



CORONER'S COURT OF NEW SOUTH WALES

Inquest:	Inquest into the disappearance and suspected death of Florabella Natalia Marion Remakel, formerly known as Marion Barter
Hearing dates:	21 June – 2 July 2021; 1 – 4 February 2022; 14 – 18 February 2022; 27 – 29 April 2022; 17 October 2022; 31 May – 2 June 2023
Date of findings:	29 February 2024
Place of findings:	Coroner's Court of New South Wales
Findings of:	State Coroner, Magistrate Teresa O'Sullivan
Catchwords:	CORONIAL LAW – long term missing person – whether missing person is deceased – whether findings with regards to identity, date, place, cause, and manner of death can be made – nature and adequacy of police investigation – circumstances of disappearance including whether disappearance was intentional
File number:	2019/00306081
Representation:	Counsel Assisting the Coroner: Mr Adam Casselden SC and Ms Tracey Stevens, instructed by Ms Clara Potocki (Crown Solicitor's Office) Leydon Family: Mr Bradley Smith, instructed by Mr Richard Keegan (Addisons) NSW Commissioner of Police, Detective Senior Constable Gary Sheehan, former Senior Constable Graham Childs, and Senior Constable Steven McAlister: Ms Kim Burke, instructed by Ms Alaana Wooldridge (the Office of General Counsel NSWPF)

Non publication order:	Non-publication orders made on 21 June 2021; 2 February 2022; and 29 April 2022 prohibit the publication of various persons personal information and particular evidence in the brief of evidence. The orders can be obtained on application to the Coroners Court registry.
Findings:	<p>I find, on the balance of probabilities, that Florabella Natalia Marion Remakel, formerly known as Marion Barter, is deceased.</p> <p>Identity: The person who died was Florabella Natalia Marion Remakel, formerly known as Marion Barter.</p> <p>Date of death: While I am unable to determine the exact date of death, I find that Florabella Natalia Marion Remakel, formerly known as Marion Barter, is likely to have died on a date after 15 October 1997.</p> <p>Place of death: I am unable to determine the place of Florabella Natalia Marion Remakel, formerly Marion Barter's death.</p> <p>Cause of death: I am unable to determine the cause of Florabella Natalia Marion Remakel, formerly Marion Barter's death.</p> <p>Manner of death: I am unable to determine the manner of Florabella Natalia Marion Remakel, formerly Marion Barter's death.</p>
Recommendations:	<p>To the NSW Commissioner of Police:</p> <p>I recommend that the NSW Commissioner of Police cause the investigation into the death of missing person Florabella Natalia Marion Remakel, formerly known as Marion Barter, to be referred to or remain within the State Crime Command Unsolved Homicide Team for ongoing investigation, review, and monitoring.</p>

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The Coroners Act in section 81(1) requires that when an inquest is held, the coroner must record in writing his or her findings as to various aspects of the death. These are the findings of an inquest into the disappearance and suspected death of Florabella Natalia Marion Remakel, formerly known as Marion Barter.

Introduction

1. Marion was last sighted on 22 June 1997, when she was driven by a friend, Lesley Loveday, to a bus depot in Southport, Queensland before departing on an overseas extended holiday.
2. Prior to her disappearance, Marion executed a Deed Poll in the Supreme Court of Queensland, legally changing her name to "*Florabella Natalia Marion Remake*". Marion did not disclose her new identity to friends or family.
3. A passport issued to Florabella Natalia Marion Remakel on 20 May 1997 was recorded as departing Brisbane Airport on 22 June 1997 and returning (also to Brisbane Airport) on 2 August 1997.
4. There has been no recorded contact with Marion since around 1 August 1997, when she spoke with her daughter, Sally Leydon, on the telephone. Marion reportedly provided no indication to Sally that she intended to return to Australia. Throughout these findings I will refer to Sally Leydon simply as 'Sally'.
5. On 22 October 1997, Marion was reported missing by Sally at Byron Bay Police Station. This missing person report followed information Sally had received suggesting that Marion had withdrawn funds from her bank account during the preceding two months, including several transactions in Byron Bay.
6. In these findings the missing person will be referred to as Marion. This is because she was known to her family, colleagues, and friends in Australia as Marion. I have considered the evidence that has been tendered in these coronial proceedings that Marion changed her name to Florabella Natalia Marin

Remakel in the months before she disappeared. My findings with regard to the reasons behind her change of name, whether these reasons are connected with the mysterious circumstances of her disappearance, and the question of whether she is alive, or deceased are addressed throughout these findings.

The role of the coroner

7. Section 27(1) of the *Coroners Act 2009 NSW* (the Act) requires an inquest to be held if it has not been sufficiently disclosed whether a person has died or what the manner and cause of a person's death was.
8. In a missing persons case, the Coroner must first determine as a threshold question whether the evidence establishes, on the balance of probabilities, that the person is deceased.
9. Where the Coroner reaches a conclusion that the person is deceased, the Coroner must then proceed to consider the matters set out in section 81(1) of the Act, namely:
 - a) the deceased person's identity;
 - b) the date and place of the person's death;
 - c) the manner and cause of the person's death.
10. The Act does not define the phrase "*manner and cause of death*". It is generally accepted that it is a composite phrase involving inter-related, but distinct, concepts. The manner of death relates to the circumstances in which a death took place whereas the cause of death is the direct and proximate physiological cause of the death.
11. Pursuant to section 82 of the Act, the Coroner may make recommendations in relation to any matter connected with the death, suspected death, fire, or explosion with which an inquest or inquiry is concerned. The matters that can

be the subject of a recommendation are those that have the capacity to improve public health and safety in the future, and/or be investigated or reviewed by a specified person or body. A recommendation can be made if it arises from the evidence adduced and tendered at the inquest or inquiry.

12. It is important for Marion's family, for the witnesses who have given evidence at the inquest, and for the public to understand that an inquest is not a criminal case. The witnesses and organisations involved in an inquest are not on trial. It is not the role of the Coroner to attribute blame or punish any person or persons for Marion's disappearance.

13. In fact, section 81(3) of the Act, provides that when I deliver my findings, I must not indicate or in any way suggest that an offence has been committed by any person.

14. Further, I am not to make findings of civil liability and I have no power to award compensation or damages.

The proceedings

15. The inquest into Marion's disappearance and suspected death was held over several tranches and in different locations as follows:

- Tranche One: 21 June – 2 July 2021 at the Coroner's Court at Lidcombe
- Tranche Two (sitting one): 1 – 4 February 2022 at Byron Bay Local Court
- Tranche Two (sitting two): 14 – 18 February 2022 at both Ballina Local Court and Byron Bay Local Court
- Tranche Three: 27 – 29 April 2022 at Byron Bay Local Court
- Tranche Four: 17 October 2022 at Lismore Local Court

- Tranche Five: 31 May – 2 June 2023 at Lismore Local Court

16. The progress of the coronial investigation and the hearing of the inquest was affected by the COVID-19 pandemic.

17. Over 200 subpoenas for production were issued throughout the coronial proceedings to various agencies and individuals for material to assist with the making of the formal findings that I am required to make pursuant to section 81 of the Act.

18. The Court received extensive documentary material into evidence including 13 volumes of material in the form of the brief of evidence and material produced in response to subpoenas for production. The Court also heard from many witnesses including family members, police officers and representatives from various agencies, banks, and government departments.

19. The inquest was streamed live on YouTube.

20. Despite the numerous tranches and protracted nature of these proceedings, Sally and her family consistently attended the inquest in person and where necessary by audio visual link.

21. Significantly, Sally provided a moving statement to the Court about her mother on 29 April 2022.

22. Comprehensive and lengthy written closing submissions have been filed by Counsel Assisting and those representing the interested parties in 2022 and 2023. Further, oral closing submissions were heard on 27 October 2022 at Lidcombe.

23. While it is not possible to refer to all of the evidence in detail in these findings, I have considered and assessed all of the material that has been tendered, the oral evidence given by the witnesses, and the written and oral closing submissions.

The issues

24. The Court heard evidence in these proceedings in relation to the following issues relating to the disappearance of Marion:

- 1) Whether Marion Barter departed Australia on 22 June 1997 under the name of Florabella Natalia Marion Remakel;
- 2) Whether Marion Barter returned to Australia on 2 August 1997 under the name of Florabella Natalia Marion Remakel;
- 3) The circumstances in which Marion Barter disappeared in or around August 1997, including whether her disappearance was intentional on her part and the possible reasons for her disappearance;
- 4) The nature and adequacy of the police investigation into the disappearance of Marion Barter by NSW Police between her disappearance in 1997 up until 2019, including whether it was conducted in an appropriate and timely manner and consistent with applicable policy and procedure;
- 5) Whether Marion Barter is alive;
- 6) If Marion Barter is not alive, the date and place of her death;
- 7) If Marion Barter is not alive, the manner and cause of her death;
- 8) Whether any recommendations are necessary or desirable in relation to any matter arising from the disappearance of Marion Barter and pursuant to section 82 of the Act.

25. In canvassing the evidence and addressing the issues as set out above, I have been assisted by the comprehensive written submissions of Counsel Assisting, and have adopted, in large part, the same structure, headings and factual

chronologies.

Issue 1: Whether Marion Barter departed Australia on 22 June 1997 under the name of Florabella Natalia Marion Remakel

Marion's early life and relationships

26. Marion was born to John Wilson and Colleen Nagle in Sydney on 3 October 1945.¹ She was the eldest of four girls, with younger sisters Deirdre, Bronwen and Lee.
27. In 1963 and 1964 Marion attended Balmain Teacher's College.² Marion qualified as a teacher.
28. In early 1966 Marion travelled overseas for 23 days. She likely travelled on a holiday.
29. During her time at teacher's college Marion met Johnny Warren. He was a talented sportsman and played soccer for Australia. On 9 December 1967 Marion and Johnny married and set up their home in Mortdale in Sydney.³ Marion's sisters were bridesmaids. Deirdre says that Marion was a kind and generous person who always kept a beautiful home, even from that early time in the late 1960s.⁴
30. From the late 1960s Marion worked as a school teacher. On 10 September 1968 she took six months leave without pay from the NSW Board of Education.⁵ In or around September 1968 Marion travelled out of Australia. She returned on 2 February 1969, stating on her incoming passenger card that she was

¹ BOE, Volume 3, Tab 93, p. 768.

² BOE, Volume 3, Tab 97, p. 791.

³ BOE, Volume 6, Tab 255, p. 2123.

⁴ BOE, Volume 2, Tab 68, p. 607.

⁵ BOE, Volume 3, Tab 97, p. 791.

married under the name of Marion Warren.⁶

31. Marion travelled to the United Kingdom for this period with Johnny Warren for his soccer. Marion's sister Bronwen gave evidence that Johnny travelled for his football, including overseas for the purposes of training courses.⁷ Marion's curriculum vitae records that she worked "*for a brief period in an Anglican school in the UK.*"⁸

32. In 1972 Marion and Johnny separated. Marion's sisters Deirdre and Bronwen gave evidence in regard to this issue. I accept their recollections on this issue and find that they did their best to give candid evidence about matters that occurred many years ago. Deirdre was '*shocked and saddened*' about this and says that it was Johnny who left the marriage. She observed the experience to be '*crushing*' for Marion and found her distressed and vulnerable as a result.⁹ Deirdre also said that Marion was devastated when he left the relationship.¹⁰ Bronwen had a similar recollection, stating that it came as a shock to hear that the marriage ended, and that Marion was very upset.¹¹

33. Marion's sisters recalled that in around 1972, soon after Marion's separation from Johnny, she commenced a relationship with Stuart Brown.

34. On 12 May 1973 Sally was born.¹²

35. On 18 October 1974, Owen was born.¹³ I wish to specifically acknowledge Owen here as Marion's second child and Sally's brother. He has sadly passed away and accordingly, I did not have the benefit of his presence during the proceedings.

⁶ BOE, Volume 7, Tab 257, p. 2143.

⁷ BOE, Volume 2, Tab 69, p. 613.

⁸ BOE, Volume 3, Tab 98, p. 792.

⁹ BOE, Volume 2, Tab 68, p. 607.

¹⁰ Transcript, 2 July 2021, p. 14.

¹¹ BOE, Volume 2, Tab 69, p. 613.

¹² BOE, Volume 6, Tab 255, p. 2126.

¹³ BOE, Volume 2, Tab 71, p. 624.

36. Marion and Stuart married 29 October 1977¹⁴ and separated in 1980.¹⁵
37. On 9 June 1985 Marion married Ray Barter.¹⁶ At the time they met, Marion was working at Springwood Public School. They married and travelled on a honeymoon to Europe. Marion and Ray travelled to Switzerland and visited Germany, Austria, Italy, and France.¹⁷
38. Bronwen recounted that Marion's relationship with Ray lasted six years. Marion said to her: "*I've done it three times [marriage] and I'd rock up for the fourth any day.*"¹⁸ The couple lived on the south coast of New South Wales in order to accommodate Marion's teaching. They divorced in 1991.¹⁹

Marion's move to the Gold Coast and employment at The Southport School

39. In early 1994 Marion moved to the Gold Coast in Queensland. She secured employment as a teacher at The Southport School, known as (TSS).²⁰ When Marion accepted the position, she rented a house at 22 Patura Drive in Ashmore and moved by herself.
40. On 27 January 1994 she withdrew funds, in the sum of \$57,480, from her State Superannuation Fund in order to purchase a house in the area. She rolled over the remaining \$500 balance into her new TSS superannuation fund.²¹ In February 1994 Marion purchased a house at 15 Merinda Court, Southport for \$180,000, with a mortgage registered with the State Bank of NSW (later the Colonial State Bank).²²
41. At some stage in 1994, Marion commenced a relationship with Gregory (Greg)

¹⁴ BOE, Volume 6, Tab 255, p. 2123 and p. 2124. Marion obtained a divorce from Johnny a week earlier on 21 October 1977.

¹⁵ BOE, Volume 2, Tab 71, p. 624.

¹⁶ BOE, Volume 6, Tab 255, p. 2125. It is notable that Marion was still married at this time to Stuart Brown at the time, as she did not divorce him until 21 August 1986, see Volume 5, Tab 213, p. 1514.

¹⁷ BOE, Volume 2, Tab 72, p. 632, [4].

¹⁸ BOE, Volume 2, Tab 69, p. 616, [27].

¹⁹ BOE, Volume 2, Tab 64, p. 457.

²⁰ BOE, Volume 3, Tab 99, p. 804 – 805.

²¹ BOE, Volume 4, Tab 194, p. 1294.

²² BOE, Volume 3, Tab 119, p. 930.

Edwards, a maintenance man who worked at TSS. Greg gave evidence that he was in a relationship with Marion for a few years.²³ He recalled they went to the movies, went out to dinner and that Marion loved to explore antique and opportunity shops.²⁴ They travelled together to Norfolk Island for a holiday over the Christmas period in December 1995. In the month prior to this travel, Marion obtained travel documents in the name of Marion Barter.²⁵ Greg gave evidence that he and Marion separated in the months or weeks prior to her departure overseas in June 1997. I accept Greg's recollections as to his relationship with Marion and find that they enjoyed each other's company during the time they spent together.

42. In November 1994, Marion's daughter, Sally, relocated to Queensland to live with her mother in the house at Southport.²⁶ Sally lived with Marion until around June 1995.²⁷ Marion continued to work at TSS throughout 1995, 1996 and the early part of 1997.

43. On 5 February 1996 Marion enrolled to vote in Queensland and updated her address details to 15 Merinda Court Southport.

The cancellation of Marion's passport in 1996

44. Marion's friend, Barbara Mathie, said in her statement that was tendered in evidence that she and her family stayed with Marion during the school holidays in September 1996. She said that Marion told her and her husband Ross: *"that her handbag or purse had been stolen, along with her identity. I can clearly remember Marion showing us a photo, that she'd obtained from the bank, of a woman with dark flowing hair like her own, at an ATM withdrawing money from Marion's account. This lady did look like Marion with her long flowing hair"*.

45. On 6 July 1996 records from the Department of Foreign Affairs and Trade

²³ BOE, Volume 2, Tab 70, p. 622, [5].

²⁴ BOE, Volume 2, Tab 70, p. 622, [6].

²⁵ BOE, Volume 1, Tab 17, p. 122.

²⁶ BOE, Volume 1, Tab 64, p. 457.

²⁷ Transcript, 28 June 2021, p. 10.

demonstrate that Marion cancelled her passport (number A7004203) and obtained a new passport under her same name, Marion Barter (with a new number of L0645860).²⁸ She did not travel on this passport. I do not consider there is sufficient evidence to make any finding as to the circumstances or the theft of Marion's handbag and whether there was any connection between this occurrence and the cancellation of her passport. I accept the submissions of Counsel Assisting that it is not clear whether there is any connection between these incidents and Marion's disappearance in 1997.

The execution of Marion's will in 1996

46. On 13 November 1996 Marion updated her Will with the assistance of a local solicitor. Marion appointed Sally as the executrix of the estate, and she bequeathed her estate to Sally (except for provision for Owen to select up to three items of furniture).²⁹ This evidence of the Will does not assist in making any findings as to Marion's reasons for her disappearance.

Marion's visit to her family at Christmas 1996

47. In December 1996 Marion visited her parents at Moffat Beach in Queensland for Christmas. It was around this time that Marion's father was diagnosed with a serious illness. Deirdre recalled in evidence, and I accept, that as at Christmas 1996 Marion had plans to travel overseas. Deirdre said Marion told her she was going to realise her dream to travel on the Orient Express and go on a holiday in England. However, Deirdre had no idea that Marion planned to leave her job.³⁰

48. Accordingly, I find that Marion had plans to travel overseas from at least around Christmas 1996 and that she informed her family of such.

²⁸ BOE, Volume 1, Tab 17, p. 122.

²⁹ BOE, Volume 3, Tab 116, p. 890.

³⁰ BOE, Volume 2, Tab 68, p. 609, [19] and Transcript, 2 July 2021, p. 6.

The sale of Marion's house

49. In March 1997 Marion appointed a real estate agent to sell her house with an asking price of \$175,000.³¹

50. On 25 April 1997 Marion sold the house for the sum of \$165,000. This represented a loss of \$15,000 from the initial asking price.³² I accept the evidence of Sally that Marion informed her that she was planning on going overseas for about 12 months and, in her words: "*that she was going to sell the house because it was a three bedroom home with a swimming pool, which she never used, and, being that she was on her own, that she was planning to downsize when she came home from her trip and she mentioned to me that she wanted to buy a unit on Main Beach.*" I also note Sally's observation that the sale felt rushed and that it was a very quick decision.³³ Chris Leydon, Sally's boyfriend at the time (and later husband) said to the Court that Marion had decided to sell because she had finished at TSS and planned to go overseas.³⁴ He informed the Court that his understanding of her plans on her return was similar to Sally's, that is, to downsize from a house to a smaller unit, possibly on Main Beach on the Gold Coast.

51. Marion's sister Bronwen has a different recollection of Marion's reasons for selling her house. Bronwen gave evidence that prior to her resignation at TSS, Marion had applied for a job at the soon to be opened Sunshine Coast Grammar School.³⁵ She says the reason for the sale was in preparation for a likely move to the Sunshine Coast for employment at the Grammar School. She did not believe the reason was downsizing or in preparation for a holiday.³⁶ Marion told her that there was no employment available at this new school for a preparatory class in 1997 and that she would wait until 1998. Bronwen says she remembered this event because Marion took her to visit the school to see the

³¹ BOE, Volume 3, Tab 118, p. 920.

³² BOE, Volume 2, Tab 118, p. 912.

³³ Transcript, 28 June 2021, p. 17.

³⁴ Transcript, 24 June 2021, p. 6.

³⁵ See exchanges in transcript, 1 July 2021, pp. 53 – 54.

³⁶ Transcript, 1 July 2021, p. 51.

building works.³⁷ Deirdre also remembered Marion attending an interview with a new school somewhere on the Sunshine Coast.³⁸ The evidence of Marion's sisters was not challenged in this regard and, consistently with the approach I have taken with other aspects of their evidence, I accept it as a truthful and accurate representation of what Marion told her sisters at the time.

52. Accordingly, Marion provided different reasons to family members at the time as to the reason for the sale of the house.

53. Counsel Assisting made submissions that there is sufficient factual basis for the Court to make a finding that Ric Blum, who was a witness and an interested party in these proceedings, whilst in an intimate relationship with Marion, persuaded or otherwise encouraged Marion to sell her house in 1997. The Leydon family (the Family) made submissions that the Court should find that Mr Blum was involved in some way with Marion's decision to sell her house.³⁹ Mr Blum made submissions that there was not sufficient evidence to support a finding that he had a causative role in Marion's decision to sell her home.⁴⁰

54. I will deal with this issue in my findings in relation to Mr Blum.

Marion's resignation from TSS

55. Marion submitted two resignation letters to TSS. The first letter was submitted on 13 April 1997 and the second on 16 June 1997.

56. On 13 April 1997 Marion first resigned from her position at TSS. At this time her house was listed for sale and had not yet sold. She nominated her resignation date as 14 July 1997. The letter, written by Marion, stated that she resigned with "*great sadness and professional reluctance*". In this letter she informed the Principal that the decision was, in her view "*in the best interests of the progress of the school, of the teaching staff in Prep and my well-being individually.*" She

³⁷ Transcript, 1 July 2021, p. 47.

³⁸ Transcript, 2 July 2021, p. 7.

³⁹ Submissions on behalf of Leydon Family, 18 October 2022, [10].

⁴⁰ Submissions on behalf of Ric Blum, 13 September 2023, [87].

further stated: “*I’m anxious to discuss the contributing factors with you at your convenience.*” She said she was planning to travel to England and would fulfil “*much needed holiday dreams*”.⁴¹ The reasons for her first resignation letter are not clear from the letter. Marion’s partner at the time, Greg, recalled that there was ‘*carry on*’ at the school regarding how Marion was teaching the children. Greg says that he considered Marion’s resignation to be a “*snap decision*”. He was also not aware of her decision to sell her house.⁴² The last time that Greg saw Marion, she told him that she was travelling overseas.⁴³

57. In or around 17 May 1997 Bronwen recalled a conversation with Marion about her resignation from TSS. This conversation occurred while walking on the beach at Moffat Beach. Bronwen recounted that Marion believed she had been “*betrayed*” by someone at TSS and was upset and crying.⁴⁴ Bronwen said that Marion would not tell her the details, other than the situation left her with no option but to tender her resignation. Bronwen described Marion as “*heartbroken*” over the situation.⁴⁵

58. On 16 June 1997 Marion submitted her second resignation letter to TSS. In this letter she said she would be “*travelling overseas for an indefinite period*” and hopefully would teach in England and Europe. She also sought to renew her registration for 1998 in advance and provided TSS with the forwarding address as care of her friend Lesley Loveday. In this second letter she nominated her date of resignation as effective on 20 June 1997.⁴⁶ This date of 20 June was three weeks earlier than her original date (14 July 1997) as nominated in her first resignation letter of 13 April. The reason for the second resignation letter and the change in the date is not known.

59. The Court heard evidence from Sally that in late 1996 or early 1997 Marion was having problems at TSS with two other staff members, Luke Glover and Carrie

⁴¹ BOE, Volume 3, Tab 100, pp. 806 – 808.

⁴² Transcript, 2 July 2021, p. 30.

⁴³ Transcript, 2 July 2021, p. 35.

⁴⁴ Transcript, 1 July 2021, p. 53.

⁴⁵ Transcript, 1 July 2021, p. 53.

⁴⁶ BOE, Volume 3, Tab 101, p. 812.

Allwood.⁴⁷ Sally explained to the Court: *“I remember she did not get along very well with Carrie Allwood - and it was my opinion that Carrie and mum were at loggerheads together, being about not being clear on what mum’s role was at TSS as opposed to Carrie’s role.”*⁴⁸ Sally informed the Court that: *“I can’t be certain that the reason she went overseas was because what had happened at school, but it was definitely what she told me was the catalyst for her leaving TSS.”*⁴⁹ Both Sally and Chris thought it was out of character for Marion to leave the school in the middle of the year and disrupt the students.⁵⁰ I accept the evidence of Sally as an accurate recollection of her understanding of what Marion had told her.

60. Vicki Sidie spent time with Marion in 1997 and spoke with her about her time as a teacher at TSS. Vicki informed the Court that Marion was initially very enthusiastic about teaching at TSS, but this position changed. She said that: *“she thought some people on staff didn’t see the way she taught was the way things should be done.”* In particular, she mentioned a staff member by the name of Carrie was making things difficult for her. She told Vicki and Janis White that she was looking to leave TSS and travel to England.⁵¹

61. Bruce Cook, the Principal of the school, described Marion as follows: *“I believe Marion was, first and foremost, highly skilled and an excellent teacher at the junior primary level, a caring lady, an artistic lady with a great interest in arts and music, which she brought into her classroom work, and she was highly regarded by me and by the parents and boys in her class and the staff of the school.”*⁵² He explained that in 1995 there were some changes to the structure of the preparatory school, instigated by a teacher by the name of Luke Glover. He said that the teacher who was the former head of the lower preparatory school, Carrie, effectively ceased to have an oversight role. Bruce said that he

⁴⁷ Transcript, 28 June 2021, p. 13.

⁴⁸ Transcript, 28 June 2021, p. 13.

⁴⁹ Transcript, 24 June 2021, pp. 16 – 17.

⁵⁰ Transcript, 24 June 2021, p. 6 and 28 June 2021, p. 20; Submissions on behalf of the Leydon Family, 18 October 2022, [73].

⁵¹ Transcript, 24 June 2021, p. 63.

⁵² Transcript, 1 July 2021, pp. 35 – 36.

was not aware of any conflict between Marion and Carrie or Marion and Luke.⁵³ Unfortunately, Bruce does not have any recollection of discussing Marion's resignation with her or any of the issues or concerns she had at the school at the time.⁵⁴

62. Bruce was not aware of Marion's second resignation letter. He noted that the letter was only addressed to 'Dear Sir / Madam', rather than to Bruce himself.⁵⁵

63. I find, consistently with the evidence as set out above, that there was a breakdown in Marion's relationships with some staff at TSS.

64. The Family have made submissions that Marion's resignation from TSS and her tender of two resignation letters was due to the influence of Mr Blum on her at the time. Mr Blum has made submissions that there was not sufficient evidence to support a finding that he had a causative role in Marion's decision to resign.

65. I will address this issue later in my findings in relation to Mr Blum.

The evidence of Marion's personality

66. The Court has heard many accounts of Marion as a person. Marion's sister Bronwen said she was a loving person and she cared about people and teaching children.⁵⁶ Bronwen said she loved Marion, but they were not particularly close, speaking only infrequently on the telephone between 1994 to 1997.⁵⁷ Her sister Deirdre also said she was a loving sister and daughter. She remembers Marion as self-confident and a very talented teacher. She liked "*beautiful things*" and had very good taste.⁵⁸

⁵³ Transcript, 1 July 2021, pp. 35 – 36.

⁵⁴ Transcript, 1 July 2021, p. 41.

⁵⁵ Transcript, 1 July 2021, p. 42.

⁵⁶ Transcript, 1 July 2021, p. 44.

⁵⁷ Transcript, 1 July 2021, p. 45.

⁵⁸ Transcript, 2 July 2021, p. 3.

67. Sally described Marion as a caring person who cared about her, looked after her, and was always there. She recalled Marion having dinner with her when she was at work at David Jones and that they would share a soup and a sandwich together. In particular, she recalled Marion coming to her engagement party and bringing a beautiful engagement plate and cake to celebrate. Sally gave evidence that Marion loved her and that she loved Marion.⁵⁹

68. Sally's husband Chris said of her: "*Marion was a very nice, calm sort of lady. She was very particular about things. She liked the finer things. She liked fine china and antiques. She cared deeply about her teaching.*"⁶⁰ He would not describe her as an impulsive person and did not consider her particularly private or secretive.⁶¹ He also said that although she was smart, he would not consider her to be a "*streetwise*" person and she was possibly susceptible to influence.⁶²

69. Ray Barter had similar observations on Marion's personality. He said: "*Marion always had a thing about money. She liked designer clothing and having the best of everything. She loved original paintings, fine china, antiques, loved going to the Opera and the ballet. Marion loved her children, there was no doubt about that. She loved being a teacher to the extent of obsession, she loved the children she taught and was quite friendly with the parents.*"⁶³

70. Marion's old friends Vicki and Janis gave evidence in regard to their relationships with Marion. Vicki met Marion in 1973. She knew Marion when she was married, and when she was single. She commented that Marion could move from one relationship to another and that she enjoyed the company of men. Vicki was asked in Court the question: "*Is it a fair summary to say that she [Marion] always endeavored to have a man in her life?*" Vicki responded: "*I think so, yes.*"⁶⁴ She also commented that Marion was gracious and loving and that

⁵⁹ Transcript, 1 July 2021, p. 7.

⁶⁰ Transcript, 24 June 2021, p. 3.

⁶¹ Transcript, 24 June 2021, p. 3.

⁶² Transcript, 24 June 2021, p. 35.

⁶³ BOE, Volume 2, Tab 72, p. 634, [10.

⁶⁴ Transcript, 24 June 2021, p. 67.

she *“liked to be liked.”*⁶⁵ Marion’s sister Deirdre made a similar comment in her evidence that Marion was a person who liked to please other people and was always looking for love.⁶⁶ Janis also gave evidence about Marion’s history and their interactions in 1997, leading up to her departure. Janis said that Marion entered relationships quickly and they became serious quite quickly. She was asked her opinion as to whether Marion liked to be in a relationship with a man, to which she responded: *“She did and she liked to be in love and because when she was in that relationship and she was in love with the man she would – that became – that relationship became all important and she would immerse herself within that relationship.”*⁶⁷

71. Counsel Assisting submitted that these observations made by friends and family demonstrate a pattern in Marion’s relationships throughout her adult life, that she pursued romantic relationships with men and considered them to be of primary importance. Bronwen said: *“everything that she wanted to do in life, to be happy and to stay happy, had to do with having a man in her life. Marion was telling me on the phone one time that she had to hurry up and find a man before she was 50 because men weren’t interested in you after that. She told me that I’d better hurry up and find one too. I remember our father used to joke ‘Marion, marry ‘em.’”*⁶⁸

72. I accept the evidence from family and friends as set out above and find that Marion considered her romantic relationships with men to be of great importance in her life.

Marion’s plans for overseas travel

73. Marion informed all her known friends and family that she intended to depart Australia by herself and travel to England for a working holiday. She said she intended to travel around England, visit Europe and had apparently purchased tickets to travel on the Orient Express. She told family and friends that she

⁶⁵ Transcript, 24 June 2021, p. 60.

⁶⁶ Transcript, 2 July 2021, p. 4.

⁶⁷ Transcript, 24 June 2021, p. 74.

⁶⁸ BOE, Volume 2, Tab 69, p. 617, [30].

intended to seek work in England as a teacher for around 6 – 12 months and then return to Australia to resume work as a teacher.⁶⁹ She did not tell any known person that she had entered into an intimate relationship with a man or intended to travel with any other person. Lesley Loveday said that during the four weeks when Marion stayed with her prior to departure, she did not have any sense that Marion was seeing anyone in an intimate relationship. Marion only spoke of travelling alone, rather than with any other person.⁷⁰

74. Sally and Chris expected that Marion would return for their wedding the following year, scheduled for 24 October 1998. Marion was well aware of this date.⁷¹ Sally explained to the Court: “*She helped me book the chapel at TSS to get married. So, she knew the date we were planning to get married, and she never mentioned that she would not attend.*” Sally further explained that there had been a previous conversation with her mother where Sally said: “*be home before our wedding date*”, to which Marion apparently replied: “*We’ll see*”. Sally said that she took this comment to be a jovial type of comment, that is, not a serious comment.⁷²

75. Sally was taken to a comment made by Janis with regard to Marion’s personality and her commitment to return for the wedding. Janis informed the Court that, in her view, Marion might not return for the wedding if she were caught up in something or involved in a relationship. Sally said in her evidence: “*[My mum was] very much about herself and what she liked to do. So, if there was something that she was doing that she felt she couldn’t partake and the other thing was more important, I guess, she probably wouldn’t have come.*”⁷³ Marion’s sister Bronwen was of the opinion that even if Marion did return in August 1997, she may not have attended Sally’s wedding the following year. She said: “*If somebody says they’re not going to be around for a couple of years you don’t presume they’re going to come back for their daughter’s wedding.*”⁷⁴

⁶⁹ For example, she informed her old friend Janis White that she thought she would be away for about a year. See Transcript, 24 June 2021, p. 76.

⁷⁰ Transcript, 30 June 2021, p. 10.

⁷¹ BOE, Volume 2, Tab 64, p. 460, [17].

⁷² Transcript, 28 June 2021, p. 18.

⁷³ Transcript, 28 June 2021, p. 19.

⁷⁴ Transcript, 1 July 2021, p. 60.

Marion's change of name to Florabella Natalia Marion Remakel

76. On 13 May 1997, Marion executed a deed poll with the Public Trustee in Brisbane and changed her name from Marion Barter to Florabella Natalia Marion Remakel. Her application contains a photograph of Marion and a signature under her new name. There is no evidence before the Court that any family, friend, or work colleague was aware of this name change.

77. The name of Florabella Natalia Marion Remakel is unusual. Marion's sister Deirdre says that she was shocked to learn of her sister's change of name and found it hard to believe.⁷⁵ However, Marion's longtime friend, Vicki, was asked whether this new name was known to her. Her response was: "*No not really. It's a bit of a Marion sort of thing.*" She elaborated to say: "*It's not an ordinary name, no. It's not an ordinary name that I would choose but Marion liked to – she liked to be fanciful and dream about what could happen and talk about things being different to the way they were so no, it's not unusual.*"⁷⁶ Marion's friend Janis provided a similar response to this question. Janis said: "*Well, I was rather astonished but then I thought, well that's Marion.*"⁷⁷

78. Three days later and on 16 May 1997 Marion made an application for a new passport under her new name. The passport application was witnessed by Raymond Walduck, a dentist, at the Health Hub in Brisbane.

79. Raymond Walduck gave evidence before the Court. He worked as a dentist between 1994 to 1997 at the Health Hub in Fortitude Valley in Brisbane. He had no independent memory of Marion though accepts he treated her as a patient during this period based on the medical records.⁷⁸ He said: "*I have a very vague recollection of signing that passport application in that my memory at the time, the name struck me as strange and it is one of those things that lodge in your mind. I do not remember associating it with the name of Marion Barter but this*

⁷⁵ Transcript, 2 July 2021, p. 3.

⁷⁶ Transcript, 24 June 2021, p. 68.

⁷⁷ Transcript, 24 June 2021, p. 78.

⁷⁸ Transcript, 22 June 2021, p. 29.

is 24 years ago, so".⁷⁹ Around that time he witnessed numerous applications for passports as part of his practice as a dentist.⁸⁰ He said that Marion's application for the passport may have simply been brought into his practice and he may have looked up Marion's details in order to determine whether he knew her (as the applicant for the passport application) for the requisite period of three years.⁸¹

80. On the same day that Marion applied for her new passport, she applied for and obtained a Queensland driver's licence under the name of Florabella Natalia Marion Remakel.⁸²

81. On 20 May 1997, Marion's new passport was issued in her new name.

Marion's interactions with friends and family leading up to her departure

82. In or around March or April 1997, Marion told her friend Lesley Loveday that she was selling her house because she had decided to go on a holiday overseas. Lesley informed the Court that Marion wanted to go overseas and, in particular, on the Orient Express.⁸³

83. In or around 17 May 1997, Marion told her sister Bronwen about her travel plans when they saw each other at the opera in Brisbane. This was around the time of their father's birthday.⁸⁴

84. On or around 21 May 1997 Marion moved in with Lesley and stayed with her until she left Australia four weeks later.

85. In May 1997 Chris attended Marion's house to assist with packing her house. He says it was mid-week because Sally was attending TAFE. He explained that at around 7:30pm, Marion abruptly told Chris that "*you've got to go now*" and

⁷⁹ Transcript 22 June 2021, p. 29.

⁸⁰ Transcript, 22 June 2021, p. 29.

⁸¹ Transcript, 22 June 2021, p. 29.

⁸² BOE, Volume 4, Tab 61, p. 1180.

⁸³ Transcript, 30 June 2021, p. 8.

