

Supplementary
Submission
No 23b

**INQUIRY INTO SUBSTITUTE DECISION-MAKING FOR
PEOPLE LACKING CAPACITY**

Name: Ms June Walker

Date received: 25/09/2009

Without Prejudice

Ms. June Walker
[REDACTED]
[REDACTED]

24th September 2009

The Director,
Standing Committee on Social Issues
Parliament House
Macquarie Street
Sydney NSW 2001

Dear Director,

Inquiry into the provision for substitute decision making for people lacking capacity in NSW.

Please accept the following information as a supplement to my earlier submission.

Applications to the NSW Guardianship Tribunal for 'financial management orders'.

When lodging applications for a 'financial management order' applicants are required to name a person under the following heading:

- **"Does the person have a close friend or close relative who has frequent personal contact and takes a personal interest in the person's welfare, without payment?"**

As many subjects of applications have valuable assets, live alone and may have no family contact, without having access to bank accounts or legal documents etc, it would be impossible for outsiders to determine the reality of relationships between the person with a disability and a service provider, be they a family member, a professional, a neighbor or friend.

To emphasize the danger of the Guardianship Tribunal accepting claims made by applicants without requiring the person providing the information to substantiate their claims, I am adding further details regarding the above:

Example 1:

Until mid October 1994 which was six weeks prior to lodging a 'financial management order' to the Guardianship Tribunal, both my sister H and R had not contacted our father for over 18 years.

Prior to lodging an application, both H and R had inspected our father's unoccupied home and realized it was unsuitable for human habitation and needed to be demolished, yet, apart from a brief telephone conversation with Mr. X, which occurred after our father placed his property on the market in mid November 1994, H hadn't met Mr. X in person

and would have had no way of knowing of his real interest in our father, yet, she falsely described him to the Tribunal as:

- **The person who has frequent personal contact and takes a personal interest in the person's welfare, without payment?**

2.

Example 2:

My father's GP also falsely placed Mr. X's name under the heading of:

- **The person who has frequent personal contact and takes a personal interest in the person's welfare, without payment?**

This GP took over the local medical practice some time in 1989, which was after the initial 'will interference', took place and prior to the 'new will of December 1989' being finalized.

During the NSW Equity Court matter, the GP stated:

- In about 1989 he went to my father's property.
- He saw a large number of kangaroos hopping around and some were inside the house.
- The inside of the house was filthy and he saw rats scurrying about in there.
- His impression was that my father was happy and wanted to live that way.
- He didn't know that he had any family until 1990.
- In 1990 G■■■■ had a heart attack and he was called to see him at his place.
- He waited outside his place for the Police to arrive because the property was fenced.
- He waited for a short time and as the Police hadn't arrived he scaled the fence because he
was concerned that G■■■■ may die or may be already be deceased.

Note:

Had my father been found deceased in his home in 1990, Mr. X would have succeeded in committing the perfect 'hidden' crime as neither my sisters nor I would have known of:

- Mr. X's involvement in the downfall of the 1989-1988 will.
- That the will of December 1989 was drawn up by Mr. X's own solicitor friend.

The Tribunal accepting claims made by professionals involved without question.

In his application to the Tribunal the GP claimed:

- **There has virtually been no contact between G [redacted] and his daughters, until recently.**

During an interview on national TV in the 80's my father told the reporter he had 'no family',

My father possibly advised the GP that he had no family contact, however, without questioning the GP, the Guardianship Tribunal accepted this claim as being true:

While the GP's claim did apply of my sisters; as stated previously, if I hadn't been in contact with my father, I would not have been aware of his wills, changes he made to them or of Mr. X's involvement in 'assisting' him to draw up two wills etc.

Had the Guardianship Tribunal asked me to provide proof of my contact with my father, I would have been able to do so via cards and letters which I provided during the 'will dispute'.

3.

