's opinion, the condition of the paint was too fresh to have been repainted in 2004. This supports Mr Chaikhunpol's and Ms Thaivichit's evidence of painting work done in 2005.

[309] The finding that the interior of the house was repainted in its entirety in about August 2005 gives rise to the question whether Ms Thaivichit's account of the reason for the repaint is correct. The first blush response to the prospect of a mere tenant, even one that was a close friend of Mr Field's, having repainted the entire interior together with the exterior of the windows after less than six months occupation is that it is a highly unlikely, if not improbable, proposition. That response is strengthened when regard is had to the following: from the available descriptions of the premises, the only items for repainting that went beyond fair wear and tear were the replastered section, and the drawings on the wall and doorway – rectification work which would have been restricted; there was no cause for Ms Thaivichit to repaint the balance of the house including the lounge, the bathroom, the kitchen, all of the bedrooms, all ceilings, and the exterior of the window frames. The plausibility of the proposition is not improved by the fact that, despite Ms Thaivichit and Mr Field stating that damage had to be repaired before Mr Field would repay the rental bond, no documentary proof has been provided of either the initial payment or the repayment of the bond, and Department of Building and Housing advises that it has no record of that bond.

[310] It is to be remembered that, in October 2005, Mr Field sold 51 Church Street to a third party. Ms Thaivichit has admitted, in response to a question as to why she had the kitchen repainted in August 2005, that Mr Field proposed selling the house, and that she wanted to make his house look new. Given the close proximity in time between the repainting undertaken by Mr Chaikhunpol and the

¹¹³ See [271] to [273] above.

sale of the house by Mr Field, and given the improbable nature of Ms Thaivichit's explanation for the reason for her engaging Mr Chaikhunpol to repaint the complete interior of the house and the exterior of the window frames, I find a strong inference to be drawn that it was Mr Field, through the agency of Ms Thaivichit, who arranged for that painting exercise by Mr Chaikhunpol.

[311] That finding then raises the question whether the remuneration received by Mr Chaikhunpol was reasonable. In that regard I have previously noted Mr Dean's opinion on the reasonable cost (inclusive of GST) for the repainting works described by Mr Chaikhunpol: \$5,300 to \$6,300 for the whole contract; \$4,400 to \$5,100 for labour only. On that basis, in receiving \$1,500 on a labour only basis, Mr Chaikhunpol was significantly underpaid.

[312] Mr Chaikhunpol gave evidence that he saw Mr Field at 51 Church Street while he was working on the property. However, he did not know that the house was owned by Mr Field. His evidence was that he did not do the painting in return for Mr Field's immigration assistance. Mr Chaikhunpol received immigration assistance from Mr Field during September 2003 to March 2004. Mr Chaikhunpol told the inquiry that he had visited Mr Field's electorate office five or six times. Mr Chaikhunpol stayed with Mr Field in his house in Wellington in late 2003 or early 2004, as discussed below. Mr Field stated in a letter to Mr O'Connor, dated 2 October 2003, that he had known Mr Chaikhunpol and his wife for some time and believed their marriage to be genuine. If Mr Field did visit the property while Mr Chaikhunpol was working as stated by Mr Chaikhunpol, it is difficult to accept that he would not have known who Mr Chaikhunpol was, and that he had assisted Mr Chaikhunpol in immigration matters. Mr Field's evidence was that Ms Thaivichit organised that work and that he did not know that Mr Chaikhunpol had done the work on the property until after the matter was raised in the media.

[313] That being the case, there is the further inference that Mr Chaikhunpol undertook that repainting of 51 Church Street in August 2005 for Mr Field at a price substantially discounted from market rates out of gratitude or some other sense of

obligation in relation to the assistance which Mr Field had provided in Mr Chaikhunpol's immigration applications.

4.3 *Other Auckland properties*

[314] There are two further Auckland properties owned by Mr Field in respect of which Ms Thaivichit organised Mr Chaikhunpol to provide his painting services: 73 Blake Road, Mangere, and 2A Prangley Avenue, Mangere. In each of those instances it is undisputed that Ms Thaivichit arranged the painting at the request of Mr Field. However, in each instance, there is a conflict of evidence as to the extent of work that was undertaken. In determining whether Mr Chaikhunpol received reasonable remuneration for those services, the resolution of that conflict assumes importance.

4.3.1 *73 Blake Road, Mangere*

[315] The house at 73 Blake Road is a single level, brick and tile residential dwelling of approximately 100m² habitable area, with a conventional layout around an L-shaped entrance and hallway, with three bedrooms, bathroom and separate toilet, lounge, dining room, kitchen and laundry. It has timber windows and painted flush internal doors. All scotias, architraves and skirtings are painted.

[316] From the evidence, it is clear that there was painting in relation to the house on two occasions during the relevant period: first in August 2004, and secondly in May 2005.

[317] At the time of the purchase of 73 Blake Road by Mr Field in July 2004, the house was in poor condition, and required renovation. Mr Field engaged Mr Milne to co-ordinate that work which was undertaken between 30 August 2004 and 17 September 2004. That co-ordination did not extend to the painting work undertaken in the house. Mr Milne observed that the interior of the house had been painted in its entirety, including the walls and ceilings in all rooms, before his commencement in late August 2004. Mr Milne also observed that, in addition to the interior, the exterior of the windows had been painted. Mr Milne stated that

Mr Field had told him that the same painters were used for 73 Blake Road as had undertaken the painting of 51 Church Street. Mr Field did not recall telling that to Mr Milne. Mr Milne commented that the painting at 73 Blake Road was of the same poor standard as 51 Church Street.

[318] As to the further painting undertaken in May 2005, Mr Chaikhunpol's evidence was that, at the request of Ms Thaivichit, he painted the window frames outside, and the internal windows and doors at 73 Blake Road; his painting was limited to those aspects. He was paid \$750 by Ms Thaivichit for that work. I note that Mr Chaikhunpol's account of that painting was confirmed by Ms Thaivichit with the addition that the work was undertaken in May 2005, and that she received a cheque from Mr Field for \$760 for the painting, and that she paid Mr Chaikhunpol \$750. Included in supplementary documents provided by Mr Field in February 2006 was a photocopy of quotation from Ms Thaivichit to Mr Field dated 23 May 2005 describing a cash job at 73 Blake Road for \$763.¹¹⁴

[319] As for the reason for the second paint work on the house in May 2005 only 10 months after the painting in 2004, the explanation may emerge from the report of Mr Dean who referred to substantial areas of mould on the surfaces which indicates that the house has considerable problems with dampness. Mr Dean continued by noting the problem with dampness suggests that frequent repainting may be necessary. While on the matter of Mr Dean's report, Mr Dean also observed that it was unlikely that the bathroom, toilet and laundry were not painted until 2005. I take that to mean that it is likely that those areas were painted prior to 2005.

[320] Mr Field's description of the nature of the painting works differs from that provided by Mr Milne and by Mr Chaikhunpol. In discussion with Mr Dean, during the course of Mr Dean conducting a site inspection, Mr Field recalled that towards the end of 2004 only the bathroom, toilet and laundry were repainted, although some other walls may have been repainted on other occasions; and he

¹¹⁴ I record that I have had cause to consider the authenticity of that copy document, but that I have been unable to pursue further my investigation in that regard. See further [325] note 115 below.

continued by stating that in mid-2005 the lounge, kitchen, and hallway were repainted together with some ceilings and walls in some of the bedrooms.

[321] I prefer the evidence of Mr Milne and Mr Chaikhunpol to that of Mr Field upon that matter of the sequence of painting of various areas in the house. In so doing, I note that it is my view that Mr Field was not attempting to mislead but rather he was confused.

[322] Mr Chaikhunpol told the inquiry that he did not know the house at Blake Road was owned by Mr Field. He did not see Mr Field at the house while he was working.

[323] On the matter of the reasonable cost for the painting in 2005 of the exterior windows and the interior doors, Mr Dean's estimate, inclusive of GST, is: for whole contract, \$2200 to \$2400; for labour only \$1700 to \$1900. That labour only estimate is more than twice the \$750 paid to Mr Chaikhunpol.

[324] The identity of those who undertook the painting at 73 Blake Road in August 2004 remains uncertain. If the advice given by Mr Field to Mr Milne is to be accepted, those painters were the same Asians who were engaged on 51 Church Street in August to October 2004. The identity of those painters has not been discovered. However, it does seem that Ms Thaivichit may have been responsible for organising that August 2004 painting at Blake Road. Certainly Mr Field stated that it would have been Ms Thaivichit who organised that painting which involved a general tidying up of the place. Mr Field stated that, since he was not present, he did not know the extent of the work or whom Ms Thaivichit engaged to do the work.

[325] Included in some supplementary documents provided by Mr Field in February 2006 was a photocopy of a quotation in the amount of \$270 from Ms Thaivichit to Mr Field in relation to painting at 73 Blake Road. The quotation appears to be dated 10 September 2004, and is endorsed as having been paid on 16 November 2004. The apparent date of that quotation does not satisfactorily reflect the painting undertaken prior to Mr Milne commencing work in August 2004; and the

amount of the quotation of only \$440 does not reflect the reasonable costs of the painting of the exterior, including walls and ceilings in all rooms, as observed by Mr Milne in August 2004. Mr Dean has assessed the reasonable market price (inclusive of GST) for that work in 2004 to be: for whole contract, \$2,600 to \$3,100; for labour only, \$2100 to \$2500. Those discrepancies, together with an aspect of the copy document itself,¹¹⁵ prompted me to request through counsel for Mr Field that Ms Thaivichit provide for my inspection the originals of the document books from which that and other quotations and a relevant invoice had emanated. That request was met with advice from counsel for Mr Field that Mr Field had spoken to Ms Thaivichit who advised that she was preparing to travel to Thailand and did not wish to take further part in the investigation. That rebuff by Ms Thaivichit thwarted any further consideration of the authenticity of that quotation dated 10 September 2004 and other documents emanating from Ms Thaivichit which are contained in the supplementary documents provided by Mr Field. Given not only the matter referred to in note 115 to the report, but also an unwillingness on my part to accept the uncorroborated evidence of Ms Thaivichit – an unwillingness flowing from the experience with Ms Thaivichit’s claim that Mr Phimpadcha had painted the entire interior of 51 Church Street in October 2004¹¹⁶ – I would be reluctant to accept the authenticity of that document dated 10 September 2004 without the opportunity for further inquiry.

[326] The evidence in relation to the work on 73 Blake Road is not clear. I was unable to determine who did the work in August 2004. However, there some evidence that it was the same group of painters who worked on 51 Church Street in 2004. In relation to the work in 2005, Mr Chaikhunpol did the work and it would appear that he was underpaid. However, there is no evidence that Mr Chaikhunpol knew that 73 Blake Road was owned by Mr Field or that Mr Field knew at the time that it was Mr Chaikhunpol who was doing the work.

¹¹⁵ Among the supplementary documents provided by Mr Field were three photocopy quotations being: Quotation 021914 dated 10.9.2004 relating to painting at 73 Blake Road for \$270; Quotation 021917 dated 19.3.2005 for painting Unit 2A Prangley Avenue for \$367; Quotation 021924 dated 23.5.2005 for 73 Blake Road for \$763. The numbering suggests that only two other written quotations were issued by Ms Thaivichit between 10 September 2004 and 19 March 2005, and only six other quotations were issued between 19 March 2005 and 23 May 2005. The book containing the original duplicates of those quotations was sought so as to discover whether each of those quotations was an authentic document. That book was not provided to me.

¹¹⁶ See [288] to [290] above.

4.3.2 2A Prangley Avenue, Mangere

[327] The property which is known as 2A Prangley Avenue is a single level timber-framed dwelling unit with fibrolite exterior cladding and timber cover battens, corrugated iron roof, and aluminium window joinery. The work in question relates to a two bedroom extension to that unit which was completed in February 2005. The unit is located directly behind the dwelling at 594 Massey Road, Mangere, where Mr Field resides. Both dwellings are situated on the same piece of land contained in one certificate of title.¹¹⁷

[328] There is no dispute that, in February/March 2005 at the request of Mr Field, painting and stopping work was organised by Ms Thaivichit in relation to that two bedroom extension to the unit at 2A Prangley Avenue. There is also no dispute that, in terms of that arrangement, painting was undertaken by Mr Chaikhunpol, and that stopping work was undertaken by Ms Thaivichit and her husband, Mr Bulakorn Nakhen. However there is a conflict of evidence in relation to the nature and extent of the work which was done.

