

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

Name: Ms June Walker

Date received: 18/09/2009

Without Prejudice

Ms. June Walker

17th September 2009

The Director,
Standing Committee on Social Issues
Parliament House
Macquarie Street
Sydney NSW 2000

Dear Director,

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

I am lodging this submission to bring to your attention the fact that the NSW Guardianship Act of 1987 has no safeguards in place to 'protect' people with decision making disabilities from abuse, neglect or exploitation and no deterrents in place to prevent cunning financial predators from using the free services of the Tribunal for their own 'hidden' purposes.

I am also bringing to your attention serious flaws in the practices of the NSW Guardianship Tribunal which result in a person with a decision making disability, losing their basic human rights, based solely on the 'hidden' self financial interests of 'hidden' financial predators be they family members, professionals or others involved, who falsely claim or are falsely described by others, as "having a 'genuine concern' for the welfare of the subject of an application for a 'financial management order', without payment", when in reality, they only have a 'genuine concern' for their own 'hidden' or other self financial gain.

The above situation occurred in a past NSW Guardianship matter concerning my late father **G. [REDACTED]**, who matched the criteria of a person who was a 'prime candidate' for financial exploitations as he had a severe mental disability for over 50 years, he refused normal family contact, he was isolated from the community, he lived alone in squalor as a recluse for over 30 years and as, by 1994 his home was unsuitable for human or animal habitation as it was infested with vermin and white ants and needed to be demolished, when NSW Guardianship action against him was covertly triggered by an 'alleged' friend in late 1994, the 8½ acres of land it sat on in outer Sydney was valued in the vicinity of **\$2 Million dollars**.

The NSW Guardianship matter concerning my father was listed as **[REDACTED]** and while those involved can be identified via the Tribunal's records, for the purpose this submission I will refer to my father as either the victim or **G. [REDACTED]** and to others involved in the case by their initials and to the 'alleged' friend as **Mr. X**, his secretary - companion as **Mrs. T** and to his solicitor friend as **solicitor S. J.**

When the sudden 'urgent' Guardianship action against my father was triggered in late November 1994, he was a 'hidden' victim of prior financial exploitation via 'alleged' friend Mr. X's interference with his existing will under which Mr. X and a colleague gained nothing.

The 'will interference' resulted in Mr. X's own solicitor friend becoming my father's solicitor for the purpose of creating a 'new will' under which Mr. X and his colleague stood to gain shares of my father's estate, which, depending on the eventual sale price of my father's 8½ acre property would have amounted to between **\$800,000 and \$1 million dollars**.

2.

As a party to the Guardianship proceedings and being the only family member who maintained contact with my father, I advised the Tribunal (then Board) in writing that I distrusted Mr. X, Mrs. T. and solicitor SJ, who, at a then unknown point in time and for then unknown reasons, had become my father's solicitor, however, the three 'expert' Tribunal members ignored my concerns and declared Mr. X., who only told them and others involved what he wanted them to know and what he knew they wanted to hear, to be open and forthright and the 'best person' to place in the trusted position of my father's 'private financial manager' under the 'normal' supervision of the OPC, which, as the OPC trusts the 'integrity' of people appointed as 'private financial managers' by the Guardianship Tribunal, meant 'no real supervision'.

This quasi legal decision made by the 'expert' Tribunal members in February 1995, very effectively resulted in them:

- Failing to make legal decisions that were paramount to my father's rights and welfare.
- Failing to protect my father from abuse, neglect and exploitation.
- Unwittingly aiding, abetting and protecting the 'alleged' friend from scrutiny, until after my father's death seven years later.
- Robbing me of the opportunity to investigate his and his solicitor friend's past legal and financial dealings with my father until after my father's death in 2002.

As a result of the above irrefutable evidence of the 'will interference' was only obtained during a **NSW Equity Court 'will dispute'** with Mr. X following my father's death in 2002.

Prior to me giving you details of my father and the NSW Guardianship Tribunals involvement it is important that you are aware of:

The reason for the 2002-2005 Equity Court matter:

Between the dates of the 'financial management order' applications in late 1994 and the hearing in February 1995, without Mr. X's knowledge, on the 2nd December 1994, my father drew up a 'new will' via an independent solicitor.