⁸⁴ Transcript, 1 July 2021, p. 50.

ushered him out the door.⁸⁵ Between 8:30 – 9:00pm on the same evening, Chris and Sally had purchased some food at McDonalds and saw Marion in her red Honda Civic Breeze at a service station on Ferry Road in Southport. Chris and Sally have given evidence that they saw an unknown man sitting in the front passenger seat of Marion’s car. Sally says that Marion saw her and immediately attempted to drive away.⁸⁶

86. There was no positive identification of the identity of the person made by Sally or Chris.⁸⁷ Chris said that he clearly saw Marion’s car pull up at the petrol station in order to fill up with fuel. Chris says he saw a tall person in the front passenger seat. He could not say anything further about the person, including their sex.⁸⁸ He says that Marion saw them waving at her only 5 – 10 metres from her in the car.⁸⁹ Sally recalls that the person in the car was male and quite tall. Sally says that they were 15 – 20 metres from Marion’s car when she first saw it. She says that she waved and watched Marion get back into the car and drive through McDonalds. Sally said that as she watched the car drive through McDonalds, she mouthed the words “*you’re busted*”, but Marion did not look at her.⁹⁰

87. Sally confronted her mother about the incident the following day and asked: “*who’s that guy?*”, to which Marion responded: “*He’s just a friend who I met through mutual friends at the Arts Centre and he was taking me out to say goodbye.*”⁹¹ Later, Marion refused to disclose the identity of the person other than to say it was a friend with whom she was attending the Performing Arts Centre at Bundall. Counsel Assisting submitted that this incident demonstrates that Marion was capable of concealing parts of her own personal life from her family and friends. I accept this submission.

88. On 8 June 1997 Marion attended Sally’s engagement party, celebrating her engagement to Chris. Chris commented on a change in Marion around this

⁸⁵ BOE, Volume 1, Tab 67, p. 598.

⁸⁶ BOE, Volume 1, Tab 64, p. 461, [18].

⁸⁷ Transcript, 2 February 2022, p. 85.

⁸⁸ Transcript, 24 June 2021, p. 9.

⁸⁹ Transcript, 24 June 2021, pp. 10 – 11.

⁹⁰ Transcript, 28 June 2021, pp. 45 – 46.

⁹¹ Transcript, 28 June 2021, p. 47.

time. He said that in the weeks leading up to her departure: *“Marion seemed stressed and I didn’t know whether it was something that might have happened at her workplace, The Southport School, I didn’t know whether it was just part of the stress of selling a home and packing and moving or whether it was something else. But yeah, she seemed more tense, she seemed more stressed, she seemed on edge.”*⁹²

89. At some stage in June 1997 Marion visited her parents at Moffat Beach. The family were aware of her impending departure. Marion’s father was seriously unwell at the time. Marion’s sister Bronwen recalled that Marion said to their father: *“I wouldn’t be doing this if I didn’t think you would be ok.”* Bronwen observed Marion to be in good spirits, was *“gushing”*, and *“making a big thing about going.”*⁹³ Bronwen further explained in Court that she was excited for Marion and that: *“she was going to be away for a couple of years”*. Bronwen said she called Marion and offered for her to stay and that she would drive her to the airport. Bronwen said that Marion wasn’t interested in this offer. She said that Marion said: *“she wanted to spend a couple of nights at a hotel in Brisbane and you know get her head together because everything had been so rushed and she felt she needed a good bit of rest before she hopped on the plane and began her adventure.”*⁹⁴

90. In June 1997 Marion spoke on the telephone to her old school friend, Angela Johansson. Angela recalls that Marion called her and told her she had sold her house and was going on a holiday to England. She said she would look up an old friend, Suzie Cooper, and might do some teaching. Angela says: *“I remember her saying to me that if something happens to me will you look after Sally and Owen and I said of course. She then said that Sally and Owen are settled in their lives now and I’m going overseas for a year and will be back in a year for Sally’s wedding.”*⁹⁵

91. In the weeks prior to Marion’s departure, she telephoned her son Owen at his

⁹² Transcript, 24 June 2021, p. 33.

⁹³ BOE, Volume 2, Tab 69, p. 619, [38].

⁹⁴ Transcript, 1 July 2021, p. 50.

⁹⁵ BOE, Volume 2, Tab 81, p. 683, [12].

house. Owen's partner Eden Bartholomaeus answered the phone. She gave evidence that she had met Marion on two occasions. She says that Owen was not home at the time. During this conversation, Marion said words to the effect: "*Will you look after Owen for me?*" Eden considered this an unusual comment to make, particularly given they were not in much contact.⁹⁶

92. On or around 20 – 21 June 1997, about a day before her departure, Marion spoke with Janis on the telephone. Janis says that Marion sounded happy and excited about her travel to the United Kingdom and that she would be travelling for about a year. She spoke of visiting an aunt and going on the Orient Express and visiting "*Jane Austen country*" in England.⁹⁷ Janis said Marion had been talking about going overseas "*a good six months before she actually went.*"⁹⁸

93. Later in June, Marion spoke with her sister Bronwen on the telephone. Bronwen says she offered to take Marion to the airport and Marion declined and said "*she was going to stay in a hotel in Brisbane for two nights before she left*" and "*Marion told me not to come to the airport so I left it at that.*"⁹⁹

94. Sally also gave evidence that she offered to drive Marion to the airport. She says that Marion declined and said that: "*I just want to go by myself. I don't – I'll get all teary if I get you guys to drop me off.*"¹⁰⁰

95. Lesley drove Marion to the bus stop at Southport in order to catch a bus to the airport. Lesley recalls the occasion: "*I remember we got there very early because we were laughing about it and said, we could've stayed home longer, and I remember so much luggage, that she had so much luggage. And I remember her going on the bus because we were laughing and crying at the same time and I can always see her face on the bus.*"¹⁰¹ Lesley said Marion had two big suitcases and a carry-on bag. She also recalls that the bus was a

⁹⁶ Transcript, 24 June 2021, p. 52.

⁹⁷ BOE, Volume 2, Tab 74, pp. 649 – 650.

⁹⁸ Transcript, 24 June 2021, p. 76.

⁹⁹ BOE, Volume 2, Tab 69, p. 619, [39].

¹⁰⁰ Transcript, 28 June 2021, p. 50.

¹⁰¹ Transcript, 30 June 2021, p. 12.

coach, similar to a Greyhound bus.¹⁰²

96. It is clear from the evidence that Marion did not want any family or friend to drive her to the airport.

Marion's departure on 22 June 1997

97. The flight records demonstrate that on 22 June 1997 Marion departed Australia at 9.38pm on a Korean Airlines flight under the name of Florabella Remakel. Her outgoing passenger card recorded that Florabella was divorced, was a resident departing permanently for Luxembourg, and that her usual occupation was home duties. The card bears the signature of Florabella.¹⁰³

98. A factual issue to be resolved is where Marion stopped over on her way to England. Her flight was on Korean Airlines and the departure card had the words 'S/Korea' written in handwriting. In Marion's letter to Sally from England, she made reference to: "*finally arriving in England after a most interesting visit to the East.*"¹⁰⁴

99. I find it is more likely than not that Marion stopped in South Korea on her way to England.

100. Sally was asked in evidence about the handwriting on the outgoing passenger card.

101. I find that, consistent with Sally's opinion, the handwriting on the outgoing passenger card was Marion's except for the words "*Europe*", "*Luxembourg*", and "*S/Korea*", which were not written by Marion and were written by some other, unknown, person.

¹⁰² Transcript, 30 June 2021, p. 12.

¹⁰³ BOE, Volume 3, Tab 121, pp. 942 – 943; Tab 122, pp. 944-953.

¹⁰⁴ BOE, Volume 1, Tab 33, p. 215.

102. I accept the submission by Counsel Assisting and find that Marion, under the name of Florabella, travelled overseas on 22 June 1997. There is no evidence to suggest that any person other than Marion, under her new name of Florabella, boarded this flight. I also accept the submission by Counsel Assisting, and find accordingly, that Marion deliberately travelled overseas using her new name and took steps to ensure that no family or close friend was aware of the change in her identity or the fact that she left the country under her new name.

Issue 2: Whether Marion Barter returned to Australia on 2 August 1997 under the name of Florabella Natalia Marion Remakel

103. On 2 August 1997 at 10.11amw flight records from the Department of Home Affairs set out that Florabella Remakel arrived in Brisbane on a Cathay Pacific flight. The incoming passenger card reads that Florabella was “*married*: and a “*visitor*”. She stated her country of residence as “*Luxembourg*” and her occupation ‘home duties’. The card states that the intended length of stay was eight days and that the purpose was visiting friends / relatives. Her intended address was the Novotel in Brisbane. The card bears the signature of Florabella.¹⁰⁵ There is no evidence that any other person travelled into Australia as “*Florabella*” other than Marion. Further, Sally gave evidence that all the words on the card, except for the number of her passport, were written by the hand of her mother.¹⁰⁶ The Family agreed with the submission of Counsel Assisting that Marion returned to Australia under the name Florabella Natalia Marion Remakel on 2 August 1997.¹⁰⁷

104. I find that Marion returned to Australia under the name of Florabella Natalia Marion Remakel on 2 August 1997, and took steps to ensure that no other known person was aware of her return to the country.

¹⁰⁵ BOE, Volume 3, Tab 23, pp. 954 – 955.

¹⁰⁶ Transcript, 30 June 2021, p. 52.

¹⁰⁷ Submissions on behalf of the Leydon Family, 18 October 2022, [11].

105. Marion's passport was never used again. I find that Marion did not leave Australia again after 2 August 1997.

Communication from Marion during her time overseas

106. Marion sent a letter and a number of postcards to family and friends in Australia during the six weeks she was overseas. I find, consistently with the evidence of Sally, that these postcards were all written by Marion.¹⁰⁸ All of this correspondence was signed off by Marion, and not under her new name. Marion hired a car and travelled to Brighton, Alfriston, Tonbridge, Tunbridge Wells, Rye, Hastings, and Winchelsea while she was in England. She visited Jane Austen's house and Winchester Cathedral.

107. On 30 June 1997, Sally received a letter from Marion. The writing paper was marked as "*hotel nikko narita*" in Japan and the envelope postmarked from Tunbridge Wells, Kent, in the United Kingdom.¹⁰⁹ In this letter she stated that she arrived in England after a "*most interesting visit to the East*" and that it was "*clouded somewhat by too much luggage*". She wrote that she planned on staying in the town for a few days before "*tackling Europe*".¹¹⁰

108. A significant issue before the Court was where and when Marion obtained this writing paper. This issue is addressed below in relation to the role of Mr Blum in Marion's life.

109. On or around 31 July or 1 August 1997, approximately six weeks after her arrival in England, Sally received a voicemail message from Marion on her home telephone answering machine. She listened to this message on her arrival home after driving from Thredbo in New South Wales. Chris recalled that he and Sally left Thredbo before the landslide and drove back to the Gold Coast over two to three days. The Thredbo landslide occurred at 11.40pm on 30 July 1997. They both recalled staying at Sally's aunt's house, Robyn Creevey, in

¹⁰⁸ Transcript, 24 June 2021, p. 16 and 28 June 2021, p. 48.

¹⁰⁹ BOE, Volume 1, Tab 33, pp. 210-216.

¹¹⁰ BOE, Volume 1, Tab 10, pp. 82 – 84.

Sydney on the trip home.¹¹¹ They also both recalled a message on the answering machine from Marion on the evening of their return. Sally says that the message was words to the effect: "*Hi guys, we've heard word over here about the Thredbo disaster and I was just ringing to check that you were ok.*" Sally then received a second telephone call from Marion either that same night or the same day. Sally says that Marion was calling from a pay phone and that the phone kept "*dropping out*" and Marion rang her back a number of times to complete the call. Sally said to her mother: "*Where are you and I will call you back?*" Marion responded that she was having tea with some old ladies, and she just wanted to check that they were ok.

110. I find that this telephone call was made by Marion either a day or so before boarding her plane to return to Australia, or in Australia shortly after disembarking on her return.

111. This telephone call was the last time Sally spoke with her mother.

112. During this conversation Marion did not inform Sally that she had changed her name or had entered into a new relationship. She did not inform Sally that she had either returned to Australia or intended to return to Australia shortly.

Sally's concern for Marion following Owen's birthday

113. Marion's son Owen had his birthday on 18 October. Sally gave evidence, and I accept, that Marion always contacted both of her children on the day of their birthday. Marion did not contact Owen on his birthday in October 1997.

114. I also find that this was when Sally first became concerned about her mother's whereabouts.

115. Due to this concern, Sally contacted her mother's bank in order to check whether she had been accessing her money in her account. Sally says that she

¹¹¹ Transcript, 24 June 2021, p. 17 and 28 June 2021, p. 54.

made telephone contact with Commonwealth Bank and informed a female bank representative that she was checking on her mother's welfare because she was overseas. Sally said that she was informed by the bank representative that there had been a number of recent withdrawals in Byron Bay from Marion's account in the sum of \$5000 each.

Sally and Chris' visit to Byron Bay on 22 October 1997

116. As a direct result of the information provided to Sally about Marion's withdrawals of money, Sally and Chris visited Byron Bay on 22 October 1997 and attended various shops and banks in order to try to find out more information about Marion. They did not locate Marion or any sign of her.

The attendance by Sally and Chris at Byron Bay police station on 22 October 1997

117. On the afternoon of 22 October 1997, Sally and Chris attended the Byron Bay police station. Former Senior Constable Graham Childs made a notebook entry as follows:

*"Last Address / 15 Merinda Court / Southport / 5' 4" tall / dark shoulder length hair / Hazel / Green eyes / Fair skin / Slight / med build / Active Account State / Bank Byron Bay / Acn 40455450210483 / Visa 40455410210481 / Manager David Martin / Ashmore 07 55973099/ Info from Federal Police John Lewis Brisbane / Returned Sydney / Brisbane 2.8.97 / Last transaction 28/8 / Byron / Transferred \$80,000 from account to another account 15/10/97."*¹¹²

118. Mr Childs also made a record in the NSW Police computerised records system, known as a 'COPS entry'. The content of the COPS entry was as follows:

"The next of kin is concerned that the POI who is her mother has

¹¹² BOE, Volume 2, Tab 58, p. 388.

travelled to England and has returned to Australia on the 2/8/97 and did not contact her upon return. Members of the family have received postcards dated 30/8/97 from England. Enquires with the POI's bank indicated that she has acted on her account a number of times including several transactions at Byron Bay. The latest transaction was the sum of \$80,000 by telegraphic transfer possibly to an overseas account. A stop has been placed on the account including a narrative for the POI to contact her daughter as a matter of urgency. At this stage it is not planned to list the POI as missing as it is believed that she is capable of behaviour of this nature. It is not unusual for her not to contact members of the family. She is a 3 times divorced woman in her 50s and one possible scenario for her behaviour is that she has returned to Australia with a companion and has transferred the funds to England to purchase a property there with the view to move to England.” ¹¹³

119. Mr Childs had no independent memory of his interaction with Sally and Chris on 22 October 1997 or of making any inquiries about Marion around that time.¹¹⁴ He agreed in evidence that the information of the address, telephone number, bank account and bank branch details was provided to him by Sally. He also agreed that the personal information, including the information about Marion's history and contact with her family was likely provided to him by Sally. His evidence was that he assumed he made the various inquiries referred to in the entry.¹¹⁵

120. Mr Childs entered this report as an “*occurrence only*” and he did not list Marion as a missing person at that time.¹¹⁶ The reasons provided Mr Childs was that, in his view, there was no sense of urgency at the time and Sally did not specifically express that she wished to report her mother as a missing person.

¹¹³ BOE, Volume 1, Tab 6, p. 57.

¹¹⁴ Transcript, 22 June 2021, p. 2.

¹¹⁵ Transcript, 23 June 2022, pp. 8 – 9.

¹¹⁶ BOE, Volume 2, Tab 60, p. 395, Volume 2, Tab 58, p. 388.

121. Counsel Assisting and the Family both submitted that it was likely Mr Childs who made the inquiries with John Lewis from the Australian Federal Police on 22 October 1997 and was informed that Marion had returned to Australia on 2 August 1997. Sally gave considerable evidence on the topic of how and when she was informed that her mother had returned from overseas. Counsel Assisting and the Family also both submitted that it was likely that it was Mr Childs who informed Sally that her mother had returned to Australia on 2 August 1997 (either on 22 October or on a later date in a telephone call).

122. Mr Childs submitted that there is insufficient evidence to support a finding that he was the person who contacted Australian Federal Police officer, John Lewis, and that he informed Sally that Marion had returned to Australia either on 22 October 1997 or subsequently.

123. The COPS records show that Mr Childs made two 'action' entries in the COPS system at 2:40pm, stating that he had made enquiries with the State Bank Byron Bay and that he had made enquiries with Mr Lewis at the Australian Federal Police. He had a period of 82 minutes in which he could have done this, between 1:15pm and 2:37pm.

124. Accordingly, I accept that it was Mr Childs who made the inquiries with Mr Lewis from the Australian Federal Police on 22 October 1997 and was informed that Marion had returned to Australia on 2 August 1997.

The evidence of Marion's bank accounts

125. In 1997 Marion banked with the Colonial State Bank. The Commonwealth Bank acquired Colonial, which included the Colonial State Bank, in 2000. There is only limited information available regarding Marion's accounts from the time of her disappearance. Due to the bank's retention policy, there are no records of Marion's bank transactions accounts in 1997.

126. From the records that are available, Marion had a customer profile that

indicated she had first become a customer of the bank in 1991.¹¹⁷ The residential and mailing address recorded in 2001, which is the time the profile was considered to be established due to the acquisition of the bank in 2000, was “*Barclays Bank, Mint St, Rye, London, United Kingdom*”. There have been no changes to this address since the profile was opened. I accept the submissions of Counsel Assisting that given Marion planned to travel and work in England, it is likely she informed the bank of her travel plans and changed her forwarding address.

127. Marion had three relevant accounts established under her profile at the time of her disappearance:

- 1) Streamline / Smart Access account that was opened in January 1994 and remains open;
- 2) High Performance Cash Account opened in June 1997 and closed in December 1997; and
- 3) Visa credit card that was opened in March 1996 and remains open.¹¹⁸

128. There are only records available in relation to these accounts since 2004.

129. The Streamline / Smart Access account has had no transactions since 2004, except for the transfer of a sum in order to pay for the automatic annual fee for the Visa account.¹¹⁹

130. The High Performance Cash Account was closed by the bank in 2004 with a balance of \$14,889.70. This balance was transferred to the Depositors

¹¹⁷ It is noted that Marion’s profile contained two different dates of birth: 1 October 1945 and 3 October 1945. See the evidence of Graeme Smith, Transcript, 22 June 2021, p. 13. There is no evidence that this discrepancy is of any significance.

¹¹⁸ BOE, Volume 3, Tab 113, pp. 849 – 850, [15].

¹¹⁹ BOE, Volume 3, Tab 113, pp. 849 – 850, [26].

Unclaimed Funds.¹²⁰ This account was used by Marion for the funds from the sale of her house after the discharge of her mortgage.¹²¹ The balance of this account as at October 1997 is not known.

131. The Visa credit card has had no transactions since 2004 except for the automatic annual fee for the account.¹²²

The withdrawal of Marion's money from the Colonial State Bank

132. The notebook entry of 22 October 1997 made by Mr Childs records the details for Marion's bank manager, David Martin, of the Ashmore branch of the State Bank and records that the last transaction was a transfer at Byron Bay of \$80,000 "*from account to another account 15/10/97.*"¹²³ The COPS entry also created by Mr Childs on 22 October 1997 states: "*The latest transaction was the sum of \$80,000 by telegraphic transfer possibly to an overseas account.*"¹²⁴

133. The Court also received evidence of withdrawals in the form of a memo prepared by John Wilson, Marion's father. The memo is entitled "*Some Details re Marion's Disappearance*" and is undated.¹²⁵ In early 1998 John Wilson sought the assistance of the Salvation Army Family Tracing Service to locate Marion. I find that John Wilson's memo was drafted by him around this time for the purpose of providing information about Marion to the Salvation Army.

134. The memo refers to withdrawals from Marion's account after her return on 2 August 1997 as follows:

*"18 August 1997 Two withdrawals of \$500 each from Byron Bay
21 August 1997 One withdrawal of \$500 from Burleigh Head
22 August 1997 One withdrawal of \$500 from Burleigh Head*

¹²⁰ BOE, Volume 3, Tab 113, pp. 849 – 850, [25].

¹²¹ Transcript, 22 June 2021, p. 9.

¹²² BOE, Volume 3, Tab 113, pp. 849 – 850, [26].

¹²³ BOE, Volume 2, Tab 58, p. 388.

¹²⁴ BOE, Volume 1, Tab 6, p. 57.

¹²⁵ BOE, Volume 5, Tab 215, p. 1634.

*23 to 28 August 1997 \$500 each day from Byron Bay
Balance of money approx. \$80,000 withdrawn 15 October 1997
The last withdrawal was from Byron Bay."*

135. It is noted that this memo refers to withdrawals in the sum of \$500 each, whereas Sally's recollection, reflected in her evidence, was that she was informed by the female bank representative on the telephone that these withdrawals were of \$5000 each.
136. The Court heard from Joan Hazlett, branch manager of the Byron Bay branch of the Colonial State Bank in 1997, and David Martin, branch manager of the Ashmore Colonial State Bank in 1997. Their evidence was that a customer could withdraw \$500 from an ATM and a withdrawal of \$5000 would have required the customer to attend the bank and make a withdrawal over the counter.
137. Counsel Assisting submitted that the evidence of Ms Hazlett and Mr Martin as to the requirements for a transfer of a large amount of money was unchallenged and accordingly, a person seeking to transfer or withdraw a large amount of money from Marion's account would need to show identification that they were in fact, Marion.¹²⁶
138. Counsel Assisting submitted that the Court should find that Marion withdrew a series of sums of \$500 in August 1997 and attended the Byron Bay branch of the Colonial State Bank and facilitated a transfer of \$80,000 on 15 October 1997.
139. Accordingly, I must also consider and determine the likely sums that were withdrawn from Marion's account in the circumstances. I find that the sums withdrawn from Marion's account were likely \$500 per withdrawal for the following reasons: The ATM limit was \$500; John Wilson's memo lists multiple transactions of \$500 from Byron Bay and Burleigh Heads, including two

¹²⁶ Transcript, 27 October 2022, pp. 860, 38 – 49.

transactions on the same day of \$500 on 18 August 1997. Between 23 to 28 August 1997, he lists a transaction of \$500 being withdrawn each day. If the sum was \$5000 rather than \$500, and attendance at the bank counter was required, then it is difficult to understand why amounts greater than \$5000 were not withdrawn to obviate the requirement for multiple attendances at the bank counter, particularly on 18 August 1997.

140. Ms Hazlett said, and I accept, that a withdrawal of \$80,000 would have received scrutiny at a branch at the time and would have required a bank teller to request photographic identification from the customer. The Byron Bay branch at that time may have had \$80,000 available for such a withdrawal without notice, but it would depend on the particular day. She said that a telegraphic transfer of \$80,000 overseas would have been processed in Sydney and required full identification by the customer.¹²⁷

141. Mr Martin recalled Marion as a regular customer at his Ashmore branch. He said, and I accept, that he would expect a bank teller would have required photographic identification from a customer withdrawing money from their account at that time. This would likely have been their bank or ATM card and identification such as a passport or driver's licence.¹²⁸ He also said that at the Ashmore branch, \$80,000 would probably not have been available without notice.

142. I find that the sum of \$80,000 was either withdrawn or transferred from Marion's account on 15 October 1997.

143. I must also address the question of whether it was Marion herself who attended the bank on 15 October 1997 for this transaction.

144. Counsel Assisting Counsel submitted that I should make findings that a female bank teller from Colonial State Bank facilitated a transfer of \$80,000 on

¹²⁷ BOE, Volume 3, Tab 111, p. 833.

¹²⁸ Transcript, 22 June 2021, p. 49.

15 October 1997 from Marion's account following her return from overseas, and that the transaction was requested by Marion herself, rather than some other person pretending to be Marion. Counsel Assisting submitted that there is no evidence before the Court that any other person represented themselves as Marion in order to access her money.¹²⁹

145. The position of the Family is that Paula McKenzie's (a former police officer of the Queensland Police Missing Persons Bureau) recollection of hearsay evidence with an unidentified bank teller is not reliable and that although the Court should find that \$80,000 was transferred out of Marion's account on or about 15 October 1997, the Court is not in a position to make a finding that Marion made the transfer herself.¹³⁰

146. Yet, the unchallenged evidence from Colonial State Bank managers Ms Hazlett and Mr Martin was that a customer would be required to provide photographic evidence of their identity for such a large withdrawal or transfer. Ms Hazlett said that such a transaction would have received scrutiny and it was likely that a suspicious transaction report would have been prepared. Accordingly, I am satisfied that the person seeking to withdraw or transfer the \$80,000 would have to demonstrate that they were in fact Marion by using photographic identification to the satisfaction of the bank teller.

147. At this point it is necessary to make some comments about Ms Hazlett and her evidence. Ms Hazlett was the Bank Manager of the Byron Bay Branch of the State Bank (later the Colonial State Bank) in 1997 and had held that position since August 1995.¹³¹

148. The evidence of Ms Hazlett is that although she had spoken to police in August 2020 regarding the investigation into Marion's disappearance, at the time, she had no knowledge of Marion. She said that she had only been asked

¹²⁹ Counsel Assisting submissions, 29 August 2022, p. 29 [102].

¹³⁰ Leydon family submissions, 18 July 2022, pp.13-16 [56]-[66].

¹³¹ Transcript, 17 October 2022, pp. 816, 49 – 50; pp. 817, 1 – 5.

about the incident with reference to the name of 'Marion Barter' and was never shown a photograph of her.¹³²

149. Ms Hazlett says that in July 2022, she drove past a billboard near Grafton, featuring a photo of Marion and identifying her as missing. After seeing this photo, Ms Hazlett recalled Marion as being the woman who had attended the branch of the State Bank in which Ms Hazlett was the manager some years previously.¹³³

150. Ms Hazlett gave evidence that she only interacted with Marion on one occasion, when asked by a teller to assist with a "*significant cash or suspicious transaction*" that required the completion of paperwork to report the transaction in accordance with government regulations at the time.¹³⁴ She could not recall the amount of the transfer but did say in her evidence that it was a withdrawal rather than a transfer. She said that a transfer would not have required such reporting to take place.¹³⁵

151. Ms Hazlett told the Court that she believes this incident with Marion occurred around the time that Silverchair played a concert at Belongil Fields.¹³⁶ Having been informed by Counsel Assisting that the police investigation revealed that Silverchair played in 1996 (and not 1997), Ms Hazlett replied: "*...I just really don't have an idea of the time...I just remembered it was a very busy time when she was there, but then we also had - well it's not Splendour, I think it was called Homebake...that time every year at Byron.*"¹³⁷

152. Ms Hazlett gave evidence that whilst she was not sure whether the interaction with Marion was in 1996 or 1997: "*...97 rings a bell because a police officer did years, a few years later ask for copies of the transaction report and identification and I don't know why 97 sort of sticks in my mind.*"¹³⁸

¹³² Transcript, 17 October 2022, pp. 819, 5 – 14.

¹³³ Exhibit 21, page 2, [10]; Transcript, 17 October 2022, pp. 820, 43 – 50; pp. 821, 1 – 7.

¹³⁴ Transcript, 17 October 2022, pp. 822, 11 – 37.

¹³⁵ Transcript, 17 October 2022, pp. 822, 40 – 46.

¹³⁶ Exhibit 21, page 4, [20].

¹³⁷ Transcript, 17 October 2022, pp. 822, 40 – 46

¹³⁸ Transcript, 17 October 2022, pp. 831, 26 – 34.

153. Ms Hazlett was shown three photographs of Marion.¹³⁹ She was asked by Counsel Assisting to nominate, on a scale from one to ten, her certainty as to whether the woman she encountered in this incident at the bank was the same woman as the photograph of Marion displayed on the billboard. In response to this question Ms Hazlett answered “*nine*”.¹⁴⁰
154. I find that it was Marion herself who attended at the bank on 15 October 1997 and requested the transaction and informed the bank teller that she did not want her whereabouts disclosed.
155. A separate factual issue arises to whether Mr Blum had any involvement with this and the other transactions, which I deal with later in these findings.

Investigations by Queensland Police and the evidence that Marion had been located safe and well and did not want her whereabouts disclosed

156. There are documentary records relating to Marion’s disappearance in the form of a series of notebook entries made by former Senior Constable Paula McKenzie of the Queensland Police Missing Persons Bureau. Ms McKenzie was tasked to locate Marion following a request from Marion’s family. Ms McKenzie’s first notebook entry of 22 November 1997 reads: “*BARTER @ WILSON Marion 3/10/45 (Long Call) 55307137 to inquirer*”. This telephone number was the landline telephone number for Sally at the time. I find that Sally was the inquirer and contacted Queensland Police to request assistance to locate her mother.
157. Ms McKenzie’s notebook entries indicate that following this initial contact by telephone on 22 November, she made investigations into Marion’s whereabouts on 23, 24 and 25 November 1997. On 24 November 1997 her notebook entry reads: “*Inquiry with immigration, MP returned to Australia 2 August 1997. Inquiry with Colonial State Bank NSW Fax sent to Security Investigation. Await reply.*” Significantly, the next entry, dated 1 December 1997

¹³⁹ Exhibit 22.

¹⁴⁰ Transcript, 17 October 2022, pp. 831, 11 – 24.

reads: “**MP loc saw, whereabouts not to be disclosed.**” Paula Mackenzie gave evidence that this notation stands for “*Missing Persons located safe and well*” (emphasis added).

158. Ms McKenzie explained in evidence that at that time, an investigating officer would use a “*running sheet*” during the day to record investigations. At the end of the day these investigations were transferred onto an “*occurrence sheet*” and would also be recorded in an officer’s own diary. The diary entries would only contain basic information, whereas the running sheets were more comprehensive.¹⁴¹ Unfortunately, there are no further records relating to this investigation into Marion, including copies of any running sheet or occurrence sheet.

159. Ms McKenzie has an independent memory of being contacted by a bank teller responding to her fax to the Colonial State Bank seeking information about Marion. She said: “*I can remember that conversation from that teller, and it was a female who advised me that Marion was alive and well and it was her that was in their bank.*” She recalled this particular conversation because “*the teller was just so insistent that it was definitely her and there was no other way about it; it was her that was there and that was it; they won’t give me any more information, so that was the information I had to go on with the bank teller, but I still believe it was correct.*”¹⁴²

160. Trudi McKechnie also gave evidence before the Court. She was the officer in charge of the Queensland Police Missing Persons Bureau at the time of Marion’s disappearance. She recalled the practice at the time of Marion’s disappearance was that a missing persons report would be entered into the police database and allocated to an officer working on that particular shift. The report, or ‘file’, would remain with that allocated officer to ensure consistency with the investigation. She further explained the use of a “*run sheet*” and an “*occurrence sheet*” and daily notebook entries for investigations.¹⁴³

¹⁴¹ Transcript, 1 February 2022, p. 28.

¹⁴² Transcript, 1 February 2022, p. 33.

¹⁴³ Transcript, 2 February 2021, pp. 52 – 53.

Ms McKechnie said that she usually expected investigators to actually speak with the missing person or confirm they had otherwise been sighted in order to be considered located. However, in her opinion Ms McKenzie: *“Would have acted appropriately and that she was an accomplished investigator and, if she was satisfied, having spoken with the bank teller, that they have verified that it was Marion Barter then I would have accepted it.”*¹⁴⁴

161. This evidence of the notebook entry of 1 December 1997 and Ms McKenzie’s evidence of her memory of a conversation with the bank teller is significant evidence in these proceedings.

162. The Family does not dispute that there was such a transaction on 15 October 1997. The difference in the position between Counsel Assisting and the Family is whether it was Marion herself who requested this transaction or someone else. As I have found above, I am satisfied that it was Marion herself who requested the transaction on 15 October 1997.

163. The Family also submitted that I cannot be satisfied that Marion told a female bank teller that she did not want to have her whereabouts disclosed. The Family submitted that: *“on a matter as critical as whether Marion went into a bank, withdrew funds and said she did not want her whereabouts disclosed, the uncertain and imprecise recollection of this one witness is an unsound and unsafe basis for the Court to find that any conversation between a bank teller and Paula McKenzie was in relation to Marion Barter.”*¹⁴⁵ Nine reasons were set out by the Family in support in their submissions which I will not repeat here.¹⁴⁶

164. Ms McKenzie was an impressive and experienced police officer who worked in the Missing Persons Bureau for Queensland Police at the time. Ms McKenzie’s contemporaneous notebook entry made on 1 December 1997 said: *“Missing person located safe and well, whereabouts not to be disclosed.*

¹⁴⁴ Transcript, 2 February 2021, p. 54.

¹⁴⁵ Leydon family submissions, 18 October 2022, pp.13-14 [58]-[59].

¹⁴⁶ Leydon family submissions, 18 October 2022, pp.13-16 [56]-[66].

Inquirer advised".

165. Whilst I cannot be satisfied that Ms McKenzie's memory is sufficiently reliable to accept her specific recollections of the conversation with the bank teller, and while there are discrepancies in the evidence as pointed out by the Family in their submissions, I am satisfied that the contemporaneous notebook entry supports a finding that Marion did in fact tell the bank teller at the time that she did not want her whereabouts disclosed and this was repeated to Ms McKenzie (and recorded in her notebook at the time).
166. Ms McKenzie made a final notebook entry on 30 December 1997, setting out that she had a long telephone call with Marion's father and informed him that there was nothing further that police could do to locate Marion.
167. John Wilson's memo to the Salvation Army, drafted in early 1998, includes reference to information provided to him and Sally that Marion had been contacted and did not want her whereabouts known. The relevant part of his memo reads: "*Sally applied to Missing Persons only to be told that her mother was 52 – entitled to her privacy and that she had been contacted and didn't wish to have her whereabouts divulged*" and then "*I rang missing persons a couple of weeks after this and asked what identification had been made. They said that bank security had contacted Marion on the phone and had been told that she didn't want her whereabouts known. They said that the bank security were like police and that they were satisfied with their identification.*"¹⁴⁷
168. I find that the reference to "*Missing Persons*" is a reference to the Queensland Missing Persons Bureau.
169. There is a further documentary record that refers to the investigations undertaken by Queensland Police. This is in the form of a letter dated 18 March 1998 from Betty Brown, Director of the Salvation Army Missing Persons Bureau, to John Wilson. Ms Brown did not have any memory of Marion's case

¹⁴⁷ BOE, Volume 5, Tab 215, p. 1635.

and could only comment on the procedure of the Salvation Army at the time. Ms Brown's letter to John Wilson reads:

*"I have been talking at length to Police Missing Persons, who in turn contacted the security officer at the Colonial State Bank at Ashmore at Southport and after lengthy conversations were able to advise that it was definitely your daughter Marion, who went in and withdrew the balance of the money at Ashmore on 15 October and spoke of starting a new life."*¹⁴⁸

170. I find that the information contained in this letter by Ms Brown was provided by the Queensland Police Missing Persons Bureau, likely from Ms McKenzie.

171. Ms Brown's letter refers to a "security officer" at the Colonial State Bank at Ashmore. David Martin, former officer in charge of the Ashmore branch of the Colonial State Bank, said there was no "security officer" at the branch at that time. He said: *"I don't know what a security officer would be in a branch situation. Further, there would not have been any officer or person present to ensure the physical safety of customers."*¹⁴⁹ Counsel Assisting submitted that it is likely that this reference to a "security officer" was a reference to the Colonial State Bank security investigation section, which was the established point of contact by Ms McKenzie when she made her investigations. I accept this submission.

172. Marion's sister Bronwen has a clear memory of being informed by her father John, that Marion had been contacted by "bank security" and that she had told them that she did not want her whereabouts known.¹⁵⁰ At the time, Bronwen thought that her sister Marion was entitled to go away and have some "peace and quiet". She did not agree with the attempts by her father and by Sally to attempt to locate Marion and for her to be considered as a "missing

¹⁴⁸ BOE, Volume 3, Tab 135, p. 1068.

¹⁴⁹ Transcript, 22 June 2021, p. 45.

¹⁵⁰ Transcript, 1 July 2021, p. 58.

person”.