[329] Mr Chaikhunpol stated that he painted the interior of the two bedroom extension in February 2005 for which Ms Thaivichit paid him \$350. Mr Chaikhunpol stated that he knew at the time he did the work that the property was owned by Mr Field as Ms Thaivichit had told him. Mr Chaikhunpol stated that he saw Mr Field at the property while he was working and that Mr Field “*came to look around and to say thank you but I couldn’t speak English at the time.*” Mr Field was less clear in his recollection. He stated “*I may have realised at the time that a man by the name of Ded [Mr Chaikhunpol’s nickname] was involved.*” When asked whether Mr Field recalled at the time that he had given assistance with immigration matters to Mr Chaikhunpol, Mr Field stated “*No I couldn’t recall connecting whether we helped him with immigration issues or not*”. Given the matters referred to in [312] above

¹¹⁷ The same situation arises on the adjoining land which is also owned by Mr Field, and on which is situated a dwelling house known as 592 Massey Road and a dwelling unit known as 2B Prangley Avenue; the land for 594 Massey Road/2A Prangley Avenue is contained on one certificate of title, and the land for 592 Massey Road/2B Prangley Avenue is contained on another certificate of title.

it is difficult to accept that Mr Field did not recall assisting Mr Chaikhunpol on immigration matters.

[330] Ms Thaivichit confirmed that she paid Mr Chaikhunpol \$350 for that work; she further stated that she received a cheque from Mr Field for around \$360 or \$370 in relation to Mr Chaikhunpol's work, but that she gave only \$350 to Mr Chaikhunpol. I was provided with a receipt for \$367 dated 19 March 2005 from Ms Thaivichit to Mr Field for "*pinating* [sic] *unit 2A Prangley Ave Mangere*".¹¹⁸

[331] Ms Thaivichit stated that she was assisted by her husband, Mr Nakhen, in stopping of the internal linings, and fixing the scotia on the two bedroom extension for which she was paid \$300 in cash by Mr Field. It is to be remembered that Mr Nakhen received immigration assistance from Mr Field with relevant events in 2005 including: on 17 February 2005, Mr Nakhen's application for a work visa was approved by the New Zealand Immigration Service, following letters making representations from Mr Field first to Hon. Damien O'Connor dated 31 August 2004, and secondly to the New Zealand Immigration Service dated 27 October 2004.¹¹⁹

[332] In contrast, Mr Field stated to Mr Dean during the course of Mr Dean's site inspection of 2A Prangley Avenue that the painting in question related only to the exterior of the extension, and that apart from filling an existing opening through an internal wall with gibraltar board, and fixing and stopping that particular work, no other task was performed by Ms Thaivichit in relation to the extension.

[333] Mr Faatasiga Sulusulu, who was engaged by Mr Field to complete the building work on the two bedroom extension, undertook finishing work involving architraves, skirtings, window framing, and the hanging of new doors. There is no evidence that Mr Sulusulu did any stopping of the internal linings and the fixing of the scotia.

¹¹⁸ See [325] note 115 above.

¹¹⁹ See further [215] to [219] above.

[334] The reasonable market rate for the stopping of the internal linings, and the fixing of the scotia which Ms Thaivichit claims that she and her husband undertook is assessed by Mr Dean as being \$930 (inclusive of GST). Ms Thaivichit states that she received from Mr Field \$300 in cash for that work, a payment which Mr Field confirms. If Ms Thaivichit and Mr Nakhen did undertake the work as claimed by Ms Thaivichit, then the payment made by Mr Field represents approximately one third of the market rate. Mr Nakhen has declined to participate in the inquiry in relation to this or any other matter. There remains a conflict between the evidence of Ms Thaivichit and Mr Field as to what work was done and by whom.

[335] I accept Mr Chaikhunpol's evidence that he painted the interior of the two bedroom extension and was paid \$350 by Ms Thaivichit (who received \$360-\$370 from Mr Field for that work). The reasonable market rate for this work on a labour only basis, as assessed by Mr Dean, was \$1,470 (inclusive of GST). On this basis, Mr Chaikhunpol was underpaid. Mr Field would appear to have known that it was Mr Chaikhunpol who did the work and, on the basis of the receipt, Mr Field knew the amount being paid for the job. There is an inference that Mr Chaikhunpol undertook that painting of 2A Prangley Avenue at a price substantially below market rates out of gratitude or some other sense of obligation in relation to the assistance which Mr Field had provided in Mr Chaikhunpol's immigration applications.

4.4 57 Kinghorne Street, Strathmore, Wellington

[336] The matter of labour being provided by Thai people at a property owned by Mr Field at 57 Kinghorne Street, Strathmore, arose as part of the allegation that Mr Field assisted Mr Chaikhunpol in obtaining a work visa, and in return Mr Chaikhunpol had painted three or four houses owned by Mr Field.¹²⁰

[337] The property at 57 Kinghorne Street was purchased by Mr Field in March 1999 prior to Mr Field being a Minister of the Crown, and it was then transferred to T.P. Field Developments Limited, a company in which Mr Field is a director and sole shareholder in April 2001. In June 2003, the property was transferred back

¹²⁰ See [7] note 7above.

to Mr Field; and in May 2004 the property was transferred to a third party. On the property is located a three bedroom house which Mr Field describes as being in reasonable condition at the time of purchase by the company.

[338] During the Christmas period of December 2003 - January 2004, a group of seven Thai people, all of whom lived in Mangere, travelled to Wellington for a two day stay during which they were accommodated at 57 Kinghorne Street. That group comprised the following: Mr Chaikhunpol, and his wife, Prajeen Promsakhen; Ms Phisamai Phothisarn, her husband, Mr Sompong Srikaew, and their child, A; and Mr Suban Wangkae, and his wife, Ms Kieo Phanit. All those couples were friends with one another. Mr Wangkae, Mr Srikaew, and Ms Phothisarn had all previously worked together at the same plaster board stopping company in Auckland.

[339] Immigration assistance had been given by Mr Field to five members of the group. The assistance to Mr Chaikhunpol has been previously described.¹²¹ The assistance to Ms Phothisarn was during the period 2002 to 2004, with Ms Phothisarn's residence application being approved in principle in February 2004; Mr Srikaew received personal assistance from Mr Field in 2003, with Mr Srikaew's residence being approved in July 2003; Mr Wangkae received assistance from Mr Field in 2003; and Ms Phanit received assistance between 2003 and 2005, with Ms Phanit's residence application being approved in March 2005.

[340] In addition to Mr Field and Mrs Maxine Field, three members of the group – Mr Chaikhunpol, Ms Phothisarn, and Mr Srikaew – participated in the inquiry, attending interviews in relation to the matter of Kinghorne Street. I record that Ms Phanit, and Mr Wangkae declined to be interviewed.

[341] From my interviews with Ms Phothisarn, Mr Srikaew, and Mr Chaikhunpol, there emerges the following account of the stay at 57 Kinghorne Street.

¹²¹ See [299] to [303] above.

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- [342] The trip was a holiday, one purpose of which was to enable Ms Phothisarn to obtain a Thai birth certificate for her son, A. While at Mr Field's Mangere electorate office, Ms Phothisarn mentioned to Mrs Field the intended Wellington trip. Mrs Field responded that there was no need to spend money on an hotel in Wellington; instead Ms Phothisarn could stay at the Field's Wellington house. Mrs Field also agreed to Ms Phothisarn having friends staying in the Wellington house with her.
- [343] The group of seven drove to Wellington in two four-wheel drives. Those vehicles were normally used for work, and still contained work tools. While in Wellington the group met up with Mr Field who not only arranged for them to have a tour of Parliament but also took them on a sight seeing trip around Wellington. For at least part of the group's stay at 57 Kinghorne Street, Mr and Mrs Field were also in the house.
- [344] While staying at Kinghorne Street, some members of the group did repair work on the house, but the available evidence is that such work was very limited. Ms Phothisarn, Mr Srikaew, and Mr Chaikhunpol all referred to noticing a hole in the ceiling of the lounge, and a hole in the hallway. Each stated that Mr Srikaew and Mr Chaikhunpol attended to repairing those two areas, with Mr Srikaew doing the plastering, and Mr Chaikhunpol the painting. Both referred to the paint being found in the garage.
- [345] Both Mr Srikaew and Mr Chaikhunpol stated that they did the repairs of their own volition, and not at the request of Mr Field, a matter which Mr Field confirmed. Mr Field also stated that he offered to pay the men for their services but that they declined.
- [346] There is no evidence to suggest that either the circumstances surrounding the work or the extent of that work were any different from that evidence which I have related.

4.5 *The meeting of 2 October 2005*

[347] Information received by the Police was provided to me by the Police, through the Serious Fraud Office, in relation to an alleged meeting held on 2 October 2005 at the home of Ms Thaivichit. The alleged purpose of the meeting was to establish who within the group attending that meeting was the leak to the media in relation to Mr Field's assisting those persons with applications for work permits and residence permits in return for their completing work on houses owned by Mr Field. The Police information stated, inter alia, that Mr Field alleged that a named person, whom I understand to be Mr Chaikhunpol,¹²² was the leak to the media. Given that Mr Chaikhunpol has figured prominently in the preceding discussion in Sections 4.2.3 and 4.3 of this report, it seems appropriate that I discuss at this stage the alleged 2 October 2005 meeting.

[348] I begin by recording that, whilst that Police information served as a starting point for my investigating the circumstances surrounding the alleged meeting, I have not placed any reliance upon that information except where confirmation is to be found from evidence given in interviews by any participant in this inquiry.

[349] The alleged meeting was said to be attended by Mr Field, Mr Sompong Srikaew,¹²³ Ms Kieo Phanit, Mr Suban Wangkae, Mr Aphisak Prachanan, Ms Somboon Ngaosri,¹²⁴ and, it would appear, Mr Chaikhunpol,¹²⁵ Mr Somjit Kaewbabpha and Ms Thaivichit.¹²⁶ I note that New Zealand Immigration Service records reveal that all of those people are Thai immigrants to New Zealand, and that, with the exception of Mr Prachanan and Ms Thaivichit, all received immigration assistance from Mr Field. In the case of Mr Prachanan, it was his wife, Ms Somboon Ngaosri, who received assistance. In the case of Ms Thaivichit, it was her husband, Mr Bulakorn Nakhen, who received assistance.

¹²² See [349] note 125 below.

¹²³ See [340] to [345] above.

¹²⁴ See [207] et seq. in relation to Mr Prachanan and Ms Ngaosri.

¹²⁵ The particular participant at the meeting was described as a Thai male known as Somdaet who is in a relationship with a Thai female with the nickname of Jen. I identify Somdaet as being a nickname for Mr Phongphat Chaikhunpol; I also identify Mr Chaikhunpol's wife as Ms Prajeen Promsakhan, who has the nickname of Jen.

¹²⁶ The particular participant at the meeting was described as a Thai male known as Gao who is in partnership with a Thai female with the first name of Kannae. I identify Gao as being the nickname of Mr Somjit Kaewbabpha, who partner's name is Ms Khane Muangphuak.

With the exception of Ms Thaivichit, Mr Srikaew, Mr Field, and Mr Chaikhunpol all those persons identified as having attended the alleged meeting declined to participate in the inquiry. As a consequence, I had a narrow basis from which to mount my attempted investigation into the alleged meeting.

[350] When interviewed by me, Mr Srikaew's evidence was brief in relation to the alleged meeting. He admitted to having seen Mr Field from a distance once at a party but he had not spoken to him, and on another occasion or occasions at the Mangere electorate office where he had taken his wife, Ms Phisamai Phothisarn. In addition he stated that he had met Mr Field in Wellington.¹²⁷ However, on the matter of the alleged meeting with Mr Field and others at Ms Thaivichit's house, Mr Srikaew denied being present.

[351] In contrast to the evidence of Mr Srikaew, Mr Field at his second interview, did recall seeing Mr Srikaew, Ms Thaivichit, and her husband, Mr Bulakorn Nakhen at Ms Thaivichit's house in early October 2005. However, initially when questioned on that matter, Mr Field's recollections were not particularly helpful.

[352] At first Mr Field stated that he possibly called into Ms Thaivichit's place "*to say hello*" to Ms Thaivichit, Mr Nakhen, and Mr Srikaew. He could not recall what prompted the visit, however, he did suggest the following: "*She normally pops around and she might have invited us to something for some reason, maybe a meal or something*". He stated that he did not recall the number of people present at the time of his visit.

[353] As a next step in the interview, Mr Field was informed of information received to the effect that, on or about 2 October 2005, Mr Field met with a group which included Ms Thaivichit, Mr Nakhen, Mr Srikaew, Ms Phanit, and Mr Wangkae. Mr Field responded that those people may have formed the group that was there, but he denied that it was a meeting as such. At the interview Mr Field was further informed of the others who were alleged to be present within that group on 2 October 2005.

¹²⁷ See further [338] et seq.