- This will divided the estate equally between my two sisters and me and it left nothing to **Mr. X or to his colleague.**

This resulted in Mr. X, who became the sole executor of the 1 December 1994 will and sole Power of Attorney under suspicious circumstances, just two weeks prior to the Guardianship hearing of the 17th of February 1995, contesting this will on the grounds that:

- **My father did not know or approve of the contents of the will of the 2nd December 1994.**
- **My father lacked the capacity to instruct a solicitor on the 2nd December 1994.**
- **He didn't think that my father knew what was going on during the Guardianship hearing on the 17th February 1995.**

3.

The provision of false and misleading information in 'sworn affidavits' in NSW Equity Court matters.

During the 'will dispute' Mr. X the 'plaintiff' made many false and misleading claims in his sworn affidavits and this fact can be verified via the NSW Guardianship records.

As I was under the impression that it was a 'criminal offence' to provide false and misleading information in a sworn affidavit, I raised this issue with the solicitor who represented me and I was advised by the solicitor, who had over 40 years experience in the 'NSW legal system' that:

- The Judge won't be interested in the fact that people lie in affidavits.
- We expect people to lie in these matters.
- The Judge will only be interested in whether or not your father had the capacity to instruct a solicitor on the 2nd of December 1994.
- It's not the person telling '**the truth**' who wins in these matters, it's the person who '**plays the game best**', who wins.

As a result of the above Mr. X continued to play the 'will game' for almost three years at the expense of the estate.

Out of Court settlement of the 'will dispute'.

By late 2004 Mr. X and solicitor S.J realized the prior '1988 will interference' had been exposed and as Mr. X did not want to risk being charged with perjury, he offered to 'settle' out of Court for a suitable financial 'reward' for his deception.

- **The total cost to the estate was around \$450.000 TO \$480.000.**

The provision of false or misleading information in NSW Guardianship Tribunal matters:

Like the NSW Equity Court, the NSW Guardianship Tribunal is also 'not interested' in the fact that people provide 'false and misleading information' in applications.

To support the claims I am making, throughout this submission, I will bring your attention to:

- **Sworn claims made during the Equity Court matter by Mr. X and others involved in the 1994-1995 Guardianship matter are mentioned throughout this submission.**

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Part 1

1. The NSW Governments involvement in addressing the increasing problem of the financial exploitation of older Australians with or without decision making disabilities.

The following is part of a transcript obtained via the NSW Legislative Assembly Hansard of the 2nd of June 1999.

SENIOR CITIZEN EXPLOITATION:

Mr. PRICE: I ask the Minister for Community Services, Minister for Ageing, Minister for Disability Services, and Minister for Women:

- **What is the Government doing to protect older persons from unscrupulous people posing as companions?**

Mrs. LO PO: There is no more cowardly act than stealing from aged people. Recently it has been brought to my attention that the frail aged and people who can no longer manage their money are being preyed upon in the cruelest possible way. The police describe these sick individuals as black widows or black widowers. **These predators are cunning and heartless.**

There is no more important task for government than to protect the vulnerable members of our society. Black widows and black widowers are men and women who befriend and become companions of vulnerable older people for the sole purpose of milking them of their life savings.

Older people who have saved for their retirement deserve to be protected from such predators. Indicators of financial abuse include unusual activity in bank accounts, sudden withdrawal from bank accounts, **recent acquaintances expressing overwhelming affection for a wealthy older person and missing belongings.**

We need to protect people still able to live independently but at risk of financial abuse by new-found friends or companions.

For too long these issues have been put in the too-hard basket.

I can inform the House today that I have asked the Guardianship Tribunal to work with the New South Wales Committee on Ageing to examine all measures to stop this practice.