173. Sally also gave evidence that following the letter received from Ms Brown: *“My grandfather told me that the Family Tracing Service had located mum and that she said something like ‘you can tell them to stop looking for me in Byron Bay because I am far, far away. And tell Sally that I’m angry with her for not putting the money in my account for the car.’”*¹⁵¹ Deirdre also recalled that her father had told her that Ms Brown had spoken with Marion and that Marion was upset with Sally about not transferring money into her account from the sale of the car.¹⁵² In Deirdre’s view, it was this comment that caused her father to believe that the Salvation Army had in fact located Marion. She said: *“that was the line that convinced my father that they had spoken to Marion because he reasoned that no one else would have known about that car except for Marion.”*¹⁵³

174. The Family adopted the submission of Counsel Assisting that no finding should be made as to whether Ms Brown spoke to Marion on the phone.

175. I accept the submissions of Counsel Assisting and the Family. Ms Brown said that she could have made contact with Marion directly but does not have any recollection of doing so.¹⁵⁴ She further stated: *“I can only speak - looking at the letters I can only speak from memory of what our procedures were at that time. I have no actual memory of this case.”* Accordingly, there is insufficient evidence on whether Ms Brown had direct contact with Marion on this occasion.

The optometrist consultation in Grafton

176. There is a Medicare record of the use of Marion’s Medicare card on 13 August 1997 for a consultation with an optometrist by the name of Dean Evans in Grafton. This was for an initial comprehensive consultation and Marion’s account received a Medicare benefit.¹⁵⁵ Mr Evans has no memory of

¹⁵¹ BOE, Volume 2, Tab 64, p. 464.

¹⁵² Transcript, 2 July 2021, p. 11.

¹⁵³ Transcript, 2 July 2021, p. 11.

¹⁵⁴ Transcript, 22 June 2021, p. 23.

¹⁵⁵ BOE, Volume 3, Tab 126, p. 1011, Tab 110, p. 821.

any such consultation and there are no records available due to the passage of time.¹⁵⁶ At the time, Mr Evans was working out of premises at Grafton Shopping World Centre twice a week, probably on a Tuesday and a Wednesday. At the time the premises were known as W D Sprott, Optometrist (as Mr Sprott owned the business and it was part of the OPSM Group).¹⁵⁷ At the time a patient would attend for a consultation and then present their Medicare card. The card would be swiped on an imprint machine, a bulk billing document would be created, and the patient would sign the document and it was sent to Medicare.¹⁵⁸

177. I accept the submission of Counsel Assisting that due to the limited nature of this record, the passage of time and the lack of any other evidence, there is insufficient evidence for the Court to make any findings as to whether it was Marion herself who used this card; or whether another person used it or whether there is some other explanation.

The transfer of registration of Marion's car and the roadside assistance policy

178. Prior to Marion's travel overseas, Marion and Sally reached an agreement whereby Sally would keep her mother's Honda Civic 'Breeze' and sell her own car and transfer the proceeds of sale to Marion.¹⁵⁹

179. There is a record from the Royal Automobile Club of Queensland (RACQ) which indicates that on 25 June 1997, three days after Marion's departure, a roadside assistance policy was commenced in Marion's name for this car.¹⁶⁰

180. There is a further record dated 7 August 1997 from RACQ. This entry on the RACQ database states that Marion's roadside assistance policy was cancelled.¹⁶¹ The entry is not an automatic cancellation and the evidence from

¹⁵⁶ BOE, Volume 3, Tab 110, p. 821.

¹⁵⁷ Transcript, 22 June 2021, pp. 38 – 39.

¹⁵⁸ Transcript, 22 June 2021, p. 40.

¹⁵⁹ BOE, Volume 2, Tab 64, p. 461 and Transcript, 28 June 2021, p. 58.

¹⁶⁰ BOE, Volume 5, Tab 228, p. 1835.

¹⁶¹ BOE, Volume 1, Tab 37, p. 231.

the RACQ is that such an entry would require a member to either make a telephone call or attend a branch in Queensland. It is not known who contacted RACQ in regard to the policy for Marion's car. Sally does not have any memory of contacting the RACQ for this purpose but accepted in her evidence that she may have taken out the insurance or transferred it. In the circumstances, I am not in a position to make any findings as to whether Marion was involved in the cancellation of this policy.

Issue 3: The circumstances in which Marion Barter disappeared in or around August 1997, including whether her disappearance was intentional on her part and the possible reasons for her disappearance

181. The circumstances in which Marion disappeared are highly unusual. She sold her house, resigned from her employment, and changed her name in the months leading up to her departure. There is no evidence that she made any particular plans as to where she would stay or live while overseas. When she left for England in June 1997 she conveyed to family and friends that her intentions were that she was embarking on an overseas working holiday.

182. Despite what Marion told her family and friends, on 22 June 1997, when Marion left the country as Florabella, she completed her outgoing passenger card and indicated that she was departing Australia permanently. She stated her occupation not as a teacher, but as "*home duties*".

183. While overseas she represented to family and friends in correspondence and a phone call that she was enjoying her holiday, was travelling by herself, and had deferred her plan to travel on the Orient Express. She certainly did not inform any family or friends that she had changed her name or had any intention to live in Europe permanently. She also did not offer any information that would suggest any reason to return home to Australia in August 1997.

184. Marion returned to Australia on 2 August 1997, after around six weeks. She returned on her passport under the name of "*Florabella*" and did not inform

any known family or friends. On her return she represented herself as a married woman who lived in Europe and planned to return a week later after visiting friends and relatives.

185. I will now turn to the issue as to when Marion was last seen and whether her disappearance was “*intentional*”.

186. The Family submitted that I should not find that Marion’s disappearance was “*intentional*”. It was submitted that her disappearance was out of character, given her past correspondence with loved ones whilst she was overseas, including notably on their birthdays, and the unclaimed funds in her bank account.¹⁶²

187. Counsel Assisting invited me to consider the evidence in terms of when and where Marion was last sighted, that is, her last known whereabouts, together with the available evidence of her intentions at that time.

188. I find that Marion was last sighted on 15 October 1997. I further find that as at 15 October 1997, Marion did not want her family and friends to know her whereabouts on that date. There is insufficient evidence, however, for me to be able to make a finding about what her intentions were after 15 October 1997.

The role of Ric Blum in Marion’s life

189. As set out earlier, Ric Blum was a witness and an interested party in these proceedings. Counsel Assisting has provided a comprehensive factual chronology of the evidence before the Court of his early life, migration to Australia, marriage to Diane, his involvement with and tendency to exploit vulnerable women, and a series of coincidences which have been the subject of evidence before the Court. I have adopted and rely on this factual chronology and structure in these findings.

¹⁶² Submissions on behalf of the Leydon Family, 18 October 2022, [69]-[76].

Mr Blum's early life

190. Mr Blum is a Belgian national. He was born in Tournai. He claims his birth name was Willy Coppenolle as his parents were not married at the time of his birth.¹⁶³ He was asked: "*When you were born, what was the name that was given to you?*" He responded: "*I don't really know. But on the record of my birth, which I have, on the record of my birth I was declared Willy Coppenolle.*"¹⁶⁴ This marks the mysterious beginning of Mr Blum's life. He said he believes his birth mother was Maria Coppenolle, and that he was placed in an orphanage as a young child and then returned to live with her. He said that when he was returned to live with her, she had remarried Abel Florent Wouters, who was known as Andre.¹⁶⁵ He also said, and has explained as much to his wife, that he has been told that his birth father was David Desiree de Hedevary.¹⁶⁶ He has two brothers, Freddy and Desiree (though he does not know whether these are biological or step brothers).¹⁶⁷

Mr Blum's horse riding accident

191. Mr Blum joined the Belgium Gendarmerie in 1958 and sustained serious injuries in a horse-riding accident during a training exercise in a suburb in Brussels (known as the Swine Forest) while in this role.¹⁶⁸ He was discharged from the Gendarmerie in 1964.¹⁶⁹ He received an invalid pension.¹⁷⁰ There is evidence from his wife Diane that Mr Blum suffered depression as a result of the accident.

192. There is evidence that he told other people throughout his life different versions of this accident, namely that he fell from his horse during a protest by expatriates from the Belgium Congo. He denied providing different accounts of this incident. Diane gave evidence that she was told this other version. She said

¹⁶³ BOE, Volume 9, Tab 309, p. 2642, [5] and Tab 310, p. Q 49, p. 2652.

¹⁶⁴ Transcript, 16 February 2022, p. 349.

¹⁶⁵ Transcript, 16 February 2022, p. 350.

¹⁶⁶ Transcript, 16 February 2022, p. 349.

¹⁶⁷ Transcript, 16 February 2022, p. 350.

¹⁶⁸ BOE, Volume 9, Tab 310, Q 72 – 91, p. 2654, Transcript 16 February 2022, pp. 353 - 354.

¹⁶⁹ Transcript, 16 February 2022, p. 369.

¹⁷⁰ Transcript, 16 February 2022, p. 357.

that he told her that: “*he got beaten up in a mob demonstration*” where “*he got pulled off his horse and bashed*”.¹⁷¹ Mr Blum dismissed her account as “*she probably got mixed up*” with another story he told her.¹⁷² Janet Oldenburg gave evidence of being told a similar story to Diane. Mr Blum did not squarely deny that he told Ms Oldenburg this different account. He responded: “*I don’t know. I probably told her what happened; the whole story, and she decides on her own, I don’t know, I just don’t know.*”¹⁷³ It is unlikely that both Diane and Ms Oldenburg have misunderstood the same story. Counsel Assisting submitted, and I accept, that that Mr Blum has told a number of different versions of this accident in order to suit his own purposes.

Mr Blum’s prior marriages

193. Following Mr Blum’s discharge from the Gendarmerie, he worked as a photographer in France and Belgium.¹⁷⁴ He went on to marry four times. He said he married his first wife Janine Leroy in 1966 but later said it was 1960.¹⁷⁵ He could not recall exactly when he married his second wife, Nicole Renot, and says he was only with her “*for a few weeks.*” In the years after his accident he went to Switzerland, on and off, for around four years.¹⁷⁶

194. Mr Blum has a son and a daughter from his first marriage. He could not recall the name of his daughter and explained that it may not have been his child and that this was “*a bad episode in my life.*”¹⁷⁷

195. Mr Blum then married his third wife, Ilona Kinczel.

Mr Blum’s migration to Australia

196. In 1969 Mr Blum was issued with an Australian visitor visa under the

¹⁷¹ Transcript, 14 February 2022, p. 225.

¹⁷² Transcript, 16 February 2022, p. 356.

¹⁷³ Transcript, 16 February 2022, p. 357.

¹⁷⁴ Transcript, 16 February 2022, p. 358.

¹⁷⁵ Transcript, 16 February 2022, p. 361.

¹⁷⁶ Transcript, 16 February 2022, p. 359.

¹⁷⁷ Transcript, 16 February 2022, p. 362.

name of Willy Wouters. On 24 May 1969 he arrived in Australia with Ilona Kinczel.¹⁷⁸ He moved to Australia because Ilona wanted to migrate, though the relationship ended some months after they arrived in Australia.¹⁷⁹ Mr Blum had a child to Ilona who was born in Australia.¹⁸⁰

197. On 2 October 1969 he was granted resident status in Australia.¹⁸¹ In 1970 he departed Australia without a re-entry visa.¹⁸² In December 1970 or January 1971 he boarded a ship in South Hampton in England, the *Chusan*, and travelled back to Australia. On this trip he met Diane De Hedervary, his wife.¹⁸³ On that voyage Diane met him as Willy Wouters.¹⁸⁴ Mr Blum stayed in Australia for approximately six weeks with Diane's family before he returned to Europe.¹⁸⁵

Mr Blum's criminal history in Europe

198. In June 1971 Mr Blum was charged in France for offences of fraud, forgery, confidence tricks, and giving a false identity.¹⁸⁶ In December 1971 he was sentenced to a period of imprisonment of four years in France.¹⁸⁷

199. Between 1965 – 1973 he was convicted of offences of: cheque without cover; false documents and usage thereof; larcenies; embezzlement; fraud; attempted fraud; breach of trust; use of false documents; false impersonation; and concealment.¹⁸⁸

200. He was asked in evidence to explain his criminal conduct and he responded: "*It was all related to the cheques ... I met a person who was able*

¹⁷⁸ BOE, Volume 9, Tab 287C, p. 2517, Tab 288, p. 2527.

¹⁷⁹ Transcript, 16 February 2022, p. 371.

¹⁸⁰ Transcript, 16 February 2022, p. 372. Mr Blum recounted a memory that Ilona came to the airport with the newborn baby when Mr Blum left Australia in 1970 by air.

¹⁸¹ BOE, Volume 9, Tab 287C, p. 2517.

¹⁸² BOE, Volume 9, Tab 287, p. 2517.

¹⁸³ BOE, Volume 10, Tab 325E, p. 3115 and Transcript, 14 February 2022, p. 221.

¹⁸⁴ Transcript, 14 February 2022, p. 221.

¹⁸⁵ Transcript, 16 February 2022, p. 378.

¹⁸⁶ BOE, Volume 9, Tab 287, p. 2517.

¹⁸⁷ BOE, Volume 9, Tab 287, p. 2517.

¹⁸⁸ Transcript, 16 February 2022, pp. 382 – 383.

to supply me with papers, ID cards, all of that... And open banks account and use cheques, you know, there was no money in the bank, put it that way, and using cheques without failsafe."¹⁸⁹

201. In or around mid 1974 Mr Blum was released from prison and returned to Australia.¹⁹⁰ It is not clear how he returned to Australia as there are no formal records in evidence before the Court. Mr Blum says: "*I can't even remember in what name I booked the trip. I tried to remember ... I certainly travelled on the Willy Wouters passport but I can't remember.*"¹⁹¹

Mr Blum's marriage to Diane

202. In 1976 he was granted Australian citizenship and he married Diane.¹⁹² Diane says that he changed his name to Frederick De Hedervary.¹⁹³ Diane called him '*Rick*' from the time they met on the ship and thereafter.¹⁹⁴ Mr Blum was asked why he changed his name when he returned to Australia. He said that he did not want memories of the past and did not want to be found by anyone.¹⁹⁵ Diane was not aware that Mr Blum had been married to any of his previous three wives or had other children.

203. Mr Blum settled in Australia and started a family with Diane. He had two children. His son was born in April 1979 in Sydney. The family then moved to Luxembourg for about three years and his second child, a girl, was born there in April of 1981.¹⁹⁶ The family lived in Luxembourg for around two years and England for around three years.¹⁹⁷ In England the family lived in Burwash in South East Sussex, which was near the town of Tunbridge Wells.¹⁹⁸ Diane explained that her husband continued to work for his family furniture business

¹⁸⁹ Transcript, 16 February 2022, p. 381.

¹⁹⁰ BOE, Volume 9, Tab 287, p. 2517.

¹⁹¹ Transcript, 16 February 2022, p. 380.

¹⁹² BOE, Volume 9, Tab 287, p. 2517.

¹⁹³ Transcript, 14 February 2022, p. 222.

¹⁹⁴ Transcript, 14 February 2022, p. 225.

¹⁹⁵ Transcript, 16 February 2022, p. 366.

¹⁹⁶ Transcript, 14 February 2022, p. 228.

¹⁹⁷ BOE, Volume 9, Tab 310, p. 2658, Q 123 – 134 and Transcript, 14 February 2022, p. 228, and 15 February 2022, p. 288.

¹⁹⁸ Transcript, 15 February 2022, p. 288.

and would regularly travel to Europe and return to the family in England, often on a weekly basis.¹⁹⁹ Mr Blum said he visited Tunbridge Wells on approximately three occasions when he lived in Burwash, for the purpose of taking his young daughter to hospital.²⁰⁰

204. In 1986 the family returned to Australia.²⁰¹

205. In Australia Mr Blum has been charged and convicted of one offence: a minor matter of the unauthorized dealing with shop goods, for which he was convicted and fined \$100.²⁰²

206. In the 1970s Mr Blum and Diane owned 20 acres near Mount Tamborine in Queensland.²⁰³

207. When the family moved to Europe from around 1981 – 1986, Mr Blum worked for a family furniture business.²⁰⁴

208. In 1987 Mr Blum and Diane purchased a property in Woodenbong following an inheritance from Diane's family.²⁰⁵

209. In the early 1990s, Mr Blum and Diane built a house in Goonellabah in Lismore.²⁰⁶ This house was later sold, and the family moved to Midway Point in Tasmania.²⁰⁷

210. In 1996 Mr Blum and his family moved back to Ballina.

Mr Blum's history of changing his name

¹⁹⁹ Transcript, 15 February 2022, p. 288.

²⁰⁰ Transcript, 17 February 2022, p. 419.

²⁰¹ BOE, Volume 9, Tab 310, p. 320B, p. 2935.

²⁰² BOE, Volume 10, Tab 330, p. 3145.

²⁰³ Transcript, 14 February 2022, p. 274.

²⁰⁴ Transcript, 14 February 2022, p. 229.

²⁰⁵ Transcript, 14 February 2022, p. 269.

²⁰⁶ Transcript, 14 February 2022, p. 274.

²⁰⁷ Transcript, 14 February 2022, p. 275.

211. Throughout his adult life Mr Blum has routinely changed his name. He admitted before the Court to using a number of different aliases over the years, including the following:

- 1) Bernard Dupont;
- 2) Fernand Nocolos Remakel;
- 3) Frederick David de Hedervary;
- 4) Rick Blum;
- 5) Rich Richard;
- 6) Richard Lloyd West;
- 7) Richard Lloyd Westbury;
- 8) Rick Richard;
- 9) Rick West;
- 10) Willy Coppenolle;
- 11) Willy David Coppenolle;
- 12) Willy Wooters;
- 13) Shane Frederick David de Hedervary; and
- 14) Z Abdel Zilling.

212. The name Z Abdel Zilling was only an application for a name change and

it was never registered.²⁰⁸ Mr Blum said that when he returned to Europe, he did not want his past to come back to him. He accepted in evidence that the changes of name while in Europe was in order to commit offences of dishonesty.²⁰⁹

213. Mr Blum was asked in Court for an explanation as to why he has changed his name so often, he said: *"I can't offer a proper explanation, no."*²¹⁰ He went on further to say: *"I don't know. Because it's legal to do so and because probably it was a **fantasy**. I don't know, I can't explain. But I never committed anything in Australia, never."* (Emphasis added)²¹¹ In his record of interview to investigating police he said: *"no particular reason, just, ah ah, just to do with my, ah, mental health state, I suppose. I can't think, I can't really explain."* He was asked why he used various names and said the names came from the phonebook.²¹²

214. Mr Blum's wife Diane was aware throughout their marriage that her husband had used the name Willy Wouters, Frederick De Hedervary, Rick West, and Rick Blum. She was not aware of the other names, such as Richard Lloyd Westbury or Rick Lloyd Westbury. She could not explain Mr Blum's many changes of name. She said: *"I didn't get any explanation."* She further explained: *"I did say that it looked weird, you know, that he did it, but you know, he just kept saying it was just, you know, a legal thing he did."* She said it concerned her, though she accepted it. The children were not aware of the changes of name by their father.

215. Counsel Assisting submitted that the Court should make a finding that the primary motivation for Mr Blum's name changes was in order to dishonestly represent himself to others and that Mr Blum's weak explanation and denials in this regard should be wholly rejected. I accept this submission and make this finding accordingly.

²⁰⁸ Transcript, 16 February 2022, p. 386.

²⁰⁹ Transcript, 16 February 2022, p. 387.

²¹⁰ Transcript, 16 February 2022, p. 388.

²¹¹ Transcript, 16 February 2022, p. 389.

²¹² BOE, Volume 9, Tab 310, p. 2664, Q 200, 202.

216. Mr Blum held ten passports in different names over the years, obtained and used by him for international travel.²¹³ Throughout the 1990s and late 2000s he travelled, on average once a year to Europe for around four to six weeks and often twice in one year.²¹⁴ His explanation for his frequent trips to Europe were to see his family.²¹⁵ His family did not travel with him on these trips. Diane said that during his trips Mr Blum would contact her at home as necessary and she did not have contact details for him. When asked: “*How would you contact him if there was a family emergency, for example, back in Australia?*” she responded: “*I don’t know*”. She was never provided with details of any itinerary or hotels from Mr Blum during his travels.²¹⁶

Mr Blum’s financial position

217. Mr Blum has, according to the evidence before the Court, owned very limited property or assets over the course of his adult life. Diane said did not know how he paid for his trips to Europe, other than to say, “*he managed it*” and there may have been assistance from his family in Europe.²¹⁷ His primary income has been a disability pension from Centrelink in Australia and receipt of a pension from the Belgian government as a result of his discharge from the Gendarmerie.²¹⁸

218. Mr Blum gave evidence that he has only ever had one bank account, held jointly with his wife, under the name of “*De Hedervary*”.²¹⁹ There is no evidence of any other personal bank accounts held by Mr Blum under any other names.

219. Mr Blum held a business account in his name in Luxembourg when he lived there.²²⁰

²¹³ BOE, Volume 9, Tab 310, p. 2665, Q 215 – 220.

²¹⁴ BOE, Volume 10, Tab 321.

²¹⁵ BOE, Volume 9, Tab 310, p. 2666, Q 222.

²¹⁶ Transcript, 15 February 2022, p. 290.

²¹⁷ Transcript, 15 February 2022, p. 269.

²¹⁸ BOE, Volume 9, Tab 310, p. 2671, Q 281.

²¹⁹ Transcript, 17 February 2022, p. 425.

²²⁰ Transcript, 16 February 2022, p. 411.

220. Mr Blum said he received money from his family in Belgium and in the 1990s he received regular sums of cash from the sale of coupons as part of his inheritance from his mother. He said in evidence that in the 1990s he received, on average, a return of around 20,000 euros each year.²²¹ He also later gave evidence that any cash he brought back into Australia from family in Belgium was usually less than \$2000 each trip.²²²

221. Mr Blum further explained that when he returned with money from overseas, he retained it in cash in a safe box at his house. He said that on one occasion he placed the money in a safe deposit envelope with the Commonwealth Bank.²²³ He agreed that it was around the time he was living in Ballina at the Terrace. He further agreed that this deposit was in the days following his return from overseas.²²⁴

Mr Blum's interest in coin collecting

222. Diane gave evidence that Mr Blum has always had an interest in coins and has had his own small collection. She said he sometimes sold coins for other people and would receive a small commission.²²⁵ She was not aware of him turning his interest in coins into a business. She was aware in general terms of his company, Ballina Coin Investments Pty Ltd, but said that it never actually operated as a going concern. She agreed she was a director but commented that this was "*just on paper*" and said she had forgotten about it.²²⁶

223. There is no evidence before the Court to suggest otherwise or that this company generated any income. Mr Blum says that he occasionally sold coins but not for any significant sum.²²⁷

²²¹ Transcript, 17 February 2022, p. 445.

²²² Transcript, 17 February 2022, pp. 451 – 452.

²²³ Transcript, 17 February 2022, p. 446.

²²⁴ Transcript, 17 February 2022, pp. 448, 451.

²²⁵ Transcript, 14 February 2022, p. 270.

²²⁶ Transcript, 14 February 2022, p. 271.

²²⁷ Transcript, 22 February 2022, p. 444.

Mr Blum's advertisement in the *Le Courier Australien* in 1994

224. On 10 December 1994 Mr Blum placed a personal advertisement in French in the *Le Courier Australien* under the name of M.F. Remakel, with an address of Box L51, Lennox Head and a telephone number.²²⁸

225. The English translation of the advertisement reads:

*“Male, 47 years old, single, large, brunette, sober, non-smoker, university graduate, multi – home owner, intelligent, multi-lingual, genuine, motivated and very morally aligned and more importantly is searching for a lady with a free heart, BCBG (bon chic, bon Genre meaning ‘good style, good family’) looking for a permanent relationship and / or marriage.”*²²⁹

226. Mr Blum says that he never received any response to the advertisement.²³⁰

227. On 2 September 1994, only some months before placing the personal advertisement, he registered his company, Ballina Coin Investments, while he was living with his family in Ballina. On 19 September 1994 he connected a telephone number (066) 864 788 under the name of Ballina Coin Investments, with a postal address nominated as PO Box 624.²³¹ This telephone number was listed in the 1995 White Pages.²³² It was this telephone number that Mr Blum included in his French advertisement.

228. Mr Blum explained that this business was set up by him but did not trade. He rented a room in suite 9, 48 Tamar Street in Ballina for the purpose of this business, which he characterised as ‘receiving and sending coins’.²³³ He said

²²⁸ BOE, Volume 1, Tab 42, p. 276.

²²⁹ BOE, Volume 11, Tab 292, p. 2540.

²³⁰ BOE, Volume 9, Tab 310, p. 2668, Q 245 and Transcript, 22 February 2022, p. 433.

²³¹ BOE, Volume 7, Tab 294, p. 2546. This telephone number was disconnected on 14 February 1995.

²³² BOE, Volume 9, Tab 310, p. 2668, Q 251.

²³³ BOE, Volume 9, Tab 310, p. 2669, Q 256.

that he went to the premises to consult and to read his books and that he spent most of his time there with his friend Barry Cooper in his bookshop.²³⁴ Diane was not aware that Mr Blum rented or attended at this suite or that he had connected a telephone number.²³⁵

229. I accept Counsel Assisting's submission and find that Mr Blum could not satisfactorily explain why he opened and used a post office box at Lennox Head when he had one in Ballina and that the only reasonable explanation for the listing of the post office box in Lennox Head and the telephone number for Ballina Coin Investments in the advertisement was in order for Mr Blum to keep the advertisement, and any response, a secret from his wife and family.

Mr Blum's application for a drivers licence under the name of Remakel

230. Mr Blum's use of the name Remakel is the key link with Marion.

231. On 24 August 1988 Mr Blum dishonestly applied for and was issued with a Queensland driver's licence in the name of Fernand Nocolas Remakel. The date of birth on the licence was 2 December 1947 and the residential address was 17 Linning St, South Warren Park in Queensland. This licence was renewed in 1992.²³⁶ He said that he obtained an international drivers licence under the name of Remakel from an automobile club in either Luxembourg or Belgium.²³⁷ He further explained in Court that he then used this international licence in Australia to obtain the licence in Queensland.²³⁸

232. In his record of interview Mr Blum said he had "*no special purpose at that time*" for the licence.²³⁹ He informed investigating police that Fernand Remakel was a football player in Luxembourg in the 1970s. He said he had a relationship with his ex-wife Monique Cornelius and that he met Fernand on

²³⁴ Transcript, 22 February 2022, p. 437.

²³⁵ Transcript, 14 February 2022, p. 272.

²³⁶ BOE, Volume 10, Tab 323, p. 3080.

²³⁷ BOE, Volume 9, Tab 310, p. 2662, Q 173 – 179 and Transcript, 22 February 2022, p. 432.

²³⁸ Transcript, 16 February 2022, p. 412.

²³⁹ BOE, Volume 9, Tab 310, p. 2662, Q 172.

one occasion when Fernand bought a lounge from him when they both lived in Luxembourg.²⁴⁰ Diane said she did not ever meet a man by the name of Fernand Remakel in Luxembourg. She only became aware of the name recently.²⁴¹

Mr Blum's relationship with Monique Cornelius

233. Monique Cornelius is the ex-wife of Fernand Remakel. Mr Blum was acquainted with her, though he did not ever disclose to her that he had dishonestly used her ex-husband's name and obtained an international licence in his name.²⁴²

234. Mr Blum stated in his record of interview that he had, in his words, "*an affair*" with a lady named Monique while he was married to Diane and the family were living in Luxembourg.²⁴³ In his police statement he said he had "*a relationship*" with Fernand Remakel's ex-wife.²⁴⁴ However, in his evidence before the Court Mr Blum maintained that his interactions with Ms Cornelius were only platonic.²⁴⁵

235. Ms Cornelius lives in Luxemburg and did not give evidence in these proceedings.

236. The Court has the benefit of some documentary evidence relating to the relationship between Mr Blum and Ms Cornelius in the form of letters and postcards written by Mr Blum to her. Counsel Assisting submitted that these letters are clearly romantic and sexual in nature. Mr Blum maintained in evidence that his interactions with Ms Cornelius were only ever platonic. Counsel Assisting submitted that Mr Blum was untruthful in this regard and unwilling to concede as much in the face of clear documentary evidence under

²⁴⁰ BOE, Volume 9, Tab 309, p. 2645, [17].

²⁴¹ Transcript, 14 February 2022, p. 264.

²⁴² Transcript, 17 February 2022, p. 460.

²⁴³ BOE, Volume 9, Tab 310, p. 2659, Q 136 – 142.

²⁴⁴ Transcript, 17 February 2022, p. 402.

²⁴⁵ Transcript, 16 February 2022, p. 401.

his hand to the contrary. Mr Blum submitted that this is not sufficient evidence to challenge his assertion that he wrote letters to Ms Cornelius because of his “*infatuation with her*”.

237. I find that Mr Blum did have a sexual relationship with Ms Cornelius. This is obvious from the letters he wrote to her that are in evidence. It may be that he did not want to admit the relationship because his wife Diane gave evidence that she only become aware of Ms Cornelius once Mr Blum became part of the police investigation into Marion’s disappearance. Diane told the Court that Mr Blum told her that they had only been good friends.

Mr Blum’s encounter with Marion in the 1960s

238. In Mr Blum’s first statement to investigating police, he said he was in Switzerland and met a woman by the name of Marion. He said that Marion was “*very old fashioned*” in her look, particularly in regard to her dress and her hair.²⁴⁶ He says that she approached him in the lobby of his hotel, and they had a brief sexual encounter, spending two nights together at his hotel. He says that Marion informed him that her husband played soccer for Australia at the time and was part of a football training camp at Lucerne. At this time Mr Blum was known as Willy Wouters.²⁴⁷ He says that he probably told Marion his name was Willy, though he could not be sure.²⁴⁸ He further said that they did not keep in contact after this encounter.²⁴⁹

239. Counsel Assisting submitted that it is not necessary for the Court to make any particular finding as to whether in fact Marion and Mr Blum met in the late 1960s.

240. The Family submitted that I should reject Mr Blum’s evidence on this topic and not make any finding that Mr Blum met Marion in the late 1960s in Switzerland. This was on the basis that Mr Blum’s evidence was not supported

²⁴⁶ Transcript, 18 February 2022, p. 564.

²⁴⁷ BOE, Volume 9, Tab 309, p. 2642, [4 – 5].

²⁴⁸ Transcript, 18 February 2022, p. 562.

²⁴⁹ BOE, Volume 9, Tab 310, p. 2656, Q 103 – 104, Q 121.

by any independent corroborating evidence. Secondly, it was submitted by the Family that the encounter in the 1960s could be expected to “*have been etched into Mr Blum’s mind*”, however when questioned on his first meeting with Marion in 1997, he did not recall realising that the woman he met was the same woman he met in Switzerland over 30 years prior.²⁵⁰ Thirdly, the Family submitted there was no evidence of Marion travelling with her husband to Switzerland in 1968.²⁵¹ Fourthly, the Family submitted that Mr Blum’s oral evidence regarding when the meeting occurred was inconsistent in his police statement and record of interview.²⁵² Fifthly, the Family considered that the Court should be concerned with Mr Blum’s response when asked whether he constructed the Switzerland encounter from listening to the podcast: “*No. I used the information that I read in the – in the – in the folders when – you know, when she – when she was in Europe.*”²⁵³

241. I agree with the submission of Counsel Assisting that is not necessary for me to make any particular finding as to whether in fact Marion and Mr Blum met in the late 1960s.

Mr Blum’s relationship with Marion in 1997

242. When Mr Blum was first interviewed by investigating police he said that in or around 1995 or 1996 he answered a personal advertisement in a local newspaper, possibly the Gold Coast Bulletin, from a woman looking for a date or a partner.²⁵⁴ He said that he cut the advertisement out of the paper and kept it on his desk at home for a few days.²⁵⁵ He said that he provided his telephone number and Marion called him at his family home.²⁵⁶ He only had one telephone number at the time.²⁵⁷ He said that he was looking for adventure.²⁵⁸

²⁵⁰ Submissions on behalf of the Leydon Family, 18 October 2022, [44]-[45].

²⁵¹ Submissions on behalf of the Leydon Family, 18 October 2022, [47].

²⁵² Submissions on behalf of the Leydon Family, 18 October 2022, [48].

²⁵³ Submissions on behalf of the Leydon Family, 18 October 2022, [49]-[50].

²⁵⁴ BOE, Volume 9, Tab 310, p. 2670, Q 275 – 276.

²⁵⁵ BOE, Volume 9, Tab 310, p. 2673, Q 303.

²⁵⁶ Transcript, 18 February 2022, pp. 573 – 574.

²⁵⁷ Transcript, 18 February 2022, p. 578.

²⁵⁸ BOE, Volume 9, Tab 310, p. 2671, Q 278.

243. Throughout the course of Mr Blum's evidence his position changed on how he and Marion met in 1997. In the course of explaining Marion's apparent initial contact with him by telephone, Mr Blum said the words "*when she answered my ad*" in his explanations about communications with Marion.²⁵⁹ Mr Blum was asked whether he in fact had placed the advertisement, he denied this and said he was confused, and it was Marion who contacted him at the Travel Exchange.²⁶⁰

244. Later in his evidence Mr Blum again referred to Marion answering an advertisement placed by him. He was asked a series of questions to clarify this factual dispute. He was asked: "*Did I hear correctly just now that she did answer the ad?*" to which he responded: "*She did, yes.*" He was then asked: "*Which ad are you referring to that she answered?*" He then said: "*The ad that I put in. The ad that I put in the – I think it was the Gold Coast Bulletin but I'm not 100% sure. But I can't recall, yeah but I think it was in there. Anyway it was in a Queensland paper.*"²⁶¹ He agreed he was not suffering from any impairment and was confident in his answer.²⁶² Mr Blum was then asked a series of further questions on this topic and he returned to his original position that he answered an advertisement placed by Marion.²⁶³ The issue was raised with Mr Blum yet again in his evidence at a later stage of his examination. Here he continued to maintain that it was Marion who placed the advertisement and he who answered it.²⁶⁴

245. There is no documentary evidence available of any advertisement placed by Marion or by Mr Blum. I accept Counsel Assisting's submission and find that Mr Blum's evidence was unsatisfactory and that contradictory accounts were given by Mr Blum in regard to how he met Marion. In these circumstances I am unable to make a finding as to whether an advertisement was placed by Marion or by Mr Blum.

²⁵⁹ Transcript, 18 February 2022, p. 588.

²⁶⁰ Transcript, 18 February 2022, p. 589.

²⁶¹ Transcript, 18 February 2022, p. 597.

²⁶² Transcript, 18 February 2022, p. 598.

²⁶³ Transcript, 18 February 2022, p. 601.

²⁶⁴ Transcript, 28 April 2022, p. 668.

246. In Mr Blum's interview with police he said that on the first occasion he met Marion the house was for sale and on the second occasion the house had been sold and on the third occasion she was packing up to move.²⁶⁵ In Court Mr Blum said that the first meeting was in February, the second meeting in March and the third meeting at Marion's house in April or May.²⁶⁶ He then later said in Court that the first occasion was in March. He was asked: "*Not February now you say?*" Mr Blum responded: "*Maybe, I can't remember.*"²⁶⁷

247. On the first occasion Mr Blum met Marion he said that Marion picked him up from a train station in her car. He said: "*She say that she had a red car and she be in the carpark and when I walked out of the train I had to go across there was like a bridge ... an overpass to go down to the entrance to the carpark.*"²⁶⁸ Mr Blum says that he recognised Marion immediately from their first meeting in Switzerland in the 1960s. He recalled her dress sense and her hairstyle. He said that she had "*vertical curls*" and a "*big amount of hair on her forehead.*"²⁶⁹ He said she recognised him and she "*jumped on my neck*" in the carpark at Southport. She then drove him to an Asian restaurant for dinner and they later spent the night at Marion's house.²⁷⁰ He says this was the only occasion where he spent the night with her in Southport.

248. On either the second or the third occasion Mr Blum visited Marion, he said that he accompanied her to the school in order to pick up some books that she planned to send by air freight to England.²⁷¹ On these other two occasions he caught the bus to her house and then returned to his family home later in the day.²⁷²

249. Mr Blum says that he ended the relationship after this third occasion because of his wife and children.²⁷³ He gave evidence that he told his wife about

²⁶⁵ BOE, Volume 9, Tab 310, p. 2678, Q 340 - 352.

²⁶⁶ Transcript, 18 February 2022, p 603.

²⁶⁷ Transcript, 27 April 2022, p. 611.

²⁶⁸ Transcript, 18 February 2022, p. 579.

²⁶⁹ Transcript, 18 February 2022, p. 581.

²⁷⁰ Transcript, 18 February 2022, pp. 580 – 581.

²⁷¹ Transcript, 27 April 2022, pp. 612 – 613.