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- [354] As to what was discussed, Mr Field suggested that there may have been some talk about the allegations involving Thai people which featured in the media; the concern of the Thais present was more for Mr Field than for their own immigration status.
- [355] When asked whether there was any discussion about who the sources within the Thai community might be in relation to the various allegations reported in the media, Mr Field stated he did not recall the actual conversation and what was said at that time. He continued by stating that the matter of one individual within the group being the possible source of information to the media was not discussed while he was present. To the allegation that at the gathering one of the members of the group was identified as the source of information to the media, and that Mr Field asked that person to move from their current house, Mr Field responded by stating that the allegation was totally untrue.
- [356] As for Ms Thaivichit, at her second interview before this inquiry, Ms Thaivichit did remember a party at her house on 2 October 2005. She added that she had lots of parties. When asked whether Mr Field, Mr Srikaew, Ms Phanit, Mr Wangkae, Mr Prachanan, Ms Ngaosri, and Mr Chaikhunpol were present, Ms Thaivichit replied that she did not recall that party. Ms Thaivichit was then asked if she remembered discussing the media with those people and Mr Field, she replied: *“Yes I asked him, I always ask him what is going on”*.
- [357] At that point in the interview Ms Thaivichit became upset. She stated that the reason for her upset was that she was having difficulties with her former husband because the media were using his family name, Thaivichit, in reports concerning Ms Jinda Thaivichit. I am not convinced that the explanation was the true reason for the disturbance, which came immediately upon her being asked whether she recalled discussing the media with those people, including Mr Field, who were named as being present at the party.
- [358] Ms Thaivichit was asked during the course of the interview whether anyone accused Mr Chaikhunpol of leaking the information to the media. She stated that

no one accused Mr Chaikhunpol or any other person of leaking the information: *“No one was accused. We were all surprised that they knew. We don’t know who was giving the information.”*

[359] Of those present at Ms Thaivichit’s house on 2 October 2005, Mr Chaikhunpol was the fourth person who participated in the inquiry. Unfortunately the only interview with Mr Chaikhunpol occurred on 25 October 2005. I was unable to determine that it was Mr Chaikhunpol who was alleged as being present until my second interview with Ms Thaivichit on 24 January 2006. Ms Thaivichit informed me that the name Somdaet, which was the name used in Police information, was a nickname of Mr Chaikhunpol.

[360] At my second interview with Ms Thaivichit, Ms Thaivichit was asked whether Mr Chaikhunpol still lived at the address which he had provided during his interview. Ms Thaivichit advised that he had moved to Otahuhu after that interview because the media involvement was becoming too great.

[361] This discussion upon that meeting of 2 October 2005 is effectively a sequel to the discussion upon Thais who had received immigration assistance from Mr Field, working on houses in New Zealand owned by Mr Field. My investigation into that meeting has been unsatisfactory because of several factors: the non-participation of five of the Thai people allegedly present at that 2 October 2005 gathering; and the denial by Mr Srikaew that he attended the gathering when his presence has been acknowledged by Mr Field.

[362] That state of affairs leaves an incomplete investigation into various issues including: whether the purpose of the gathering was to identify the source of the allegations involving Mr Field and Mr Chaikhunpol which appeared in the media; whether Mr Chaikhunpol’s moving from his former accommodation was a result of an effective edict from Mr Field; and, on a separate but related matter, whether those who were identified as being part of the gathering, but who declined to participate in the inquiry, did work on houses owned by Mr Field in consideration for Mr Field’s assistance on immigration matters – assistance which is established through the New Zealand Immigration Service records.

[363] Given the limitations on my powers of inquiry referred to in [9] above, if any of those issues is to be pursued further, that task must fall to some appropriately authorised authority.

5. PURCHASE OF 51 CHURCH STREET, OTAHUHU

5.1 *Circumstances surrounding the purchase*

5.1.1 *Factual background*

[364] Mr Patrick John Cole was born in Samoa and moved to New Zealand in the 1970s. Mr Cole has suffered from Parkinson's disease for the past ten years and, as a result, is unable to work. Mr Cole is also known as Ioane Muamua. Mr Cole is named Mr Muamua on his Driver Licence and Community Services Card. I was introduced to Mr Cole as Patrick Cole and I will refer to him as such.

[365] Mr Cole has three children: Simon, V and AG. Simon, the eldest, was introduced to me as Simon Tupou and I will refer to him as such.

[366] I found Mr Cole to be a very helpful and co-operative witness. However, his memory of the relevant events was sometimes confused. I have therefore preferred to rely on documentary evidence where available in determining the sequence of events.¹²⁸

[367] On 12 August 1985, the transfer of a property at 51 Church Street, Otahuhu to Mr Cole and his wife Fale Komiti Cole was registered.¹²⁹ In 1999, after Mrs Cole's death, Mr Cole became the sole owner of the property. On 27 August 2002, the transfer of a half share in the property to Mr Simon Tupou was registered.

[368] At the relevant times, the property at 51 Church Street was subject to two mortgages to Michael A Shanahan Nominees Limited and McDillon Holdings Limited.

[369] On 5 April 2004, Mr Cole visited the Maungakiekie electorate office of the Hon. Mark Gosche. Mr Cole met with Ms SO (a member of Mr Gosche's electorate

¹²⁸ Having regard to Mr Cole's medical condition, to which I have referred in [7] above, I decided that it was better for the interview to be conducted at Mr Cole's home rather than at the offices of Gilbert Walker, Lawyers. I take the opportunity to thank Mr Cole and his family for their assistance with the inquiry.

¹²⁹ That property is described at [265] above.

staff). Ms SO dealt with him as Mr Muamua. According to Ms SO's notes of the meeting, Mr Cole came to Mr Gosche's electorate office to seek assistance as he was not coping with his finances and day-to-day living. Mr Cole authorised Mr Gosche's electorate office to obtain his personal information held by Work and Income together with his medical history. Ms SO made inquiries with Work and Income as to whether he was entitled to home help or other community services or financial assistance.

[370] On 7 April 2004, Barfoot and Thompson prepared a property report and marketing proposal for 51 Church Street. The report was prepared for McDillon Holdings Limited, one of the mortgagees of the property. The report contains an "*assessment of value*". When providing me with the report, Barfoot and Thompson made clear that this did not constitute a valuation. However, it remains a useful indication of the property's potential value at that time. The "*assessment of value*" estimated a current market value of \$245,000-\$255,000 and a mortgagee sale value of \$210,000-\$220,000. There is no reason to believe that Mr Field or Messrs Cole and Tupou would have seen this valuation at any relevant time.

[371] On 13 April 2004, the property was listed for mortgagee auction by Barfoot and Thompson. The mortgagee auction was scheduled for 12 May 2004.

[372] On 13 April 2004, Mr Cole returned to Mr Gosche's electorate office, this time with his son V, and again met with Ms SO. Mr Cole informed Ms SO that his house was going to mortgagee sale. Mr Cole asked if he and his children qualified for a Housing New Zealand home. Ms SO informed him that he did not because, at that point, he was still a home owner. However, she advised Mr Cole that they would support his application if his house was sold. She asked Mr Cole to have his solicitor contact the office or to ask Mr Cole's older son, Simon, to visit the office. Ms SO stated in her later notes of the conversation that it was very difficult for Mr Cole to remain focused during the interview.

[373] Ms SO's notes also record that, in May 2004, the Mangere electorate office contacted Mr Gosche's office requesting a telephone number for Mr Cole. The Mangere electorate office stated that Mr Field was now dealing with the family.

[374] Around this time, presumably some time after Mr Cole's second visit to Mr Gosche's electorate office on 13 April 2004, Mr Cole approached Mr Field's electorate office and met with Mr Field. Mr Cole sought advice and assistance from Mr Field in relation to the upcoming mortgagee sale. In a written statement by Mr Field, dated 27 September 2005, Mr Field stated "*His family was in considerable financial difficulty. They were desperate, and the situation was critical*". Similarly, in his first interview with me, Mr Field stated that Mr Cole came to see him "*out of desperation because he was saying that they were faced with the loss of their house, a forced mortgagee sale*".

[375] Mr Field's evidence is that "*fairly early on*" in that first meeting, Mr Cole discussed with Mr Field a family connection between them. In a statement, dated 27 September 2005, Mr Field stated: "*Mr Cole is part of my extended family. He is from the same village in Samoa. I consider him a family member. His children call me Uncle.*" In a later statement, dated 22 May 2006, Mr Field stated:

"...Mr Cole is the cousin of the wife of my cousin whom I grew up with in Samoa. There is a close connection. My cousin and his wife (Mr Cole's cousin) and Maxine and I keep close contact. Mr Cole Senior told me at our first meeting of the connection in Moata'a (the one I have described above) and our connection through two other villages where my father was a paramount chief."

[376] Mr Field told me that this family connection affected the way he viewed his dealings with Mr Cole, he stated that for him it was a family matter rather than dealings with a constituent.

"So all I am saying is that initially I looked at him as another constituent and any constituency problem but later on in knowing, and explaining that he was part of my extended family I believed that

the relationship and the approach changed. It was no longer an issue of dealing with just another constituent; it was actually dealing with part of the family who were in a desperate situation in terms of their finances.”

[377] The inquiry spoke with Mr AL and Mrs Tina Aleasi (Mr Field’s “... *and his wife*” referred to in the statement above). Mrs Aleasi confirmed a family connection between Mr Field and Mr Cole broadly along the lines stated by Mr Field.

[378] I asked Mr Cole whether he had any family connections with Mr Field. The exchange was as follows:

Ingram: Now moving on to your dealings with Taito Phillip Field, are there any family connections between you and Taito Phillip Field?

Cole: No. Might be in ancestors, way back in...

Ingram: Yes, but not related?

Cole: No. I don’t think so.

Ingram: What about the same village or anything like that?

Cole: The next door village.

[379] Mr Tupou stated that he had called Mr Field “Uncle” on the basis that “*in our family tree he is related to us*”.

[380] I accept that there was a family connection between Mr Field and Mr Cole. However, it did not appear to have much influence on Mr Cole in his dealings with Mr Field.

[381] As a result of that meeting with Mr Cole, Mr Field met with Mr Jason Daya and another, of McDillon Holdings Limited, to discuss the possibility of avoiding a mortgagee auction. That approach was unsuccessful. Mr Field was accompanied by Mr Cole’s sons, Mr Tupou and V, at that meeting.

[382] Mr Field also approached Kiwibank to discuss the possibility of Mr Cole refinancing. In that regard, Mr Field enlisted the services of a South Auckland mortgage broker. On 23 April 2004, Kiwibank emailed Mr Field indicating that refinancing was not possible and recommending that a private sale was preferable to a mortgagee sale. I note the considerable assistance provided by Mr Field to Mr Cole at a time where the evidence indicates that there was no suggestion of an expectation that Mr Field might purchase Mr Cole's house.

[383] There is a conflict of evidence as to what happened next. Mr Field states that Mr Cole asked whether he would be prepared to purchase the house. Mr Cole stated that it was Mr Field who offered to purchase the property.

[384] Mr Field's evidence is that Mr Cole had obtained a valuation of the property. In a statement, dated 27 September 2005, Mr Field stated "*After obtaining an independent valuation from a real estate agent, Mr Cole suggested that I purchase the house. It was not my idea to buy the house. Mr Cole offered a sale price of \$259,000.00. I accepted that offer. I did not take any part in determining the sale price.*"

[385] In his first interview with me, Mr Field stated that he did not seek a valuation of the property himself. "*\$200,000 was the [Government] valuation I think at the time. And he came up with \$259,000 because he had talked to a real estate agent and he felt that was a fair price.*" And later: "*I was keen on giving a fair price and I felt that, given they talked to a real estate agent, and he got an assessment that that was fair enough*".

[386] During my interview with him, Mr Cole informed me that he did receive some advice from a friend who was a real estate agent at L.J. Hooker. According to Mr Cole, the friend's first name was D. His second name was Tongan and, according to Mr Cole, difficult to pronounce. Despite making inquiries, I have been unable to identify that person. There is no suggestion that a formal valuation was obtained by Messrs Cole or Tupou.

[387] Mr Stephen McDonald, barrister and solicitor, acted for not only Mr Field but also Messrs Cole and Tupou on the sale and purchase. Mr McDonald's office had worked on previous property transactions for Mr Field – the purchase and subsequent sale of a property at 42 Allen Street, Mangere and the sale of a property at 57 Kinghorne Street, Strathmore, Wellington. Mr McDonald also worked on subsequent property transactions for Mr Field. Ms B, a legal assistant at Mr McDonald's office who was principally involved in the Church Street transaction, was at all material times the partner of Mrs Maxine Field's son.

[388] On 6 May 2004, Mr McDonald wrote to Messrs Cole and Tupou advising that he had also been instructed by Mr Field as purchase in relation to the Church Street property. The letter continued:

“As this potentially creates a conflict of interest I am required to advise you of this fact. You will need to decide whether or not you wish us to continue to act for you on this transaction. In the event that you do not wish us to proceed could you please forward to me a letter confirming the same so that I may forward your agreement on to them.”

[389] Also on 6 May 2004, Mr McDonald's office sent a draft agreement for sale and purchase to Mr Field. That draft shows an original purchase price of \$245,000. This figure has been deleted and a new figure of \$259,000 has been written in. I interviewed Ms B. Her evidence was that the figure of \$245,000 was given to her by Mr Field before she prepared the draft. The draft was then returned to her with the new figure of \$259,000. That suggests that there was at least some negotiation over the price, contrary to Mr Field's written statement dated 27 September 2005.¹³⁰ At the second interview with me, Mr Field agreed that it was likely that the figure of \$245,000 was an initial offer from him and that the figure of \$259,000 was a counter-offer from Mr Cole:

¹³⁰ See [384] above.