I have asked the Guardianship Tribunal and the NSW Committee on Ageing to work with peak organizations such as the Alzheimer's Association, the Council on the Ageing, the Combined Pensioners and Superannuates Association and the Carer's Association **to find a solution to this problem.**

- **I am confident that the proposed measures will better protect vulnerable older people from this worrying form of exploitation.**

It is now ten years after the above discussion and regardless of the NSW Government, the Australian Institute of Criminology, the Tribunal and others conducting various studies, reviews, inquiry's, surveys etc, no solution to the problem of financial exploitation of older Australians has been found and this 'crime' against older people with or without cognitive disabilities, **continues to be an increasing 'problem' that is continually put in the 'too-hard basket'**

2.1:

2. The LACA Inquiry into older people and the law and the adequacy of current legislative regimes in addressing these needs in the areas of fraud - financial exploitation

As the financial exploitation of older people with or without disabilities continues to be an increasing concern in Australia from late 2006 to late 2007 the former Federal Attorney General, Mr. Phillip Ruddock instigated the above inquiry.

During the inquiry the Committee received numerous submissions in which 'serious concerns' were raised regarding the NSW Guardianship Tribunal in particular and regardless of this being a 'public' inquiry, these submissions were not published as the Committee classified them as 'confidential', for the following reasons:

- The Committee did not want individuals named.
- The Committee did not want parliamentary privilege to be abused.
- The Committee did not want people's reputations to be destroyed or sullied without evidence.

Published submissions which named individuals and did not involve the NSW Guardianship Tribunal had the individual's names blacked out to 'protect' the reputations of those involved and as this was a 'public inquiry' and the Guardianship Tribunal is 'allegedly' an 'accountable' Tribunal, I believe this principle should have applied to the submissions regarding the NSW Guardianship Tribunal.

The LACA Committee held public meetings throughout Australia.

At a Canberra public hearing the Committee chairman, the Hon Mr. Slipper MP stated:

- The Committee has received numerous complaints regarding the NSW Guardianship Tribunal, which if true, **would make your hair stand on end**.

At a Sydney public hearing a witness advised the Committee:

- **"Anybody can front up to the Guardianship Tribunal and make any allegation they wish and then the Guardianship Tribunal basically rolls on that and makes orders as it sees fit, not in the way it should discern according to law.**
- That is a basic problem that we have, we have **no transparency and no accountability** in these processes and this is the main reason we have so much difficulty with this.

Note:

My father's NSW Guardianship case, full details of which are provided in this submission, irrefutably validates the reality of the claims made by the witness at the Sydney meeting.

3.1:

As Guardianship Tribunals are meant to 'protect' older or other people with decision making disabilities from abuse, neglect and exploitation, both the Australian Guardianship and Administrative Committee (AGAC) Chair, Anita Smith and former NSW Guardianship Tribunal Deputy President, Marion Brown, provided submissions to the LACA inquiry.

The following information regarding the 'prior financial exploitation' of people with disabilities who become subjects of applications, coincides with my father's situation, however, because concerns I raised regarding the 'alleged' friend were ignored by the Tribunal members, the prior financial exploitation of my father was not exposed during the Guardianship hearing.

Former Guardianship Tribunal Deputy President Marion Brown stated:

- In the past the NSW Guardianship Tribunal conducted a survey of applications made to it, to identify what was the **most common form of abuse** that precipitated an application to the Tribunal.
- **Financial abuse was by far the most common form of abuse experienced by older Australians, which resulted in an application being made to the Tribunal.**
- In 2005/06 the Tribunal received **2,318 applications for a 'financial management order'** and 58 applications to review an enduring power of attorney.
- **It should be noted however, that most of these applications would not relate to a situation of financial abuse or exploitation.**

AGAC Chair Anita Smith provided examples of financial exploitation, one of which coincides with the financial exploitation of my father.

Interference with wills:

Undue pressure to make new wills or gifts:

- Elderly people can fall prey to relatives or strangers who **will suddenly befriend them** after the onset of dementia.
- Playing upon the paranoid aspects of the symptoms of dementia, they can encourage negative attitudes ("they are only interested in your money") about the members of the person's traditional support network in favour of themselves, **usually to their own financial advantage either by gift, testamentary gift or appointment under an EPA.**

4.1:

I lodged a submission to the LACA inquiry, to show that the NSW Guardianship Tribunal is a Legislative regime which fails to adequately address the legal needs of older Australians with decision making disabilities in the areas of fraud-financial exploitation, for the following reasons:

A: The NSW Guardianship Tribunal is open to abuse by financial predators.