²⁷² Transcript, 27 April 2022, p. 612.

²⁷³ BOE, Volume 9, Tab 309, p. 2644, [8].

Marion soon after he ended the relationship in 1997. This was directly contradicted by the evidence of his wife, Diane. She said she knew nothing of 'Marion Barter' until around September or October 2021, when Mr Blum attended a local police station in regard to the investigation into Marion's disappearance. At this time, she says Mr Blum informed her that he had known Marion fifty years ago. When she was asked: "*Did he tell you of reacquainting himself with her more recently in the 1990s?*" she responded: "*Only after a while.*" She said that they caught up together somehow but she never knew the details. She further stated that she wished she knew about it.²⁷⁴

250. On this issue Mr Blum submitted, among other things, that Diane's memory is better than his memory and that his failure to disclose the affair with Marion was not surprising.²⁷⁵

251. Counsel Assisting submitted that there is a sufficient basis to find that Mr Blum met with Marion on at least three occasions between February and May 1997, but Mr Blum's evidence is too unreliable for any further or more particular findings. I accept Counsel assisting's submissions in this regard and make this finding.

252. A key question for the Court is the extent to whether Mr Blum's relationship continued with Marion after he says that it ended, and, in particular, whether he travelled with her overseas; and whether their relationship continued following her return to Australia. Mr Blum has consistently and firmly maintained his position that he only saw her on three occasions and then for a final occasion where she picked up some boxes from his house. He said: "*I said that I saw her three times plus the time she came to pick up the boxes. I never saw her again after that. I never saw her in Australia. I never saw her in England. I never saw her after she came back.*"²⁷⁶

²⁷⁴ Transcript, 14 February 2022, p. 215.

²⁷⁵ Submissions on behalf of Ric Blum, 13 September 2023, [46]-[47].

²⁷⁶ Transcript, 18 February 2022, p. 597.

Mr Blum's assertion that Marion stored boxes at his house in 1997

253. Mr Blum says that following his three encounters with Marion at her house, she asked him if she could store some boxes at his house. He said that some “*wooden tea chests*” were delivered by a removalist around three weeks before Marion left for overseas.²⁷⁷ There is no corroborating evidence from a removalist company or any other source. Mr Blum then says that about one week after these boxes were delivered, Marion came to collect them, while accompanied by a man in his fifties. He says that this man was tall and wearing a white hat and blue uniform with gold markings, like bars, on the sleeve. Mr Blum “*took him to be a navy officer or a pilot*”. Mr Blum has informed police that Marion told him that she and this man were travelling to Europe together to go on the Orient Express.

254. According to Mr Blum, Marion told him that she was going to live in the United Kingdom with this man and that she wanted to open a private school in England.²⁷⁸ He says they arrived in a white transit style van, collected the boxes, and then left.²⁷⁹ He reported that Marion said the boxes would be sent by air cargo to England.²⁸⁰ He also told the Court that he did not speak to the male who accompanied Marion.²⁸¹ He could not recall where his wife and children were at the time Marion and the man arrived to pick up the boxes.²⁸²

255. Counsel Assisting submitted that this account is implausible and should be rejected. Counsel Assisting stated: “*The specific reason why [Mr Blum] created this story is not clear, suffice to say that it appears to be an attempt by Mr Blum to distance himself from Marion and to suggest that Marion was involved in a relationship with a man other than himself prior to travelling overseas*”. The Family agreed with these submissions, further asserting that “*this account must be a deliberate concoction by Mr Blum and therefore*

²⁷⁷ Transcript, 27 April 2022, p. 616.

²⁷⁸ BOE, Volume 9, Tab 309, p. 2644, [15].

²⁷⁹ BOE, Volume 9, Tab 309, p. 2644, [12] – [15].

²⁸⁰ Transcript, 27 April 2022, p. 626.

²⁸¹ Transcript, 28 April 2022, p. 684.

²⁸² Transcript, 27 April 2022, p. 622.

knowingly false".²⁸³

256. Mr Blum rejected the Family's suggestion that the incident was a deliberate concoction. Notwithstanding this denial, I reject Mr Blum's evidence on this topic as it is implausible. I accept Counsel Assisting's submissions that the likely motivation for the false assertion is so that Mr Blum would be able to distance himself from Marion and to suggest that Marion was involved in a relationship with a man other than himself prior to travelling overseas.

The coincidence of Marion's change of name to Florabella Natalia Marion Remakel and Mr Blum's use of the name Fernand Nocolas Remakel

257. Marion changed her name to Florabella Natalia Marion Remakel in early May 1997. This name is not known to any of Marion's family or known friends. This is a highly unusual surname in Australia.

258. As set out above, Mr Blum dishonestly obtained a drivers licence under the name of Fernand Nocolas Remakel. He placed a personal advertisement under the name of Remakel in the years before he met Marion.

259. In Court, Mr Blum could not explain his reasons for using the name Remakel.²⁸⁴ He rejected the proposition that he wanted to be Fernand or that it was as a result of a fantasy.²⁸⁵ He denied that he ever invented a story that he was Fernand Remakel or that he ever introduced himself by that name.²⁸⁶ Yet in the *Le Courier Australien* advertisement, Mr Blum nominated he was 47 years old, when he was 55 years old at the time. The real Fernand Remakel would have been 47 years old at the time the advertisement was placed. Mr Blum denied that he nominated the age of 47 because it was the same age as Fernand Remakel.²⁸⁷ Mr Blum was further asked: "*But having placed an ad with the surname Remakel would you not have had to, had the ad been*

²⁸³ Submissions on behalf of the Leydon Family, 18 October 2022, [34].

²⁸⁴ Transcript, 22 February 2022, p. 432.

²⁸⁵ Transcript, 16 February 2022, pp. 413 and p. 432.

²⁸⁶ Transcript, 22 February 2022, p. 432.

²⁸⁷ Transcript, 17 February 2022, p. 456.

*answered, to continue using the name Remakel?” Mr Blum responded: “Well, maybe yes, but I don’t know; it didn’t happen.”*²⁸⁸ Counsel Assisting submitted that it is likely that Mr Blum’s motivation for obtaining the licence and placing the personal advertisement under the name of Remakel was to dishonestly represent himself as Fernand Remakel.

260. I accept this submission and find that Mr Blum’s motivation was to dishonestly misrepresent himself as a person named Fernand Remakel.

261. Mr Blum said that the licence remained in his wallet from 1988 for a period of nine years, until around 1997. He said he only used the licence on one occasion, when he placed the advertisement in Sydney. He said: *“It was there, like, I just, it was just in my wallet, that was all. I can’t explain any further. I never used it – I said only once when I put an ad in the paper. That’s when Mr – forgot his name now – anyway.”*²⁸⁹ He said he no longer has the licence and could not recall the last occasion that he had the licence and informed the Court that he thought he lost it.²⁹⁰ He said the licence was not in his wallet when he went overseas in mid 1997.²⁹¹ In his interview with police he suggested that Marion may have taken the licence: *“I think that, ahh, the first time I went to see Marion in, umm, in Southport, and that, time I stayed overnight, I think she may have stolen the or taken the licence from me, because, ah, I thought I lost it but, ahh, she use it for, umm, change of name.”*²⁹² In Court he said: *“I think maybe not her. I don’t know. I can’t accuse. As far as I know it disappeared from my wallet and I thought I lost it, that’s all I can remember.”*²⁹³

262. Mr Blum accepted a connection between Marion’s change of name and his licence in the name of Remakel. He said as much in response to a question on this topic: *“But obviously she, as far as my – somehow she a lot of circumstances but she must have got hold of that licence.”*²⁹⁴ Counsel Assisting

²⁸⁸ Transcript, 22 February 2022, p. 433.

²⁸⁹ Transcript, 17 February 2022, p. 427.

²⁹⁰ Transcript, 22 February 2022, p. 429.

²⁹¹ Transcript, 22 February 2022, p. 431.

²⁹² BOE, Volume 9, Tab 310, p. 2663, Q 189.

²⁹³ Transcript, 27 April 2022, p. 641.

²⁹⁴ Transcript, 27 April 2022, p. 640.

submitted that the only rational basis for Marion's change of name to Florabella Natalia Marion Remakel is that she was in a relationship with Mr Blum; that he represented himself to her as Fernand Nocolas Remakel; and that she decided, either on her own insistence or on his, to change her name to reflect his surname and to share his initials. Mr Blum denies this proposition. He said that Marion called him "*Rick*" in their 1997 meeting and that he used the name he was "*wearing at the time*."²⁹⁵

263. I agree with the submissions of Counsel Assisting in this regard. Accordingly, I find that Marion changed her name to Florabella Natalia Marion Remakel because she was in a relationship with Mr Blum and sought to share a name with him.

The coincidence of the timing and destination of Mr Blum's travel to Europe in June and August 1997 and Marion's travel to England in June and August 1997

264. The international movement records for Mr Blum, obtained under subpoena from the Department of Home Affairs, demonstrate that he travelled to Japan on 17 June 1997, with his outgoing passenger card stating he intended to spend 30 days in Belgium.²⁹⁶ His incoming passenger card demonstrates that he returned to Australia on 31 July 1997.²⁹⁷ Mr Blum travelled in and out of the country on these occasions on his passport under the name of Richard Lloyd Westbury.

265. Mr Blum admitted in his interview that during this trip he travelled to England.

266. Mr Blum departed for Japan five days before Marion, as Florabella, departed Australia. He left the day after Marion wrote her second resignation letter bringing forward her last day at TSS. He then returned two days before Marion, as Florabella, returned to Australia.

²⁹⁵ Transcript, 18 February 2022, p. 596.

²⁹⁶ BOE, Volume 10, Tab 320E, p. 3010.

²⁹⁷ BOE, Volume 10, Tab 320E, p. 3012.

267. Mr Blum says that he knew Marion was planning to travel overseas but he maintained that they did not make any plans to travel together. He said: “*No. I travelled to Europe. I know where I went and I didn’t travel with her and I never saw her. When she left Australia, after she left Australia, I never saw her again.*”²⁹⁸

268. The Court received evidence of significant unsuccessful attempts made by investigating police and Counsel Assisting to obtain the international travel movement records for Marion at the relevant times in 1997. These investigations included direct inquiries for immigration records of Marion and Mr Blum with the United Kingdom and Luxembourg and requests via Interpol for travel and immigration records from Japan and Korea. There were either no records located or available due to the operation of data retention policies.

269. Counsel Assisting submitted that, despite Mr Blum’s denials, based on this close proximity of the dates of travel; Mr Blum’s admission he travelled to England during that trip; and the tendency and coincidence evidence relating to a number of other vulnerable women (which is addressed later in these findings) it is likely that Marion and Mr Blum travelled together in England as a couple in a relationship for at least some period of time when Marion was in England in 1997. This was rejected by Mr Blum as speculation.

270. On this issue I accept the submissions of Counsel Assisting. I find that based on this close proximity of the dates of travel, Mr Blum’s admission he travelled to England during that trip, and the tendency and coincidence evidence relating to a number of other vulnerable women, Marion and Mr Blum travelled together in England as a couple in a relationship for at least some period of time when Marion was in England in 1997.

Whether Mr Blum travelled to Europe in 1997 using a false passport

271. The Family submitted that the Court should make a specific finding that

²⁹⁸ Transcript, 27 April 2022, p. 608.

when Mr Blum travelled to Europe between 17 June 1997 and 31 July 1997, which is almost entirely contemporaneously with Marion's trip in 1997, that he did so using a false passport. Further, the Family submitted that on each occasion that Mr Blum travelled overseas between 23 September 1994 and 4 November 1994 he was using a "*false passport*" in the sense that the passport bore a different name to his legal name.²⁹⁹

272. Counsel Assisting submitted that the term "*false passport*" is used in the sense that his passport bore a different name to his legal name and that it is not necessary or desirable for me to make such a finding, especially given the role of the Court is to make findings about the whereabouts of Marion and not about any potential criminal activity on the part of Mr Blum.³⁰⁰ Counsel Assisting submitted that Mr Blum did on many occasions (including those unrelated to Marion) travel on a passport which did not bear his legal name at the time.

273. The Family invited me to make a specific finding in this regard and submitted that it is relevant in relation to the manner of Mr Blum's involvement with Marion in 1997.

274. I find that Mr Blum's passport bore a different name to his legal name when he travelled to Europe between 17 June 1997 and 31 July 1997, however it is not necessary or desirable for me to make a finding that Mr Blum travelled using a "*false passport*" as that is not the role of the Court in this matter.

The coincidence of Mr Blum's access to the Hotel Nikko Narita notepaper and Marion's use of Hotel Nikko notepaper between 22 – 30 June 1997

275. On 22 June 1997 Marion travelled to Europe on a Korean Airlines flight. Eight days later, on 30 June 1997, Sally received a letter from Marion written on the Hotel Nikko Narita notepaper and posted from England. Counsel Assisting set out four possible scenarios as to how Marion obtained the notepaper:

²⁹⁹ Submissions on behalf of the Leydon Family, 18 October 2022, [87]-[88].

³⁰⁰ Transcript, 27 October 2022, p. 876.

- 1) That she obtained the notepaper in Australia prior to going overseas on 22 June 1997;
- 2) That she travelled to Japan on her way to England and obtained the notepaper herself from the hotel;
- 3) That Mr Blum travelled to Japan and stayed at the hotel and obtained the notepaper and gave it to Marion; and
- 4) That Marion obtained the notepaper in England from a source other than Mr Blum.

276. Counsel Assisting further submitted that the first and fourth scenarios are very unlikely, and that the second scenario, that Marion stayed at the hotel herself and obtained the paper, is also unlikely because there is no cogent evidence that she stopped over in Japan. As set out earlier, despite significant attempted searches, there is no documentary evidence of Marion's itinerary and no available passenger records from 1997 from the relevant airlines on this issue. The only relevant documentary evidence is Marion's Australian outgoing passenger card which suggests she stopped over in South Korea. The reference in Marion's letter to stopping over in "*the east*" does not necessarily indicate she stopped in Japan rather than South Korea.

277. Counsel Assisting submitted that the third scenario is most likely: that Mr Blum obtained the paper in Japan and gave it to Marion in England. On 17 June 1997 Mr Blum travelled to Europe and stopped over at Narita in Japan at a transit hotel. He agreed that the name of the hotel he stayed at was "*probably*" the Hotel Nikko Narita.³⁰¹ He admitted he travelled to England during his trip. He was asked about this notepaper and whether he acquired any stationery from the hotel bearing the name 'Hotel Nikko Narita.' He said: "*No. I don't think so. No. Maybe I did, I don't know. I can't remember.*"³⁰² After 22 June

³⁰¹ Transcript, 17 February 2022, pp. 469 – 470.

³⁰² Transcript, 27 April 2022, p. 632.

1997 Marion travelled to England. By 30 June 1997 Sally had received the letter in Australia from Marion in England. Counsel Assisting submitted that the letter must have been written and posted by Marion in England sometime between 22 June and 30 June 1997, which presented a window of less than one week.

278. Counsel for the Family suggested to Mr Blum that when he stayed at the Hotel Nikko Narita he acquired a notepad from the hotel and took this with him to England. It was then further suggested to him that: *“you loaned or gave that notepad to Marion Barter so that she could write a letter to her daughter using that notepad”*. His response was: *“No, sir. No. I don’t remember anything like that, no. Why would I take a notepad of a hotel. Why.”*³⁰³

279. Mr Blum submitted that it was open for the Court to find that Marion stayed in the Hotel Nikko Narita in Japan and obtained the notepad herself, in circumstances unrelated to Mr Blum.

280. In the circumstances as discussed above, I find that Mr Blum travelled to Japan at the relevant time and stayed at the hotel, obtained the notepad, and gave it to Marion in England.

The coincidence of Marion’s travel to Tunbridge Wells and Mr Blum’s association with Tunbridge Wells

281. There is evidence of the coincidence that Marion visited Tunbridge Wells when she went to England. An extract of her letter to Sally reads: *“At Heathrow airport, I booked my big suitcase into the luggage hold before setting out to my train journey north to Tunbridge Wells and a quaint little hotel offering old – fashioned rooms and yummy breakfast.”* Mr Blum lived near and was familiar with East Sussex in the 1980s and Tunbridge Wells is 30 minutes from where Mr Blum lived at that time. Mr Blum denied travelling to Tunbridge Wells with Marion Barter. He said: *“I never went anywhere with Marion Barter in England, nowhere. Jesus, I mean, I swear to this.”*³⁰⁴

³⁰³ Transcript, 29 April 2022, p. 795.

³⁰⁴ Transcript, 29 April 2022, p. 796.

282. There is the further coincidence evidence that Mr Blum travelled through East Sussex with Janet Oldenburg in 1999, on a similar route to that taken by Marion. The similarity in the route travelled by Marion and then by Ms Oldenburg was put to Mr Blum by investigating police in his interview. Mr Blum's response was: "*I know some of those locations, but I didn't travel with her [Marion].*"³⁰⁵

283. It was put to Mr Blum by investigating police that he travelled overseas with Marion and that he saw Marion following her return to Australia on 2 August 1997. He denied these allegations and that he had anything to do with Marion while she was overseas or thereafter. He said: "*I never saw Marion come back from wherever she went.*"³⁰⁶

284. Counsel Assisting submitted that although Marion's decision to travel to Tunbridge Wells was indicative of Marion and Mr Blum's plans to travel overseas together as a couple in a relationship, there is insufficient evidence for the Court to find that Mr Blum actually travelled with Marion to Tunbridge Wells in June or July 1997.

285. The Family submitted that there is sufficient evidence to find that Mr Blum travelled with Marion to Tunbridge Wells, particularly given the narrow window of time in which Marion could have obtained the Hotel Nikko notepaper from Mr Blum and written the letter to Sally. The Family further submitted that this finding is also supported by evidence given by Marion's sister that she received a postcard from Marion of Tunbridge Wells that was sent from Tunbridge Wells.³⁰⁷

286. Mr Blum submitted that there was no evidence that anyone saw him and Marion together in England or that they stayed anywhere together in England.³⁰⁸ He reiterated that he had maintained "*clear denials*" that he

³⁰⁵ BOE, Volume 9, Tab 310, p. 2704, Q 645.

³⁰⁶ BOE, Volume 9, Tab 310, p. 2707, Q 667 - 670.

³⁰⁷ Submissions on behalf of the Leydon Family, 18 October 2022 [89]-[94].

³⁰⁸ Submissions on behalf of Ric Blum, 13 September 2023 [43(a)].

travelled with Marion in England, and that no witness or documentary evidence had been provided which contradicted these denials.³⁰⁹

287. Whilst I have found that Marion and Mr Blum travelled together in England as a couple in a relationship for at least some period of time when Marion was in England in 1997, there is insufficient evidence for me to find that Mr Blum actually travelled to Tunbridge Wells with Marion in June or July 1997.

Whether Mr Blum travelled with Marion to Rye, Hastings and Alfriston

288. The Family submitted that while in England in 1997, Mr Blum travelled with Marion to Rye, Hastings, and Alfriston, as well as Tunbridge Wells. This submission is based on the evidence that Marion sent a postcard of Rye from Hastings (as evident from the postage stamp) and the close proximity of these towns to Burwash, where Mr Blum lived with his family many years before 1997. Mr Blum accepted he had been to Alfriston previously. Further, Janet Oldenburg travelled with Mr Blum around Sussex and Dover (where the towns of Tunbridge Wells, Rye, Hastings and Alfriston are located) in circumstances where Mr Blum chose the destinations of their travel. Further and separately, Mr Blum had sent a postcard to Monique Cornelius from Hastings on 20 February 1985.

289. The position of Counsel Assisting was that there is not enough evidence to demonstrate that Mr Blum visited these locations with Marion in 1997. Mr Blum maintained that there is no direct evidence that he accompanied Marion on her trip in England at any stage.

290. Whilst I have found that Marion and Mr Blum travelled together in England as a couple in a relationship for at least some period of time when Marion was in England in 1997, there is insufficient evidence for me to find that Mr Blum actually travelled to Rye, Hastings, and Alfriston with Marion in June or July 1997.

³⁰⁹ Submissions on behalf of Ric Blum, 13 September 2023 [43(f)-(g)].

The coincidence of Marion's purported residence as Luxembourg and Mr Blum's close association with Luxembourg

291. Marion wrote on her outgoing passenger card that she was an Australian resident departing permanently for Luxembourg. She wrote on her incoming passenger card that her country of residence was Luxembourg. She also wrote on this card that she was married. There is no evidence that Marion had ever previously travelled to Luxembourg prior to 22 June 1997.

292. Mr Blum has significant connections to Luxembourg. In the 1980s Mr Blum lived and worked in Luxembourg. He has extended family in Belgium.

293. The only known connection between Marion and the country of Luxembourg is her association with Mr Blum in the months prior to her leaving the country. Counsel Assisting and the Family submitted that the Court should find that Mr Blum, representing himself as Fernand Remakel, suggested to Marion that they start a new life together in Luxembourg.

294. I find that Mr Blum, representing himself as Fernand Remakel, suggested to Marion that they start a new life together in Luxembourg.

The coincidence of Mr Blum's application for a safety deposit envelope in October 1997 a day before Marion transferred \$80,000 from her account

295. On 14 October 1997 Mr Blum applied and paid for a safe custody envelope at the Ballina branch of the Commonwealth Bank.³¹⁰ The evidence from the Commonwealth Bank records is that on 27 October 1997 the envelope was released, and the annual automatic funds transfer for payment of the annual fee was cancelled.³¹¹

296. This facility was obtained by Mr Blum one day before the sum of \$80,000 was transferred from Marion's bank account.

³¹⁰ BOE, Volume 10, Tab 322, pp. 3073 – 3074.

³¹¹ BOE, Volume 10, Tab 322, pp. 3073 – 3074.

297. The Commonwealth Bank records demonstrate that Mr Blum obtained another safe custody envelope from the Ballina branch of the Commonwealth Bank which he obtained on 27 July 1999 and cancelled on 11 August 2000.³¹² Further, on 20 September 2005 Mr Blum opened a safety deposit vault at the Martin Place branch of the Commonwealth Bank, with a size of 23 x 27 x 50cms. This was surrendered on 16 July 2007.³¹³ Mr Blum applied for two other facilities: a safe custody packet lodged at Pacific Fair in Broadbeach that closed on 7 March 2016 (with no open date available) and a safe custody packet also lodged at Pacific Fair opened on 13 April 2011 and surrendered on 1 August 2013.³¹⁴

298. Mr Blum was questioned on the circumstances of the safe custody envelope obtained in October 1997. He said he stored some coins from his grandfather, old jewellery, and share certificates relating to money invested for his children.³¹⁵

299. Mr Blum denied that the safe custody envelope obtained on 14 October 1997 was only open for 13 days. He said that it was open until the end of 1999.³¹⁶ He said that he transferred this envelope for a safety deposit box.³¹⁷ He denied having ever received any money from Marion or accessing her bank accounts.

300. The Family submitted that there is a “*striking coincidence*” in regard to the timing Mr Blum’s application for a safety deposit envelope in October 1997 which is a day before Marion transferred \$80,000 from her account. The Family submitted that Mr Blum has never provided a cogent explanation for why he opened the safety deposit facilities.⁷ Further, the Family seek a specific finding that Mr Blum was in receipt of some of Marion’s money in 1997.³¹⁸

³¹² Transcript, 2 February 2022, p. 70.

³¹³ Transcript, 2 February 2022, pp. 73 - 74.

³¹⁴ Transcript, 2 February 2022, p. 82.

³¹⁵ Transcript, 27 April 2022, p. 653.

³¹⁶ Transcript, 28 April 2022, p. 666.

³¹⁷ Transcript, 27 April 2022, p. 656.

³¹⁸ Submissions on behalf of the Leydon Family, 14 August 2023 p.5 [17].

301. Counsel Assisting said that there is insufficient evidence for such a finding and in any case such a finding cannot be reconciled with the evidence from the notebook entry and the COPS entry created by Mr Childs on 22 October 1997, which indicated that the transaction was a transfer of \$80,000 rather than a deposit of \$80,000 (and that the transfer was telegraphic and possibly to an overseas account).⁸ On this issue, Counsel Assisting further submitted that there is a sufficient factual basis for the Court to make a finding that Marion withdrew the sums of money in August 1997 and transferred \$80,000 to an unknown account in October 1997 on the encouragement of Mr Blum and in circumstances where Marion believed that she was in a relationship with him. However, Counsel Assisting submitted that there is not enough evidence for a finding to the requisite standard as to whether, and when, Mr Blum actually received some or all of Marion's money.

302. It was further submitted that the Court should reject the submission that the safety deposit box evidence demonstrates that Mr Blum received some of the money, as there was "*clear evidence*" that the funds were withdrawn by telegraphic transfer to another account, possibly overseas, which would not require Mr Blum to place large sums of cash into a safety deposit box to avoid it being traced.³¹⁹

303. Mr Blum maintained, consistently with his overall position, that there is no evidence that he had any dealings with Marion after she returned from England in August 1997. Moreover, he maintained that there is insufficient evidence to find that he had encouraged Marion to make withdrawals from her bank account in October 1997 or that received any of that money.

304. I find that there is a sufficient factual basis to make a finding that Marion withdrew the sums of money in August 1997 and transferred \$80,000 to an unknown account in October 1997 on the encouragement of Mr Blum and in circumstances where Marion believed that she was in a relationship with him. However, as Counsel Assisting submitted, there is not enough evidence for a

³¹⁹ Submissions on behalf of Ric Blum, 13 September 2023, [89].

finding to the requisite standard as to whether, and when, Mr Blum actually received some or all of Marion's money.

The evidence of the use of Marion's money to start a school overseas

305. The Family submitted that it is conceivable, and open to the Court to find, that Mr Blum suggested to Marion whilst travelling with her in the United Kingdom that she purchase a school in the United Kingdom. It was further submitted that this suggestion was part of the "*grand proposal*" by Mr Blum to Marion by which he induced Marion to withdraw money from her bank account for his own financial benefit.³²⁰

306. The Family find support for this submission in the evidence of the postcard Marion sent Tonia Edwards in which she wrote: "*Here you can buy your own school if you have 65,000 – 150,000 pounds!*"³²¹

307. Counsel Assisting submitted that it is true that such a suggestion by Mr Blum is, to use the language in the written submissions of the Family, "*conceivable*", however, such a specific finding, even while consistent with the tendency of Mr Blum to exploit vulnerable women with the declaration of a "*grand proposal*", is not supported by sufficient evidence on the balance of probabilities (and to the necessary Briginshaw standard).

308. This was not specifically addressed by Mr Blum in his submissions. Mr Blum made more general submissions with regards to the findings that have been submitted by Counsel Assisting and the Family that I should make about the withdrawal of money, and travel to the United Kingdom which are addressed elsewhere in my findings in relation to findings relating to Mr Blum.

309. Whilst certainly conceivable, such a finding is not supported by the evidence on the balance of probabilities (and to the necessary Briginshaw standard).

³²⁰ Submissions on behalf of the Leydon Family, 14 August 2023, p. 6 [20(a)-(d)].

³²¹ Submissions on behalf of the Leydon Family, 14 August 2023, [20].

The tendency evidence of Mr Blum's dishonest relationships with vulnerable women

310. The Court heard oral evidence from four women who knew Mr Blum in the years *after* he had his relationship with Marion: Ginette Gaffney–Bowan, Janet Oldenburg, Ghislaine Danlois–Dubois, and Andree Flamme. Documentary (as opposed to oral) evidence was also received from a fifth woman, Marie Landrieu. Counsel Assisting submitted that the evidence of these women demonstrates a tendency on the part of Mr Blum to misrepresent himself to single vulnerable women for financial gain. In particular, Counsel Assisting submitted that this pattern involved first seeking out a vulnerable woman either by way of personal advertisement or through knowledge of their circumstance of recent departure of a husband (either due to marital separation in the case of Ms Oldenburg; or death in the case of Ms Landrieu). When a personal advertisement was answered Mr Blum did not disclose, he was in fact married with children. Second, the pattern involved ingratiating himself with the vulnerable woman by forming an intimate relationship or an emotional bond. This included a grand proposal: an offer to marry; an offer to start a business together; an offer to start a new life; an offer to buy property together. The proposal consistently involved an overseas destination (whether to Europe, Australia or to Bali, depending on where Mr Blum was situated at the time). Third, the encouragement by Mr Blum that the vulnerable woman keep the proposal or plan a secret from family and friends, at least for a period of time. Then, a request of the vulnerable woman to provide him with a significant amount of money to realise this grand plan.³²² Once the vulnerable woman had provided Mr Blum with money, his response was to swiftly end the relationship and depart with the money, either without notice or without an adequate explanation for his sudden departure.³²³ As part of this pattern of behaviour Counsel Assisting submitted that it can be inferred that Mr Blum had no intention of leaving his long standing wife.

³²² Or to provide him with some items or documents of value, such as in the in the case of Janet Oldenburg, her identity documents and title deeds to her house.

³²³ For example, this involved Mr Blum leaving Ms Oldenburg in England waiting for his return from business meetings and leaving Ms Landrieu in Bali waiting for his return from a business meeting. Mr Blum abruptly left Ms Danlois-Dubois without an explanation.

311. I note that Counsel Assisting further submitted that the evidence of Ms Flamme does not demonstrate this particular tendency but is further evidence of Mr Blum's dishonesty and manipulation of women for financial gain (and is consistent with the nature of the offences he committed in Europe and for which he served time in prison).
312. Mr Blum has made submissions that the tendency evidence has limited value and should not be used to fill gaps in the evidence. In particular, he says that the reliability of the tendency evidence is diminished because the allegations that constitute the tendency are uncharged and that they occurred after the disappearance of Marion. In his submission: "*ex post facto evidence is of little probative weight and even lack [sic] substantive relevance.*"³²⁴
313. Counsel Assisting provided some helpful submissions on the law in this regard. A Coroner in coronial proceedings is not bound to observe the rules of procedure and evidence that are applicable to proceedings before a court of law and the provisions of the *Evidence Act 1995* do not apply (see *Coroners Act 2009* (the Act) section 58(1)). Coronial proceedings are relevantly defined in the Act as any proceedings conducted by a coroner or assistant coroner for the purposes of the investigation of a death or suspected death including by way of holding of an inquest (section 46). Coronial proceedings are neither criminal nor civil proceedings. Proceedings before a Coroner are inquisitorial in nature and not adversarial.
314. In *Mirror Newspapers Ltd v Waller* (1985) 1 NSWLR 1, the Court described the need for a departure from the rules of procedure as obvious in circumstances where there are no parties' pleadings, charges, or indictments. Nonetheless, the rules of procedural fairness apply to the conduct of an inquest in the evidentiary principles relating to the use of tendency and coincidence evidence should be applied in consideration of this evidence relating to Mr Blum. The tendency rule which is set out in section 97 of the *Evidence Act*

³²⁴ Submissions on behalf of Ric Blum, 13 September 2023, [72] citing *R v Fraser* (NSWCCA, 10/8/1998, unreported), cited in *The New Law of Evidence*, 2nd ed (2009) [97.6]; *R v Beserick* (1993) 30 NSWLR 510 at 521-522.

1995 excludes evidence of a person's conduct, character or reputation that is relied on to prove a tendency to act in a particular way or to have a particular state of mind, unless the evidence has significant probative value either by itself or in combination with other evidence adduced.

315. The process of tendency reasoning has been described as follows:

- 1) On an occasion or occasions other than an occasion in question in the proceedings, a person acted in a particular way;
- 2) It can therefore be concluded or inferred that the person had a tendency to act in that way;
- 3) By reason of that tendency, it can therefore be concluded or inferred that, on an occasion in question in the proceedings, the person acted in conformity with that tendency.³²⁵

316. Under the *Evidence Act 1995*, 'probative value' means the extent to which the evidence could rationally affect the assessment of or the probability of the existence of a fact in issue.³²⁶ Tendency evidence will have a high degree of probative value where:

- 1) The evidence strongly supports proof of a tendency (to act in a particular way or have a particular state of mind), and
- 2) The tendency strongly supports the proof of a fact in issue.³²⁷

317. Under the *Evidence Act 1995*, it is not necessary for tendency evidence to amount to a *modus operandi* or pattern of conduct, or even for there to be similarities in the conduct relied upon,³²⁸ though the degree of similarity will

³²⁵ *Elomar v The Queen* (2014) 316 ALR 206 at [360].

³²⁶ Dictionary to the Evidence Act.

³²⁷ *Hughes v The Queen* (2017) 263 CLR 338 at [41].

³²⁸ *Hughes v The Queen* (2017) 263 CLR 338 at [34].

bear on the probative value of the evidence.³²⁹

318. The ‘coincidence rule’ in section 98 of the *Evidence Act 1995* prohibits evidence that “*two or more events occurred*” being adduced to prove that a person did a particular act or had a particular state of mind on the basis that of an improbability that the events occurred coincidentally having regard to similarities between them. As for tendency evidence, to be admitted under the Act the coincidence evidence must be of significant probative value.

319. Coincidence reasoning involves reasoning that because of similarities in events or the circumstances in which they occurred, or similarities in the events and the circumstances in which they occurred, a person had a particular act or particular state of mind. Not all evidence of ‘coincidence’ involves this process of reasoning and evidence may be relevant in a circumstantial case because it gives rise to a coincidence in light of other evidence.³³⁰

320. Evidence amounting to tendency or coincidence evidence would have been treated as ‘similar fact’ or ‘propensity’ evidence at common law.³³¹ Generally, for the evidence to be admissible at common law, there was a requirement for “*striking similarities, unusual features, underlying unity*” or evidence of a “*pattern of behaviour*”.³³²

321. While the rules of evidence do not apply in coronial proceedings, the Court is still guided by principles of relevance and reliability.³³³ It was held in *R v War Pensions Entitlement Tribunal* (1933) 50 CLR 228 at 256 (as cited in Mr Blum’s submissions at [66]):

“... *this does not mean that all rules of evidence may be ignored as of no account. After all, they represent the attempt made, through many*

³²⁹ *Taylor v The Queen* [2020] NSWCCA 355 at [122].

³³⁰ See Odgers, Uniform Evidence Law at [EA.98.60].

³³¹ *Hughes v The Queen* at [13].

³³² *Jacara Pty Ltd v Auto-Bake Pty Ltd* [1999] FCA 417 at [14].

³³³ *Walter v Mining Pty Ltd v Coroner Hennessey* [2009] QSC 102; *R v War Pensions Entitlement Appeal Tribunal; Ex parte Bott* (1933) 50 CLR 228 at 256.

generations, to evolve a method of inquiry best calculated to prevent error and elicit truth. No tribunal can, without grave danger of injustice, set them on one side and resort to methods of inquiry which necessarily advantage one party and necessarily disadvantage the opposing party. In other words, although rules of evidence, as such, do not bind, every attempt must be made to administer “substantial justice.”

322. The admissibility of tendency or propensity evidence in coronial proceedings was considered by the Supreme Court of Queensland in *Doomadgee* where it was held that such evidence may be admissible in coronial proceedings, even if the evidence would not be admissible under the *Evidence Act 1995*.³³⁴ The Court found that the propensity evidence in that matter was not “*inadmissible*” nor was it “*impermissible*” to receive it. The Court held:

“It is significant also that the rules of evidence do not bind a coroner’s court and that it may inform itself in any way it considers appropriate. That does not mean that there are no constraints at all on coroners in relation to the gathering of evidence. The evidence relied on by the Coroner must be relevant to the matters within the scope of the coronial inquiry. The Coroner may act “on any material which is logically probative”(T A Miller Ltd v Minister of Housing and Local Government [1968] 1 WLR 992 at 995); that is, “the decision must be based upon material which tends logically to show the existence or non- existence of facts relevant to the issue to be determined, or to show the likelihood or unlikelihood of the occurrence of some future event the occurrence of which would be relevant.” (R v Deputy Industrial Injuries Commission; Ex parte Moore [1965] 1 QB 456 at 488 and see Pochi v Minister for Immigration and Ethnic Affairs (1979) 36 FLR 482 at 492.)”

³³⁴ *Doomadgee v Deputy State Coroner Clements* [2005] QSC 357.

323. In *Hughes v The Queen* (207) 263 CLR 338; 92 ALJR 52; [2017] HCA 20 Kiefel CJ, Bell, Keane and Edelman JJ stated at [16] that tendency evidence will have significant probative value if it could rationally affect the assessment of the probability of the existence of a fact in issue to a significant extent. The majority expressed this at [41] as:

“[T]here is likely to be a high degree of probative value where (i) the evidence, by itself or together with other evidence, strongly supports proof of a tendency, and (ii) the tendency strongly supports the proof of a fact that makes up the offence charged.”