“[W]e knew that the valuation of the property, the Government valuation was \$200,000 and I think at some point I wrote that \$245,000 that he then took away and came back saying that he had spoken with the real estate agent and he felt that \$260,000 was a more appropriate price.”

[390] Mr Field’s evidence at his first interview with me was that he was not initially aware that the property was jointly owned by Messrs Cole and Tupou.

“So I just left it to him really. I thought he was the father, he was speaking on behalf of his family and what he said will go. I just presumed he was speaking with authority that whatever he decided his family would go along with, whoever was involved in the ownership of the house.”

Mr Field stated that he first became aware of Mr Tupou’s legal interest in the land when he saw the sale and purchase agreement.

[391] I note that the signed agreement for sale and purchase is dated 6 April 2004. I consider that this date is incorrect and that the agreement was actually signed on 6 May 2004. This is consistent with a draft being created on the same day, and the transfer being signed a few days later.

[392] On 10 May 2004, Mr Cole signed the transfer. His signature was witnessed by Ms Elizabeth Maybir. The transfer also has a signature for Mr Tupou. I interviewed Mr Tupou on 22 November 2005. Mr Tupou stated that he never signed the transfer. The signature on the document does not resemble Mr Tupou’s signature on other documents I have seen. Further, Ms Maybir confirms that she only witnessed the signature of Mr Cole and that Mr Tupou was not present at the time she witnessed the transfer. It is therefore possible that Mr Cole signed the transfer for both himself and Mr Tupou. However, there is no suggestion that Mr Field was aware of this.

[393] Also on 10 May 2004, discharges of mortgage were signed by McDillon Holdings Limited and Michael A Shanahan Nominees Limited. That same day, Ms B wrote to Mr Field confirming that settlement had been completed and the mortgages discharged.

[394] The Cole family stayed on in the house for approximately seven weeks after the house was purchased by Mr Field. Ms B recalls being instructed by Mr Field to charge the Cole family rent at \$300 per week. This is supported by the accounts sent by Ms B on behalf of Mr Field to Messrs Cole and Tupou. The statement dated 11 June 2004 has a charge of \$1,200, being four weeks' rent. This amount was retained from the sum received from the sale. The statement dated 23 June 2004, refers to an additional three weeks' rent from 8 June 2004 until 28 June 2004, being \$900. This amount also appears to have been deducted from the proceeds of the sale. A copy of a cheque to Mr Field for \$900, dated 7 July 2004, is also on the file.¹³¹

[395] In his first interview with me, Mr Field stated that the Cole family was not paying any rent during that period. Similarly, in his second interview, Mr Field stated "*I certainly didn't require them to pay rent or anything*", and later, "*I never received any rent and I never collected any rent.*" On the second day of the second interview, Mr Field stated "*I do recall somebody saying to me that \$1,200 had been paid into my account. I thought it was part of the transaction. I didn't know it was rent.*" Mr Field remained uncertain about the additional \$900. Given the statements prepared by Ms B referred to above, I believe that the Cole family was paying rent to Mr Field. I do not understand Mr Field's difficulties in recalling this.

[396] On 8 July 2004, Mr Field's electorate secretary emailed Housing New Zealand supporting Mr Cole's application for a Housing New Zealand home.¹³²

[397] On 14 July 2004, Mr Field wrote to Housing New Zealand in support of Mr Cole's application for a house. In that letter, Mr Field stated that the Cole family

¹³¹ As for the Cole family remaining in the premises beyond that period see [275] note 102 above.

¹³² See Section 6.6 below.

were moving out on 17 July 2004. Mr Cole's tenancy in the Housing New Zealand house began on 16 July 2004. It is not clear whether the Cole family paid rent for the additional two and a half weeks in the house at Church Street between 29 June 2004 and 16/17 July 2004. I will separately consider Mr Field's correspondence with Housing New Zealand later in this report.¹³³

[398] After the Cole family moved out, Mr Field arranged to have the house renovated. It is not disputed that the house was in a poor state when purchased by Mr Field. According to Mr John Milne, there were a number of broken windows, the hot water cylinder and toilet were not working, the spouting was leaking, the interior required repainting, and the garden was overgrown with banana plants. In addition, Mr Field informed me that there was flooding in the basement, that the carpet needed replacing and that there were wires hanging from the walls.

[399] I have already discussed the renovation work that was done earlier in this report.¹³⁴ Mr Milne was engaged to co-ordinate the renovation work. His timesheet records that he started co-ordinating the work on the house on 28 August 2004 and ceased on 1 October 2004.

[400] According to the invoices I have been provided by Mr Field, Mr Field paid Mr Milne \$1,615 for his time spent working on the Church Street property. An additional \$2,557.93 was spent by Mr Milne on materials and services, although some of these would have been used on Mr Field's property at 73 Blake Road which was also being renovated at the time.

[401] I was also advised by Mr Field's solicitors that Ms Jinda Thaivichit, a friend of Mr and Mrs Field, organised painting work to be done. When Mr Milne began working in late August 2005, this painting work was already underway. I therefore presume that the painting work began shortly after the Cole family moved out. This is consistent with the recollection of Mr Tupou.¹³⁵ At an interview with me on 24 January 2006, Ms Thaivichit recalled that she paid \$400

¹³³ Ibid.

¹³⁴ See [271] et seq.

¹³⁵ See [275] above.

for this work and that Mr Field would have paid her some amount more than that.¹³⁶

[402] Mr Field also stated that he paid a Samoan Church group \$1,400 to clear the back garden of banana plants.

[403] It is unnecessary to determine the exact amount that Mr Field spent on renovating the property. Mr Field has advised that he spent \$29,825.98 on all his rental properties in the year ending 31 March 2005 and estimated that 60-70% of that was spent on Church Street. Therefore, on Mr Field's estimate, \$17,896 to \$20,878 was spent on renovating 51 Church Street.

[404] Mr Field sold the house in August 2005 for \$395,000. Therefore, some 15 months after purchase, Mr Field sold the property for a profit of approximately \$115,000 taking into account the money spent on renovations, an increase in value of around 44%.

[405] Mr Field provided me with an article from the *New Zealand Herald* dated 17 September 2005. The article states: "*Terry Costello, Barfoot & Thompson Papatoetoe branch manager, said working-class suburbs such as Otahuhu, where house prices have risen by 44 per cent, were coming into their own after years of neglect. Immigrants were fuelling the boom*". While the article is helpful, I note that the increases referred to compare prices in 2005 with prices in 2002. In this case, we are considering a shorter time frame.

[406] Mr Field also provided me with a transcript of a Radio New Zealand broadcast dated 28 September 2005. The transcript quotes Kiri Barfoot, manager of Barfoot and Thompson Highland Park, as stating that the difference between the \$259,000 purchase price and the \$395,000 sale price was fair in the current market: "*In the last 18 months to two years, a ballpark figure of price increases in Otahuhu would be about... around forty... forty, forty-one percent*".

¹³⁶ As to Ms Thaivichit allegedly paying Mr Phimpadcha the amount of \$400 for painting on 51 Church Street in October 2004 see [287] above.

5.1.2 *Discussion*

[407] I identify those matters relating to the purchase of 51 Church Street as being relevant in terms of Clause 3 of the Terms of Reference. Two factors are of particular importance. First, notwithstanding Mr Field's contention that the relationship between Messrs Cole and Tupou of the one part and Mr Field of the other part was one of family, I find that Mr Cole approached Mr Field in his capacity as a member of Parliament. While that relationship, at least from the perspective of Mr Field, may have developed into one which embraced some characteristics of extended family, I consider that at no time was that member of Parliament - constituent relationship extinguished. In those circumstances, Mr Field was required not to take advantage of the position of Messrs Cole and Tupou who were relying upon Mr Field to act in their interests. Secondly, in fulfilling that requirement, it was necessary that Mr Field ensured that Messrs Cole and Tupou had independent legal advice and that the purchase represented a fair market transaction. In that regard, Messrs Cole and Tupou were afforded the opportunity to obtain separate legal advice on the transaction but declined to do so. There is no evidence that Messrs Cole and Tupou were disadvantaged by the transaction. It was in their interests to avoid a mortgagee sale and there is evidence that the price paid by Mr Field was a fair market price. Further, on the basis of the evidence, and taking into account the renovation work done, the increase in the value of the property at the time of the subsequent sale by Mr Field was in line with market trends.

5.2 *Subsequent conduct of Mr Field in relation to television interview*

5.2.1 *Factual background*

[408] From the perspective of this inquiry, the sequel to that purchase from Messrs Cole and Tupou to Mr Field of 51 Church Street occurred on Television One on 27 September 2005. First, a news item on the purchase appeared on the 6.00 p.m. news. Then on Television One's *Close Up* programme that same evening there was an interview with Mr Tupou. During the course of that interview, a statement

signed by Mr Cole was produced by the interviewer. The text of that statement read as follows:

“I Patrick Cole can verify the statement by the Hon. Taito Phillip Field MP for Mangere is true and accurate, that I determined the price of our house at 51 Church [sic], Otahuhu for sale to him at \$259,000.00 as this was the advice I was given by a real estate agent and on that basis the sale agreement was agreed to. I appreciate the help that Taito tried to salvage our home but in the end the best option was to have a private sale as advised by the Kiwi Bank advisor.

I Hereby verify as [sic] this as a true recollection of my agreement and request to Taito Phillip Field over the sale of the house at 51 Church Street, Otahuhu.

Signed Patrick Cole”.

[409] Amongst the material provided to me by Chen Palmer and Partners were copies of three press statements issued by Mr Field dated 27 September 2005. All three statements related to the purchase by Mr Field of 51 Church Street. The third of those statements reads: *“Further to my statement earlier today, attached is the signed statement provided to me by Patrick Cole.”* The document annexed to that press release is that statement which is quoted in [408] above.

[410] I consider that the circumstances surrounding the obtaining of that statement from Mr Cole need to be identified in terms of Clause 3 of the Terms of Reference.

[411] In his interview with me on 23 November 2005, Mr Cole advised that a woman who is involved in his care had contacted Television One concerning Mr Field’s purchase of 51 Church Street. Television One had then contacted Mr Cole, and an interview with Mr Tupou was filmed at Mr Cole’s house on 27 September 2005. It was that interview which appeared on Television One news at 6.00 p.m. that night.

[412] As to the written statement set out in [408] above, Mr Cole explained that, during the course of the day of 27 September 2005, he received a telephone call from Mr Field who, according to Mr Cole, told Mr Cole to tell his son, Mr Tupou, “*to back off*” and that Mr Tupou “*is ruining his [being Mr Field’s] name*”. Mr Cole continued by stating that Mr Field had advised him in that telephone conversation that he was sending someone from Mr Field’s family to have Mr Cole sign a form stating that he had nothing against Mr Field. I accept that evidence of Mr Cole which was not challenged by Mr Field.

[413] According to Mr Cole some people did come over with a statement for him to sign. During the course of my interview with Mr Cole, the written statement referred to in [408] above was shown to Mr Cole who confirmed that the signature on the document was his.

[414] As to the contents of that statement referred to in [408] above, Mr Cole indicated that he did not recall the document that he signed making reference to “*the Kiwibank advisor*”. Amongst the material which has been provided to me by Chen Palmer and Partners, the only document relating to Kiwibank is an email dated 23 April 2004 from Kiwibank to Mr Field which advised that refinancing was not possible, and that a private sale was preferable to a mortgagee sale. At my interview with Mr Cole, that email from Kiwibank was shown to Mr Cole who advised that he had not previously seen the email, and that he had never been told about the recommendation from Kiwibank. I have previously indicated that during my interview at times I found Mr Cole’s memory to be confused, although he was always co-operative;¹³⁷ that confusion was present during part of that aspect of the interview relating to the events of 27 September 2005. That confusion must apply to Mr Cole’s suggestion that the document he signed contained no reference to Kiwibank. Clearly, Mr Cole did sign the document in question. However, on the matter of the Kiwibank email and the associated recommendation, Mr Cole impressed me as having a clear understanding; and I have no reason to question that what he told me in that regard was the truth.

¹³⁷ See [366] above.

[415] Confusion also attaches to the events of the evening of 27 September 2005, following the screening of the two Television One items relating to the sale of 51 Church Street. Mr Cole advised me that he was taken to hospital that evening with breathing problems. However, my inquiries did not reveal such a hospital visit.

[416] Mr Field stated that, on 27 September 2005, he contacted Mrs Tina Aleasi, who is related to Mr Cole,¹³⁸ and arranged for her and her husband, Mr AL, to draft, and to take to Mr Cole for signing, a statement which recorded what Mr Cole and Mr Field had discussed on the telephone that day concerning Mr Field's purchase of 51 Church Street. Mr AL and Mrs Aleasi confirmed that they did draft the statement referred to in [408] above.