B: The 'urgent' 'financial management order' applications against my father had nothing to do with his rights, welfare or protection and instead, had everything to do with:

- The 'hidden self financial interest' of 'alleged' friend Mr. X, who had a 'genuine concern' for his 'hidden' financial interest in my father's estate.
- The 'self financial interests' of two formerly estranged family members who had a 'genuine concern' for their inheritance

C: By ignoring evidence that should have raised a 'RED FLAG' to the possibility of prior exploitation, the 'expert' Tribunal members who presided over my father's case made a mockery of:

- The principles guiding the Tribunal and
- The laws of natural justice, by making legal decisions based on bias and guesswork.

D: The fact that 'it is not the role of the Tribunal to ascertain the 'truth' or otherwise of allegations made before it': (See attached letters from former President Mr. Nick O'Neill)

- Protects people who lie in applications or people who lie to others, who they covertly influence to approach the Tribunal.
- Fails to provide protection to the subjects of applications.

E: The fact that the Tribunal does not have the jurisdiction to determine whether wrongdoing occurred prior to their involvement: (See attached letters from Mr. Nick O'Neill)

- Protects 'hidden' financially interested parties and
- Fails to provide protection to the subjects of applications.

F: While the NSW Guardianship Act of 1987 provides more than adequate 'protection' to the Guardianship Tribunal, its members, staff and to applicants.

- The NSW Guardianship Act of 1987 provides no 'real protection' to the people with disabilities who are the reason for the existence of the Tribunal and for the employment of its President, members and staff.

G: The secrecy surrounding NSW Guardianship cases hides:

- Discrimination between parties to proceedings.
- The incompetence, bias and negligence of Tribunal members.

H: Because since my father's case the issues I am now raising in this submission have fallen on the deaf ears of a previous NSW Guardianship Tribunal President and former Ministers for Ageing and Disabilities.

5.1:

3. Proof of financial exploitation of older people with or without cognitive disabilities

In her submission to the LACA inquiry the AGAC Chair, Anita Smith stated:

- **A major concern is that elder abuse is so rarely addressed in the criminal justice system because proof of crimes is so difficult** when the principal witness/victim's memory is significantly impaired by dementia.....
- The Guardianship and administration system can respond by preventing further abuse, but **frequently applications for the appointment of a guardian or administrator occur after the abuse has been perpetrated** and all that is left to be protected is the elderly person's future entitlement to Commonwealth benefits.
- An administrator or **financial manager might report financial abuse to the Police** or attempt civil proceedings for recovery, but success of such actions is rare.

My comments on the above:

It is also '**extremely difficult**' to prove suspected financial abuse-exploitation, when:

- Members of a 'legal' Tribunal, who are meant to 'protect' people with decision making disabilities from this 'crime', ignore concerns that should raise a '**RED FLAG**' to the possibility of prior financial exploitation and then place a 'suspected perpetrator' in the position of the suspected victim's 'private financial manager', where he was 'protected' from scrutiny until after the suspected victim died.
- The suspected victim is being 'controlled' by the suspected perpetrator.
- The suspected victim's legal documents are held by a suspected perpetrator's solicitor friend, who blocks attempts to investigate matters.
- The suspected victim's GP, who was influenced to become an 'applicant' in the Guardianship matter by the 'suspected perpetrator', refuses to provide information that may incriminate the suspected perpetrator or himself.
- Like the 'expert' Tribunal members, family members are also 'blindsighted' by the perceived 'integrity' and 'good community standing' of the suspected perpetrator.

6.1:

4. The 'hidden crime' of the financial exploitation of older people.

As the financial exploitation of older people occurs in secrecy, behind closed doors, it is **known as 'a hidden crime' which is often not discovered until after the victim dies** and by then, financial and legal records may have been destroyed or disposed of.

As Mr. X was placed in the 'protected' position of the 'private financial manager', where he was untouchable without me taking Supreme Court action which was out of my financial reach, this scenario applied in my father's case and as stated previously, irrefutable evidence of the 'will interference' and Mr. X's 'hidden' involvement in the triggering of the 'urgent' Guardianship action in November 1994 was acquired during the NSW_Equity Court 'will dispute' and this evidence was provided by:

- A Mrs. B who was a genuine long term friend of my father's and who together with Mr. X was named as two of three executors of his 1987-1988 will.