324. The degree of specificity or generality of the alleged tendency has been held to affect the strength of the tendency evidence. In *El-Haddah v The Queen* (2015) 88 NSWLR 93; 293 FLR 284; [2015] NWCCA 10, Leeming JA stated at 72: *“the specificity of the tendency directly informs the strength of the inferential mode of reasoning... it is, for example one thing to say that a man has a tendency to steal cars... it is quite another to say that a man has a tendency to steal black European sports cars and then set them on fire, if the fact in issue is whether that man stole and burnt a black Porsche.”*

325. Mr Blum submitted that, though the rules of evidence do not apply in this Court: *“the Court must consider the real value of otherwise inadmissible material”*.³³⁵ Mr Blum asserted that the Court should use *“great caution”* in assessing the tendency evidence. In submissions he made reference in particular to sections 97 and 101 of the *Evidence Act 1995* in relation to the admissibility of tendency evidence, and the need in criminal law for the probative value to substantially outweigh any prejudicial effect.³³⁶ A number of prejudicial effects were submitted by Mr Blum:³³⁷

- a) Ignoring the possibility that other persons of like propensity may have been involved in Marion’s disappearance;

³³⁵ Submissions on behalf of Ric Blum, 13 September 2023, [66].

³³⁶ Submissions on behalf of Ric Blum, 13 September 2023, [67]-[68].

³³⁷ Submissions on behalf of Ric Blum, 13 September 2023, [69].

- b) The fact that Mr Blum may be punished for past socially unacceptable behaviour;
- c) The risk of overweighting tendency evidence rather than any exonerating evidence; and
- d) The serious risk of unfairness created by evidence of alleged criminal acts (including perjury) which are the subject of no criminal charge.

326. Having considered the principles of the use of tendency reasoning as set out above (and the guidance in the form of the statutory framework in the *Evidence Act 1995*), I must consider whether Mr Blum, relevantly, had a tendency to exploit vulnerable women and whether this extended to the circumstances of Marion in 1997.

327. Mr Blum said that the only evidence of a relationship prior to Marion was with Ms Cornelius, which was well before 1997 and was not exploitative. It was further submitted on Mr Blum's behalf that the other relationships: "*whatever they may indicate about Mr Blum's approach to affairs with women, do not show a tendency to act in such relationships before or at the time he met Marion Barter*".³³⁸ Further, on behalf of Mr Blum it was submitted that: "*the 'tendency' evidence does not support Mr Blum being a very successful controller*", and cited instances where the sale of property was discussed but not completed, or where no profits from a sale were received by Mr Blum.³³⁹ Further, Mr Blum submitted there is no evidence that he had ever committed any act of violence.³⁴⁰ It was emphasised that the "*obvious and truly consistent feature*" of Mr Blum's past relationships with women was that he himself had a tendency to disappear at the conclusion of each relationship, while the women involved remained alive and well.³⁴¹

³³⁸ Submissions on behalf of Ric Blum, 13 September 2023, [74].

³³⁹ Submissions on behalf of Ric Blum, 13 September 2023, [79].

³⁴⁰ Submissions on behalf of Ric Blum, 13 September 2023, [77] *citing* Submissions of Counsel Assisting, 29 August 2022, [251].

³⁴¹ Submissions on behalf of Ric Blum, 13 September 2023, [77].

328. I accept Counsel Assisting’s submissions and find that the evidence of Ms Gaffney–Bowan, Ms Oldenburg, Ms Danlois–Dubois, Ms Flamme and Ms Landrieu demonstrates a tendency on the part of Mr Blum to misrepresent himself to single vulnerable women for financial gain, and further find that Mr Blum had a tendency to exploit vulnerable women.

329. I also find that Mr Blum exploited Marion in 1997 in the manner in which he later exploited other women who have given evidence in these proceedings. I make this finding despite Mr Blum’s denials in this regard and notwithstanding that the women involved in his (later) relationships remained alive and well. Mr Blum was asked by Counsel Assisting in evidence: “*You never sought to take advantage of Marion Barter as a single middle aged woman?*” He said: “*She was involved with other people. Why would I – anyway.*”³⁴² I find that Mr Blum entered into a relationship with Marion in 1997 and encouraged her to start a new life with him. To this end Marion changed her name, spent some time with Mr Blum in England, and on return to Australia represented herself as married (to Mr Blum) and demonstrated an intention to start a new life in Luxembourg with him. Mr Blum travelled to England to spend time with Marion when he clearly did not intend to pursue the relationship because he was married with children and lived in Wollongbar in New South Wales.

330. I will now deal in more detail with the evidence of each of these women in turn and the particular factual findings in regard to the tendency evidence.

Ginette Gaffney–Bowan in 1998

331. In the mid to late 1990s Ginette Gaffney–Bowan placed an advertisement in a newspaper seeking a friend. She was a single mother at the time living in Sydney. She alleged she received a response to the advertisement from a ‘Frederick De Hedervary’, who is presently known as Mr Blum.³⁴³ She said the advertisement was placed in an English – speaking

³⁴² Transcript, 28 April 2022, p. 700.

³⁴³ BOE, Volume 11, Tab 348, p. 3306, [4] – [5].

Australian newspaper.³⁴⁴ She said he attended her house in Sydney for dinner and was looking for somewhere to stay and she offered him her garden studio. He stayed there from time to time. Ms Gaffney-Bowan alleged that he proposed they go into business together in buying and selling rare coins. She further said that she provided him with access to a line of credit from a keycard account and he accessed approximately \$30,000 from her account (though with her permission).³⁴⁵ She said that she trusted him and could not readily explain the detail of any proposed business.³⁴⁶ She did not know what he did with the money that he withdrew, with her permission, from her account.³⁴⁷ Ms Gaffney-Bowan also alleged that during the period he stayed with her, he stole a number of items from her house, including some valuable coins, a gold chain and some cassette tapes.³⁴⁸

332. Further, she said that he attempted to persuade her to sell her house and provide him with the proceeds, in order for him to go to Paris to buy her an apartment.³⁴⁹ She informed the Court that he proposed to take the proceeds of the sale of her house, and she would trust him to go to Paris and purchase an apartment for her.³⁵⁰

333. Ms Gaffney-Bowan said that the relationship between them was not sexual. However, on one occasion he undressed her and took some photographs. She said that: "*He never showed me the photographs he took of me but hinted that he would or could use them nefariously.*"³⁵¹ She further said that he was demeaning towards her and made attempts to have her childcare centre closed down through making false complaints.³⁵²

334. Ms Gaffney-Bowan called the Belgian consulate in an attempt to report Mr Blum for this behaviour but there was no response. In November 1998 she

³⁴⁴ Transcript, 3 February 2021, p. 128.

³⁴⁵ BOE, Volume 11, Tab 348, p. 3306, [8] – [10]. See also transcript, 3 February 2021, p. 117.

³⁴⁶ Transcript, 3 February 2022, p. 118.

³⁴⁷ Transcript, 3 February 2022, p. 136.

³⁴⁸ BOE, Volume 11, Tab 348, p. 3307, [11].

³⁴⁹ BOE, Volume 11, Tab 348, p. 3309, [13].

³⁵⁰ Transcript, 3 February 2022, p. 119.

³⁵¹ BOE, Volume 11, Tab 348, p. 3310, [16].

³⁵² BOE, Volume 11, Tab 348, p. 3310, [18 – 19].

made a report to NSW Police about her stolen coins.³⁵³ In December 1998 she says she met with Mr Blum (known then as ‘Mr De Hedervary’) and he agreed to pay her back the money she gave him through her account.³⁵⁴

335. On 6 January 1999 an apprehended violence order was granted by the Local Court in North Sydney protecting Ms Gaffney–Bowen and her two children against Mr Blum, then ‘Mr De Hedervary’.³⁵⁵ He did not appear at court. The Court received into evidence a copy of a letter addressed to the Local Court and apparently signed by ‘Mr De Hedervary’. The letter informed the Court that he is unable to attend court and will consent to the order without admissions.³⁵⁶ The summons alleged that ‘Mr De Hedervary’ was threatening Ms Gaffney–Bowen and her friends and family and has threatened to “*fix her up*” if she were to do anything about his actions. The summons further alleged that he took photographs of her and was threatening to disseminate them.³⁵⁷ She does not know whether he ever disseminated the photographs to any other person.³⁵⁸

336. The final Apprehended Violence Order was served on Mr Blum, as ‘Mr De Hedervary’, in January 1999 in Ballina. The records demonstrate that when served, ‘Mr De Hedervary’ responded: “*Yes, I’m going to appeal it.*”³⁵⁹ Ms Gaffney–Bowen said that once the order was made by the Court, she did not ever hear from him again.³⁶⁰

337. Ms Gaffney–Bowen explained to the Court that at the time she placed the advertisement, she was extremely lonely and vulnerable, as she was a single parent to twins and running her own childcare centre. She was financially independent and owned her own home in Greenwich in Sydney.³⁶¹ When they first spoke on the telephone, she says that he told her he lived in Lennox Head and came to Sydney frequently. They initially spoke in English but then spoke

³⁵³ BOE, Volume 7, Tab 298, p. 2564.

³⁵⁴ BOE, Volume 7, Tab 298, p. 2559.

³⁵⁵ BOE, Volume 7, Tab 313, p. 2763.

³⁵⁶ BOE, Volume 7, Tab 313, p. 2774.

³⁵⁷ BOE, Volume 7, Tab 302, p. 2584.

³⁵⁸ Transcript, 3 February 2022, p. 123.

³⁵⁹ BOE, Volume 7, Tab 313, p. 2773.

³⁶⁰ BOE, Volume 11, Tab 348, p. 3311, [21].

³⁶¹ Transcript, 3 February 2022, pp. 107 – 108.

in French thereafter.³⁶² He did not at any time disclose to her the nature of any business he was in or the fact that he was married with children.³⁶³ After their first meeting she offered him to stay in her garden studio apartment. She said he stayed there approximately for a number of weeks in total and a maximum of one month.³⁶⁴ He informed her that he had experience in buying and selling coins and proposed that she enter into such a business with him.³⁶⁵ She recalled that she did not particularly develop an emotional attachment to him but was interested in the business opportunity.³⁶⁶ However, there is reference in the Apprehended Violence Order documentary records that she provided a history to police that included that fact that they had plans to be married.

338. Ms Gaffney–Bowan did not explain in evidence whether she was seeking a relationship with him and possible marriage, or simply friendship.³⁶⁷ In Court, she could no longer recall him threatening to her that he would “*fix her up*”, as alleged in the documents relating to the Apprehended Violence Order in 1998. She maintained in her evidence that Mr Blum, then known to her as ‘Mr De Hedervary’, was emotionally manipulative and attempted to obtain her money and purchase an apartment for her in Paris. She considered ‘Mr De Hedervary’ to be deceitful and a man who in her words: “*lies easily and all the time.*”

339. Diane was not aware of the existence of Ms Gaffney–Bowan until after Mr Blum became involved in the police investigation into Marion’s disappearance. She said that her husband told her that they had a relationship and that she had alleged that he had taken \$30,000 from her. Diane conveyed to the Court that Mr Blum denied this allegation and considered it “*ridiculous*”. She said that Mr Blum told her recently that he only stayed at Ms Gaffney–Bowan’s house for one night.³⁶⁸

³⁶² Transcript, 3 February 2022, p. 110.

³⁶³ Transcript, 3 February 2022, p. 121.

³⁶⁴ Transcript, 3 February 2022, p. 113.

³⁶⁵ Transcript, 3 February 2022, p. 114.

³⁶⁶ Transcript, 3 February 2022, p. 115.

³⁶⁷ Transcript, 3 February 2022, p. 116.

³⁶⁸ Transcript, 15 February 2022, pp. 308 – 309.

340. Diane further explained that Mr Blum informed her recently that there was an Apprehended Violence Order taken out in favour of Ms Gaffney–Bowan at the time. She said that Mr Blum was upset about this and that there was no reason for it. Diane said: “*I mean he’s not a violent person.*”³⁶⁹

341. Mr Blum was asked about Ms Gaffney–Bowan in his interview with police. He initially informed investigators he could not remember the name and that he has never been to the Sydney suburb where she lived at the time. He further said that he does not remember staying at her home, does not remember offering her a business proposition or receiving approximately \$30,000 from her. In his interview he denied stealing coins from her.

342. However, in evidence before the Court he accepted that he did know Ms Gaffney–Bowan and had an extra-marital affair with her. He said that this was for only two days and that he met her at a coin fair and auction in Sydney. He denied responding to her advertisement looking for companionship and company. He also denied staying in her studio apartment at her house and proposing they go into business together.³⁷⁰ He says he only ever went to her house. He also informed the Court that she [Ms Gaffney–Bowan]: “*dragged me into a bed*” and produced a camera and wanted Mr Blum to take “*salacious*” photographs of her.³⁷¹ He said someone came to the house the following day and took the camera. He denies developing the photographs and denies threatening Ms Gaffney–Bowan with them.³⁷²

343. Mr Blum said he did not recollect the Apprehended Violence Order and did not receive a copy of it. He also denied writing a letter to the Local Court stating that he would not appear at court and would consent to the order without admission. He says the signature on the letter is not in his handwriting.

344. Counsel Assisting submitted that the Court is in a position to accept the

³⁶⁹ Transcript, 15 February 2022, p. 310.

³⁷⁰ Transcript, 17 February 2022, pp. 474 – 475.

³⁷¹ Transcript, 17 February 2022, pp. 478-479.

³⁷² Transcript, 17 February 2022, pp. 478 – 479.

evidence of Ms Gaffney–Bowan, except for the specific allegation that he specifically threatened to “*fix her up*” and that they had plans to marry. On this particular issue, Mr Blum submitted that there is no basis for any finding that he threatened to “*fix up*” Ms Gaffney-Brown or committed any act of violence.

345. I accept the evidence of Ms Gaffney–Bowan, except for the specific allegation that Mr Blum specifically threatened to ‘*fix her up*’ and that they had plans to marry.

Janet Oldenburg in 1999

346. In early January 2000 Janet Oldenburg made a complaint to NSW Police about her interactions with Mr Blum in 1999. Ms Oldenburg was born in England and moved to Australia in 1963.³⁷³ In 1998 she was living in Woodburn, in northern New South Wales. She knew Mr Blum, known to her as ‘Rick West’, as an acquaintance through her husband Michael through coin collecting.³⁷⁴ In mid 1998 Ms Oldenburg separated from her husband and throughout early 1999 she was in the process of settling her matrimonial property.³⁷⁵ Ms Oldenburg received an unprompted phone call from Mr Blum, as ‘Rick’, in June 1999. She says that he called her to say that he had heard about the negotiations for her property settlement and said words to the effect: “*You’re a nice person and I don’t like what’s being done to you.*”³⁷⁶ At the time she had not had any contact with him since she separated from her husband.³⁷⁷

347. In October 1999 she received a further call from Mr Blum, who told her he had a proposal for her to go into business with him. The following day they met for coffee, and she alleged that Mr Blum proposed that he set up his computer and fax at her house and her role would be to travel to Sydney to bid at coin auctions. She agreed to this proposal and invited her to travel with him to London in November for a coin auction. She says he proposed to pay her

³⁷³ Transcript, 4 February 2022, p. 142.

³⁷⁴ Transcript, 4 February 2022, p. 146.

³⁷⁵ BOE, Volume 9, Tab 304, p. 2608.

³⁷⁶ BOE, Volume 9, Tab 304, p. 2608, [8].

³⁷⁷ Transcript, 4 February 2022, p. 146.

\$5000.³⁷⁸ He did not ever set up a computer or fax machine at her house and Ms Oldenburg did not ever undertake any work for him or for any coin business.³⁷⁹

348. On 18 October 1999, Mr Blum, known as 'Rick', visited Ms Oldenburg at her house and told her that he had romantic feelings for her. He asked her to move to the French Riviera with him. They commenced an intimate sexual relationship. She says he told her he was single and did not inform her that he had children.³⁸⁰ She says that at this time, he would stay at her house for a night, irregularly over a period of days, and sometimes would come over for a few hours at a time.³⁸¹ Mr Blum was questioned about whether he told Ms Oldenburg that he was married with children at the time of their relationship. He said: "*Yes she knew I was married I think.*"³⁸² He also said in answer to further questions: "*She knew that I was married, that's all I can say. About the children, I don't remember talking about that.*"³⁸³

349. During this relationship, Ms Oldenburg did not have any contact details for Mr Blum, known as 'Rick', and was not aware of his telephone number. He would always contact her by telephone.³⁸⁴ At a later stage during the relationship she came to know he lived in East Ballina with friends but never visited him at his home.³⁸⁵ Ms Oldenburg said she found a document in his possessions under the name of 'Richard Lloyd Westbury'. She says that he explained to her that he had changed his name to 'Rich Richard'.³⁸⁶ Ms Oldenburg says that she did not question this name change and from this point in time referred to him as 'Rich' rather than 'Rick'.³⁸⁷

350. In evidence, Ms Oldenburg explained that at this time of entering the

³⁷⁸ BOE, Volume 9, Tab 304, p. 2610, [13].

³⁷⁹ Transcript, 4 February 2022, p. 152.

³⁸⁰ Transcript, 4 February 2022, p. 156.

³⁸¹ BOE, Volume 9, Tab 304, p. 2611, [16].

³⁸² Transcript, 18 February 2022, p. 499.

³⁸³ Transcript, 18 February 2022, p. 500.

³⁸⁴ Transcript, 4 February 2022, p. 148.

³⁸⁵ Transcript, 4 February 2022, p. 151.

³⁸⁶ BOE, Volume 9, Tab 304, p. 2610.

³⁸⁷ Transcript, 4 February 2022, p. 158.

relationship, she was single and lonely. She said: “*I think having a husband that - he took care of everything, and then suddenly he was leaving or left, I did feel very emotional but I was trying to get over it, but it was difficult, and I just felt very vulnerable.*”³⁸⁸ She further explained that when he invited her to move to the French Riviera, she felt excited and uplifted and that she was starting a new beginning.³⁸⁹ Ms Oldenburg trusted Mr Blum, then known as ‘Rich’, and had strong feelings for him. She said: “*I did put my trust in him fully until the end of our relationship.*”³⁹⁰

351. Mr Blum was examined at length in regard to his relationship with Ms Oldenburg. He disputed the circumstances in which he met Ms Oldenburg and said he did not express concern about the property settlement with her husband and did not propose they go into business together.³⁹¹ He strongly denied telling her that he had feelings for her and suggesting that they start a new life on the French Riviera.³⁹² Mr Blum’s evidence was that the plan for travel arose because she had a “*wish*” to go on the stage in Europe and the purpose of the trip was for him to help her to find an agent.³⁹³ He said that she was a belly dancer and he had seen her dance many times.³⁹⁴

352. At the end of October 1999, Ms Oldenburg and Mr Blum, then known as ‘Rich’, attended the Brisbane Passport Office and obtained new passports. Ms Oldenburg explained that he asked her to change her hair colour from dark to blonde prior to her obtaining her passport photograph. He did not inform her of the reason for this request other than he said she would look nicer as a blonde. Mr Blum denies this.³⁹⁵ She did not effect this change as the hairdresser informed her that she could not do it in the time available.³⁹⁶

353. In late November Mr Blum, known as ‘Rich’, and Ms Oldenburg

³⁸⁸ Transcript, 4 February 2022, p. 154.

³⁸⁹ Transcript, 4 February 2022, p. 155.

³⁹⁰ Transcript, 4 February 2022, p. 159.

³⁹¹ Transcript, 17 February 2022, p. 492.

³⁹² Transcript, 17 February 2022, p. 494.

³⁹³ Transcript, 17 February 2022, pp. 495 – 496.

³⁹⁴ Transcript, 18 February 2022, p. 502.

³⁹⁵ Transcript, 18 February 2022, p. 501.

³⁹⁶ Transcript, 4 February 2022, p. 161.

discussed their respective powers of attorney. Ms Oldenburg says that he said words to the effect: *“What’s mine is yours, I never want anything of yours.”* Ms Oldenburg says that he told her he was worth twelve million dollars due to his coin dealings and that he owned a property near Nymbodia where he owned 20,000 acres of red cedar. They attended the Lismore Court House. However, she did not obtain his power of attorney. She said: *“I think we’d started to – we both – both signed the same document.”* Ms Oldenburg was asked whether she was sure this was a power of attorney or whether it was a will. Ms Oldenburg responded: *“I don’t know, I’m sorry. I don’t recall the will and testament...”*³⁹⁷ Ms Oldenburg said that he drafted the terms of the power of attorney and was unable to explain the terms and conditions in respect of that power. Further, she said that he took the document and she did not ever see it again.³⁹⁸ Mr Blum agreed in his evidence that they travelled to Lismore to execute a power of attorney but maintained that Ms Oldenburg was the one who *“kept the papers”*.³⁹⁹ He said that it was Ms Oldenburg who made the arrangements and drove him to Lismore, but he could not explain why she would want to do this when she had only just met him.⁴⁰⁰

354. In late November 1999 Ms Oldenburg said that while at her house, Mr Blum showed her a black tube and suggested she bury her valuable items in the event the house was robbed. Ms Oldenburg gave Mr Blum, then known as ‘Rich’, some of her jewellery and he buried it in her backyard.⁴⁰¹ Ms Oldenburg explained she did not actually see him bury the items but she did see him digging a hole.⁴⁰² She is certain that the house keys were not buried in the backyard.⁴⁰³ Mr Blum agreed that he buried Ms Oldenburg’s valuables in her backyard and said that it was Ms Oldenburg’s idea and she wanted to keep these items in a safe place.⁴⁰⁴ He maintained that he did not go through Ms Oldenburg’s jewellery with her and that he did not know which items of

³⁹⁷ Transcript, 4 February 2022, pp. 164 – 165.

³⁹⁸ Transcript, 4 February 2022, pp. 164 – 165.

³⁹⁹ Transcript, 18 February 2022, p. 504.

⁴⁰⁰ Transcript, 18 February 2022, pp. 504 - 505.

⁴⁰¹ BOE, Volume 9, Tab 304, p. 2613.

⁴⁰² Transcript, 4 February 2022, p. 165.

⁴⁰³ Transcript, 4 February 2022, p. 167.

⁴⁰⁴ Transcript, 18 February 2022, pp. 505 – 506.

jewellery were buried.⁴⁰⁵ He agreed that he did not suggest she use a bank or apply for a safety deposit envelope or box or store her valuables in his own safe box at his house.⁴⁰⁶

355. On 2 December 1999 Ms Oldenburg and ‘Rich’ travelled to Bali. ‘Rich’ paid for the tickets and accommodation for the trip. They spent a few days in Bali before travelling to Amsterdam. Ms Oldenburg took the title deeds to her house; her birth certificate; her Australian citizenship certificate; the powers of attorney documents; her marriage certificate; the keys to her house and \$1000 in cash.⁴⁰⁷ Ms Oldenburg was unable to properly explain to the Court why it was necessary to take these documents on the journey. She said in evidence that: *“it was proof that when we were going to get a place overseas, that if anything happens to him I wouldn’t have to pay any gains tax; it was just proof.”* She further attempted to explain that *“...Well it was because we were going to settle in Europe somewhere, and he wanted to, like, make sure that when he puts – put the house in my name I can prove who I was, and things like that.”*⁴⁰⁸ Mr Blum said that Ms Oldenburg may have taken various formal documents with her, including her title deeds, but that he did not suggest she do so.⁴⁰⁹

356. On 5 December 1999 Ms Oldenburg and ‘Rich’ arrived in Amsterdam. Ms Oldenburg recalls that ‘Rich’ had a large, gray, plastic suitcase and she had a black hard suitcase with her name written in white liquid paper. He left the luggage in lockers at the airport. They boarded a ferry to England and from 8 – 11 December they hired a car and travelled through Sussex and Dover. She says he organised everything and during this trip they were *“looking for a place to rent”*.⁴¹⁰

357. Counsel Assisting commented in submissions, and I accept, that Ms Oldenburg appears to have had an extraordinary lack of knowledge or

⁴⁰⁵ Transcript, 18 February 2022, p. 507.

⁴⁰⁶ Transcript, 18 February 2022, p. 506.

⁴⁰⁷ BOE, Volume 9, Tab 304, pp. 2613 – 2614.

⁴⁰⁸ Transcript, 4 February 2022, p. 168.

⁴⁰⁹ Transcript, 18 February 2022, p. 512.

⁴¹⁰ BOE, Volume 9, Tab 304, p. 2615, [28].

understanding as to their plans for their trip overseas. Ms Oldenburg said that she intended to return with 'Rich' from the initial trip overseas in December but did not explain when and how they would later move overseas. She did not contribute financially to the trip and could not say whether he had a one way or return ticket home. She had a one way ticket and intended to return home for Christmas. Her understanding of their itinerary was that: "*he'd tell me where we were going*" and that it was to travel to Bali and then Amsterdam and England.⁴¹¹ Ms Oldenburg further explained that part of the trip was to look around for somewhere to relocate to, but they did not visit the French Riviera.⁴¹² When they drove to Sussex and Dover she did not know whether 'Rich' was looking for a rental property on a short term or long term basis.⁴¹³

358. Mr Blum was questioned about his intentions for the trip overseas with Ms Oldenburg. He said that the purpose of the trip was for Ms Oldenburg to contact agents in France. He said that they did not have a plan and that: "*We only went according to telephone calls, arrangements that she made with people in France which were agents.*"⁴¹⁴ He agreed that he only bought Ms Oldenburg a one way ticket and explained this as follows: "*Because she intended, as I said before, to perform [bellydancing] in Europe and I had – or she – or she didn't have any idea when she will be returning.*"⁴¹⁵

359. On 11 December 1999, 'Rich' unexpectedly suggested to Ms Oldenburg that she spend some time with her cousin in Manchester. He suggested that he needed to do some business in France and that she should stay with her cousin. She agreed that this suggestion came "*like a bolt out of the blue.*"⁴¹⁶ He then informed her that he had to get the car back to the hire car company and that he would call her at her cousin's house over the coming days.⁴¹⁷

360. On 16 December 1999, 'Rich' called Ms Oldenburg's cousin's house and

⁴¹¹ Transcript, 4 February 2022, pp. 168 – 169, 172.

⁴¹² Transcript, 4 February 2022, pp. 173 – 174.

⁴¹³ Transcript, 4 February 2022, p. 175.

⁴¹⁴ Transcript, 18 February 2022, p. 511.

⁴¹⁵ Transcript, 18 February 2022, p. 518.

⁴¹⁶ Transcript, 4 February 2022, p. 175.

⁴¹⁷ BOE, Volume 9, Tab 304 pp. 2615 – 2616.

spoke with Ms Oldenburg. She said that he said he had been bashed and robbed at a train station in Lille, France, and that his passport and all of his belongings, including her documents and house keys, had been stolen.

361. Mr Blum was examined on the circumstances of Ms Oldenburg's departure from England and his movements at this time. He agreed that when he left Ms Oldenburg he returned the car and then travelled to Amsterdam and then Brussels.⁴¹⁸ He initially denied travelling to Lille. He attempted to suggest that he had told Ms Oldenburg that he had been attacked at Amsterdam airport many years previously and that he had not been attacked and robbed during this trip.⁴¹⁹ Yet, Ms Oldenburg maintained that he told her this incident had occurred in Lille and not at the airport in Amsterdam.⁴²⁰ In Court, Mr Blum ultimately refused to accept this occurred, despite admitting as much in his record of interview with police.⁴²¹

362. Ms Oldenburg said that 'Rich' informed her that he could not get her back to Australia until 29 December. However, Ms Oldenburg's cousin expressed concern about the situation and made arrangements for Ms Oldenburg to return to Australia the same day.⁴²² Her cousin paid for the ticket as Ms Oldenburg did not have any money on her at the time. She said she felt scared and daunted and: "*I wasn't quite sure what to make of it.*"⁴²³ Mr Blum ultimately accepted that he intended to leave Ms Oldenburg in England and no longer wanted anything to do with her. He was asked: "*Had you decided, when you left Janet Oldenburg in Dover, to cut and run?*" He responded: "*...I decided to cut, yes – run.*" He agreed that he was not honest with her and that he no longer wanted to have anything to do with her.⁴²⁴

363. Ms Oldenburg flew out of England on that night and returned to

⁴¹⁸ Transcript, 18 February 2022, p. 539.

⁴¹⁹ Transcript, 18 February 2022, p. 518.

⁴²⁰ Transcript, 4 February 2022, p. 180.

⁴²¹ Transcript, 18 February 2022, pp. 543 – 545.

⁴²² Transcript, 4 February 2022, p. 180.

⁴²³ Transcript, 4 February 2022, p. 197.

⁴²⁴ Transcript, 18 February 2022, p. 547.

Australia.⁴²⁵ Ms Oldenburg said that a friend picked her up and dropped her home the morning of 20 December 2022 and she obtained spare keys for the house. She arranged for a locksmith to attend in order to get into the garage and for the other doors in the house.⁴²⁶ She said that on that same morning of 20 December 1999, she saw 'Rich' walking up her driveway in a baseball cap. She said that he had an expression on his face of being shocked. He did not appear to have any injuries from his assault, he stayed for half an hour and did not explain how he had come to return home without a passport.⁴²⁷ Mr Blum accepted that he did go to Ms Oldenburg's house on this day. He said he knew she would have arrived home and that he went for the purpose of locating and digging up the tube from the ground, in order to return her possessions. He said that this was the last occasion he ever saw her.⁴²⁸

364. The following day, on 21 December 1999, Ms Oldenburg said that 'Rich' returned to the house and gave Ms Oldenburg back her house keys. He explained that the French police had located his assailants and were returning his property, including her title deeds.⁴²⁹ Mr Blum denied that he ever had Ms Oldenburg's keys (although he said otherwise in this record of interview with investigating police).⁴³⁰

365. Ms Oldenburg said that Mr Blum returned to the house again after Christmas and returned her title deeds. She said that she placed them in a cabinet in her house while he was present. She also said he retrieved them from a small case with the letters 'RLW' on a name tag at the top of the case.⁴³¹ He never returned her birth certificate, marriage certificate or citizenship certificate.⁴³² Mr Blum denied that he had any of these documents or a suitcase with the initials RLW.⁴³³

⁴²⁵ BOE, Volume 9, Tab 304, p. 2617.

⁴²⁶ Transcript, 4 February 2022, p. 182.

⁴²⁷ Transcript, 4 February 2022, pp. 183 – 184.

⁴²⁸ Transcript, 18 February 2022, p. 549.

⁴²⁹ BOE, Volume 9, Tab 304, p. 2616, [31].

⁴³⁰ Transcript, 18 February 2022, p. 550.

⁴³¹ BOE, Volume 9, Tab 304, p. 2616, [31] – [38] and Transcript, 4 February 2022, p. 185.

⁴³² Transcript, 4 February 2022, p. 186.

⁴³³ Transcript, 18 February 2022, p. 551.

366. In January 2000 Ms Oldenburg invited a real estate agent to her home to discuss the sale or rent of her house because she was still intending to stay with 'Rich'. Ms Oldenburg said there was discussion between them of her selling the house and she says: "*I was still trusting him at this stage*".⁴³⁴ On this day she realised her title deeds and other documents were missing from the cabinet and it was at this stage that she became suspicious.⁴³⁵ Ms Oldenburg alleged that 'Rich' stole the title deeds as he was the only other person who was in the house at the relevant time.⁴³⁶ She also searched in her back yard for her buried valuable items and found they were no longer there.⁴³⁷ She said that on the same day, he called her and told her he had dug up the items and would post them back to her. He said he was going overseas for an auction and would send her a ticket to join him at the end of January.⁴³⁸

367. Ms Oldenburg never saw or heard from 'Rich' again after he told her he was going overseas for an auction.⁴³⁹ Mr Blum's travel records established that he did not travel overseas at this time.

368. On 7 January 2000 Ms Oldenburg received a parcel in the mail with some, but not all, of her jewellery, from an address in Sydney with the name '*R.Richard*'.⁴⁴⁰ On 12 January 2000 Ms Oldenburg reported the theft of these items to NSW Police. A statement was taken but no charges were laid at the time. Mr Blum denied returning any possessions to Ms Oldenburg by post and denied retaining some of her jewellery.⁴⁴¹

369. Diane was examined on the topic of Mr Blum's interactions with Ms Oldenburg. She said that Mr Blum recently told her they had an affair. She was not aware of any allegations made by Ms Oldenburg against Mr Blum and only became aware that her husband had travelled to England with her while

⁴³⁴ Transcript, 4 February 2022, p. 186.

⁴³⁵ Transcript, 4 February 2022, p. 188.

⁴³⁶ Transcript, 4 February 2022, p. 188.

⁴³⁷ BOE, Volume 9, Tab 304, p. 2619, [39] – [42], and transcript, 4 February 2022, p. 189.

⁴³⁸ BOE, Volume 9, Tab 304, p. 2619 – 2620.

⁴³⁹ Transcript, 4 February 2022, p. 190.

⁴⁴⁰ BOE, Volume 9, Tab 304, p. 2620, [44].

⁴⁴¹ Transcript, 18 February 2022, p. 555.

giving evidence in the witness box.⁴⁴²

370. Counsel Assisting submitted that Ms Oldenburg's account of her relationship with Mr Blum and her trip overseas should be accepted, noting that she made a lengthy statement to NSW Police shortly after the relationship ended. Counsel Assisting submitted that the Court should find that Mr Blum misled Ms Oldenburg and exploited her vulnerability over a period of many months. The Family also said that the evidence of Ms Oldenburg should be accepted.

371. I accept the evidence of Ms Oldenburg, particularly noting that she made a lengthy statement to NSW Police shortly after the relationship ended. I find that that Mr Blum misled Ms Oldenburg and exploited her vulnerability over a period of many months.

Ghislaine Danlois–Dubois in 2006

372. Ghislaine Danlois–Dubois gave evidence by audio visual link from Brussels. In 2006 she was 72 years of age and a widow. At this time, she placed an advertisement in French in a local newspaper seeking some companionship. In her words: "*I wanted something to talk / think about something new.*"⁴⁴³ She said a man named 'Frederick de Hedervary' replied to her advertisement by way of a "*very nice*" handwritten letter with no spelling errors. She met 'Mr de Hedervary' at a café in Brussels in June 2006. He introduced himself to her as 'Frederick'.⁴⁴⁴ In evidence she was shown a photograph and identified this man as 'Frederick', who is also Mr Blum.⁴⁴⁵ In any case, Mr Blum does not say otherwise in these proceedings.

373. Following this meeting they formed a friendship and it evolved into a

⁴⁴² Transcript, 15 February 2022, pp. 310 - 311.

⁴⁴³ Transcript, 31 May 2023, p. 923.

⁴⁴⁴ Transcript, 31 May 2023, p. 923.

⁴⁴⁵ Transcript, 31 May 2023, p. 933.

romantic relationship, though, not a sexual relationship.⁴⁴⁶ Mr Blum, known as ‘Frederick’ stayed with Ms Danlois–Dubois for approximately one month. He told her that he was a bank manager in Australia and was in Belgium looking for old coins because he was also a coin collector. Significantly, he did not tell her that he was married and did not tell her that he had any children.⁴⁴⁷

374. Ms Danlois–Dubois said that during this short relationship ‘Frederick’ asked her to marry him and proposed that they do so at a resort in Bali. Ms Danlois–Dubois agreed because she was fond of him and wanted to live in Australia. She said she was prepared to do this provided she could return to Europe to see her children and if her children could visit Australia. ‘Frederick’ told her he wanted to marry her in Bali before telling her children. Ms Danlois–Dubois did not agree to this aspect of the proposal and told her children in Europe.⁴⁴⁸

375. The Court received into evidence a photograph of a card announcing an engagement. The card belonged to Ms Danlois–Dubois and it reads: “*Ghislaine Dubois, nee Danlois, is delighted to announce her engagement to Frederic de Hedervary*”. The card lists a temporary address in Tervuren. The card was recently provided to a journalist in Belgium following an interview with Ms Danlois–Dubois.⁴⁴⁹ This document was shown to Mr Blum in evidence. He denied being engaged. He also denied ever seeing the announcement card.⁴⁵⁰

376. Although the photograph of the announcement card was tendered after the evidence of Ms Danlois–Dubois was completed (and hence precluding the opportunity for questions to be asked of her about it), Counsel Assisting submitted that the Court should find that it represents a copy of an authentic announcement card created by Ms Danlois–Dubois and corroborates the evidence of Ms Danlois–Dubois that ‘Frederick’ asked her to marry him.