5.2.2 Discussion

[417] Relevant factors to emerge from that factual background include the following. First, at the time that Mr Field obtained the statement which he released to Television One, this inquiry had commenced; Mr Field ought to have been aware that the signed statement by Mr Cole was likely to be a relevant matter in the inquiry. Secondly, there is the matter of Mr Field telephoning Mr Cole and advising Mr Cole to have his son, Mr Tupou, to “back off”. That telephone call was made on the same day as Mr Field's three press statements which suggests that Mr Field was keen to close down media comment relating to his purchase of and subsequent resale of 51 Church Street. Those matters relating to the conduct of Mr Field are raised pursuant to Clause 3 of the Terms of Reference.

¹³⁸ See [377] above.

6. ADDITIONAL ALLEGATIONS OF MISCONDUCT BY MR FIELD

[418] I have previously identified a miscellaneous collection of further alleged improper conduct on the part of Mr Field. I proceed to consider each of those matters under Clause 3 of the Terms of Reference.¹³⁹

6.1 *Direction in relation to state primary school places*¹⁴⁰

[419] In a letter dated 3 October 2005 to you, as Prime Minister, Mr Rodney Hide M.P. expressed concern that Mr Field had been using his office “*to instruct South Auckland Schools to enrol students who aren’t entitled to be enrolled*”. The letter referred to two instances at one school where immigrant families turned up to the school in question with a letter from Mr Field asking the school to enrol their children; the school checked with Immigration and discovered that the children were not entitled to be enrolled.

[420] I interviewed Mr Hide and he advised that he had been approached by a person expressing concern about letters written to a school on behalf of immigrants whose children were not entitled to attend the school; the letters requested that places be found for the children. Mr Hide stated that as a result of the school conducting a check into their immigration status, the children were not enrolled.

[421] During the course of my interview with Mrs Sylvia Taylor,¹⁴¹ Mrs Taylor referred to letters being written by Mr Field to at least two South Auckland primary schools seeking places for the children of overstayers. Mrs Taylor had not seen

¹³⁹ At [21] note 24 above, I refer to two allegations contained in information received by the Police, and provided to me by the Police, through the Serious Fraud Office. On 14 December 2005, I interviewed Mrs Sylvia Taylor who may be viewed as a political rival of Mr Field in that in two General Elections she has been a candidate standing against Mr Field. During the course of her interview with me, Mrs Taylor made the first four allegations which I examine in Section 6 of this report. During the course of that interview Mrs Taylor referred in a general manner to allegations of Mr Field providing immigration assistance to the proprietor of a South Auckland rest home, and to the proprietor of a South Auckland supermarket in consideration for election campaign funding. The allegations were so general that there was no substantive matter which could be usefully either investigated further or put to Mr Field. Mrs Taylor also referred to an allegation of Mr Field profiting from an English language school on a marae. The allegation was of a general nature, lacking in any specifics which could be usefully either investigated further or put to Mr Field. Mrs Taylor did volunteer to inquire of her informant in relation to the English school as to whether that person would participate in the inquiry, but nothing eventuated.

¹⁴⁰ See [7] note 8 above.

¹⁴¹ As to Mrs Taylor, see [426] note 139 above.

any such letters, she was unable either to provide better particulars of the contents of the letters or to state whether or not any of the schools in question had enrolled those children.

[422] The matter of the letters to schools first came to my attention with the receipt of a copy of the letter referred to in [418] above after my initial interview with Mr Field. However, upon my receiving that letter, Chen Palmer and Partners was invited to obtain instructions from Mr Field on the matter. By a letter to the inquiry, dated 14 October 2005, Chen Palmer and Partners replied to the allegation concerning the use of the Minister's influence to instruct South Auckland schools to enrol students who were not entitled to be enrolled. After stating that, given that Mr Hide's letter did not name the child or school concerned, it was not possible to comment on the particular case, Chen Palmer and Partners continued by specifying that Mr Field had, on occasions, in his capacity as the member for Mangere, written letters to schools regarding the enrolment of immigrant children. It was further stated that the circumstances in which such a letter could be written were where a child was awaiting final determination of his or her immigration status and where Mr Field's electorate office staff considered that there was a high likelihood that a permit would be granted. The submission was made that Mr Field's actions did not amount to an "instruction" to schools to enrol children, but rather amounted to an appeal to the schools to consider the circumstances of the particular child's case with a view to that child continuing at that school.

[423] With that letter were two documents which were said to be examples of letters from Mr Field to schools regarding the enrolment of immigrant children. Those two letters, which are the only such letters provided to me in my investigation, are undated, addressed to the Principal, Otahuhu Primary School, and written on behalf of the same family. In each instance, the letter states that the family in question has approached Mr Field's electorate office for assistance in relation to residency applications, that a response is awaited from the New Zealand Immigration Service, and that, in one instance, it is "*respectfully requested*" that the child should be allowed to attend the school, and in the other instance that the children be allowed to continue their education at the school.

[424] In terms of the Education Act 1989, a student who is not a New Zealand citizen or the holder of a residence permit under the Immigration Act 1987¹⁴² cannot be enrolled at a state school without the consent of the Board of Trustees of that school,¹⁴³ and cannot receive tuition at a state school unless that student is paying fees as a foreign student in the manner prescribed in the Act.¹⁴⁴

[425] At my second interview with him, Mr Field advised that the Mangere electorate office staff had informed him that approximately 15 to 18 letters of request for attendance at schools had been issued by Mr Field over a three year period. Mr Field confirmed the statement contained in the letter from Chen Palmer and Partners dated 14 October 2005 that he had not been aware that those children were not entitled to be enrolled until the matter was drawn to his attention as a result of the allegation made to this inquiry, he now understands that children in this situation cannot be lawfully enrolled without the requisite immigration consent, and that neither he nor his staff will be sending further letters of request. Mr Field's current understanding concerning the ability of a state school to enrol a foreign student needs to be qualified by the situation relating to foreign fee paying students referred to in [424] above.

[426] During his interview Mr Field stated that he was not aware at the time of the writing of those letters referred to in [425] above that it was not lawful of those school principals to enrol those foreign students. I accept that evidence.

[427] In those instances where, in his letters to state school principals, he was requesting those principals to enrol foreign students, Mr Field was inviting those principals to act unlawfully. However, as appears from [426] above I accept that

¹⁴² Consistent with s.2 of the Education Act 1989, I refer to such a student as a "foreign student".

¹⁴³ Education Act 1989 s.4(1).

¹⁴⁴ Ibid s.4B. Under the Education Act 1989, s.4(8) an exception to that fee paying requirement of foreign students is created to the extent that with the consent of the principal of the state school that student may, for a period of no greater than 28 consecutive days (or any longer period that the Secretary of Education approves for any particular student), receive tuition at or from that school without the consent of the Board of Trustees of that school, and without paying the amount required of a foreign fee paying student. However the student receiving tuition for up to that 28 day period in terms of s.41(8) of the Act would not be enrolled at the School.

Mr Field did not know that it was unlawful for those principals to enrol foreign students.

6.2 *Alleged direction by Mr Field for improper payment to be made to Mrs Maxine Field and the acceptance of that improper payment by Mrs Field*¹⁴⁵

[428] It was reported in the *New Zealand Herald* on 24 September 2005 that Mr Field's wife, Mrs Field confirmed that she had received money from a staff member in Mr Field's Mangere electorate office despite Parliamentary rules which prevent the spouse of a member of Parliament from being employed in that electorate office.¹⁴⁶ The report continued by stating that Mrs Field had said that she accepted money from a part time member of the staff, Ms Loimata Lilo, because Ms Lilo had insisted, and that Ms Lilo had said that she had wanted to share with Mrs Field, who was "*doing most of the work*".

[429] The *New Zealand Herald* report also referred to an email being sent from Ms Naomi Alaiasa. At the relevant time, Ms Alaiasa was Mr Field's Private Secretary. The newspaper article referred to the email as advising the Mangere electorate secretary, Ms Maria Coady, to inform Ms Lilo that she would need to share some of her salary with Mrs Field during a period when Mrs Field was to be providing temporary services in the Mangere electorate office.

[430] At her interview with me, Mrs Taylor provided me with a copy of the relevant email exchange dated 9 August 2002.

[431] The first of three emails was from Ms Alaiasa to Ms Coady, who was about to go on leave, requesting that Ms Coady inform Ms Lilo that "*the salary payment she will be paid from Members Services, she will need to share some of that income with Maxine [being Mrs Maxine Field] as Maxine is also assisting her with the workload cover for that period, as I understand that Loimata is not totally fluent in English. She will need to discuss with Maxine or Phillip that side of things*".

¹⁴⁵ See [7] note 5.

¹⁴⁶ The current rule is contained in Parliamentary Services "*Members' Handbook of Services*" (2005) Section 5.1.2; and Parliamentary Services "*Out-of-Parliament Support Staff Recruitment*" (2005).

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- [432] The second email was a reply to Ms Alaiasa from Ms Coady which, after acknowledging the request referred to in that first email, commented in relation to Ms Lilo that “*she is very fluent in English and I know she will be the one doing all the work...*”. The response from Ms Alaiasa to Ms Coady, in an email dated 9 August 2002, was that “*it’s as requested by MP*”.
- [433] As part of this investigation, Ms Lilo was interviewed by the inquiry. Ms Lilo explained that, while initially she was a volunteer working within Mr Field’s electorate office, at some time she became a paid worker within the office, working 10 hours per week; her pay rate was \$10 per hour when she commenced on wages. At the time when Ms Lilo became a part-time paid worker within the office, there were two other women employed in the office, namely Ms Coady, a secretary, and Ms P, a receptionist. It seems that both Ms Coady and Ms P were on leave at the same time.
- [434] Ms Lilo stated that while Ms Coady was on holiday overseas for one or two months, Mrs Field came into the electorate office and did voluntary work, including answering telephones and providing lunches. Ms Lilo observed the work being done by Mrs Field, and on Ms Lilo’s first or second paid day in the office she gave Mrs Field some money, perhaps \$50. In explanation Ms Lilo stated that she felt happy that she was receiving money, so she gave the money to Mrs Field. Ms Lilo continued by stating that Mrs Field told Ms Lilo not to give the money; but in response Ms Lilo put the money in Mrs Field’s pocket, and told Mrs Field that she, Ms Lilo, would feel bad if Mrs Field did not accept the money.
- [435] In response to that part of the *New Zealand* article referred to in [428] above, Ms Lilo indicated that the article was wrong in stating that Ms Lilo wanted to share with Mrs Field who was doing most of the work. Ms Lilo advised the inquiry that she did not regard herself as sharing the payment, but rather she had received money for the work and she should be entitled to give away some of that money if she so desired.

[436] Two other aspects emerged from the interview with Ms Lilo. First, in the *New Zealand Herald* article on 24 September 2005, in relation to money coming from Ms Lilo, Mrs Field is quoted as stating “*I couldn’t help it, because I gave it to her and she put in my pockets.*” “*She’s still doing it now.*” Ms Lilo told the inquiry that, in relation to Mrs Field’s voluntary work in the electorate, Ms Lilo had only on the one occasion referred to in [434] above put money in Mrs Field’s pocket. She further explained that if on subsequent occasions she had put money in Mrs Field’s pockets, such moneys would have been contributions to weddings, funerals, and the like.

[437] The second additional aspect which emerged from the interview with Ms Lilo was that she stated that she did not recall Ms Coady requesting her to share her electorate office income with Mrs Field. As a result of Ms Coady declining to participate in the investigations, I was unable to pursue further the matter of any request being made to Ms Lilo by Ms Coady.

[438] Mrs Naomi Aliva, formerly Ms Naomi Alaiasa,¹⁴⁷ told the inquiry that, in relation to the email dated 9 August 2002 referred to in [429] – [430] above, she had misunderstood what Mr Field had told her with respect to Ms Lilo; she was distracted at the time that she received instructions from Mr Field on the matter, she had not written down those instructions, and when Mr Field had asked her about the matter a few days after 9 August 2002, she explained to Mr Field that she must have misunderstood and she apologised to Mr Field. Mrs Aliva further stated that she could not remember what were the instructions which Mr Field had issued.

[439] In her interview with me in relation to the matter referred to in the *New Zealand Herald* on 24 September 2005 referred to in [428] above, Mrs Field stated that Ms Lilo insisted that Mrs Field take the money, and had put the money in Mrs Field’s pocket. Mrs Field recalled that when she got home she found that she had been given either \$100 or \$150. Mrs Field stated that the amount was not a whole week’s pay. However as referred to in [433] above, Ms Lilo has stated that she

¹⁴⁷ See [429] above.

was being paid \$10 per hour, and working part time 10 hours per week; on that basis \$100 would have represented a week's pay for Ms Lilo.