5. Undue Influence and financial Exploitation.

For your interest, I have attached an American report titled '**Undue Influence and Financial exploitation**' which was written by a Dr. Margaret Singer who was a 'well respected' expert' in this field.

Dr. Singer's report mirrors Australians reports on this subject and this report was used as an 'exhibit' during the **LACA inquiry into older people and the law** and as the NSW Guardianship members are 'experts' in dealing with people with cognitive disabilities who are meant to protect their vulnerable clients from 'financial exploitation', they should be aware of the information contained in this report.

The following points relate to my father's circumstances:

Who is likely to be a victim of undue influence?

Elderly people with assets such as their own homes, stocks, bonds, and other material and financial assets, are most likely to become victims of undue influence due to their life circumstances. This can include ill health with physical dependency, cognitive impairments, grief and bereavement, and decreased independence in such activities as shopping, bill paying and the need for transportation.

Mentally ill individuals are also at risk for victimization, as are those with developmental delays, chemical dependency, and other such conditions that result in need for assistance with various activities.

7.1:

What are the risk factors for being a victim of undue influence?

There are a number of identified risk factors that predispose people to being victims of undue influence and financial exploitation.

These include:

- **Being elderly, mentally ill, physically disabled, and/or cognitively impaired.**
- **Living alone, especially in own home** rather than in an apartment or condo.
- **Being dependent** in transportation and/or shopping.
- **Having few local family or friends.**
- **Being isolated from community activities and health care services.**
- **Being naïve** and overly trusting and open with strangers.
- **Not having reputable assistance with financial matters.**

Who is likely to be a perpetrator of undue influence?

Perpetrators almost always begin with a close and trusting relationship with the victim and most often perpetrators are family members.

Family members sometimes have a financial duty to the victim as their attorney-in-fact, and use that relationship to take financial advantage of the victim. Authorities have found that oftentimes there is a family member who lives with the victim, sometimes an adult child who never left home, and that person is in a prime position to isolate the victim from others.

Unrelated perpetrators, such as accountants, trustees, attorneys or guardians, may have a financial duty to the victim.

Other times the perpetrators are housekeepers, caregivers, neighbors, nursing personnel, physicians, church members, or even clergy.

- **Occasionally these people deliberately develop a close relationship with the victim with the goal of financial gain.**

8.1:

What are some signs of undue influence and financial exploitation?

While it may be difficult to identify a pattern of isolation and undue influence in the early stages of an exploitative relationship, there are certain characteristics that when considered together should raise questions about the integrity of the relationship.

These falls into three categories: **(A) victim behavior (B) perpetrator behavior (C) financial implications.**

(A) Victim behaviors that may be observed include:

- Victim is pressed into transactions without being given time to contact advisors.
- Victim appears to be have been coached when meeting with attorney, accountant, etc.
- Victim seems reluctant to discuss matters that were routine with formerly trusted professionals or family.
- Victim seems sedated or appears to be intimidated or controlled by perpetrator.

(B) Behaviors demonstrated by the perpetrator may include the following:

- Perpetrator has a controlling and defensive attitude if questioned about relationship to victim.
- Perpetrator convinces victim that family members, friends and other previously trusted persons are trying to put victim in an institution and take their assets.
- Perpetrator creates alliance with victim's physician by insisting that only the perpetrator can successfully care for the victim.
- Perpetrator takes victim to a new attorney to make changes to estate planning documents, convincing the victim that previous attorney wasn't looking out for victim's best interest.

(C) Financial issues that should raise red flags to the possibility of undue influence and financial exploitation include the following:

- Change in account beneficiaries' attorney, etc.
- New accounts and/or new authorized signers on accounts.
- Change in financial planning documents, such as wills, trusts, powers of attorney, especially when there is question about victim's capacity and/or the will or trust is in favor of a new or much younger "friend."
- Changes in solicitor, stockbroker, physician or other professionals.

How does one deal with suspected undue influence and financial exploitation?