⁴⁴⁶ In oral evidence Ms Danlois-Dubois described that Mr de Hedervary told her that he was “abnormally frigid”, see transcript, 31 May 2023, p. 924. This is consistent with the evidence of Ms Gaffney-Bowan.

⁴⁴⁷ Transcript, 31 May 2023, p. 924.

⁴⁴⁸ Transcript, 31 May 2023, pp. 924 – 925.

⁴⁴⁹ Exhibit 27.

⁴⁵⁰ Transcript, 1 June 2023, p. 978.

377. Mr Blum submitted that the late presentation of the evidence and identified a number of anomalies on the face of the card casts doubt on the significance of the document and the memory of Ms Danlois–Dubois. Mr Blum denied he had ever seen the card or otherwise endorsed it at any time. He said that the card does not corroborate plans of marriage, but in his submission only: *“might suggest that there [was] a discussion of possible marriage which [Ms] Danlois-Dubois sought to make probable”*.⁴⁵¹

378. I find that the photograph of the card represents a copy of an authentic announcement card created by Ms Danlois–Dubois and corroborates the evidence of Ms Danlois–Dubois that ‘Frederick’ asked her to marry him.

379. In addition to a marriage proposal, Ms Danlois–Dubois said that Frederick asked her to sell her house and give him the money from the sale. She said she took steps to sell her house in Belgium, but this did not eventuate because she decided to buy a house for her son. However, she did withdraw at least 60,000 euros and gave this sum of money to ‘Frederick’ in order for him to set up bank accounts for her children in Australia.⁴⁵² She said ‘Frederick’ attended the bank with her for this purpose.⁴⁵³

380. Further, she said in evidence that while she was in the relationship with him, the couple placed some valuable items belonging to her in two trunks and ‘Frederick’ said to her that he would arrange for these trunks to be shipped to Australia. She did not ever see those items again.⁴⁵⁴

381. Despite their plans to marry and move to Australia, Ms Danlois–Dubois said that the relationship ended when ‘Frederick’ simply did not attend a dinner party as agreed and as arranged by her son. Ms Danlois–Dubois said that ‘Frederick’ did not open any bank accounts for her children as agreed and did not ever return her money.⁴⁵⁵ She said she was initially concerned about his

⁴⁵¹ Submissions on behalf of Ric Blum, 13 September 2023, [56].

⁴⁵² Transcript, 31 May 2023, pp. 925 – 926.

⁴⁵³ Transcript, 31 May 2023, p. 931.

⁴⁵⁴ Transcript, 31 May 2023, p. 927.

⁴⁵⁵ Transcript, 31 May 2023, p. 926.

welfare and then, in time: “*eventually I understood that he never loved me and all he wanted was my money.*” Shortly after this occurred, she made a complaint to Belgian police.⁴⁵⁶ Further, she reflected that at that time she was in a “*very poorly state*” and tired.⁴⁵⁷ She also said that after the relationship ended, he called her by telephone. She said to him: “*Give me back what you took from me.*” He responded: “*I took nothing from you, but if I hear from you again ... you will have to deal with me.*”⁴⁵⁸

382. In his evidence Mr Blum accepted that he answered the advertisement in a Belgium newspaper (known as ‘Vlan’). He said he did not remember why he answered her advertisement.⁴⁵⁹ He denied that they had a romantic relationship and denied that he told her that he worked at a bank. He denied that he asked her to marry him and that he would open bank accounts for her children in Australia. He denied that she gave him money. He said: “*She never gave me a penny*” and “*I was long gone before she sold her house.*”⁴⁶⁰

383. Yet, the account of Ms Danlois–Dubois was particular in detail and is supported by an immediate complaint to police in Belgium. Counsel Assisting submitted that this complaint was largely consistent with her evidence to the Court and that she had no apparent motivation to lie about this relationship and the fact the Mr Blum misrepresented himself to her. Counsel Assisting submitted that the evidence of Ms Danlois–Dubois should be wholly accepted. Contrary to Mr Blum’s denials, Counsel Assisting submitted that the Court should make a finding that in 2006 Mr Blum misrepresented himself to Ms Danlois–Dubois and caused her to give him a substantial sum of money (in the sum of at least 60,000 euros) which he did not return.

384. The Family submitted that I should find that Mr Blum placed various valuable items belonging to Ms Danlois–Dubois in two trunks which he told her

⁴⁵⁶ Transcript, 31 May 2023, p. 928 and see also transcribed record of police report, Exhibit 23, pp.3541- 3542. It is noted that in the police record the reference to the sum of money is 60,000 euros.

⁴⁵⁷ Transcript, 31 May 2023, p. 927.

⁴⁵⁸ Transcript, 31 May 2023, pp. 926 – 927.

⁴⁵⁹ Transcript, 1 June 2023, p. 954.

⁴⁶⁰ Transcript, 1 June 2023, pp. 958 – 959.

would be shipped to Australia, and then stole those items by never returning them.⁴⁶¹

385. I accept the evidence of Ms Danlois–Dubois. I find that that in 2006 Mr Blum misrepresented himself to Ms Danlois–Dubois and caused her to give him a substantial sum of money (in the sum of at least 60,000 euros) which he did not return.

386. I also find that Mr Blum placed various valuable items belonging to Ms Danlois–Dubois in two trunks which he told her would be shipped to Australia, and then never returned the items to her.

Andree Flamme in 2010

387. Andree Flamme gave evidence by audio-visual link from Portugal. In May and June 2010 she was a widow and was living in Belgium. At that time she had been a widow for approximately one year.⁴⁶² She met ‘Frederick de Hedervary’, who is also Mr Blum, through her son in law.⁴⁶³ She said that ‘Frederick’ stayed at her house from 15 May – 10 June 2010.⁴⁶⁴ In the written complaint Ms Flamme made to Belgian police at the time, she said that ‘Frederick’ stayed at her house until 4 June 2010.⁴⁶⁵

388. I find that given the account to the Belgian police was made contemporaneously, it is likely that the time period was 15 May to 4 June 2010.

389. Ms Flamme said that ‘Frederick’ offered to value her late husband’s coin collection. She said that he looked at the coins at her house, and she went to run an errand, and that: “*when I came back, everything was gone.*” She said he left a note which said that he was leaving and would return. However, he did

⁴⁶¹ Submissions on behalf of the Leydon Family, 14 August 2023, p. 3 [14].

⁴⁶² Transcript, 31 May 2023, p. 940.

⁴⁶³ Transcript, 31 May 2023, p. 944. Mr Blum did not dispute in evidence that he was the person who met with Ms Flamme in these circumstances.

⁴⁶⁴ Transcript, 31 May 2023, p. 941.

⁴⁶⁵ Exhibit 24, p. 5.

not return. There is evidence of a postage bag that had contained the returned collection. Ms Flamme said that although ‘Frederick’ returned the coin collection there were many coins missing.⁴⁶⁶

390. The Court also has the benefit of the documentary records of Ms Flamme’s contemporaneous complaint to police, made only a matter of days following the incident.⁴⁶⁷ She also wrote a letter, in the nature of a complaint or expression of concern, on 26 July 2010 to the Governor of Queensland.⁴⁶⁸ In this letter she expressed that she was a victim of ‘Frederick de Hedervary’ and that he stole her gold coin collection. She expressed that ‘Frederick’ used “*fraud and lies*” and made reference to the fact that this occurred: “*at a particularly painful of my life (sic)*” and “*I had just buried my husband when Sir [Frederick] crossed my way, what it took, for breach of trust.*”⁴⁶⁹

391. In the complaint provided by Ms Flamme to Belgian police at the time, it is recorded that she said that ‘Frederick’ left a note on the living room table of her house which said that he would meet Ms Flamme at a flea market on the following Sunday morning. The complaint also records that Ms Flamme said: “*We went there but of course he wasn’t there.*”⁴⁷⁰

392. Ms Flamme was cross examined on this topic by Mr Blum’s Senior Counsel. She agreed that she sought a valuation because she planned to sell the coin collection. She was asked about whether the taking away of the coins by ‘Frederick’ and the returning of some of the coins could have been the result of a misunderstanding.⁴⁷¹ She denied any such misunderstanding.

393. Mr Blum accepted some of the account given by Ms Flamme in his evidence. He accepted that he met her, and he stayed with her (stating this was

⁴⁶⁶ Transcript, 31 May 2023, pp. 942 – 943.

⁴⁶⁷ Exhibit 24, p. 5.

⁴⁶⁸ Exhibit 24, p. 7.

⁴⁶⁹ Exhibit 24, p. 7.

⁴⁷⁰ Exhibit 24, p. 6.

⁴⁷¹ Transcript, 31 May 2023, p. 946.

only for two weeks).⁴⁷² He accepted that he had the coin collection owned by Ms Flamme but said that the collection “*was given to me by Pierre [her son in law].*” He denied stealing any coins.⁴⁷³

394. Despite Ms Blum’s denials, Counsel Assisting submitted that the Court should wholly accept the evidence of Ms Flamme. Although it was clear that throughout the course of her evidence, she became tired, she maintained her position and did not become confused or otherwise uncertain in her recollection. Moreover, Counsel Assisting submitted that the Court should accept her evidence because it is corroborated by her contemporaneous complaint to Belgium police.

395. Counsel Assisting submitted that Mr Blum’s account of this encounter should be wholly rejected. In his record of interview with investigating police on 14 September 2021, Mr Blum denied knowing Ms Flamme entirely.⁴⁷⁴ In his oral evidence given in 2022 he changed his position and accepted that he did know her but suggested she was infirm and confined to a wheelchair and suffering from Alzheimer’s disease. Ms Flamme did not present as infirm in her evidence and did not use a wheelchair. Counsel Assisting submitted that the evidence of Mr Blum in this regard was a lie and was deliberately designed to discredit Ms Flamme which is yet another example of Mr Blum’s deceit and dishonesty.

396. Mr Blum accepted that he had erred when recalling that Ms Flamme had Alzheimer’s disease or dementia in 2010; however, denied that he knowingly gave false evidence.

397. The Family made submissions that Ms Flamme does not have Alzheimer’s disease or dementia, and if she does, it can be “*inferred with certainty*” that she did not in 2010.⁴⁷⁵ The Family submitted that Mr Blum’s

⁴⁷² Transcript, 1 June 2023, p. 950.

⁴⁷³ Transcript, 1 June 2023, p. 951.

⁴⁷⁴ BOE, Volume 8, Tab 281, Q610, p. 2263.

⁴⁷⁵ Submissions on behalf of the Leydon Family, 14 August 2023, [5].

evidence of 18 February 2022 was “*plainly false*” and “*Mr Blum must have known it was false*”. The Family supported the submission of Counsel Assisting that the evidence of Mr Blum in this regard was a lie deliberately designed to discredit Ms Flamme.⁴⁷⁶ The Family submitted that Mr Blum’s evidence regarding Ms Flamme is material to his pattern of behaviour in relation to vulnerable women.⁴⁷⁷

398. I accept the evidence of Ms Flamme. I find that the evidence of Mr Blum regarding Ms Flamme was untruthful and deliberately designed to discredit Ms Flamme.

Marie Landrieu in 2012

399. The Court received a statement from a woman by the name of Marie Christine Landrieu.⁴⁷⁸ The statement was made by Ms Landrieu to Belgium police on 10 April 2012.⁴⁷⁹ Ms Landrieu alleged that Mr Blum, known to her as Willy, was a first cousin of her late husband. In the statement she alleged that following the death of her husband Mr Blum began to contact her regularly; then they met in Belgium on 24 February 2012 and took a holiday together in France. She alleged that Mr Blum proposed that they purchase a property together in Bali and that she invest 100,000 euros for this purpose.

400. In her statement Ms Landrieu alleged that on 23 March 2012 they travelled to Bali together and drove to Seminyak. She said that prior to leaving Europe she gave him 100,000 euros in cash. She further alleged in the statement that Mr Blum told her in Bali that he had to attend a business meeting on 29 March 2012 and that he left and did not ever return. On 1 April 2012 she received an email at her hotel from Mr Blum where he explained he had taken the money as compensation for a sum which had been loaned to him by her husband in a previous investment deal. She said she had never heard of such

⁴⁷⁶ Submissions on behalf of the Leydon Family, 14 August 2023, [6] *citing* Submissions of Counsel Assisting, 19 July 2023, [21].

⁴⁷⁷ Submissions on behalf of the Leydon Family, 14 August 2023, [7].

⁴⁷⁸ BOE, Volume 13, Tabs 367 – 371 and in particular pp. 3596 – 3599.

⁴⁷⁹ BOE, Volume 13, p. 3597.

an investment deal and, in her words in the statement: *“I then understood that I had been scammed and abused by this individual and with the help of my interpreter I was able to get my return ticket and return to Belgium on Saturday 7 April.”* According to the statement, on her return she discovered that much of her jewellery, stamps and coins had been taken without her permission, estimated to be in the sum of 25,000 euros. It is her belief that Mr Blum took these items.⁴⁸⁰

401. Mr Blum’s travel records demonstrate that he was in Indonesia at the same time as Ms Landrieu in 2012. Mr Blum, travelling under the name Willy David-Coppenolle, departed Australia on 23 February 2012. His departure card states that he disembarked in Singapore and spent most of his time abroad in Germany.⁴⁸¹ Further, Mr Blum, then travelling under the name Willy David Coppenolle, arrived back in Australia on 29 March 2012. His arrival card states that he boarded the flight in Indonesia and that he had spent most of his time abroad in Germany.⁴⁸²

402. Moreover, Ms Landrieu in her statement alleges that Mr Blum entered Belgium on 24 February 2012, she met him at a train station.⁴⁸³ She said they both left the Netherlands on 23 March 2012, to travel to Bali together.⁴⁸⁴ She further said that Mr Blum told her that he had meeting with a businessman on 29 March 2012, and after he left to attend this meeting, she did not ever see him again.⁴⁸⁵

403. These travel records corroborate Ms Landrieu’s statement that she was in Bali with Mr Blum in March 2012 and that Mr Blum left on 29 March 2012, returning to Australia from Indonesia.⁴⁸⁶

404. The evidence of Ms Landrieu has limitations. She did not give sworn or

⁴⁸⁰ BOE, Volume 13, pp. 3597 – 3598.

⁴⁸¹ BOE, Volume 10, Tab 320B.24, p. 295.

⁴⁸² BOE, Volume 10, Tab 320B.25, p. 2954.

⁴⁸³ BOE, Volume 13, p. 3597.

⁴⁸⁴ BOE, Volume 13, p. 3597.

⁴⁸⁵ BOE, Volume 13, pp. 3597 – 3598.

⁴⁸⁶ BOE, Volume 10, Tab 320B.25, p. 2954.

oral evidence and hence was not available for cross examination. Her evidence was received in the form of documentary and contemporaneous records obtained by Interpol from Belgium. Mr Blum was examined on the detail of these records. He accepted that he knew Ms Landrieu, and she was the wife of his first cousin, Michel Coppenolle.⁴⁸⁷ He accepted that he travelled to Europe as asserted by Ms Landrieu and under the name of 'Willy Coppenolle' and the evidence of his international travel records as set out above support this position.

405. Mr Blum also accepted that he met with Ms Landrieu in France (as she alleged) and that they travelled to Bali together and stayed at a hotel in Seminyak.⁴⁸⁸ He accepted that he left Ms Landrieu in Bali without warning, stating that: "*she left and went to a massage or something like that, and I left.*"⁴⁸⁹ Significantly, Mr Blum accepted that Ms Landrieu gave him money in cash when they departed Europe together. He said that he understood Ms Landrieu had 100,000 euros in cash while in Bali and that she gave him 50,000 euros in cash in an envelope when he was leaving. He provided an explanation that he had a "*receipt*" from Ms Landrieu's husband in relation to money that he considered belonged to him from inheritance from his mother.⁴⁹⁰ He denied that he had any intention of seducing Ms Landrieu and denied that he proposed that they buy a house together in Bali.⁴⁹¹ He said they went to Bali together because this was the flight he had arranged from Amsterdam, and she was interested in seeing Bali.⁴⁹²

406. Despite these limitations, Counsel Assisting submitted that the Court should find that on the balance of probabilities the account she provided to Belgian police is true. Her report was detailed and made promptly to Belgian police following her return from Bali. There is no known motivation for her to concoct such a set of unfortunate circumstances. To the contrary, as with the

⁴⁸⁷ Transcript, 1 June 2023, p. 963.

⁴⁸⁸ Transcript, 1 June 2023, p. 965.

⁴⁸⁹ Transcript, 1 June 2023, p. 975.

⁴⁹⁰ Transcript, 1 June 2023, p. 965 and p.968.

⁴⁹¹ Transcript, 1 June 2023, p. 966.

⁴⁹² Transcript, 1 June 2023, pp. 966 – 967.

other women who have given evidence in these proceedings of their exploitation by Mr Blum, Ms Landrieu's account is one of disappointment, betrayal, and personal (and financial) loss.

407. Mr Blum embarked on a trip to Bali with Ms Landrieu, his cousin in law, in circumstances where she gave him an envelope with 50,000 euros in cash, either as compensation for a previous business deal or somehow as part of his inheritance from his mother. Counsel Assisting submitted that the explanation is absurd and should be rejected and that it is entirely implausible and inconsistent with the surrounding circumstances. Counsel Assisting submitted that there is no evidence of a prior business deal where Mr Blum was owed such a sum, and that there is no evidence of Mr Blum obtaining such a sum as part of his inheritance. This is despite being asked about his financial circumstances and his inheritance in particular on numerous previous occasions. Counsel Assisting submitted that it seems that Mr Blum has attempted to concoct a story which explains the known facts that he travelled home from Europe via Bali and that he entered Australia with a large sum of cash.

408. Mr Blum agreed that on 29 March 2012 he entered Perth airport with 50,000 euros.⁴⁹³ Mr Blum agreed that shortly after his return at that time, he made a complaint to Queensland police that he was robbed of 50,000 euros in a carpark at Pacific Fair.⁴⁹⁴ It was put to Mr Blum that he invented the story about being robbed in order to explain to Ms Landrieu, if necessary, that he could not return her money to her.⁴⁹⁵

409. On the basis of Mr Blum's own evidence, together with the documentary records from Mr Landrieu, Counsel Assisting submitted that the Court can find to the requisite standard that Ms Landrieu gave Mr Blum at least 50,000 euros in cash, prior to their travel together to Bali. He had no legitimate entitlement to this money in the circumstances and he did not return it to her. He left Bali abruptly and without informing Ms Landrieu.

⁴⁹³ Transcript, 1 June 2023, p. 971.

⁴⁹⁴ Transcript, 1 June 2023, p. 975.

⁴⁹⁵ Transcript, 1 June 2023, p. 971.

410. The Family submitted that I should find that Mr Blum stole 100,000 euros from Ms Landrieu, and that I should find that Mr Blum stole 100,000 euros from Ms Landrieu, not “*at least \$50,000*”, as submitted by Counsel Assisting.⁴⁹⁶ In circumstances where Counsel Assisting submitted that I should find that the account Ms Landrieu gave to Belgian police is true, it is submitted that the allegation in her statement that “*I had given him the sum of 100 000 euros in 500 and 200 euro notes...*” should also be accepted. In further support of this submission, the Family re-iterate the submission of Counsel Assisting that all of Mr Blum’s uncorroborated evidence should be rejected, including the assertion that Mr Blum only received 50,000 euros from Ms Landrieu.⁴⁹⁷

411. Mr Blum did not make any specific submissions on this issue.

412. On the basis of Mr Blum’s own evidence, together with the documentary records from Ms Landrieu, I find that Ms Landrieu gave Mr Blum at least 50,000 euros in cash, prior to their travel together to Bali. Mr Blum had no legitimate entitlement to this money in the circumstances and he did not return it to her. He left Bali abruptly and without informing Ms Landrieu.

Mr Blum’s credibility

413. Mr Blum’s evidence is of great importance in these proceedings. It is necessary for the Court to assess his credibility. Counsel Assisting submitted that he was a wholly unreliable witness with a lengthy criminal history of fraud and dishonesty in Europe. Counsel Assisting submitted that he has led an extraordinary life of deceit and duplicity, including in relation to his long marriage to Diane. A number of examples were cited in submissions that reflect poorly on his credit. For example, he provided the Court with an account of his horse-riding accident in the 1960s, yet he has given different versions of how this accident occurred to his wife and to Ms Oldenburg. He has used many names over the course of his adult life and has had at least ten different passports in different names. His explanations to the Court for the reasons for

⁴⁹⁶ Submissions on behalf of the Leydon Family, 14 August 2023, p. 3 [12]-[13].

⁴⁹⁷ Submissions on behalf of the Leydon Family, 14 August 2023, p. 3 [13].

these name changes include that he did not want his past to come back to haunt him and for reasons of “*fantasy*”. It was submitted that these reasons are implausible.

414. Counsel Assisting also submitted that there are numerous examples in the evidence where Mr Blum has clearly not told the truth to the Court in the face of clear evidence to the contrary. For example, Mr Blum had an intimate, extra-marital affair with Ms Cornelius in his past. This is clear from the content of his own letters written to her over the years. Yet he refused to accept this proposition and maintained the relationship was platonic. There are many further examples of lies told to the Court in regard to his relationships with Ms Gaffney–Bowen and Ms Oldenburg.

415. In regard to Ms Gaffney–Bowen, Mr Blum told the Court they met at a coin fair where she clearly said that he answered her personal advertisement in a paper. He maintained he only spent two days with her, where she explained with precision that he spent many weeks with her and proposed they go into business together. He also alleged that it was Ms Gaffney–Bowen’s idea for him to take intimate photographs of her, whereas she told the Court that he produced a camera and took these photographs and later threatened to use them against her. With regard to Ms Oldenburg, he said that he met her in the street in Ballina whereas she says that he contacted her on the telephone “*out of the blue*” following her separation from her husband. He said that she was a belly dancer who bewitched him, and he took her to Europe in order to help her to find an agent for her dancing. She said that he proposed a business partnership and then proposed they move to the French Riviera and start a new life together. Counsel Assisting submitted that these lies appear to be told for the purpose of minimising or denying his deceit and dishonesty.

416. Counsel Assisting submitted, that Mr Blum’s evidence before this Court was self-serving, confusing, and frequently contradictory. This position was also taken by the Family. A clear example of his contradiction was in his evidence about how he and Marion met in 1997 and whether she answered his personal advertisement or whether he answered her personal advertisement.

For all these reasons, Counsel Assisting submitted that the Court should ultimately be very cautious with Mr Blum's evidence when attempting to piece together Marion's movements in the months leading up to her departure and her motivations for her travel and that the Court would not accept as accurate anything Mr Blum has said in the absence of independent corroborating evidence.

417. In his submissions, Mr Blum asserted that a "*lack of credibility*" should not be conflated with a finding that he knows more information about Marion's disappearance that he has not disclosed to the Court,⁴⁹⁸ or should not lead to an automatic "*disbelief in his version of events on every occasion.*"⁴⁹⁹ I accept this submission. This separate issue of knowledge of Marion's disappearance is addressed further below.

418. I accept Counsel Assisting's submissions regarding Mr Blum's credibility. I do not accept as accurate anything Mr Blum has said in evidence in the absence of independent corroborating evidence.

Specific findings in relation to Mr Blum and Marion in 1997

The role of Mr Blum in the sale of Marion's house and Marion's decision to resign from TSS

419. Counsel Assisting submitted that there is a factual basis for the Court to find that that Mr Blum, whilst in an intimate relationship with Marion, persuaded or otherwise encouraged her to sell her house in 1997. This is against the background of Mr Blum having been convicted and gaoled for fraud, having placed or answered a personal advertisement, and after entering into a relationship with Marion, not disclosing to her that he was married with children. This is based on his tendency to exploit vulnerable women.⁵⁰⁰ It is also based on the particular objective circumstances of the sale of Marion's house: that the

⁴⁹⁸ Submissions on behalf of Ric Blum, 13 September 2023, [92].

⁴⁹⁹ Submissions on behalf of Ric Blum, 13 September 2023, [69(c)].

⁵⁰⁰ This pattern included the evidence of Ms Danlois-Dubois that Mr Blum specifically encouraged her to sell her family home after proposing marriage and starting a new life together in Australia.

decision was otherwise unexpected, made in haste and that Marion suffered a loss on the sale.

420. Further, the Family seek that I make a finding that, based on the tendency evidence, Mr Blum played a causative role in Marion selling her house and resigning from her employment at TSS. The following aspects of the chronology of events were cited in support of this submission:⁵⁰¹

- a) Marion had told her family by Christmas 1996 that she was planning to travel overseas but made no mention of planning to sell her house or resign from her job at that time;⁵⁰²
- b) Although Mr Blum suggested on one occasion that he first met Marion in Southport in March 1997,⁵⁰³ he repeatedly accepted that he first met Marion in February 1997;⁵⁰⁴
- c) Marion entered into an agency agreement for the sale of her house on 15 March 1997.⁵⁰⁵ On 25 April 1997, Marion sold the house at a loss of \$15,000 from the initial purchase price;⁵⁰⁶
- d) Marion provided two resignation letters, the first on 13 April 1997 and the second on 16 June 1997;
- e) Marion formally changed her name by deed poll on 13 May 1997 for a passport in her new name on or about 16 May 1997.

421. The Family have further submitted that the Court should consider in particular the following evidence:⁵⁰⁷

⁵⁰¹ Submissions on behalf of the Leydon Family, 18 October 2022, pp. 20-22 [77] – [84].

⁵⁰² Transcript, 2 July 2021, pp. 6.16-47; 7.30-36; see also BOE 2.610 at [24].

⁵⁰³ Transcript, 27 April 2022, pp. 611.7-15.

⁵⁰⁴ Transcript, 27 April 2022, pp. 595.36-38; 602.27-31; 603.34-38; 604.1-5; 605.38-39.

⁵⁰⁵ BOE, Volume 3, p. 920.

⁵⁰⁶ BOE, Volume 2, p. 912

⁵⁰⁷ Submissions on behalf of the Leydon Family, 18 October 2022, pp. 20-22 [77] – [84].

- a) from Marion’s sister, Deirdre that Marion could be easily influenced by people, in particular someone she was fond of or attracted to;⁵⁰⁸
- b) from Marion’s friend, Vicki Sidie that Marion could be easily influenced by men;⁵⁰⁹
- c) from Marion’s friend, Janis White that Marion could have been easily influenced into big decisions in a relationship with a man;⁵¹⁰and
- d) from Sally that her mother could be easily influenced if she was in love.⁵¹¹

422. The Family submitted that the evidence provides a compelling and rational basis to infer that Mr Blum proposed starting a new life together to Marion in 1997, and that this was one of the reasons, if not the primary reason, why she sold her house, resigned her employment, and changed her name.

423. Counsel Assisting submitted that the evidence is not sufficient to prove that Mr Blum played any causative role in Marion’s decision to resign from her employment. This is because there is clear evidence that Marion was having difficulties at TSS and that, according to her sister Bronwen, she had applied for a role at another school on the Sunshine Coast and was not planning to start there until 1998.

424. It was submitted on behalf of Mr Blum that Marion’s decision to resign, sell her property and travel overseas “*occurred in a logical continuum which commenced with dissatisfaction with her circumstances*” of employment.⁵¹² Mr Blum outlined the problems that Marion had at TSS.⁵¹³ Further, he outlined the evidence from Marion’s sisters that Marion had applied for a teaching

⁵⁰⁸ Transcript, 2 July 2021, pp. 3.48-4.29.

⁵⁰⁹ Transcript, 24 June 2021, pp. 70.16-17.

⁵¹⁰ Transcript, 24 June 2021, pp. 78.43-46.

⁵¹¹ Transcript, 28 June 2021, pp. 8.32-34.

⁵¹² Submissions on behalf of Ric Blum, 13 September 2023, [81]-[82].

⁵¹³ Submissions on behalf of Ric Blum, 13 September 2023, [82]-[83].

position at Sunshine Coast Grammar School in around 1996 and suggested that this was a good reason for her resignation.⁵¹⁴ It was further submitted that Marion's decision to sell her house followed on from her discontent at TSS and explained her decision to take an extended overseas break. It was also relevantly identified that Sally and her husband both gave evidence that Marion had explained the decision to sell the house as downsizing.⁵¹⁵

425. Mr Blum noted the differences between Marion, as an *“involved, self-confident, dedicated professional teacher”* who was in a relationship with Greg in 1997 and *“had good reason to make a significant change in her professional life”* with the other women about whose relationships with Mr Blum evidence was given, who he described as *“widows or single women looking for relationships in a static phase of their lives”*.⁵¹⁶

426. I accept the submissions of Counsel Assisting. I find that Mr Blum, whilst in an intimate relationship with Marion, persuaded or otherwise encouraged her to sell her house in 1997. The evidence is not sufficient to prove that Mr Blum played any causative role in Marion's decision to resign from her employment.

The role of Mr Blum in the withdrawal of Marion's money from her bank account in October 1997

427. The Family submitted that the Court should find that Mr Blum had some involvement, whether direct or indirect, in the withdrawal or transfer of \$80,000 from Marion's bank account in October 1997 and the evidence tendered which support the making of this finding is as follows:

- a) The evidence of Ms Oldenburg and Ms Gaffney–Bowen establishes that Mr Blum had a history of dishonestly attempting to obtain financial benefits from single, middle-aged women;

⁵¹⁴ Submissions on behalf of Ric Blum, 13 September 2023, [84].

⁵¹⁵ Submissions on behalf of Ric Blum, 13 September 2023, [85].

⁵¹⁶ Submissions on behalf of Ric Blum, 13 September 2023, [86].

- b) Mr Blum accepted that he has a long history of committing fraud, including, very relevantly, opening bank accounts and using cheques in fake names;⁵¹⁷
- c) All except two of the withdrawals or transfers from Marion's account referred to in John Wilson's notes were made in Byron Bay. Marion had no connection of any substance to Byron Bay⁵¹⁸, whereas in October 1997 Ric Blum lived very close by in Wollongbar;⁵¹⁹
- d) Mr Blum's Queensland driver's licence was in the name Fernand Nocolas Remakel.⁵²⁰ The initials of that name are, apart from the middle name "Marion", identical to Marion's new name;
- e) Mr Blum opened a safety deposit envelope on 14 October 1997, being one day before \$80,000 was transferred out of Marion's bank account.

428. Counsel Assisting submitted that in the circumstances these factors are not sufficient for such a finding.

429. Mr Blum also submitted that there was insufficient evidence to find he had encouraged Marion to make withdrawals from her bank account in October 1997, or received he any of that money.⁵²¹ Mr Blum submitted that the submission of the Family that Mr Blum had used the bank card of Ms Gaffney–Bowen to withdraw \$30,000 in 1998 formed a basis to find Mr Blum was able to access Marion's account ought to be rejected.⁵²²

430. It was further submitted on behalf of Mr Blum that the Court should reject the submission that the safety deposit box evidence demonstrates that Mr Blum received some of the money.

⁵¹⁷ Transcript, 16 February 2022, pp. 381.10-383.15; BOE, Volume 9, pp. 2404-2405.

⁵¹⁸ Transcript, 28 June 2021, pp. 23.27-25.1-3; 41.6-12.

⁵¹⁹ Transcript, 17 February 2022, p. 472.

⁵²⁰ BOE, Volume 10, p. 3080.

⁵²¹ Submissions on behalf of Ric Blum, 13 September 2023, [88].

⁵²² Submissions on behalf of Ric Blum, 13 September 2023, [88] *citing* Submissions on behalf of Leydon Family, 14 August 2023, [18].

431. I repeat the finding I have made at [304] that that there is a sufficient factual basis to make a finding that Marion withdrew the sums of money in August 1997 and transferred \$80,000 to an unknown account in October 1997 on the encouragement of Mr Blum and in circumstances where Marion believed that she was in a relationship with him. However, as Counsel Assisting submitted, there is not enough evidence for a finding to the requisite standard as to whether and when Mr Blum actually received some or all of Marion's money.

The role of Mr Blum in the storage of Marion's tea chests at his house

432. Counsel Assisting submitted that there is a sufficient factual basis for the Court to make a finding that Marion facilitated or otherwise agreed with a proposal by Mr Blum for him to take possession of some of her belongings before she travelled to Europe. Counsel Assisting submitted that the Court can make this finding due to the stark similarities with the evidence of Ms Danlois–Dubois that in 2006 Mr Blum suggested and facilitated the packing and purported shipping of trunks of her possessions to Australia. Further and significantly, Mr Blum's account of the storage of three or four tea chests and the existence of an unknown man who was planning to travel with Marion is implausible, inconsistent and bizarre.⁵²³

433. The Family agreed that Mr Blum's account of Marion storing boxes at his house before she went overseas (including with regard to the attendance at the house by Marion and an unknown man) was implausible and should be rejected.⁵²⁴

434. I find that there is a sufficient factual basis for me to make a finding that

⁵²³ Counsel Assisting's primary submissions, 29 August 2022, [206] – [213].

⁵²⁴ Submissions on behalf of the Leydon Family, 18 October 2022, [34].

Marion facilitated or otherwise agreed with a proposal by Mr Blum for him to take possession of some of her belongings before she travelled to Europe. I make this finding due to the stark similarities with the evidence of Ms Danlois–Dubois that in 2006 Mr Blum suggested and facilitated the packing and purported shipping of trunks of her possessions to Australia. However, I find Mr Blum’s account of the storage of three or four tea chests and the existence of an unknown man who was planning to travel with Marion is implausible.

Mr Blum’s involvement in Renov Pubs

435. The Family submitted that the Court should make a finding that Mr Blum’s evidence on the topic of Renov Pubs was knowingly false.⁵²⁵ Renov Pubs was a Belgian entity founded on 1 October 1968.⁵²⁶ The Family stated that evidence put to Mr Blum in April 2022 demonstrated that:⁵²⁷

- a) The name of the entity’s founder appeared to be Frederick De Hedervary;
- b) The registered address for the entity since its start date was Mr Blum’s address in the early 1970s (as Mr Blum admitted);
- c) On 10 June 2015, the name registered with the entity was changed to Ric Blum (and he had admitted he had changed his name to Ric Blum on 13 October 2014);
- d) On 25 May 2021, the name registered with the entity was again changed to Frederick de Hedervary (a change which around two weeks prior to Mr Blum’s statement to police in June 2021);
- e) On 11 April 2022, the name registered with the entity was changed again

⁵²⁵ Submissions on behalf of the Leydon Family, 18 October 2022, [41].

⁵²⁶ Submissions on behalf of the Leydon Family, 18 October 2022, [42] *citing* BOE, Volume 11, p. 3251.

⁵²⁷ Submissions on behalf of the Leydon Family, 18 October 2022, [41].

to Ric Blum (a change which occurred about two weeks prior to Tranche Three of the inquest).

436. In his evidence to the Court in February and April 2022, Mr Blum denied having any involvement in Renov Pubs. The Family submitted that Mr Blum's evidence in this regard is inexplicable and should be seen as an attempt to distance himself from the entity. The Family further submitted that, in circumstances where Mr Blum has denied any connection with an overseas company which existed at the time of the overseas transfer of \$80,000 from Marion's bank account, the evidence is material to the issues to be determined in the inquest.⁵²⁸

437. In his submissions, Mr Blum conceded that names he used from time to time appear in the records of Renov Pubs.⁵²⁹ He further submitted that there is no evidence about Renov Pubs and what it did; about his relationship with Renov Pubs; about who made the changes to the name associated with the entity; whether Renov Pubs had a bank account or any funds at its disposal; and if so whether Renov Pubs received any money from Marion. Mr Blum also submitted that Renov Pubs itself was not a hidden entity and was open to be further investigated.⁵³⁰

438. I do not consider it necessary to make a finding on this issue.

Whether Mr Blum played any role in Marion's life after she returned to Australia

439. I must also consider the evidence and make a finding as to whether Mr Blum played any role in Marion's life after she returned to Australia and whether he was in communication with her.

440. Counsel Assisting submitted that there is a sufficient basis for the Court to make a finding that Mr Blum was in communication with Marion and played

⁵²⁸ Submissions on behalf of the Leydon Family, 18 October 2022, [42].

⁵²⁹ Submissions on behalf of Ric Blum, 13 September 2023, [49].

⁵³⁰ Submissions on behalf of Ric Blum, 13 September 2023, [49] – [51].

some role in her life following her return to Australia in August 1997. As was explored in the evidence, Counsel Assisting submitted that when Marion (as Florabella) returned to Australia, she believed she was in a relationship with Mr Blum. She used the name Florabella Natalia Marion Remakel. She expressed an intention to return to Luxembourg in the long term (a country in which she had no apparent ties at all but was very well known to Mr Blum). She expressed an intention to stay in Australia as a visitor for only seven days. It is not known where she stayed or what she did on her return. However, she lived somewhere in the community for at least a number of months and unknown to anyone.