[440] Mrs Field further stated that only on the one occasion did Ms Lilo give Mrs Field money in relation to work at the Mangere electorate office. As to the reference in the *New Zealand Herald* article on 24 September 2005 to Ms Lilo's "still doing it now" referred to in [436] above, Mrs Field stated that she did not intend to indicate that Ms Lilo was still putting money in Mrs Field's pocket; rather she intended to suggest that Ms Lilo continued to give money to other people as part of a Samoan way of giving money in lieu of a present. And as to the email referred to in [429] – [432] above, Mrs Field stated that she was not aware of the matter until it was raised in the media.

[441] The matter of the alleged sharing of Ms Lilo's income was discussed with Mr Field during Mr Field's second interview. Mr Field stated that while he had not seen the email referred to in [429] – [432] above prior to that interview, he had seen reference to it in the *New Zealand Herald* article dated 24 September 2005, and that he was also aware of the substance of that email as a result of an inquiry into the matter which had been conducted by Mr David Benson-Pope as Senior Whip.

[442] During his interview, Mr Field stated that he had not told Ms Alaiasa to request Ms Lilo to share income with Mrs Field, that rather he had told Ms Alaiasa that Ms Lilo would have to share extra time with Mrs Field so as to ensure that two staff members were present at any time. Mr Field continued by stating that at all relevant times he was aware that it would be inappropriate for any Government income to be shared with Mrs Field in that manner. In addition, Mr Field expressed his understanding that Mr Benson-Pope had spoken to Ms Alaiasa and had confirmed that a mistake or misunderstanding had occurred, and that Mr Benson-Pope had seen no reason to take the matter further.

[443] As part of my inquiry, I raised with Mr Benson-Pope the matter of any investigation undertaken by him into the matter of the request made by Ms Alaiasa for the sharing of Ms Lilo's income. By way of response, in a letter dated

7 March 2006, Mr Benson-Pope stated inter alia that Parliamentary Services would at times involve him, as Senior Whip, in matters relating to his caucus colleagues, their offices and staff. In the case of Mr Field's Mangere electorate office, Mr Benson-Pope undertook work with regard to staffing workloads, and relationships. With regard to the email referred in [429] – [432] above, Mr Benson-Pope confirmed that he was told by Ms Alaiasa that she had sent such an email on the basis of her understanding of what she took to be Mr Field's wishes. Mr Benson-Pope continued in his letter by stating that Mr Field had independently raised the matter with him – in particular Mr Field's knowledge of a suggestion having been made that Mrs Field had been paid "under the table" at the Mangere electorate office – and that Mr Field had assured him that no such payments had been made. Mr Benson-Pope recalled that the matter was identified relatively quickly as a misunderstanding.

[444] Having regard to the comments in the *New Zealand Herald* relating to payments by Ms Lilo to Mrs Field, I considered that the appropriate course was to provide within this report as full account of events as was possible notwithstanding that the matter has already been addressed by the Senior Whip. If the matter is to be pursued further, that task would seem to fall to Parliamentary Services. However, given the investigations conducted by and the explanations given both to the Senior Whip and to me, it may be that no point would be served by any further inquiry in that matter.

6.3 *Acceptance by Mr Field of monetary payments by way of lafo*

[445] Mrs Sylvia Taylor in her interview, related a general suggestion that some people in South Auckland had given money to Mr Field with a view to seeking a political favour from Mr Field, either on that same occasion or on some future occasion. No particulars were provided in support of the suggestion. And while Mrs Taylor was invited to have those who were voicing concerns to her in relation to this matter – something which Mrs Taylor likened to the provision of *koha* in Maori culture – write to the inquiry articulating their complaints, no such letters were received.

[446] Although Mrs Taylor's suggestion was both general and unsubstantiated, I regarded the matter as being a grave allegation which Mr Field ought to be given the opportunity to address. Mr Field's responses, while not lending any substance to the concerns raised by Mrs Taylor, did raise the issue of the perceptions which may attach to the Samoan cultural practice of *lafo* within a New Zealand context, in circumstances where the recipient of the gift is a member of Parliament. However, before embarking upon that discussion it is appropriate that I acknowledge that there is no suggestion of actual impropriety on the part of Mr Field in relation to the particular matter; rather it is the perceptions which may flow from the practice which give cause to reflect whether the practice is a matter which Parliament may wish to address.

[447] I begin by referring to a brief but useful discussion upon the subject of *lafo* in the political arena contained in an article in the *New Zealand Herald* on 24 September 2005 in which the practice is expressed as "*mutual gift-giving and service*". The article continues with reference to Mr Palelei Vaialese, the founder of the newspaper *Samoana* in Auckland in 1979, stating that if anyone in Samoa wants something from a chief or a member of Parliament, the normal practice is to give a donation or *lafo*. The article quotes Mr Vaialese as follows:

"I myself as an example, most of the time I'd go and see the Prime Minister or my MP [in Samoa], I said 'Okay, I've come to see you about help with my immigration papers, can you help me?' Then I said, 'Here's your lafo to have breakfast or dinner.'

The more people who come to the office each day, the more lafo you have. By the end of the day you make almost \$500, or almost \$1000, all through lafo.

*Then the next day you come back and bring food for them. It's not really bribery. It's not like when you go and see a Palagi [European]."*¹⁴⁸

[448] It is not *lafo* in the style referred to by Mr Vaialese which has given rise to concern in this inquiry, but rather the indication made by Mrs Field that pursuant to Samoa culture, in Fa'a Samoa, at a big wedding or a funeral Mr Field, as a chief and Minister of the Crown, would be seated in the front of the ceremony and receive *lafo* which is usually placed in an envelope. Mrs Field expressly referred to her having received *lafo* in such circumstances where Mr Field was unable to attend, and the *lafo* was given to her on behalf of Mr Field. Mrs Field advised that practice occurs in New Zealand.

[449] At his second interview with me, Mr Field confirmed the practice of *lafo*. Mr Field advised that at a lesser level, on occasions elderly Samoans, as they depart from Mr Field's electorate office, may throw a \$10 note or a \$20 note to one of his secretaries, saying that is towards lunch or some such thing. Mr Field continued by stating that in such instances the usual response from his office is that the gift is not necessary, but that on occasions the donor will take the rejection as an insult and walk out if the money is not accepted. Mr Field explained that in the event of the *lafo* being effectively forced upon them in such circumstances, a record or receipt of the payment is made.

[450] Mr Field acknowledged that on occasions more significant gifts or donations are made; he referred to an instance of a \$500 gift. Mr Field stated that in such instances his approach was to advise the donor that the payment was unacceptable but that if the donor insisted that Mr Field accept the gift, then he would donate the money to a church or charity as he did in the case of the \$500 gift.

¹⁴⁸ The article continues by stating that in Otago, where Mr Field became a member of Parliament in 1993, and in Mangere, where he moved in 1996, those customs are still so strong that a sign had to be put in Mr Field's electorate office, after a visit by Parliamentary Services in 2002, stating that services provided in the electorate office are free. On 20 September 2005, an email from Simon Collins of the *New Zealand Herald* to Parliamentary Services was provided to the Prime Minister's Office. That email referred to an allegation of Mr Field in 2002 accepting donations from people who came to the Mangere electorate office for assistance. A copy of that email was provided to me by the Department of the Prime Minister and Cabinet on 21 September 2005.

[451] To the extent that the Cabinet Manual provides assistance upon this matter, two provisions are relevant. First, paragraph 2.68 of the Cabinet Manual provides:

“The exchange of gifts during official government visits is an accepted practice; a refusal to accept is likely to cause offence... If Ministers wish to retain gifts received in New Zealand or overseas, they may do so if the estimated value is under NZ\$500. If the estimated value is NZ\$500 or more, the gift may be retained while in office but must be declared on the individual’s schedule of interests.”

Secondly, paragraph 2.69 of the *Cabinet Manual* provides:

“To avoid the creation of appearance of an obligation, gifts in cash or kind are not to be solicited or accepted from a commercial enterprise or any other organisation. An exception to this would be the acceptance of some small unsolicited token, for example, a presentation made during a visit to a marae or a factory.”

[452] On Mr Field’s own evidence, the amounts constituting *lafo* could be as little as \$10 or \$20 or as great as \$500. Such gifts would not necessarily fall within paragraphs 2.68 and 2.69 of the Cabinet Manual.

[453] I emphasise that make no finding against Mr Field upon this matter. However, the adverse perception which may attach to the practice of *lafo* when the gift is received by a Minister of the Crown may be a matter which warrants your further consideration as Prime Minister.

6.4 Alleged breaches of the Local Electoral Act 2001

[454] During her interview with me, Mrs Sylvia Taylor raised a further three matters, each of which involved allegations directed towards Mr Field’s involvement in the local body elections in 2004, as those elections related to the Mangere Ward.

6.4.1 *Alleged influencing of voters*

[455] The first matter of which Mrs Taylor complains is based on a letter, dated 10 September 2004, issued under the name of Hon. Taito Phillip Field, member of Parliament for Mangere. Mrs Taylor stated that this letter was delivered to Mangere residents.

[456] Mrs Taylor complains that the letter contravenes s.122 of the Local Electoral Act 2001, which provides that it is an offence to interfere with or influence voters in the manner prescribed therein. It is evident from the material provided to me by Ms Taylor that the Police Legal Section investigated her complaint and determined that there had been no breach of s.122 of the Act. I consider it unnecessary and inappropriate for this inquiry to investigate this matter further.

6.4.2 *Alleged publishing of advertisements for candidates*

[457] The second complaint of Mrs Taylor is that, contrary to s.113 of the Local Electoral Act 2001, Mr Field had caused an advertisement or advertisements to be published on behalf of the Mangere Labour Team, yet such advertisements did not contain either the name of the person or persons for whom or at whose directions the advertisements were published or the address of the residence or place of business of the person so responsible. Mrs Taylor did not provide any evidence that it was Mr Field who had caused the advertisement or advertisements to be published.

[458] The Police advised Mrs Taylor that the Police Legal Section had investigated her complaint and had advised that no legal action would be taken in relation to this matter. I consider it unnecessary and inappropriate for this inquiry to investigate this matter further.

6.4.3 *Alleged failure to transmit returns, and the transmission of false returns*

[459] The further complaint or complaints made by Mrs Taylor concern not only the filing of late returns of electoral expenses but also the filing of false returns by certain Labour candidates in the Mangere Ward in the 2004 local body elections.

[460] The alleged offences arise under ss.133 and 134 of the Local Electoral Act 2001 which provide respectively that every candidate commits an offence who fails to transmit a return of electoral expenses in the prescribed form and within the prescribed period, and that, inter alia, every candidate commits an offence who transmits a return of electoral expenses knowing it to be false in any material particular.

[461] I consider that there is no basis for any allegation that Mr Field had breached ss.133 and 134 of the Local Electoral Act 2001 in circumstances where Mr Field was not a candidate in the local body election.

6.5 *Alleged exporting of tiles under a foreign aid package*

[462] Mr Rodney Hide, M.P., during his interview with me, referred to an anonymous letter that he had received which suggested that tiles used on Mr Field's house in Samoa had been sent to Samoa under an aid package in order to circumvent tax.

[463] I raised that allegation with Mr Field and he agreed to provide to the inquiry the documentation in relation to that shipment of tiles.

[464] The document initially provided by Mr Field did not appear to relate to the shipment of tiles: the waybill described the items being shipped as personal effects; and the duty paid amounted to only 355.00 tala. Furthermore, the shipping of that container occurred in May 2005 which was inconsistent with the chronology of events relating to the tiling of the Field house in Samoa.¹⁴⁹

¹⁴⁹ See [103] above.

[465] Further copy documentation was provided through Mr Field's counsel which comprised the following: an invoice dated 18 February 2005 to Mr Field for the purchase of some 2,500 tiles, and various other items including 175 lengths of board, for a total amount of \$15,750.00 (GST inclusive); a receipt from PFL Cargo to Mr Field dated 22 February 2005 for \$3,250 for the shipping to Apia on the "Forum Rarotonga", voyage 65, of a containing of personal effects and building materials, with the estimated dates of departure and arrival being 24 February 2005 and 3 March 2005 respectively; a waybill issued by PFL Cargo dated 24 February 2005, naming Mr Field as the shipper and Mrs Field as the consignee, describing the contents of the container as building materials and personal effects, having Auckland and Apia as the place of loading and delivery respectively, and specifying "Forum Rarotonga" and voyage 65 as the intended vessel and voyage number; and a scheduler search result showing the "Forum Rarotonga" voyage 65 departing from Auckland on 25 February 2005 and arriving at Apia on 3 March 2005. Mr Field, through his counsel, advised that the container shipment on the "Forum Rarotonga" which left Auckland on 25 February 2005, arrived in Apia on 3 March 2005, and included the tiles for the Fields' house at Afiamalu in Samoa; the further indication was that the container was transported from the wharf at Apia to Afiamalu about four days after its arrival at Apia.