If there were an easy answer to this question, the prevalence of undue influence and financial exploitation would be less and when it occurred, it would be more easily resolved.

- **Dealing with these issues requires that people working with vulnerable adults be highly alert to the possibility of victimization and thoroughly scrutinize the relationships and financial transactions of their vulnerable clients.**

While many of those working with the elderly assume that caregivers and others involved with vulnerable adults have altruistic motives; **the prevalence of abusers is surprisingly high.** Some authorities estimate that as many as half of all vulnerable adults may be preyed upon.

Wilber and Reynolds, researchers at the University of Southern California, found that "anywhere from 33% to 53% of elder abuse victims are believed to experience financial abuse."

When any of the warning signs listed above are identified, it is imperative that a trusted family member or professional – **or even better, several people working together – insist on a private visit with the suspected victim.**

Social workers, especially those with expertise in vulnerable adult issues, can be useful in evaluating these situations and documenting findings of victimization

It is important to realize, however, that:

- **A skilled perpetrator can cause the victim to develop strong loyalty to the perpetrator, a phenomena known as the Stockholm syndrome based on bank hostages in Stockholm who were brainwashed by their captives.**
- **The client's attorney should be contacted and notified about legal changes that were made by the perpetrator's attorney.**

10.1:

6. Guardianship Tribunal abuse:

From an American news report of 2007:

- Senior adults have been targeted as easy victims in a number of different scams for the last two decades now and it's only getting worse.
- Instead of just stealing money from them or ripping them off, con artists are now **actually stealing Guardianship of many senior adults.**
- **Some criminals have figured out that they can assume Guardianship of elderly individuals just by telling a judge they are no longer mentally stable.**
- When approaching a judge, these crooks don't have to do anything to prove that they are related to the individual they are trying to assume Guardianship of.
- **Courts are so busy and over-packed with cases they just don't have the time or recourses to make sure that the person making the claim is on the up and up.**
- There is no easy way to find out when this occurs, so **family members often have no idea that someone is stealing Guardianship of their parents and simply have no recourse in the event that it happens.**

As previously mentioned, during a LACA public meeting in Sydney, a witness advised the Committee:

- **"Anybody can front up to the Guardianship Tribunal and make any allegation they wish and then the Guardianship Tribunal basically rolls on that and makes orders as it sees fit, not in the way it should discern according to law.**
- That is a basic problem that we have, we have **no transparency and no accountability** in these processes and this is the main reason we have so much difficulty with this.

11.1

After my father's NSW Guardianship hearing in February 1995, I was advised by a member of the NSW Police Force and two separate NSW solicitors that:

(A) Anyone in the know could use the Guardianship Tribunal for their own purposes.

- Section 2 of this submission shows how one financially interested party used the NSW Guardianship Tribunal for his own 'hidden' purposes.

(B) The Tribunal gives preferential treatment to professionals involved.

- Mr. X was a ~~local GP who took over the local medical practice after the exploitation took place and to my knowledge, was unaware of the financial exploitation, approached the Tribunal without due diligence, after being influenced to do so by Mr. X.~~
- A Hospital Geriatrician, who was unaware of the prior financial exploitation, provided a 'report' to the Tribunal without viewing her own notes and without being able to recall the results of a mini-mental test she performed on my father six months earlier.
- The evidence of all of the above was seen as 'credible' and 'relevant' to decisions the Tribunal had to make, however, in order to have my evidence seen as 'credible' and 'relevant' to decisions the Tribunal had to make, I believe that **I would have needed to have held professional qualifications of equal or superior status to the 'professionals' involved.**

(C) The more lies you tell the Tribunal the more likely you are to be believed.

- This is fact and can be substantiated via my father's case.
- While sections 105 and 106 of the NSW Guardianship Act 1987 indicate that 'It is 'an offence' to provide false or misleading information in an application. **Penalty up to \$500.00**.'
- My sister H provided false and misleading information in her application which was fed to her by Mr. X, however, this fact was not exposed at the hearing, as **the 'expert' Tribunal members simply turned a blind eye to her false allegations.**
- The GP also provided false and misleading information in his application which was fed to him by Mr. X, however, this fact was not exposed at the hearing as instead of placing the GP under scrutiny, **the 'expert' Tribunal members simply fabricated an excuse which had no bearing on reality or the truth, on behalf of the GP**

(D) Applicants are judged on the presentation of their applications, like going for a job interview.