The following shows how a professional involved described another person to the Tribunal as a 'friend' of a person with a decision making disability, **without knowing the real facts.**

Solicitor Mr. J [redacted] who represented my father at the Guardianship hearing also acted for my father for the purpose of the 'property sale'. Prior to the Tribunal hearing, Mr. J [redacted] met Mr. X, who, took funds to his office to pay outgoings in regard to the property sale.

Solicitor J [redacted] would not have been aware of Mr. X's financial interest in the property, my father's long term mental problems or of his living conditions, yet, he unwittingly assisted Mr. X by advising the Tribunal:

- **G [redacted] lived on his property for 25 years with the support of Mr. X.**

Solicitor J [redacted] could have been fed the above information by either my father or Mr. X.

In 1995 my father had lived on his property for 45 years and as stated by Mr. X during the NSW Equity Court matter, after his initial claim of being my father's 'friend' for 30 years was effectively negated:

- The scope of his assistance to G [redacted] in the **1970's and into the 1980's**, was limited to assisting him with the health and well-being of the kangaroos,
- In the **later 1980's until 1994** he would visit him to check up on him as a 'friend'.

To show how a family member who do not have regular contact with the subject of an application and had no knowledge of Mr. X's 'hidden' financial interest in her father's estate, agreed with the Tribunal placing him as her father's 'private financial manager'.

After the hearing daughter H wrote to her father's GP and among other things, stated:

I was very pleased by the decision of the Guardianship Board to appoint Mr. X. to be father's financial manager.....

My sister J. wrote several letters to the board which astounded me as they were full of lies. She went too far however when she wrote a three page letter to the board full of accusations, and no doubt lies, about Mr. X. his secretary Mrs. T and solicitor S.J.

R, too, feels that she can cope with her own situation better now because she knows that whatever hardships come her way in the immediate future, she will one day have an inheritance to make life easier for her.

I think father is extremely lucky to have Mr. X. for a friend and have no doubt that his financial affairs will be well managed from now on.

Yours sincerely,

H.

4.

A few days after my father's funeral, Daughter H contacted Mr. X, (the executor of both the 1994 and 1989 wills) regarding her inheritance and he very curtly advised her to:

- **"Get yourself a good solicitor; I am challenging the will of 2nd December 1994
I will be presenting an earlier will of 1989 for probate".**

This resulted in H's opinion of Mr. X being quickly reversed and she then realized that the concerns I raised regarding Mr. X, Mrs., T and solicitor S.J. in the 1995 Guardianship matter, were justified.

Shortly after this H required my assistance in regard to the impending 'will dispute'.

Note:

The letter from H to the GP was provided by the GP during the 'will dispute' to support Mr. X. and to denigrate me.

After the Tribunal hearing in 1995, the only time I was able to speak to Mr. X was at my father's funeral as prior to that day he failed to reply to my letters or to my phone calls.

At the funeral, I approached Mr. X and asked him why he lied to the GP regarding 'missing monies' from my father's accounts.

Mr. X smugly replied:

- I don't know the GP.

I then asked him if he approved of the excuse the Tribunal fabricated in regard to the GP's lies.

Mr. X laughed and replied:

- That's their problem.

A short time later he approached me and stated in a smug manner:

- **I do what I do and I'm good at it.**

5.

When the applications for 'financial management order's against my father were made in late 1994, it was considered to be unusual for an application not to also involve a 'guardianship' application, however, it is now common for these applications to outnumber 'guardianship' applications.

As the NSW Guardianship Tribunal is meant to protect the subjects of applications from exploitation and I have shown how easily a 'hidden' perpetrator of this crime, fooled the Tribunal members and others involved, it is obvious that prior to removing a person's basic human rights, this fact finding Tribunal needs to cease making legal decisions based on bias and guesswork by thoroughly scrutinizing all allegations made and instead of taking a holistic approach to its decision making, it needs to take a realist approach in order to ensure what occurred in my father's case does not occur in the future.

June Walker.