[466] Whereas in relation to the shipment referred to in [464] above, Mr Field provided an assessment notice and an official receipt from the Government of Samoa Customs Department, similar documentation was not produced to the inquiry in relation to the container shipment on voyage 65 of the "Forum Rarotonga". Instead Mr Field produced: a photocopy of a cheque dated 4 March 2005 drawn on the joint account of Mr and Mrs Field at the ANZ Bank, Apia for \$9,605.82 with the payee being the Customs Department; a copy of the relevant ANZ Bank, Apia branch joint account bank statement showing a cheque withdrawn in the sum of \$9,605.82 on 7 March 2005; and a copy letter from Mr PE, the Deputy Chief Executive Officer, Ministry for Revenue, Government of Samoa dated 18 January 2006 stating that "*the container sent in March consigned to Maxine Field was not declared as goods for any aid project but for their personal use in completing their home.*" The letter, which was written on a 'to whom it may

concern' basis, continued by stating that it had been confirmed to Mr Pereira by officers who dealt with that shipment that the container contained tiles, chipboard, and personal goods. The letter concluded with the statement that customs duties had been paid in full.

[467] On the evidence available, I consider that there is no basis for an allegation that the tiles were shipped by Mr Field to Samoa as a foreign aid package in order to circumvent any tax or duty otherwise payable.

6.6 *Alleged abuse of influence within Housing New Zealand*

[468] On 26 and 27 February 2006, there were newspaper reports upon Mr Field having written to Housing New Zealand Corporation in Otahuhu asking that there be approved, as soon as possible, an application by Mr Patrick Cole for a state house in circumstances where Mr Cole and his family had to leave their existing house which Mr Field had purchased.¹⁵⁰ Mr Phil Heatley, M.P., National's housing spokesman, was reported as stating that Mr Field's request to Housing New Zealand raised questions concerning whether Mr Field was using his position as a member of Parliament to remove himself from a difficult situation. The report continued by quoting Mr Heatley as stating "*There is a waiting list for Housing NZ homes in Otahuhu. If he was asking Housing NZ to jump these people up the queue to get himself out of a pickle, that is entirely inappropriate.*"¹⁵¹

[469] Shortly after those newspaper reports, I received from Mr Heatley, M.P., a letter dated 28 February 2006 attaching copies of two letters from Mr Field to Housing New Zealand in relation to an application by Mr Cole for a house. Those copy letters consist of an email dated 8 July 2004 from the office of Mr Field written by Ms T (a member of Mr Field's electorate staff), and a letter dated 14 July 2004 from Mr Field to Housing New Zealand.

[470] Prior to the publication of those newspaper articles, as an aspect of the inquiry, I sought from Housing New Zealand the Corporation's file in relation to Mr Cole

¹⁵⁰ See *Sunday Star-Times* 26 February 2006; *Dominion Post* 27 February 2006.

¹⁵¹ *Dominion Post* 27 February 2006.

and any other information held relating to Mr Cole. The consent of Mr Cole was obtained to facilitate that request. That file was provided by Housing New Zealand to the inquiry on 15 December 2005.

[471] That Housing New Zealand file together with supplementary explanatory information provided to me by Housing New Zealand reveals that, on 21 June 2004, Mr Cole made an initial inquiry concerning his obtaining a New Zealand rental house. A needs assessment interview was scheduled for 28 June 2004. However, as a result of Mr Cole's failure to attend that interview, on 29 June 2004 Housing New Zealand withdrew Mr Cole's application for rental housing.

[472] On 8 July 2004, Mr Cole returned to Housing New Zealand, and a needs assessment interview took place. The needs assessment interview sheet records, inter alia, that Mr Cole was a solo parent who had two children aged 14 and 15 living with him and whose home had been sold; that he was required to move from his current address; that he received no net proceeds from the sale of the house; and that he suffered from Parkinson's disease. Housing New Zealand advised that Mr Cole was asked to provide confirmation of the sale of his house.

[473] In relation to that request for confirmation, Mr Field's electorate secretary sent an email on 8 July 2004 to Housing New Zealand, Otahuhu, in respect of Mr Cole and 51 Church Street, Otahuhu, which stated:

"We write in support of Ioane Muamua [being Patrick Cole] and his children's application for a HNZ home. This is to confirm that Taito bought the above home.

I respectfully request your favourable consideration in allocating Mr Muamua and his children to a suitable home."

[474] I am advised by Housing New Zealand that, on 8 July 2004, following that needs assessment interview and the receipt of the email from Mr Field's electorate secretary, the Corporation gave Mr Cole, on a preliminary basis, an 'A' ranking for a Housing New Zealand rental house. An 'A' is the Corporation's highest

ranking housing priority, which is applied to “*at risk*” applicants.¹⁵² I am further advised by Housing New Zealand that the principal factors relevant to the granting of that ranking to Mr Cole’s application were that Mr Cole’s dwelling had been sold and that he had health difficulties in the form of Parkinson’s disease.

[475] Housing New Zealand advises that the email dated 8 July 2004 from Mr Field’s electorate office was sufficient evidence that Mr Cole needed to move out of his existing home, 51 Church Street. However, Housing New Zealand advised Mr Cole that evidence was required of the date on which Mr Cole was required to vacate that property. Mr Cole volunteered to obtain a letter from Mr Field specifying that date.

[476] There followed, on 14 July 2004, three events. First, Mr Cole brought to Housing New Zealand that letter dated 14 July 2004 from Mr Field to Housing New Zealand, Otahuhu which is referred to in [469] above. That letter states:

“This is to confirm that Ioane Muamua [being Patrick Cole] and family are moving out of the following property address: 51 Church Street, OTAHUHU on the 17th July 2004.

¹⁵² The degree of priority granted to an A ranked applicant is illustrated by the following rankings allocated to applicants on the waiting list for Housing New Zealand rental houses at the Otahuhu Neighbourhood Unit, to which Mr Cole applied, as at 11 July 2004 (being the end of the week in which Mr Cole was given a preliminary ranking of A):

Housing priority	Number of applicants
A	3
B	249
C	276
D	<u>41</u>
	569

The following figures which relate to the Mangere Neighbourhood Unit as at 11 July 2004 show a similar pattern:

Housing priority	Number of applicants
A	3
B	241
C	212
D	<u>60</u>
	516

We respectfully request if their application for a house could be approved as soon as possible as they have no place to move to when they leave the property.

That letter is signed by Ms Elizabeth Jones-Ataongo, Mr Field's electorate secretary, on behalf of Mr Field. The letter records that Mr Field is the landlord of 51 Church Street.

[477] Secondly, upon receipt of that letter written on behalf of Mr Field, Housing New Zealand confirmed that preliminary ranking of 'A' referred to in [474] above.

[478] Thirdly, by a letter dated 14 July 2004, Housing New Zealand advised Mr Cole that he was on the waiting list to rent a Housing New Zealand house, and it was acknowledged that Mr Cole required a home in South Auckland – Papatoetoe, Mangere, Otahuhu, or Mt Wellington.

[479] On 15 July 2004, Housing New Zealand allocated to Mr Cole a house situated at Burrell Avenue, Papatoetoe, which Mr Cole accepted. Mr Cole moved into that house that same day.

[480] That Burrell Avenue property did not prove to be a success because of difficulties for Mr Cole with access to the house arising from his Parkinson's disease. As a consequence, Mr Cole on 23 July 2004 made an inquiry to Housing New Zealand concerning the possibility of his transferring to another Corporation property. That same day, Housing New Zealand undertook a further needs assessment of Mr Cole. The result of that assessment was that Mr Cole was given a ranking for a transfer of 'B9' – a serious housing need. Housing New Zealand has explained that the reason for that B9 ranking was that while Mr Cole was living in a state house, and therefore had a permanent home, his problem in physically accessing that home was significant.

[481] On 24 July 2004, Housing New Zealand advised Mr Cole that his request to transfer to another Housing New Zealand property had been accepted. Then, on 21 September 2004, Mr Cole accepted a new tenancy offered by the Corporation

at a property in Mangere. And, on 11 November 2004, Mr Cole vacated the Burrell Avenue property and moved to the Housing New Zealand house in Mangere which provided better access.

[482] It is against the background of the factual matters referred to in [471] above to [480] above that I address the questions raised in [468] above. And in that regard I have three observations.

[483] First, from that factual background no indication emerges that Mr Field, in his communications with Housing New Zealand, was primarily motivated by the self-interest of having Mr Cole and his family vacate 51 Church Street as soon as possible. The email dated 8 July 2004 was sent by Mr Field's electorate office in response to a request to Mr Cole by Housing New Zealand that Mr Cole provide confirmation of the sale of his house.¹⁵³ And the letter dated 14 July 2004 was written on behalf of Mr Field in response to a request by Housing New Zealand that Mr Cole provide evidence of the date on which he was required to vacate 51 Church Street.¹⁵⁴

[484] Secondly, both the email dated 8 July 2004 and the letter dated 14 July 2004 clearly disclosed to Housing New Zealand Mr Field's private interest in the matter. In the case of the email dated 8 July 2004, Mr Field's electorate office specified that Mr Field had purchased 51 Church Street; and the letter dated 14 July 2004 recorded that Mr Field was the landlord of 51 Church Street.

[485] Thirdly, in relation to the question raised in [468] above concerning the jumping of the queue for Housing New Zealand houses in Otahuhu, it is beyond doubt that Mr Cole was accorded significant priority by Housing New Zealand in relation to that waiting list.¹⁵⁵ The issue becomes whether the granting of that priority was the result of the merits of Mr Cole's application or the result of Mr Field using his influence as a member of Parliament. The matters which emerge from not only the Housing New Zealand file but also the supplementary information provided

¹⁵³ See [472] – [473] above.

¹⁵⁴ See [475] – [476] above.

¹⁵⁵ See [474] note 152 above.

by Housing New Zealand do not suggest that the priority accorded to Mr Cole stemmed from any exercise of influence on the part of Mr Field. Instead, I consider that the high priority which was granted to Mr Cole arose from the merits of Mr Cole's application – his home having been sold and his suffering health difficulties from Parkinson's disease¹⁵⁶ together with those other factors which emerged from Mr Cole's first needs assessment interview.¹⁵⁷

¹⁵⁶ See [472] above.

¹⁵⁷ See *ibid.*

7. SUMMARY

7.1 *Introduction*

[486] By way of an overview of the report, I provide a summary of my investigations and determinations under Clause 1 of the Terms of Reference, of my identification of any conflict of interest prescribed in Clause 2 of the Terms of Reference, and of my identification of any other matters arising from or during the inquiry in terms of Clause 3 of the Terms of Reference.

7.2 *Investigation and determination under Clause 1 of the Terms of Reference*

[487] The requirement contained in Clause 1 of the Terms of Reference is that I investigate and determine the nature of Mr Field's relationship with Sunan Siriwan and his partner, and the extent of any involvement Mr Field may have had in applications for work permits for them. For the reasons contained in Section 3.1 of the report, I have reached the following conclusions.

- (a) Mr Siriwan, and his partner, Ms Phanngarm, have lived in Mr Field's house at Afiamalu, Samoa. They have also been housed in Samoa by Mr Field's extended family. Mr Siriwan has done extensive tiling work on Mr Field's house at Afiamalu. Mr Siriwan was not formally remunerated for this work, but he did receive money from Mr Field's family from the time of his arrival in Samoa in March 2005 and throughout his stay in Samoa. Such payments by Mr Field's family were directed towards supporting Mr Siriwan and not towards remunerating him for his services in relation to Mr Field's house. Mr Field may not have been aware until June 2005 that money was being provided by Mr Field's family.
- (b) Mr Field made personal representations to Mr O'Connor, the then Associate Minister of Immigration, on behalf of Mr Siriwan and Ms Phanngarm, requesting ministerial intervention in relation to their immigration applications. In that regard Mr Field wrote to Mr O'Connor on 25 February 2005 and 18 May 2005. He also met with Mr O'Connor

to discuss Mr Siriwan's case, along with others, on 14 March 2005 and 17 May 2005.

7.3 Identification under Clause 2 of the Terms of Reference

[488] Under Clause 2 of the Terms of Reference I am to identify whether any conflict of interest existed concerning Mr Field's involvement in the matter referred to in Clause 1 of the Terms of Reference. For the reasons contained in Section 2.3 of the report, the type of conflict to which I am to have regard relates to the requirement that Ministers are to ensure that no conflict exists or appears to exist between their private interests and the use of their influence as Ministers.

[489] For the reasons contained in Section 3.1 of the report, I report as follows:

- (a) I found no evidence that Mr Field told Mr Siriwan that he had an ability to control or influence the decisions of Mr O'Connor.
- (b) I found no evidence that Mr Siriwan was influenced in his behaviour by the fact that Mr Field was a Minister.
- (c) Mr O'Connor did not afford Mr Field any preferential treatment because of Mr Field's position as a Minister.
- (d) Therefore, in terms of Clause 2 of the Terms of Reference, I find that no conflict existed or appeared to exist between Mr Field's private interest and the use of his influence as a Minister.