441. The Family also submitted that there is sufficient evidence for the Court to find that Mr Blum had contact with Marion after she returned to Australia in August 1997, for the following reasons⁵³¹:

- a) Mr Blum and Marion re-entered Australia within two days of each other.⁵³²
- b) Marion indicated on her incoming passenger card that she was 'married'⁵³³ which shows that she believed she was still in a relationship with Mr Blum when she returned to Australia. Similarly, Marion did not tell any of her family or friends that she had returned to Australia.
- c) Based on the evidence that Marion's Medicare card was used at an optometrist in Grafton on 13 August 1997⁵³⁴, that Marion was present in the north coast of New South Wales at this time.
- d) Mr Blum purchased a Mitsubishi Magna on 11 August 1997, two days prior to Marion's visit to the optometrist in Grafton.⁵³⁵

⁵³¹ Submissions on behalf of the Leydon Family, 18 October 2022, [98]-[103].

⁵³² BOE, Volume 3, pp. 942-3; 3.954-5; Volume 10, pp. 3010-3013.

⁵³³ BOE, Volume 3, pp.954-5.

⁵³⁴ BOE, Volume 1, p. 93; Volume 3 pp. 821-822.

⁵³⁵ BOE, Volume 10, p. 3094.

e) When all of the striking coincidences which link Mr Blum to Marion are taken together,⁵³⁶ along with all of the other findings contended for above, it is more likely than not that Mr Blum did have contact with Marion after their respective returns to Australia in August 1997 and the Court has a sufficient and rational basis to draw that inference on the balance of probabilities.

442. Mr Blum submitted that there was: “*absolutely no evidence that Mr Blum had any dealings with Marion after she returned from England in August 1997: no evidence of conversations, meetings, sightings, acts, dates, or anything else.*”⁵³⁷

443. I accept the submissions of Counsel Assisting and the Family on this matter. There is a sufficient basis for me to make a finding that Mr Blum was in communication with Marion and played some role in her life following her return to Australia in August 1997.

Mr Blum’s further and undisclosed knowledge about his involvement with Marion in 1997

444. The further oral evidence and documentary evidence tendered in tranche 5 of the inquest held in 2023, does allow me to make further findings with regard to Mr Blum’s further and undisclosed knowledge about his involvement with Marion in 1997.

445. In the final days of the evidence Mr Blum was asked: “*Would you like to say anything further in relation to the disappearance of Marion Barter? He answered “No, what could I say?” He was then asked: “You don’t know what became of Marion Barter?” Mr Blum then offered the following in response: “I myself, believe that she’s still alive. That’s what I believe, but I don’t know anything about what she did, or whereabouts, or nothing at all.” I then asked him in Court: “Why do you believe that Marion is still alive?” and he answered:*

⁵³⁶ Transcript, 29 April 2022, pp. 801-806.

⁵³⁷ Submissions on behalf of Ric Blum, 13 September 2023, [90].

“Because she – I can’t tell you exactly when – and – but in a conversation before she went to England, she said that she want to separate from her family. She didn’t want anything to do with any member of her family. She was a bit of a strange person.” Mr Blum went on to say that this conversation apparently happened in her house in Queensland where she told him that she had *“had enough of her family.”*⁵³⁸ Mr Blum was asked further questions about the details of this conversation. He could not recall on which of the occasions he met Marion in Southport that this conversation occurred. He was asked why he had never volunteered that information to the investigating police and he said: *“I can’t give you an answer.”*⁵³⁹ It was suggested by Counsel Assisting to Mr Blum that he knows more about the whereabouts of Marion than he has volunteered in his evidence throughout the course of the proceedings. He responded: *“I don’t know anything – anything about Marion Barter.”*⁵⁴⁰

446. Counsel Assisting submitted that Mr Blum has had many opportunities throughout the course of the investigation and in evidence to disclose this alleged conversation with Marion about wanting to separate from her family. Counsel Assisting submitted that the motivation for such a comment made at the conclusion of the proceedings is not clear. If true, it would be of great significance. Yet, it is likely not true. It does not fit with Marion’s known relationships with her family, even notwithstanding her secrecy in the months prior to her travel overseas. If the comments are lies, the most reasonable and likely inference for the motivation for these lies is a crude attempt to distance himself from Marion and the circumstances of his relationship with her in 1997, including, in regard to her travel, her failure to contact her family and her inexplicable disappearance.

447. Counsel Assisting submitted that taking into consideration the entirety of the evidence and Mr Blum’s confounding representations in the witness box, there is a sufficient basis for a further and significant finding in regard to Mr Blum:

⁵³⁸ Transcript, 1 June 2023, p. 980 and 2 June 2023, p. 1002.

⁵³⁹ Transcript, 2 June 2023, p. 1004.

⁵⁴⁰ Transcript, 2 June 2023, p. 1004.

- a) That he has further knowledge about the circumstances of Marion's travel overseas;
- b) That he has further knowledge of his relationship with her in the months prior to her disappearance;
- c) That he has further knowledge of her circumstances following her return from overseas; and
- d) That he has further knowledge of the withdrawals and transfer of her money.

448. Moreover, Counsel Assisting submitted that there is a sufficient basis for a finding that he was and is deliberately unwilling to divulge this further knowledge to the Court.

449. Mr Blum submitted that the submission by Counsel Assisting that a finding ought to be made that Mr Blum knows more about the circumstances of Marion's disappearance than he has revealed to the Court ought to be rejected.⁵⁴¹

450. Mr Blum's evidence in the final days of the inquest when asked by Counsel Assisting: "*Would you like to say anything further in relation to the disappearance of Marion Barter?*" was extraordinary. This evidence, along with his lies and deception throughout the inquest has convinced me that he does indeed know more than he is saying.

451. I make the following further findings regarding Mr Blum:

- 1) That he has further knowledge about the circumstances of Marion's travel overseas;

⁵⁴¹ Submissions on behalf of Ric Blum, 13 September 2023, [92].

- 2) That he has further knowledge of his relationship with her in the months prior to her disappearance;
- 3) That he has further knowledge of her circumstances following her return from overseas;
- 4) That he has further knowledge of the withdrawals and transfer of her money; and
- 5) That there is a sufficient basis for a finding that he was and is deliberately unwilling to divulge this further knowledge to the Court.

Issue 4: The nature and adequacy of the police investigation into the disappearance of Marion Barter by NSW Police between her disappearance in 1997 up until 2019, including whether it was conducted in an appropriate and timely manner and consistent with applicable policy and procedure

452. It is necessary to set out a factual chronology of the police investigation into Marion's disappearance up until 2019, after the initial report to police made on 22 October 1997. I have adopted and incorporated the factual chronology set out in Counsel Assisting's written submissions which is set out below.

Chronology of the NSW police investigation

453. After the initial investigation in 1997 no further investigations were undertaken until July 2007, when Senior Constable Steven McAlister became involved in the matter. He was attached to the Missing Persons Unit and tasked to assist with the investigation in liaison with the local area command.⁵⁴² He gave evidence before the Court in regard to the investigations undertaken from this date onward; his role as support for the investigation that was undertaken by the Byron Bay Local Area Command; and his communications with Sally

⁵⁴² Transcript, 23 June 2022, p. 34.

following the resumption of the investigation.

454. On 1 July 2007, Senior Constable McAlister requested information from the Queensland Teachers Credit Union. In that request, Senior Constable McAlister referred to the date that Marion went missing as “30 August 1997.” In their response, the Queensland Teachers Credit Union stated that they found no accounts under the name of Barter / Wilson / Warren / Brown.⁵⁴³
455. On 6 July 2007, the New South Wales Police Force was contacted by the Australian Federal Police Missing Persons Unit, who generally enquired about the investigation into Marion’s disappearance.⁵⁴⁴ It was communicated that the investigation was established as an active case on the NSW Police COPS system⁵⁴⁵ and Senior Constable Barry Carr, then a General Duties Officer at Byron Bay Police Station, had carriage of the investigation.⁵⁴⁶
456. Senior Constable Joanne Williams recategorised the COPS event from “Occurrence Only” to “Missing Person.”⁵⁴⁷
457. On 7 July 2007, it was found that the COPS event E 2126286 was linked to case C31087950 within the COPS System. The investigation was then allocated to Senior Constable Barry Carr, who held carriage until 18 June 2009.⁵⁴⁸
458. On 11 July 2007, Senior Constable McAlister of the NSW Police Missing Persons Unit contacted Sally Leydon regarding the enquiries she had made about Marion’s disappearance.⁵⁴⁹ Senior Constable McAlister created a COPS Event, and narrated that: “*The NOK also spoke that she was informed by police that they had spoken to her mother Barter and was informed that she did not*

⁵⁴³ BOE, Volume 1, Tab 5, p. 71-72.

⁵⁴⁴ BOE, Volume 2, Tab 61, p. 447; Volume 1, Tab 5, p. 23.

⁵⁴⁵ BOE, Volume 2, Tab 61, p. 447; Volume 1, Tab 5, p. 23.

⁵⁴⁶ BOE, Volume 2, Tab 61, p. 447; Volume 1, Tab 5, p. 23.

⁵⁴⁷ BOE, Volume 2, Tab 61, p. 447.

⁵⁴⁸ BOE, Volume 1, Tab 5, p. 23.

⁵⁴⁹ BOE, Volume 2, Tab 59, p. 393; Volume 2, Tab 60, p. 395.

wish to have contact with her family."⁵⁵⁰

459. On 11 July 2007, Marion was added to the Missing Persons Database.⁵⁵¹

460. On 9 October 2007, Senior Constable Carr was allocated as the Officer in Charge of the Marion Barter investigation.⁵⁵² On this date he also made 2 COPS narrative entries.⁵⁵³

461. On 23 October 2007, the Australian Federal Police produced material in reply to a request made by Senior Constable McAlister.⁵⁵⁴ A case note in response to the request was prepared by Senior Constable Bernie Neill of the ACT Missing Persons OMIS Coordination Team,⁵⁵⁵ and no records were found. A person entity and Interstate Missing Person Alert was then created.⁵⁵⁶ Senior Constable McAlister recorded the circumstances as: "*The M/P was last seen at Sydney International Airport on 2/8/1997, having arrived back from Britain. The M/P's family received postcards dated 30/8/1997 from Britain. Bank account held by the M/P revealed a sum of \$80,000 was transferred by telegraphic transfer. The M/P had lived in Queensland from 1994.*"⁵⁵⁷

462. On 7 February 2008, Senior Constable Carr created a COPS narrative and repeated checks into the investigation into the disappearance of Marion Barter.⁵⁵⁸

463. On 24 May 2008, Senior Constable Carr created a COPS narrative and repeated checks into the disappearance of Marion Barter. Senior Constable Carr noted on the COPS event that the investigation should be suspended, or

⁵⁵⁰ BOE, Volume 2, Tab 59, p. 393; Volume 2, Tab 60, p. 395.

⁵⁵¹ BOE, Volume 2, Tab 59; Volume 2, Tab 60, p. 395.

⁵⁵² BOE, Volume 7, Tab 276, p. 2186.

⁵⁵³ BOE, Volume 7, Tab 276, p. 2186.

⁵⁵⁴ BOE, Volume 1, Tab 5, p. 67.

⁵⁵⁵ BOE, Volume 1, Tab 5, p. 67.

⁵⁵⁶ BOE, Volume 1, Tab 5, p. 67.

⁵⁵⁷ BOE, Volume 1, Tab 5, p. 67.

⁵⁵⁸ BOE, Volume 7, Tab 276, p. 2186.

further assistance should be sought from the Missing Persons Unit.⁵⁵⁹

464. On 1 July 2008, Senior Constable Carr spoke with Senior Constable McAlister regarding the investigation into the disappearance of Marion Barter.⁵⁶⁰

465. On 10 July 2008, the NSW and Queensland Teachers Credit Union responded to the enquiries made by NSW Police. They provided nil findings.⁵⁶¹

466. On 13 January 2009, Senior Constable Carr reviewed the investigation into the disappearance of Marion Barter and conducted checks on COPS. Senior Constable Carr then requested the case be transferred out of Byron Bay or to the Missing Persons Unit.⁵⁶²

467. In June 2009, carriage of the investigation into Marion's disappearance was transferred from Senior Constable Carr to Detective Senior Constable Duncan King.⁵⁶³

468. On 18 June 2009, Detective Senior Constable King made the following COPS entry: "*Awaiting results of immigration checks, financial institution checks as per previous narratives prior to advancing investigation.*"⁵⁶⁴

469. On 30 June 2009, Detective Senior Constable King noted in a COPS entry that he had still not received a reply to the enquiry made with the financial institutions.⁵⁶⁵

470. On 30 June 2009, Detective Senior Constable King made a COPS entry noting a "*delay due to work commitments of higher priority.*"⁵⁶⁶

⁵⁵⁹ BOE, Volume 7, Tab 276, p. 2186.

⁵⁶⁰ BOE, Volume 7, Tab 276, p. 2186.

⁵⁶¹ BOE, Volume 2, Tab 59, p. 394.

⁵⁶² BOE, Volume 7, Tab 276, p. 2186.

⁵⁶³ BOE, Volume 7, Tab 278, p. 2194.

⁵⁶⁴ BOE, Volume 7, Tab 278, p. 2194.

⁵⁶⁵ BOE, Volume 7, Tab 278, p. 2195.

⁵⁶⁶ BOE, Volume 7, Tab 278, p. 2196.

471. On 15 October 2009, Sally received a phone call from Detective Senior Constable King who requested to be provided any new information about Marion.⁵⁶⁷
472. On 21 October 2009, Detective Senior Constable King spoke with Sally over the telephone. Sally informed Detective Senior Constable King that she would forward photographs of Marion and would make arrangements to provide a DNA sample. Detective Senior Constable King then submitted a request for immigration records relating to Marion Barter.⁵⁶⁸
473. On 23 October 2009, Detective Senior Constable King received a reply to the request he made on 21 October 2009. It was found that Marion entered Australia on 2 August 1997 via Cathay Pacific, on flight CX103.⁵⁶⁹
474. On 3 November 2009, Detective Senior Constable King created a COPS narrative which noted that Sally made arrangements to attend Byron Bay Police Station on 15 November 2009 to re-supply a DNA sample. The photographs of Marion provided by Sally were scanned onto CMMS, and noted that there are no records from immigration after 2 August 1997.⁵⁷⁰
475. On 1 December 2009, carriage of the investigation was transferred from Detective Senior Constable Duncan King to Detective Senior Constable Gary Sheehan. The information received on 23 October 2009 regarding the flight into Brisbane on 2 August 1997 was not relayed to Detective Senior Constable Sheehan.⁵⁷¹
476. On 22 January 2010, Sally attended Byron Bay Police Station and provided a DNA sample.⁵⁷²

⁵⁶⁷ BOE, Volume 7, Tab 278, p. 2197.

⁵⁶⁸ BOE, Volume 7, Tab 278, p. 2198.

⁵⁶⁹ BOE, Volume 1, Tab 5, p. 13.

⁵⁷⁰ BOE, Volume 7, Tab 278, p. 2200.

⁵⁷¹ BOE, Volume 1, Tab 5, pp. 9-13.

⁵⁷² BOE, Volume 1, Tab 60, p. 396.

477. Between 2-4 April 2010, unofficial enquiries were made with the Department of Foreign Affairs and Trade. Detective Senior Constable Sheehan was informed that Marion had applied for a new passport under the name Florabella Natalia Marion Remakel.⁵⁷³
478. On 4 April 2010 a statement was obtained from former Senior Constable Graham Childs, who recorded that he did not recall creating the initial COPS event, the narrative, or making enquiries with the Byron Bay branch of the Colonial State Bank, John Lewis, or the Australian Federal Police Brisbane.⁵⁷⁴
479. On 11 May 2010, an internet enquiry of the Australian Securities and Investment Commission (ASIC) website was conducted by Detective Senior Constable Sheehan. A Commonwealth Bank account was found in the name of Marion Barter. Detective Senior Constable Sheehan emailed the Commonwealth Bank of Australia Compliance Unit, requesting all information they held about the account holder.⁵⁷⁵
480. On 13 May 2010, an enquiry was made by Detective Senior Constable Sheehan to the Salvation Army Tracing Service. Detective Senior Constable Sheehan was informed that two prior searches had been conducted into Marion, first at the request of John Wilson, and then at the request of Sally.⁵⁷⁶
481. On 13 May 2010 the Commonwealth Bank replied to Detective Senior Constable Sheehan's email of 11 May 2010. They informed him that a Streamline and Visa Account was held in the name of Marion Barter.⁵⁷⁷
482. On 27 May 2010, Sally Leydon provided her first statement to Police at Tweed Heads Police Station.⁵⁷⁸

⁵⁷³ BOE, Volume 1, Tab 5, p. 24.

⁵⁷⁴ BOE, Volume 1, Tab 5, p. 25.

⁵⁷⁵ BOE, Volume 1, Tab 5, p. 15.

⁵⁷⁶ BOE, Volume 1, Tab 5, p. 16.

⁵⁷⁷ BOE, Volume 1, Tab 5, p. 17.

⁵⁷⁸ BOE, Volume 1, Tab 5, p. 21.

483. In September 2010, The Australian Women's Weekly released an article about Marion's disappearance.⁵⁷⁹
484. In April 2011, Detective Senior Constable Sheehan made enquiries with the Department of Foreign Affairs and Trade, which confirmed Marion's travel movements between June and August 1997.⁵⁸⁰ Detective Senior Constable Sheehan telephoned Chris Leydon and provided information that Marion may have changed her name.⁵⁸¹
485. On 29 June 2011, Senior Constable McAlister spoke with Detective Senior Constable Sheehan regarding Marion Barter.⁵⁸²
486. On 22 September 2011, Detective Senior Constable Sheehan submitted a report to the Commander of the Missing Persons Unit recommending that Marion be removed from the Missing Persons Database. This recommendation relied on the "*extraordinary circumstances*" stipulation in the 2007 NSWPF Missing Persons Policies and Procedures (MPPP)⁵⁸³, on the basis that there was evidence to show that Marion had taken steps to change her identity and was not a missing person for the purposes of the 2007 MPPP.
487. On 17 October 2011, the recommendation made by Detective Senior Constable Sheehan to remove Marion from the Missing Persons Database was authorised by Chief Inspector Roussos of the Missing Persons Unit.⁵⁸⁴ The case status was changed to "*located*." This decision was the subject of evidence from Detective Chief Inspector Browne. He said in his statement that forms part of the evidence in these proceeding:

*"It is my view that Marion Barter should not have been classified as located as her whereabouts were still unknown and there was still justification to hold concern for her safety or wellbeing."*⁵⁸⁵

⁵⁷⁹ BOE, Volume 1, Tab 4, p. 77.

⁵⁸⁰ BOE, Volume 1, Tab 5, pp. 24-27.

⁵⁸¹ BOE, Volume 1, Tab 5, p. 30.

⁵⁸² BOE, Volume 1, Tab 5, p. 31.

⁵⁸³ BOE, Volume 1, Tab 5, p. 31; Volume 1, Tab 24, p. 165.

⁵⁸⁴ BOE, Volume 1, Tab 25, p. 170; Volume 2, Tab 61, p. 427; Volume 1, Tab 25, p. 169.

⁵⁸⁵ BOE, Volume 6, Tab 237, p. 1953.

488. Detective Senior Constable Sheehan stood by his position that it was appropriate to classify Marion as “*located*” in the circumstances, notwithstanding this evidence of Detective Chief Inspector Glen Browne. He remains of the view that Marion went to great lengths to change her identity and start a new life, estranged from her family and friends.⁵⁸⁶
489. On 8 November 2011, the police investigation into Marion Barter’s disappearance was formally suspended on the NSW Police Case Management System, by Detective Senior Constable Sheehan.⁵⁸⁷
490. On 7 December 2011, Sally was advised by Detective Senior Constable Sheehan that Marion had been removed from the Missing Persons Register.⁵⁸⁸
491. On 25 November 2016, Sally reported Marion as a missing person at the Morningside Police Station in Queensland, as she was not satisfied with the investigation conducted by the NSW Police.⁵⁸⁹
492. On 19 February 2018, Detective Senior Constable Sheehan became aware of a “*ministerial file*” about the investigation into Marion’s disappearance. Detective Senior Constable Sheehan sought information from the Department of Foreign Affairs and Trade and obtained information about trips made by Marion in 1995.⁵⁹⁰
493. On 16 January 2019, the investigation into Marion Barter’s disappearance was reopened by Detective Senior Constable Sheehan.⁵⁹¹ The status of the case was changed from “*suspended*” to “*current*”.⁵⁹² Detective Senior Constable Sheehan made a request to Detective Chief Inspector Cullen

⁵⁸⁶ Transcript, 21 June 2021, p. 32 – 33.

⁵⁸⁷ BOE, Volume 1, Tab 5, p. 31.

⁵⁸⁸ BOE, Volume 1, Tab 5, p. 31.

⁵⁸⁹ BOE, Volume 1, Tab 5, p. 31.

⁵⁹⁰ BOE, Volume 1, Tab 5, p. 32.

⁵⁹¹ BOE, Volume 2, Tab 61, p. 449; Volume 1, Tab 5, p. 34.

⁵⁹² BOE, Volume 2, Tab 61, p. 449; Volume 1, Tab 5, p. 34.

and Sergeant Woods that a review of his investigation be undertaken.⁵⁹³

494. On 17 May 2019, following information provided to police by a Channel 7 journalist, Detective Senior Constable Sheehan requested that Australian Border Force conduct searches for any entry or exit movements of Fernand Nicholas Marie Ernest Remakel.⁵⁹⁴ No records were returned.⁵⁹⁵

495. On 1 July 2019, Detective Senior Constable Sheehan spoke to his senior management team regarding the investigation.⁵⁹⁶ A decision was made for his investigation to be reviewed by the Homicide Squad.⁵⁹⁷

496. On 17 July 2019, Detective Senior Constable Sheehan met with Detective Chief Inspector Cullen of the Homicide Squad.⁵⁹⁸ A decision was made to place Marion, under the name Florabella, on the Missing Persons Database.⁵⁹⁹

497. On 30 September 2019, a P79B Report was provided to the Coroner.⁶⁰⁰

498. On 3 October 2019, Detective Senior Constable Sheehan was informally notified that a decision had been made for the investigation into Marion and her movements was to be transferred to the Unsolved Homicide Unit, State Crime Command and that Detective Senior Constable Sheehan should complete a 'Request for Assistance' form and forward it to that unit via the chain of command.⁶⁰¹

499. On 4 October 2019, NSW Police attempted to extract a DNA profile from a pair of Marion's ballet slippers.⁶⁰² This attempt was unsuccessful. Further

⁵⁹³ BOE, Volume 2, Tab 61, p. 449; Volume 1, Tab 5, p. 34.

⁵⁹⁴ BOE, Volume 1, Tab 5, p. 43; Volume 1, Tab 43, p. 280.

⁵⁹⁵ BOE, Volume 1, Tab 5, p. 43; Volume 1, Tab 43, p. 280.

⁵⁹⁶ BOE, Volume 1, Tab 5 p. 44.

⁵⁹⁷ BOE, Volume 1, Tab 5 p. 44.

⁵⁹⁸ BOE, Volume 1, Tab 5, p. 46.

⁵⁹⁹ BOE, Volume 1, Tab 5 p. 46.

⁶⁰⁰ BOE, Volume 1, Tab 1, p. 1.

⁶⁰¹ BOE, Volume 1, Tab 5, p. 52.

⁶⁰² BOE, Volume 1, Tab 5, p. 52.

unsuccessful attempts were made on 6 December 2019, 14 January 2020, and 1 May 2020.⁶⁰³

500. On 29 October 2019, Detective Senior Constable Sheehan was formally notified that he was no longer the Officer in Charge of this investigation, and that the Unsolved Homicide Unit, State Crime Command would be taking carriage of the matter.⁶⁰⁴

501. On 7 November 2019, Detective Senior Constable Sheehan met with Detective Senior Constable (now Detective Sergeant) Sasha Pinazza and Detective Senior Constable Leza Pessotto where a formal investigation handover occurred.⁶⁰⁵ This police investigation is ongoing.

The adequacy of the police investigation and whether it was conducted in an appropriate and timely manner and consistent with applicable policy and procedure

502. The Court heard from Detective Chief Inspector Glen Browne, who was the manager of the Missing Persons Registry in NSW Police when he gave evidence in 2021, in regard to the steps taken by investigating police and the adequacy of the initial investigation. Detective Chief Inspector Browne explained that the policy in force in NSW Police as at 1997 was set out in the Commissioner's Instruction 39. This instruction reflected the Australian New Zealand Policing Advisory Agency (ANZPAA) definition for reporting a missing person: that a report should be made when the whereabouts of a person are unknown and there are concerns for their safety. It was his view that on the basis of the content of the COPS entry of 22 October 1997, Marion should have been reported as a missing person.⁶⁰⁶

503. Further Detective Chief Inspector Browne stated that:

“There may not have been a particular urgency the day that the report was made but I would have expected all sorts of enquiries to be

⁶⁰³ BOE, Volume 1, Tab 5, p. 53.

⁶⁰⁴ BOE, Volume 1, Tab 5, p. 53.

⁶⁰⁵ BOE, Volume 1, Tab 5, p. 53.

⁶⁰⁶ Transcript, 25 June 2022, p. 2 – 3.

*undertaken in a timely manner. Even back in 1997, there were mechanisms in place to conduct various checks on bank accounts and other government institutions to see if there was any activity relating to the missing person. I would have expected a formal statement and various other people to be interviewed about their knowledge of the whereabouts of the missing person.”*⁶⁰⁷

504. Detective Chief Inspector Browne gave further evidence that former Senior Constable Pearce should have identified on 23 October 1997 that the COPS event made by former Senior Constable Childs required further investigation.⁶⁰⁸

505. Counsel Assisting submitted that Detective Chief Inspector Browne’s evidence should be accepted. Further, the Court has sufficient evidence to make a finding that the investigation from the report on 22 October 1997 up until 2007 was not conducted in an appropriate and timely manner and not consistent with the relevant policy in force within NSW Police at the time.

506. Counsel Assisting submitted that it is clear from the evidence that following the initial report made by Sally to Byron Bay Police Station on 22 October 1997, very little was done to investigate Marion’s whereabouts until approximately ten years later in 2007.

507. Regarding the initial investigation following Sally’s report, and steps taken from 2007 onwards, the Court heard evidence from former Senior Constable Graham Childs, Detective Senior Constable Gary Sheehan, and Senior Constable Steven McAlister, all of whom were involved with the investigation as various stages.

508. The Court also heard detailed evidence from Detective Chief Inspector Browne regarding the relevant policy in 1997, Commissioner’s Instruction 39,

⁶⁰⁷ Transcript, 25 June 2022, p. 4.

⁶⁰⁸ BOE, Volume 6, Tab 237, p. 1951.

and his opinion regarding aspects of the police investigation following the report made by Sally in October 1997. Detective Chief Inspector Browne gave evidence that he would have expected that “*all sorts of enquiries*” would have been undertaken in a timely manner, in response to Sally’s report.⁶⁰⁹

509. It was submitted on behalf of the Commissioner that the changes that have been made to the way in which the NSWPF investigates Missing Persons and that the circumstances of someone like Marion today would not be recorded as an “*occurrence only*”, and rather they would be reported as a missing person. The Commissioner also referred specifically to further findings sought by the Family regarding the police investigation, to which I will turn to shortly.

510. Detective Chief Inspector Browne gave the following evidence which I accept:

“Q. Would you agree as a matter of common sense, if a member of the public has fronted up to a police station expressing concerns for the whereabouts of a family member or friend, that that suggests at least at face value that there's a genuine concern held about their whereabouts?”

A. To me it's quite simple, if their whereabouts were unknown and if there are concerns for safety or wellbeing then a person meets the definition of a missing person.

Q. If this particular report that Sally Barter made on 22 October 1997 had been recorded as a missing person as an experienced investigator, what do you think particular steps should have been taken from that point on?

A. There may not have been a particular urgency the day that the report was made but I would have expected all sorts of inquiries to be undertaken in a timely manner. Even back in 1997, there were mechanisms in place to conduct various checks on bank accounts and

⁶⁰⁹ Transcript, 25 June 2022, p. 4.

other government institutions to see if there was any activity relating to the missing person. I would have expected a statement to be taken from the person reporting, a formal statement and various other people to be interviewed about their knowledge of the whereabouts of the missing person.”⁶¹⁰

511. Having considered all the evidence tendered and the submissions made, I find that the nature and adequacy of the police investigation into the disappearance of Marion by NSW Police between her disappearance in 1997 up until 2019 was not adequate and agree with Counsel Assisting that it is clear from the evidence that following the initial report made by Sally to Byron Bay Police Station on 22 October 1997, that very little was done to investigate Marion’s whereabouts until approximately ten years later in 2007.

512. I also find that the police investigation into the disappearance of Marion by NSW Police from the report on 22 October 1997 up until 2007 was not conducted in an appropriate and timely manner and not consistent with the relevant policy in force within NSW Police at the time.

Changes implemented to the investigation of missing persons in NSW

513. I wish to acknowledge that there have been significant improvements made to the investigation of missing persons in NSW including long term missing persons like Marion. I refer to the NSW State Crime Command Standard Operating Procedures: Missing Persons, Unidentified Bodies and Human Remains (Missing Persons SOPs) which have been implemented and which Detective Chief Inspector Browne gave comprehensive evidence about in these coronial proceedings in documentary form and in oral evidence.

514. The Missing Persons SOPs provide the NSW Police Force personnel with *“a comprehensive set of procedures to be followed in the management of Missing Persons, Unidentified Bodies and Human Remains cases in [New*

⁶¹⁰ Transcript, 25 June 2021, p. 4. 14 – 32.

South Wales”.⁶¹¹ Relevantly, the Missing Persons SOPs provide guidance and directions for investigating officers with respect to their “*responsibilities when dealing with Missing Persons, as well as explaining the assistance that can be provided by the NSWPF Missing Persons Registry*”.⁶¹²

515. The Missing Persons SOPs place a strong emphasis on supervision of Missing Person investigations at various levels and signal the introduction of Missing Persons Coordinators within individual Commands who will receive specialist training aimed at improving and standardising the NSW Police Force response to Missing Persons investigations at a local level.

516. I think it is important to emphasise that this Court has examined the issue with regards to the adequacy of investigation into missing persons including long term missing person cases in NSW thoroughly in not only Marion’s case but many others that have been reported to the Coroner for investigation. See for example: Inquest into the disappearance and suspected death of Theo Hayez (court ref: 2019/00281850); Inquest into the disappearance and suspected deaths of missing persons Ursula Barwick, Lionel Daveson, Gary Jones & Christof Meir (court refs: 2016/190872, 2018/197922, 2018/382225, 2002/123035 & 2006/364681); Inquest into the disappearance and suspected death of Jasmine Morris (court ref: 2012/362107); Inquest into the death of Carley Metcalfe (court ref: 2017/362424); and Inquest into the disappearance and suspected death of Bennett Dominick (court ref: 2016/99360).

517. I do not propose to set out the contents of the reviews that were undertaken of the previous Missing Persons Unit which has now been dismantled; or an overview of the new Missing Persons Registry (MPR), the revisions made to the SOPs, the role of the Missing Persons Coordinator and the day to day work of the MPR as this has been addressed comprehensively by Detective Chief Inspector Browne in the statement he provided which was tendered in these coronial proceedings⁶¹³ and has also been considered in

⁶¹¹ BOE, Volume 6, Tabs 237-239.

⁶¹² BOE, Volume 6, Tabs 237-239.

⁶¹³ BOE, Volume 6, Tabs 237-239.

many other coronial matters as referred to above. I have, however, considered and assessed all of the material that has been tendered which addresses this.

518. As set out above, I have made findings that there were significant deficiencies and inadequacies in the police investigation, however, acknowledge that many of these deficiencies and inadequacies have now been remedied. The Missing Persons SOPs provide a useful guide for the procedures to be taken by officers during each stage of a missing person investigation, including conducting a risk assessment and suggested responses depending on the outcome of that assessment. In considering this evidence, I find that the new procedures implemented by the Missing Persons SOPs give rise to a great deal of confidence in the real commitment within the NSW Police Force to improving investigations into missing persons including long term missing persons like Marion, and to ensuring that the deficiencies and inadequacies in the police investigation like those which occurred in Marion's case, do not occur again.

The classification of Marion as located

519. Senior Constable McAlister outlined the steps taken regarding Marion's disappearance from 2007 onwards. This culminated in the transfer of the investigation to Detective Senior Constable Sheehan on 1 December 2009. Following further inquiries, Detective Senior Constable Sheehan ultimately submitted a report to the then Commander of the Missing Persons Unit, recommending that Marion be removed from the Missing Persons Database. Following authorisation of this removal, Detective Senior Constable Sheehan changed Marion's classification in the case status to "*located*".

520. Counsel Assisting submitted that I should accept Detective Chief Inspector Browne's evidence and that a finding should be made that Detective Senior Constable Sheehan should not have reclassified Marion as located in 2011. The Family agrees with this submission.

521. It was submitted on behalf of Detective Senior Constable Sheehan that

the evidence establishes that Detective Senior Constable Sheehan: “*expended considerable time and effort in conducting numerous searches into the disappearance of Marion.*”⁶¹⁴ It was submitted that Detective Chief Inspector Browne accepted in his oral evidence that the manner in which Detective Senior Constable Sheehan submitted a report to the then Commander of the NSW Police Force Missing Persons Unit was the appropriate and proper process to follow.

522. It was further submitted on behalf of Detective Senior Constable Sheehan that following the authorisation of the removal of Marion’s name from the Missing Persons Register, Detective Senior Constable Sheehan’s classification of Marion as “*located*”, rather than forming part of the lexicon used in his report, was the selection available to him as part of the COPS system database, rather than “*missing*”. It was submitted that it is not necessary to make a finding that Marion should not have been reclassified as located.⁶¹⁵

523. In response to this submission, the Family submitted that Detective Senior Constable Sheehan accepted that the purpose of the report that he submitted was for a determination as to whether the investigation “*should go from a missing person to a located person,*” and he knew that there were only two options on the COPS system.⁶¹⁶

524. I agree with the submissions made by Counsel Assisting (with whom the Family also agree) and accept Detective Chief Inspector Browne’s evidence. I find that Detective Senior Constable Sheehan should not have reclassified Marion as located in 2011.

Family’s proposed additional eleven (11) findings with regards to the adequacy of the police investigation

525. The Family made submissions that I should make eleven (11) specific findings with regards to the police investigation. I will address these in turn.

⁶¹⁴ NSWPF closing submissions, 17 October 2022, [48].

⁶¹⁵ NSWPF closing submissions, 17 October 2022.

⁶¹⁶ Transcript, 21 June 2021, pp. 29, 20 – 24; 34, 48 – 35, 3.

526. Firstly, the Family submitted that the Court should make a finding that Graham Childs should not have classified Sally Leydon's report made on 22 October 1997 of her mother being missing, as an "*occurrence only*" event and that it was inconsistent with the Commissioner's Instruction 39, being the relevant policy that governed missing persons reports at the time of Sally's report on 22 October 1997. The Family submitted that this finding is consistent with the opinion expressed by Detective Chief Inspector Browne regarding the issue.⁶¹⁷

527. Counsel Assisting supported this finding being made.

528. It was submitted on behalf of Mr Childs that the decision of Mr Child's to classify the report made by Sally as an "*occurrence only*" should be considered in the context of Mr Child's perception of the basis for Sally's attendance at Byron Bay Police Station and that, at that stage, she was more concerned with Marion's bank transactions. It was further submitted that the Court should consider Mr Child's evidence that his understanding was that there was "*no sense of urgency*" regarding the report of Sally at the time and that from the information he had, the matter should be recorded as an "*occurrence only*."⁶¹⁸

529. I accept the submissions made by the Family and make the finding proposed that Graham Childs should not have classified Sally Leydon's report made on 22 October 1997 of her mother (Marion Barter) being missing, as an "*occurrence only*" event and that it was inconsistent with the Commissioner's Instruction 39, being the relevant policy that governed missing persons reports at the time of Sally's report on 22 October 1997.

530. Secondly, the Family submitted that the Court should make a finding that Graham Childs was unaware of the definition of a missing person in Commissioner's Instruction 39, that he should have been aware of that

⁶¹⁷ Submissions on behalf of the Leydon Family, 18 October 2022, [116].