7.4 Identification of other matters under Clause 3 of the Terms of Reference

7.4.1 Mr Field's failure to inform Mr O'Connor that Mr Siriwan was working on Mr Field's house in Samoa

[490] For the reasons contained in Section 3.1 of the report, in relation to Mr Field's involvement in applications for work permits in New Zealand for Mr Siriwan and

his partner, I identify two further factual matters which, in terms of Clause 3 of the Terms of Reference, may be of assistance to you, as Prime Minister, when considering Mr Field's conduct and behaviour.

[491] First, on 17 May 2005, Mr Field met with Mr O'Connor to discuss Mr Siriwan, along with other cases. Mr Field followed up that meeting with a letter to Mr O'Connor dated 18 May 2005. The evidence does not support a finding that Mr Field knew that Mr Siriwan was working on Mr Field's house in Samoa at the time that he wrote that letter. However, Mr Field was certainly aware that Mr Siriwan was working on Mr Field's house in Samoa shortly after Mr Field wrote that letter dated 18 May 2005, and before he received Mr O'Connor's response on 23 June 2005. Notwithstanding that knowledge, Mr Field took no steps to inform Mr O'Connor that Mr Siriwan was working on his house and that Mr Siriwan was not being remunerated for that work.

[492] Secondly, Mr Field took no steps to ensure either that Mr Siriwan stopped working on Mr Field's house or that Mr Siriwan was formally remunerated for the work that was being done.

7.4.2 *Concern that Thai labour, in addition to Mr Siriwan, may have worked on Mr Field's house in Samoa*

[493] For the reasons contained in Section 3.2 of the report, I express concern that four Thai people may have worked on Mr Field's house in Samoa, providing plastering and painting services during May and June 2005, out of gratitude for or some other sense of obligation in relation to the assistance which Mr Field had provided in the immigration applications of those people. None of those four Thai people agreed to be interviewed by me. For the reasons provided in Section 1.3 of the report, I have had no powers to compel the attendance of any person to give evidence in this inquiry. If the allegations in relation to further Thai labour working on Mr Field's house in Samoa are to be resolved, it would be necessary for an authority with appropriate powers of investigation to inquire further.

7.4.3 *Allegations of Mr Field receiving the benefit of skilled labour in New Zealand in exchange for immigration assistance*

[494] In Section 4 of the report, I have identified four houses owned by Mr Field upon which Thai people, to whom Mr Field provided immigration assistance, are alleged to have undertaken work either for remuneration at a level below the market rate or for no remuneration.

[495] For the reasons given in Section 4 of the report, I have reached the following factual conclusions in relation to those allegations.

[496] In relation to the house at 51 Church Street, Otahuhu, the painting of the interior was undertaken on two occasions during the period that Mr Field owned that property.

[497] The first painting of the interior took place during the period between August to October 2004. Asian painters undertook that work. For the reasons outlined in Section 4.2.2 of the report, I am concerned by the unsatisfactory nature of the explanations provided by Mr Field in relation to that painting. However, I have been unable to establish who undertook the interior painting of 51 Church Street in 2004. As a result I cannot take that matter any further.

[498] The second painting of the interior of 51 Church Street occurred in August 2005. That painting was undertaken by Mr Chaikhunpol, a Thai person to whom Mr Field had provided immigration assistance. Despite the evidence to the contrary presented by Mr Field and others, for the reasons provided in Section 4.2.3 of the report, I find a strong inference to be drawn that it was Mr Field who arranged, through the agency of Ms Thaivichit, for the painting exercise to be conducted by Mr Chaikhunpol. On the basis of independent expert evidence in respect of which Mr Field chose to call no expert evidence in rebuttal, I find that Mr Chaikhunpol was significantly underpaid for that work. There is the further inference that it was out of gratitude or some sense of obligation in relation to the assistance which Mr Field had provided in Mr Chaikhunpol's immigration

applications that Mr Chaikhunpol undertook that painting of 51 Church Street in August 2005 at a price substantially below market rates.

[499] In relation to the house at 73 Blake Road, Mangere, the painting work was undertaken in August 2004 and in May 2005. For the reasons provided in Section 4.3.1 of the report, I was unable to determine who did that work in August 2004. However, there is some evidence that it was the same group of Asian painters who worked on 51 Church Street in 2004.

[500] In relation to the painting in 2005, Mr Chaikhunpol did the work, and it would appear that he was underpaid. However, there is no evidence that Mr Chaikhunpol knew that 73 Blake Road was owned by Mr Field or that Mr Field knew at the time that it was Mr Chaikhunpol who was doing the work, which was arranged by Ms Thaivichit.

[501] As discussed in Section 4.3.2 of the report, in March 2005 Mr Chaikhunpol painted the interior of a two bedroom extension to a residential unit owned by Mr Field, which is known as 2A Prangley Avenue, Mangere. Mr Field would appear to have known that it was Mr Chaikhunpol who did the painting, which was arranged by Ms Thaivichit. On the basis of independent expert evidence in respect of which Mr Field chose to call no expert evidence in rebuttal, I find that Mr Chaikhunpol was substantially underpaid for that work. There is the inference that Mr Chaikhunpol undertook that painting at a price substantially below market rates out of gratitude or some other sense of obligation for the assistance which Mr Field had provided in relation to Mr Chaikhunpol's immigration applications.

[502] A property at 57 Kinghorne Street, Strathmore, Wellington is the fourth house owned by Mr Field upon which some work was undertaken by Thai people to whom Mr Field had provided immigration assistance. That work was undertaken during the course of a two day visit to Wellington by a group of seven Thai people, including Mr Chaikhunpol, all of whom lived in Mangere. Mr Field had provided immigration assistance to five members of that group. During their visit to Wellington, the group stayed at 57 Kinghorne Street.

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- [503] Three members of that group agreed to be interviewed by me. As discussed in Section 4.4 of the report, the evidence of those three is to the effect that minor remedial work was undertaken in two places within the interior of the house by two members of the group, on the initiative of the group and not at the request of Mr Field. There is no evidence to suggest that either the circumstances surrounding the work or the extent of that work were any different from that account which was provided to me.
- [504] In Section 4.5 of the report, I have identified a gathering which took place at the home of Ms Thaivichit in Mangere on 2 October 2005, shortly after the publication in the media of allegations concerning Mr Field benefiting from Thai labour in New Zealand. That gathering was attended by inter alia Mr Field, Ms Thaivichit, and Mr Chaikhunpol. It has been alleged in information received by the New Zealand Police and provided to me that four other Thai people, whom I identify in Section 4.5 of the report, also attended that gathering. All of those four together with Mr Chaikhunpol had received immigration assistance from Mr Field.
- [505] The alleged purpose of the gathering, as stated in that information received by the New Zealand Police, was to establish who within that group attending that gathering had leaked to the media the allegation that Mr Field provided immigration assistance in return for labour on houses owned by Mr Field.
- [506] My investigation into that matter has been unsatisfactory because five of the people allegedly present at that gathering on 2 October 2005 declined to be interviewed by me in relation to that matter.
- [507] As is recorded in Section 4.5 of the report, that state of affairs leaves an incomplete investigation into the following issues: whether the purpose of the gathering was to identify the source of the allegations appearing in the media which involved Mr Field and Mr Chaikhunpol; whether Mr Chaikhunpol's moving from his former accommodation was a result of an effective edict from Mr Field; and, a separate but related matter, whether those who were identified as being part of the gathering, but who declined to participate in the inquiry, did

work on houses owned by Mr Field in consideration for Mr Field's assistance on immigration matters. Given the limitation on my powers of inquiry, as identified in Section 1 of the report, if any of those issues is to be pursued further, that task would need to be undertaken by some appropriately authorised authority.

7.4.4 *The purchase of 51 Church Street, Otahuhu*

[508] On the basis of the matters contained in Section 5.1 of the report, I identify the following matters relating to the purchase by Mr Field of the property at 51 Church Street, Otahuhu, from Messrs Cole and Tupou:

- (a) Messrs Cole and Tupou were afforded the opportunity to obtain separate legal advice on the transaction but declined to do so.
- (b) There is no evidence that Messrs Cole and Tupou were disadvantaged by the transaction.
- (c) It was in the interests of Messrs Cole and Tupou to avoid a mortgagee sale, and there is evidence that the price paid by Mr Field was a fair market price.
- (d) Further, on the basis of the evidence, and taking into account the renovation work undertaken on the house by Mr Field, the increase in the value of the property at the time of the subsequent sale by Mr Field was in line with market trends.

In the circumstances, while an unfortunate perception may attach to Mr Field's conduct in purchasing 51 Church Street from Messrs Cole and Tupou, who, in their time of financial hardship, sought assistance from Mr Field in his capacity as a member of Parliament – a perception which may raise an issue relating to the judgment of Mr Field – as a result of good fortune, rather than good management on the part of Mr Field, I do not consider that Mr Field in fact took advantage of the position of Messrs Cole and Tupou.

7.4.5 *The conduct of Mr Field surrounding the television interview of Mr Tupou*

[509] On the basis of the matters contained in Section 5.2 of the report, I identify the following factors relating to Mr Field's conduct on 27 September 2005. First, at the time that Mr Field obtained the statement from Mr Cole which Mr Field released to Television One, this inquiry had commenced; Mr Field ought to have been aware that the signed statement by Mr Cole was likely to be a relevant matter in the inquiry. Secondly, there is the matter of Mr Field telephoning Mr Cole and advising Mr Cole to have his son, Mr Tupou, to "*back off*". That telephone call was made on the same day as Mr Field's three press statements which suggests that Mr Field was keen to close down media comment relating to his purchase of and subsequent resale of 51 Church Street.

[510] Pursuant to Clause 3 of the Terms of Reference, I raise, for your consideration, the matter of the appropriateness of that conduct on the part of Mr Field.

7.4.6 *Other matters*

[511] In Section 6 of the report, I have referred to six other matters which arose during the course of the inquiry. I have commented upon each of those matters. With the exception of the matter discussed in Section 6.3 of the report, I make no suggestion that any of those matters be pursued further. In relation to that matter identified in Section 6.3 of the report – the acceptance by Mr Field of monetary payments by way of *lafo* – I make no finding against Mr Field. However, given the adverse perception which may attach to the practice of *lafo* when a gift is received by a Minister of the Crown, I identify that practice as a matter which may warrant your consideration as Prime Minister.

Appendix I

Inquiry into matters relating to Hon Taito Phillip Field Terms of reference

The Prime Minister has invited Mr Noel Ingram, QC to investigate a number of allegations that have been made with respect to Hon Taito Phillip Field. These allegations concern the circumstances surrounding the Hon Taito Phillip Field's involvement in applications for work permits in New Zealand for Thai citizen Sunan Siriwan and his wife, and other matters raised in the media.

Ministers are required to ensure that no conflict exists or appears to exist between their private interests and the use of their influence as Ministers. The Prime Minister has determined that an inquiry should be held to investigate these allegations, in the light of that requirement.

This inquiry will:

1. investigate and determine the nature of Hon Taito Phillip Field's relationship with Sunan Siriwan and his wife, and the extent of any involvement he may have had in applications for work permits for them;
2. identify whether any conflict of interest existed concerning the Hon Taito Phillip Field's involvement in this matter;
3. identify any other matters arising from or during the inquiry, as are necessary to provide a complete report.

Mr Ingram will report the findings of this inquiry to the Prime Minister by 4 October 2005.

Appendix II

1. Ms T
2. Mr AL
3. Mrs Tina Aleasi
4. Mrs Naomi Aliva
5. Ms B
6. Mr Phongphat Chaikhunpol
7. Mr Patrick Cole (Ioane Muamua)
8. Mr V
9. Mr James Dalmer
10. Mrs Maxine Field
11. Mr Taito Phillip Field
12. Mr Murray Gardiner
13. Mr Robert Garner
14. Mr Rodney Hide
15. Mr David Hunter
16. Mrs Sonja Hunter
17. Ms Elizabeth Jones-Ataongo
18. Ms Rebecca Kitteridge
19. Ms L
20. Ms Loimata Lilo
21. Ms Elizabeth Maybir
22. Mr David McGee, Q.C.
23. Mr Stephen McDonald
24. Ms M
25. Mr John Milne
26. Mr MI

27. Hon. Damien O'Connor
28. Mr O
29. Ms Aumporn Phangarm
30. Mr Wichian Phimpadcha
31. Ms Phisamai Phothisarn
32. Mr R
33. Ms Nicola Scotland
34. Mr Sunan Siriwan
35. Mr SP
36. Mr Timothy Spooner
37. Mr Sompong Srikaew
38. Mr Faatasiga Sulusulu
39. Hon. Paul Swain
40. Mr Kerupi Tavita
41. Mrs Sylvia Taylor
42. Ms Jinda Thaivichit
43. Ms Mary Anne Thompson
44. Mr Simon Tupou