⁶¹⁸ NSWPF closing submissions, 17 October 2022.

document, and that he classified the report as an occurrence only based on his own subjective view of the “*sense of urgency*.”⁶¹⁹

531. The Family submitted that the evidence of Detective Chief Inspector Browne supports this finding, in that despite the length, complexity and size of Commissioner’s Instruction 39, he would have expected an officer such as Mr Childs should be familiar with them, and therefore should have been aware of the relevant definition of a missing person as at 1997.⁶²⁰

532. Counsel Assisting supported this finding being made.

533. It was submitted on behalf of Mr Childs that there was limited evidence before the Court regarding what training was provided by police officers up to 1997 regarding missing persons investigations, in particular for officers, such as Mr Childs, who had attested a significant time prior.⁶²¹

534. It was also submitted that there was no evidence as to what training Mr Child’s had received, and his evidence was that he had never attended to a missing person’s matter previously in his 20 years as a police officer as at 1997.⁶²²

535. I accept the submissions made by the Family and make the finding proposed that Graham Childs was unaware of the definition of a missing person in Commissioner’s Instruction 39, that he should have been aware of that document, and that he classified the report as an “*occurrence only*” based on his own subjective view of the “*sense of urgency*”.

536. Thirdly, the Family submitted that the Court should make a finding that it was unsatisfactory and inappropriate for Graham Childs not to have reclassified the event from an “*occurrence only*” to an active investigation in circumstances where he placed a warning in COPS at 2:52pm on 22 October 1997, 15 minutes

⁶¹⁹ Submissions on behalf of the Leydon Family, 18 October 2022, [117].

⁶²⁰ Transcript, 25 June 2021, pp. 14, 24 – 33.

⁶²¹ NSWPF closing submissions final reply, 25 October 2022.

⁶²² NSWPF closing submissions final reply, 25 October 2022.

after the first COPS record in which he had classified the report as an occurrence only at 2:37pm.⁶²³

537. The warning read as follows:

"VICTIM HAS RETURNED TO COUNTRY AND NOT CONTACTED FAMILY UPON RETURN. THERE ARE FEARS FOR HER WELFARE AS \$80,000 HAS BEEN TRANSFERRED FROM HER ACCOUNT FOR NO APPARANT REASON."

538. Counsel Assisting supported this finding being made.

539. It was submitted on behalf of Mr Child's that the suggestion that his failure to reclassify the event relating to Sally's report in circumstances of the creation of the warning is suggestive of laying or attributing blame to Mr Childs. Counsel Mr Child's referred to findings of then State Coroner Derek Hand in the *Thredbo Landslide Inquest* as to the function of the inquest. It was further submitted that whilst Mr Child's did create the warning, it was his evidence that it "*may have been poorly worded*"⁶²⁴ and that it is unnecessary for this finding to be made.

540. In response to this position, the Family submitted that such a finding regarding the reclassification of the event has nothing to do with civil or criminal liability but is a finding about whether Mr Child's followed the relevant processes and procedures, and whether the correct decision was made or not.⁶²⁵

541. I accept the submissions made by the Family and make the finding proposed that it was unsatisfactory and inappropriate for Graham Childs not to have reclassified the event from an "*occurrence only*" to an active investigation in circumstances where he placed a warning in COPS at 2:52pm on 22 October 1997, 15 minutes after the first COPS record in which he had classified the report as an occurrence only at 2:37pm.

⁶²³ Submissions on behalf of the Leydon Family, 18 October 2022, [119].

⁶²⁴ Transcript, 23 June 2021, pp. 12, 26 – 38.

⁶²⁵ Transcript 27 October 2022, pp. 905 – 906, 45 – 51.

542. Fourthly, the Family submitted that the Court should make a finding, consistent with Detective Chief Inspector Browne’s opinion, that Senior Constable Michael Pearce should not have verified Mr Childs’ classification of the event (pertaining to Marion Barter) as an “*occurrence only*,” which he did at 4:13am on 23 October 1997.⁶²⁶

543. Counsel Assisting did not support this submission primarily as Senior Constable Pearce was not called as a witness in these proceedings and therefore the matters relating to the verification of the event created by Mr Childs were not put to him.

544. Counsel for the Commissioner submitted that as Senior Constable Pearce was not called to give evidence, any criticism against him with respect to the verification of Mr Child’s event, and hence the classification as an “*occurrence only*,” would be procedurally unfair. Counsel for the Commissioner noted that there was no criticism directed at Senior Constable Pearce in the submissions of Counsel Assisting. Counsel for the Commissioner submitted that the finding regarding the actions of Senior Constable Pearce is unnecessary.⁶²⁷

545. In response to this position, the Family submitted that the Court heard evidence from Detective Chief Inspector Browne regarding matters pertaining to the objective contemporaneous documents relating to the report made regarding Marion, in particular the conflicting COPS narrative and warning, and that the absence of Senior Constable Pearce, as party to the proceedings, does not prevent a finding being made.⁶²⁸ The Family note that a request was made by them for Senior Constable Pearce to be called.

546. I accept the submissions made by Counsel Assisting and Counsel for the Commissioner. I decline to make this finding on the basis that Senior Constable Pearce was not called as a witness in these proceedings and the

⁶²⁶ Submissions on behalf of the Leydon Family, 18 October 2022, [120].

⁶²⁷ NSWPF closing submissions final reply, 25 October 2022.

⁶²⁸ Transcript, 27 October 2022, pp. 906, 3 – 40.

matters relating to the verification of the event created by Mr Childs were accordingly not put to him.

547. Fifthly, the Family submitted that the Court should make a finding that as a result of what they submit are the failures at the first reporting of Marion Barter's disappearance, that her case was not investigated for almost ten years until 2007. The Family submitted that the Court should find that the failure to open an investigation, and the absence of an investigation in the following ten year period, has led to the unavailability of crucial evidence surrounding Marion's disappearance, which has resulted in Marion's disappearance remaining unsolved.⁶²⁹

548. The Family submitted that the following supports the making of this finding as follows⁶³⁰:

- Graeme Smith gave evidence that if the Commonwealth Bank had been contacted about Marion in 2004, records going back to 1997 would have been available, which are now lost. Those records would very likely have shown whether Marion withdrew \$80,000 in October 1997 and, if she did, where that money went.
- Other unavailable evidence includes Mr Blum's bank records, the records of the optometrist in Grafton, phone records, and police paper files such as the Queensland Missing Persons Bureau running sheets.
- The significant passage of time since Marion's disappearance has also made it extremely difficult for NSW Police to now verify the circumstances of Marion's trip to Europe, such as the flights Marion took, locating Marion's furniture and verifying the details of Mr Blum's trip.
- Further to this, Sally and Lesley Loveday did not give police statements

⁶²⁹ Submissions on behalf of the Leydon Family, 18 October 2022, [121].

⁶³⁰ Submissions on behalf of the Leydon Family, 18 October 2022, [121].

until 2010, and other family members and friends of Marion did not give statements until 2020. The passage of time has no doubt impacted the usefulness of these statements and statements should have been taken at the time of Marion's disappearance, as was noted by Detective Chief Inspector Browne.

549. Counsel Assisting supported this finding being made.

550. Counsel for the Commissioner submitted that on the evidence available to the Court, it is open for a finding to be made that Sally was aware no later than 1 December 1997 that her mother was not considered to be a missing person. Counsel for the Commissioner outlined evidence in support of this position and submitted that there is no basis for a finding that there was a failure to investigate Marion as a missing person between 1997 and 2007.⁶³¹

551. I accept the submissions made by the Family and make the findings proposed by the Family that that as a result of failures at the first reporting of Marion Barter's disappearance, that her case was not investigated for almost ten years until 2007; and that the failure to open an investigation, and the absence of an investigation in the following ten year period, has led to the unavailability of crucial evidence surrounding Marion's disappearance, which has resulted in Marion's disappearance remaining unsolved.

552. Sixthly, the Family submitted that the Court should make a finding that Marion Barter was first listed as a missing person for the first time on 6 July 2007 by Senior Constable Joanne Williams as a result of being contacted by Rebecca Kotz of the Australian Federal Police.⁶³²

553. The Family submitted that the Court should find that Ms Kotz contacted NSW Police because Marion was going to be used as the face of Missing Persons week in 2007 until it was realised that Marion had never been listed as

⁶³¹ NSWPF closing submissions final reply, 25 October 2022, [26] – [27].

⁶³² Submissions on behalf of the Leydon Family, 18 October 2022, [122].

a missing person, following which the plan to use Marion in Missing Persons Week was cancelled.⁶³³

554. Counsel Assisting supported this finding being made.

555. I note the evidence of Senior Constable McAlister which suggests that he accepted that it was Senior Constable Williams who classified Marion as a missing person.⁶³⁴

556. I accept the submissions made by the Family and make the finding proposed that Marion Barter was first listed as a missing person for the first time on 6 July 2007 by Senior Constable Joanne Williams as a result of being contacted by Rebecca Kotz of the Australian Federal Police.

557. Seventhly, the Family submitted that the Court should make a finding that Detective Senior Constable Sheehan's decision to recommend that Marion Barter be removed from the Missing Person's Register on 22 September 2011, and that the approval by the Manager of the Missing Persons Unit of that removal, were incorrect and should not have occurred.⁶³⁵

558. The Family submitted that the Court should also find, as Detective Chief Inspector Browne opined, that Marion should not have been classified as located in 2011 and that this was not consistent with the 2007 Missing Persons Policies and Procedures document which was applicable at the time. Detective Senior Constable Gary Sheehan's recommendation to remove Marion from the Missing Persons Database was based on the evidence that Marion had taken steps to change her identity. She had not been located or sighted by NSW Police. The Family further submitted that the Court should also find that the re-classification of Marion to located in 2011 meant that no further investigation was undertaken into Marion's disappearance for another five years, which had

⁶³³ Submissions on behalf of the Leydon Family, 18 October 2022, [122].

⁶³⁴ Transcript, 1 July 2021, pp. 17, 31 – 35.

⁶³⁵ Submissions on behalf of the Leydon Family, 18 October 2022, [123].

a further serious impact on the availability of evidence.⁶³⁶

559. Counsel Assisting supported this finding being made.

560. It was submitted on behalf of Detective Senior Constable Sheehan submitted that he properly determined, based upon his investigation, that Marion be removed from the Missing Persons Unit database; relying on the “*extraordinary circumstances*” provision in the then applicable policy.⁶³⁷ It was also submitted that the process and including putting this information into a report, with the final arbitrator for the recommendation to remove Marion from the missing person’s list the then Chief Inspector of the NSWPF Missing Persons Unit.⁶³⁸

561. I accept the submissions made by the Family and make the findings proposed that Detective Senior Constable Sheehan’s decision to recommend that Marion Barter be removed from the Missing Person’s Register on 22 September 2011, and that the approval by the Manager of the Missing Persons Unit of that removal, were incorrect and should not have occurred; that that Marion should not have been classified as located in 2011 and that this was not consistent with the 2007 Missing Persons Policies and Procedures document which was applicable at the time; and that the re-classification of Marion to located in 2011 meant that no further investigation was undertaken into Marion’s disappearance for another five years, which had a further serious impact on the availability of evidence.

562. Eighthly, the Family submitted that the Court should make a finding that Detective Senior Constable Sheehan did not identify the healthcare provider where Marion Barter’s Medicare card had been used on 3 August 1997 in a timely manner.⁶³⁹

⁶³⁶ Submissions on behalf of the Leydon Family, 18 October 2022, [123].

⁶³⁷ NSWPF closing submissions 17 October 2022, [49].

⁶³⁸ NSWPF closing submissions 17 October 2022, [49].

⁶³⁹ Submissions on behalf of the Leydon Family, 18 October 2022, [124].

563. The Family submitted that after receiving the Medicare documents which referred to "*Evans Mr D,M*", Detective Senior Constable Sheehan made inquiries about doctors, but not other healthcare practitioners such as optometrists. He was not identified until after the coronial inquest process had commenced. This resulted in any records or details provided by Marion being unavailable due to the significant amount of time that had elapsed.⁶⁴⁰

564. Counsel Assisting did not support this finding being made on the basis that there is not enough evidence before the Court for a finding that there would have been any material difference if the information was obtained earlier.

565. It was submitted on behalf of Detective Senior Constable Sheehan that when he took over the investigation of Marion's disappearance in 2009, and at this stage, 12 years had elapsed since the use of the Medicare Card, with records only retained for a period of 7 years. It was also submitted that it is unnecessary to make this proposed finding sought by the Family.⁶⁴¹

566. I accept the submissions made by Counsel Assisting. I decline to make this finding on the basis that there is not enough evidence before the Court to make this finding. I also accept the submission made on behalf of Detective Senior Constable Sheehan that at the time he took over the investigation 12 years has elapsed with records only retained for 7 years. I decline to make this finding.

567. Ninthly, the Family submitted that the Court should make a finding that Detective Senior Constable Sheehan did not sufficiently investigate the name 'Remakel' after discovering in 2011 that Marion Barter had changed her name to Florabella Natalia Marion Remakel.⁶⁴²

568. The Family submitted that this emerges in particular from his memorandum of September 2011 and Detective Senior Constable Sheehan's

⁶⁴⁰ Submissions on behalf of the Leydon Family, 18 October 2022, [124].

⁶⁴¹ NSWPF closing submissions 17 October 2022, [49].

⁶⁴² Submissions on behalf of the Leydon Family, 18 October 2022, [125].

statement. This is despite Mr Childs raising the possibility that Marion had “*returned to Australia with a companion*” in a COPS event from 1997.¹⁸⁰ It was not until 2020 that Mr Blum’s licence in the name Fernand Remakel was located by NSW Police. The Family submitted that if Detective Senior Constable Sheehan had investigated the name Remakel more thoroughly, rather than using the change of name as a reason to agitate for the re-classification of Marion’s case and the termination of the investigation, it may have resulted in the link to Mr Blum, and all the information that has been obtained as a result, being identified much earlier.⁶⁴³

569. Counsel Assisting did not support this proposed finding being made on the basis that there is not enough evidence before the Court to find that there would have been any material difference if the information was obtained earlier, and because the issue was not addressed with Detective Senior Constable Sheehan in his evidence.⁶⁴⁴

570. It was submitted on behalf of Detective Senior Constable Sheehan submitted that the steps taken by him to request a review of his investigation by the Tweed/Byron Police District Crime Manager and Investigations Manager, along with State Crime Command Homicide Squad, is reflective of ensuring he had done all he could with respect to the investigation he had conducted.⁶⁴⁵ It was noted that the context of Detective Senior Constable Sheehan taking over the investigation into Marion’s disappearance and the resources available to him.

571. In response, the Family submitted that the relevant advertisement featuring the name ‘Remakel’ was posted in 1994, and in existence at that time. Therefore, had it been found, the Family submitted that a link to Mr Blum could have been identified much earlier than it was.⁶⁴⁶

⁶⁴³ Submissions on behalf of the Leydon Family, 18 October 2022, [125].

⁶⁴⁴ Transcript, 27 October 2022, pp. 879, 9 – 15.

⁶⁴⁵ NSWPF closing submissions final reply, 25 October 2022, [39] – [40].

⁶⁴⁶ Transcript, 27 October 2022.

572. I accept the submissions made by Counsel Assisting. I decline to make this finding on the basis that there is not enough evidence before the Court to make this finding. I also agree with submissions made on behalf for Detective Senior Constable Sheehan that he did all he could with the respect to the investigation he had conducted.

573. Tenthly, the Family submitted that the Court should make a finding that the only reason the New South Wales Police investigation into Marion Barter was reopened in 2019 was because of media interest in Marion's case.⁶⁴⁷

574. The Family submitted that without Sally contacting Detective Senior Constable Sheehan, and the related media interest, that the investigation would have remained inactive.⁶⁴⁸

575. Counsel Assisting did not support this proposed finding being made based on the evidence tendered in the coronial proceedings.

576. It was submitted on behalf of the Commissioner that it is unnecessary for a finding to be made that the further investigation in 2019 arose as a result of media interest. It was further submitted that Detective Senior Constable Sheehan frankly disclosed that he commenced significant further enquiries in 2018 and the evidence disclosed that the investigation was re-opened at the time following a discussion with Sally.⁶⁴⁹

577. I accept the submissions made by Counsel Assisting. I decline to make this finding on the basis that there is not enough evidence before the Court to make this finding. I also agree with Counsel for the Commissioner that Detective Senior Constable Sheehan frankly disclosed that he commenced significant further enquiries in 2018 and the evidence disclosed that the investigation was re-opened at the time following a discussion with Sally.

578. Finally, the Family submitted that the Court should make a finding that

⁶⁴⁷ Submissions on behalf of the Leydon Family, 18 October 2022, [126].

⁶⁴⁸ Submissions on behalf of the Leydon Family, 18 October 2022, [126].

⁶⁴⁹ NSWPF closing submissions final reply, 25 October 2022.

Detective Senior Constable Sheehan did not sufficiently investigate the advertisement in *Le Courier Australien*, of which he became aware in May 2019 and which was submitted to Crime Stoppers by Joni Condos in June 2019.⁶⁵⁰

579. The Family submitted that Detective Senior Constable Sheehan only requested movement records for the specific name he was provided (Fernand Nicolas Marie Ernest Remakel), Australia Post details of the PO Box in the advertisement, and subscriber details of the phone number in the advertisement. After these searches were returned as negative, Detective Senior Constable Sheehan does not appear to have pursued the matter further. The Family submitted that this was a crucial lead which should have been investigated far more thoroughly.⁶⁵¹

580. Counsel Assisting did not support this proposed finding being made and submitted that there is not enough evidence before the Court that there would have been any material difference in the investigation, and because this issue was not addressed with Detective Senior Constable Sheehan in evidence.

581. It was submitted on behalf of Detective Senior Constable Sheehan that he was not examined to the extent of his investigations relating to the advisement *Le Courier Australien* and it is unnecessary for such a finding to be made.⁶⁵²

582. I accept the submissions made by Counsel Assisting. I decline to make this finding on the basis that that there is not enough evidence before the Court to make this finding, and also agree with the submissions of Counsel Assisting and those made on behalf of Detective Senior Constable Sheehan that the extent of his investigations relating to the advisement *Le Courier Australien* was not addressed with Detective Senior Constable Sheehan in evidence.

⁶⁵⁰ Submissions on behalf of the Leydon Family, 18 October 2022, [127].

⁶⁵¹ Submissions on behalf of the Leydon Family, 18 October 2022, [127].

⁶⁵² NSWPF closing submissions final reply, 25 October 2022.

Additional comments

583. Counsel Assisting made some comments at the oral address on 27 October 2022 by way of reply in regard to the police investigation and the approach taken by New South Wales Police in that regard. I agree with the submissions of Counsel Assisting that I should make no criticism of Sally's actions at the time in 1997 or in 2007 or any time thereafter. Counsel Assisting also submitted that there should be no suggestion that Sally has, in any way, delayed any investigation by New South Wales Police or behaved in a manner that can be described as anything other than understandable and consistent with a daughter very confused and anxious at finding out about her mother's circumstances at that time. I accept and adopt Counsel Assisting's submission.⁶⁵³

584. I would also add that Detective Chief Inspector Browne gave very clear and useful evidence to the Court about what he expected should have happened in 1997. The resistance in this inquest by New South Wales Police to accept the inadequacies of the initial police investigation in 1997 is difficult to understand in circumstances where a senior Police officer has given what is essentially expert evidence on what should have happened.

Issues 5, 6 and 7: Whether Marion Barter is alive; If Marion Barter is not alive, the date and place of her death; If Marion Barter is not alive, the manner and cause of her death

Whether Marion Barter is alive

585. There has been an extensive and ongoing police investigation into Marion's disappearance. Despite the comprehensive and high profile nature of this investigation, Marion has not been located, either alive or deceased. The last confirmed sighting of her was by a bank teller on 15 October 1997. From this date forward she has not been seen or heard from again. She did not contact her son in mid October 1997 on his birthday and did not attend her

⁶⁵³ Transcript, 27 October 2022, pp. 917-919.

daughter's wedding the following year. She has not withdrawn or otherwise used the remaining money in her bank account. She has not accessed her superannuation. She has not used her passport or a credit card. She had not renewed her driver's licence. She has not sought any support from Centrelink or accessed any medical services in Australia through Medicare. Investigating police have undertaken extensive proof of life checks in all states and territories in Australia with nil results.

586. Counsel Assisting submitted that given these circumstances, and the significant period of time that has elapsed since Marion was last seen alive, it is reasonable to conclude that she is deceased.

587. The Family agreed with Counsel Assisting that it is reasonable to conclude that Marion is deceased.

588. Those representing the Commissioner, Mr Childs, Detective Senior Constable Sheehan, and Senior Constable McAlister did not make any submission in respect to this issue.

589. Mr Blum did not make any submissions in respect of this issue.

590. I find on the balance of probabilities that Florabella Natalia Marion Remakel, formerly Marion Barter, is deceased.

If Marion Barter is not alive, the date and place of her death

591. Counsel Assisting submitted that it is not known when Marion died.

592. Counsel Assisting submitted that the Court is in a position to make the following formal finding:

“That Florabella Natalia Marion Remakel, formerly known as Marion Barter, is deceased, and died some unknown time after 15 October 1997, having last been sighted by a bank teller at either the Byron Bay

branch or the Ashmore branch of the Colonial State Bank in New South Wales.”

593. The Family submitted that there is sufficient evidence to find that Marion died shortly after her return to Australia on 2 August 1997.

594. Those representing the Commissioner, Mr Childs, Detective Senior Constable Sheehan, and Senior Constable McAlister did not make any submission in respect to this issue.

595. Mr Blum did not make any submissions in respect of this issue.

596. I accept the submissions of Counsel Assisting in respect to the formal findings to be made in this inquest, that Florabella Natalia Marion Remakel, formerly known as Marion Barter, is deceased, and died some unknown time after 15 October 1997 (having last been sighted by a bank teller at either the Byron Bay branch or the Ashmore branch of the Colonial State Bank in New South Wales).

If Marion is not alive, the manner and cause of her death

597. Counsel Assisting submitted that there is no evidence to support any finding as to the manner and cause of Marion’s death. It is not known whether she died as a result of natural causes, misadventure, homicide, or suicide, and to make any submissions in this regard could only be speculation and would not assist the Court.

598. The Family agreed with Counsel Assisting that there is no evidence to support any finding as to the manner and cause of Marion’s death. The Family noted that there no evidence whatsoever to suggest that Marion’s manner of death was suicide.

599. Those representing the Commissioner, Mr Childs, Detective Senior Constable Sheehan, and Senior Constable McAlister did not make any submission in respect to this issue.

600. Mr Blum did not make any submissions in respect of this issue other than that he did not have any involvement in Marion's disappearance.

601. I find that there is no evidence to support any finding as to the manner and cause of Marion's death.

Issue 8: Whether any recommendations are necessary or desirable in relation to any matter arising from the disappearance of Marion Barter and pursuant to section 82 of the Coroners Act 2009

602. Counsel Assisting, the NSW Commissioner of Police, Mr Childs, Detective Senior Constable Sheehan, Senior Constable McAlister and Mr Blum did not seek that any recommendations be made.

603. The Family seek that one recommendation be made which is as follows:

"That the current New South Wales Missing Persons Registry Standard Operating Procedures for Missing Persons, Unidentified Bodies and Human Remains (published January 2021) be amended to provide that a missing person can only be classified as located if they are formally sighted and identified by an approved sighting authority or authorised person."

604. The current New South Wales Missing Persons Registry Standard Operating Procedures for Missing Persons, Unidentified Bodies and Human Remains (the Missing Persons SOPs) that I have referred to earlier in these findings, provides for circumstances where a missing person can be recorded as "*located*". Paragraph 12.1 of the Missing Persons SOPs provides that "*in exceptional circumstances, locating a missing person without sighting them may be approved by the Manager of the Missing Person Registry.*"⁶⁵⁴

⁶⁵⁴ BOE, Volume 6, Tab 239, p. 2025.

Paragraph 12.3 also permits a missing person to be recorded as “*located*” without being sighted if “*evidence can be gathered to clearly demonstrate the person is safe and well.*”⁶⁵⁵

605. The Family submitted that paragraphs 12.1 and 12.3 of the Missing Persons SOPs have the effect that there remains the possibility that a missing person may be incorrectly classified as located, and consequently, that there would be no further investigation by police. The Family submitted that it is preferable that every missing person is required to be sighted by an authorised person before they can be marked as located to remove the risk of an investigation ceasing into a person that is indeed missing. The Family submitted that there has been no cogent reason or justification for the exceptions provided by paragraphs 12.1 and 12.3 of the Missing Persons SOPs and submitted that the only real reason that appears to exist is to enable police to close files of people that they have been able to sight or where a report from an authorised person has not been made.

606. During the inquest, evidence was received from Detective Chief Inspector Browne, who outlined that the current practice and procedure for the investigation of a missing person. Detective Chief Inspector Browne outlined the establishment of the Missing Persons Registry in 2019 and the significant changes made to the policy and procedure that took place at that time.

607. Detective Chief Inspector Browne also gave evidence that in his opinion, given the new systems in place since 2019, it would be very unlikely for a missing person report to be recorded as a “*occurrence only*” as it was in October 1997.⁶⁵⁶ In evidence, he outlined that he would have expected, in response to the report made by Sally on 22 October 1997 that “*all sorts of inquiries*” would have taken place in a timely manner, including checks of banks accounts and with government institutions.⁶⁵⁷

⁶⁵⁵ BOE, Volume 6, Tab 239, p. 2026; Tab 237, p. 1953 at [27] – [28].

⁶⁵⁶ Transcript, 25 June 2021, pp. 7, 39 – 40.

⁶⁵⁷ Transcript, 25 June 2021, pp. 4, 25-32

608. Detective Chief Inspector Browne's opinion was that Marion should not have been classified as "*located*" on 17 October 2011 in response to the recommendation made by Detective Senior Constable Sheehan.⁶⁵⁸

609. Counsel Assisting submitted that considering the significant changes to the NSW Police Force Policies since 2019, the recommendation proposed on behalf of the Family is neither necessary nor desirable. Counsel Assisting submitted that the proposed recommendation by the Family has not been sufficiently ventilated in the evidence and notes that the Missing Persons SOPs were developed with consultation from other stakeholders that were not involved in the inquest.

610. The NSW Commissioner of Police adopted the submissions of Counsel Assisting, that a recommendation is unnecessary based upon the changes made since Marion's disappearance.

611. I am of the view that the recommendation proposed on behalf of the Family is neither necessary nor desirable for the reasons given by Counsel Assisting.

The request by the Leydon Family for referral of Mr Blum to the Director of Public Prosecutions or the Attorney-General to consider charges of perjury or false statements on oath

612. The Family submitted that the Court should formally refer Mr Blum to the Director of Public Prosecutions (DPP) or the Attorney-General (AG) to consider charges of either: (a) perjury pursuant to section 327 of the *Crimes Act 1900 (NSW)*; or (b) making a false statement on oath pursuant to section 330 of the *Crimes Act*. The Family submitted that the Court may make such a referral, in the absence of any express statutory power under the Act, pursuant to the Court's implied powers.

⁶⁵⁸ BOE, Volume 6, Tab 237, p. 1953.

613. The Family’s submissions draw attention to eight topics upon which it is said that Mr Blum gave false evidence. The eight instances of false evidence, briefly stated here, are said to be⁶⁵⁹:

- 1) Mr Blum’s evidence that the nature of his relationship with Ms Cornelius was platonic;
- 2) Mr Blum’s denial of the allegations made by Ms Oldenburg and Ms Gaffney–Bowan;
- 3) Mr Blum’s evidence that Marion stored boxes at his house in Wollongbar in 1997, before she went overseas;
- 4) Mr Blum’s denial that he travelled with Marion in the United Kingdom in 1997;
- 5) Mr Blum’s evidence that he had told his wife about his affair with Marion in 1997;
- 6) Mr Blum’s denial of any involvement with the Belgian entity Renov Pubs;
- 7) Mr Blum’s evidence that Ms Flamme had Alzheimer’s disease and dementia in 2010; and
- 8) Mr Blum’s denial of his engagement to Ms Danlois–Dubois.

614. The Family submitted that the Court has a power to make such a referral under its implied powers “*to do everything necessary for the effective exercise of its expressly conferred jurisdiction and to prevent abuse of its own processes*”, referring to what has been said in *Grassby v The Queen (1989)* 168 CLR 1 and *Commissioner of NSW Police v Deputy State Coroner for NSW [2021] NSWSC 398*. The Family submitted that, as the Court has the power to require witnesses to give evidence on oath and receive sworn evidence

⁶⁵⁹ Submissions on behalf of the Leydon Family, 18 July 2022, 14 August 2023 and 16 October 2023.

pursuant to section 59 of the Act, that provision would be rendered ineffective in the absence of an implied power to refer a witness for perjury proceedings. The implied power may be exercised, it is submitted, where the Coroner forms the opinion that there is a reasonable prospect that the witness could be convicted for such an offence.⁶⁶⁰

615. The Family further submitted that the existence of the power in section 78 of the Act further supports the existence of an implied power to refer a person to the DPP for perjury, notwithstanding that section 78, in its terms, is limited to referrals for offences which “*raise the issue of whether the known person caused the death*”. Similarly, the Family draws attention to the existence of section 103a of the Act, which provides a Coroner with an express power to “*refer any disrespectful behaviour in proceedings over which the coroner is presiding to the Attorney General, and Minister for the Prevention of Domestic Violence*”, as further support for the implication of a referral power for perjury.⁶⁶¹

616. Mr Blum contended that there is no power for such a referral in the circumstances and provided detailed submissions on this issue which I will not repeat here. It was submitted that section 81 of the Act stipulates that findings that can be made are concerned with the primary questions with which the Coroner must attempt to determine: the fact, place, time and location of a death.⁶⁶² It was further noted that the power to make recommendations under section 82 is limited by the preclusion of any comments that “*indicate or in any way suggest that an offence has been committed by any person*”.⁶⁶³

617. Mr Blum submitted that section 78 does not apply in this case, it being limited to indictable offences causing the suspected death.⁶⁶⁴ In relation to the references in the submissions of the Family to *Grassby* and *Commissioner of NSW Police*, it was submitted that the concepts of inherent jurisdiction and implied powers were conflated, and the Family made no indication of what any

⁶⁶⁰ Submissions on behalf of the Leydon Family, 18 July 2022, 14 August 2023 and 16 October 2023.

⁶⁶¹ Submissions on behalf of the Leydon Family, 18 July 2022, 14 August 2023 and 16 October 2023.

⁶⁶² Submissions on behalf of Ric Blum, 13 September 2023, [6].

⁶⁶³ Submissions on behalf of Ric Blum, 13 September 2023, [8].

⁶⁶⁴ Submissions on behalf of Ric Blum, 13 September 2023, [10].

such implied powers of referral might be or from whence or by what mechanism they should be implied.⁶⁶⁵

618. Counsel Assisting submitted that the primary role of a Coroner is to make findings as to whether Marion is deceased and if so, to determine the manner and cause of death, and that it is not the role of the Court in these circumstances to assess the potential criminal liability of Mr Blum for statements he has made in evidence in this inquest and to take any active role in referring him for consideration for prosecution. Counsel Assisting submitted that it is a matter best left to the police investigators, particularly because the investigation has not concluded.

619. I agree with Counsel Assisting's submissions that any referral of Mr Blum to the Director of Public Prosecutions or the Attorney-General to consider charges of perjury or false statements on oath is a matter best left to the police investigators, particularly because the investigation has not concluded.

Findings required by section 81(1)

620. Pursuant to section 81(1) of the Act, I make the following findings in relation to the disappearance and suspected death of Florabella Natalia Marion Remake, formerly Marion Barter.

621. As a result of having considered all of the documentary evidence, the oral evidence given at the inquest and submissions, I find, on the balance of probabilities, that Florabella Natalia Marion Remakel, formerly known as Marion Barter, is deceased.

The identity of the deceased

622. The person who died was Florabella Natalia Marion Remakel, formerly known as Marion Barter.

⁶⁶⁵ Submissions on behalf of Ric Blum, 13 September 2023, [15].

Date of death

623. While I am unable to determine the exact date of death, I find that Florabella Natalia Marion Remakel, formerly known as Marion Barter, is likely to have died on a date after 15 October 1997.

Place of death

624. I am unable to determine the place of Florabella Natalia Marion Remakel, formerly Marion Barter's death.

Cause of death

625. I am unable to determine the cause of Florabella Natalia Marion Remakel, formerly Marion Barter's death.

Manner of death

626. I am unable to determine the manner of Florabella Natalia Marion Remakel, formerly Marion Barter's death.

Recommendations

627. Pursuant to section 82 of the Act, Coroners may make recommendations connected with a death.

628. Marion's remains have not been found, and the available evidence does not allow me to make any findings as to the possible cause and manner of Marion's death.

629. However, the circumstances surrounding Marion's disappearance are troubling.

630. Accordingly, I make the following recommendation:

To the New South Wales Commissioner of Police:

I recommend that the NSW Commissioner of Police cause the investigation into the death of missing person Florabella Natalia Marion Remakel, formerly known as Marion Barter, to be referred to or remain within the State Crime Command Unsolved Homicide Team for ongoing investigation, review, and monitoring.

Epilogue

631. On 25 June 2021, the NSW Government together with the NSW Police Force announced a reward of \$250,000 for information which leads to the arrest and conviction of any person or persons responsible for Marion's disappearance.

632. On 27 April 2022, the NSW government together with the NSW Police Force announced that the reward had been increased to \$500,000.

633. When the reward increase was announced on 27 April 2022 Detective Inspector Nigel Warren said that any new information regarding Marion's disappearance would be welcomed. I strongly encourage any member of the public who has any information relating to the disappearance of Marion Barter or information relating to Florabella Natalia Marion Remakel, to come forward and to share that information with New South Wales Police.

634. More recently, evidence was gathered and tendered in these proceedings from the NSW Police, the NSW Forensic and Analytical Science Services, and QLD Forensic Scientific Services. This evidence establishes and confirms that investigating police have obtained a DNA sample from Sally. This DNA profile has been uploaded to the NSW and National DNA databases for continuous searching against any DNA profile recovered from unidentified deceased persons in order to identify a biological parent/child relationship. This means that the DNA profile of Sally will remain on the NSW and National DNA databases and will be searched against all unidentified deceased profiles every day.

Acknowledgements and concluding remarks

635. I would like to acknowledge and commend Sally on her unwavering commitment and participation in the coronial investigation and inquest to find out what happened to her mother. She has shown fortitude, dignity, resilience, and grace throughout these proceedings.

636. I express my sympathy and condolences to Sally, Chris, Bronwen, Deirdre, Lee, Marion's grandchildren, Marion's family, friends, and loved ones, and the many people that Marion touched in her life. I would like to again acknowledge that the experience of grief for a missing person is complex and difficult as there remain many unanswered questions.

637. I would like to acknowledge the tireless work carried out by the investigators from the New South Wales Police Force, Detective Inspector Nigel Warren, Detective Sergeant Sasha Pinazza and Detective Senior Constable Leza Pessotto, and express my gratitude for their ongoing assistance throughout the coronial investigation and inquest.

638. I would also like to acknowledge my counsel assisting team, Adam Casselden SC, Tracey Stevens, and Clara Potocki. They have dedicated an enormous amount of time and commitment to the preparation and conduct of this inquest and have provided tremendous assistance to me.

639. I also thank the legal representatives for the interested parties for their cooperation and assistance during these proceedings.

640. Finally, I would like to conclude by acknowledging and recognising the person that Marion was to her family, friends, and loved ones. The witnesses who provided statements and evidence at the inquest described Marion as a loving and caring person who had a fondness for antiques and the arts, could easily make friends, and who was also a gifted teacher.⁶⁶⁶

⁶⁶⁶ Transcript, 1 July 2021, p. 7.

641. It is fitting to end, as Counsel Assisting did in their closing written submissions, with the words shared by Sally to the Court reading from the family statement that she had prepared in which she described Marion as:

*“a kind, caring soul with a wicked laugh. She was intelligent, she was cultured, and she had so many friends who loved and miss her still. She would always bring you flowers or a cake. She was a very generous human.”*⁶⁶⁷

642. I close this inquest.

Magistrate Teresa O’Sullivan

State Coroner, NSW State Coroner’s Court, Lidcombe

29 February 2024

⁶⁶⁷ Transcript, 29 April 2022, p. 811.