On completion of my father's hearing:

- While glaring at me for daring to suggest that the esteemed Mr. X- OAM and his solicitor friend were involved in wrongdoing,
- The arrogant Tribunal Presiding member congratulated my sister H, who lied in her application, and had no interest in her father's welfare, congratulated her on her **'well presented'** application.

Part 2:

Details of the victim's personal situation prior to the Guardianship action being triggered.

- The victim suffered from a long term mental disability dating back to **1940**.
- His mental problems resulted from his involvement in an air crash in which his student pilot died while he was employed as a flying instructor with the RAAF.
- **From the late 50's** he became obsessed with saving orphaned kangaroos.
- He shared his house and 8½ acre property with these animals and became known locally as
- **From this time he lived alone as a recluse with his animals for over 30 years.**
- **He isolated himself from the community.**
- He alienated most acquaintances by subjecting them to outbursts of rage if they did or said something to displease him.
- **In the mid 70's**, among other psychological disorders, Veteran Affairs Psychiatrists described him as **narcissistic, schizoid and an odd eccentric isolate, with very little hold on reality.**
- **In the early 80's** a Veteran Affairs social worker noted that he was oblivious to the fact that he was making involuntary kangaroos noises.
- He bragged to his Psychiatrists that **prominent people were his 'friends'** however, on checking with one of these alleged 'friends', the person concerned had never heard of him.
- He was in receipt of a full TPI Pension and Psychiatrists treated him until sometime in the early to mid 80's when he refused their help.
- **He refused 'normal' family contact;** however, he maintained letter and telephone contact with daughter June who resided in Victoria.
- **He told some people of his family and told others that he had no family or no family contact.**
- **In 1994**, regardless of his house being **unfit for human or animal habitation**, the 8½ acres of land it sat on was valued at **over \$2 Million dollars.**
- **From the mid to late 80's**, he bragged about being a 'millionaire' and openly told people of his property value.
- He had one genuine non-financially interested female friend Mrs. B, who moved 200ks away from Sydney shortly after the 'will interference' took place.

The victim's family situation:

- His mental illness robbed his wife and children of a 'normal' family life.
- He was an abusive and extremely violent husband and father.
- It was not possible to have a 'normal' family relationship with him.
- His wife separated from him in the mid 50's and divorced him in 1976.
- Daughters, H, R shut him out of their lives in 1976.
- Daughter J was shut out of the family for a time, but regained contact with him in 1980.
- In the early 80's his conversations revolved around his animals and articles written about him in various Australian and Overseas magazines.
- He never enquired about J's personal situation or about his grandchildren.
- **From around the mid 80's**, he discussed his wills with daughter J.
- The phone contact was maintained up to and after his hospitalization in July 1994.

2.2:

'Alleged' friend Mr. X and his colleague's association with the victim:

- Mr. X and a colleague provided free veterinary services to the victim's animals for some years.
- Like other veterinarians, they also provided free services to others who cared for native animals.
- Over the years, they, like others, were subjected to verbal abuse by the victim.
- They believed he had no family contact.
- **From mid 1988 (when the 'will interference' occurred) until the victim's hospitalization in July 1994, Mr. X and his associates had sole control over him.**

Sworn evidence regarding the reality of Mr. X's 'alleged' friendship with the victim:

In his first sworn affidavit during the NSW Equity Court 'will dispute' Mr. X. claimed:

- He first met G... (the victim) in the **1960s**.
- He initially had a professional relationship with him.
- Over time he developed a 'good friendship' with him.
- **He was his 'friend' for almost 30 years.**

Long term friend Mrs. B. lodged an affidavit in which she stated:

- She knew and was well acquainted with G... for almost 30 years.
- She also cared for injured native animals on her property.
- She knew Mr. X having met him several times at his surgery and via telephone calls.
- She knew him as G...'s vet, however, **she never saw him at G...'s property on any of her numerous visits.**

I stated in a sworn affidavit

- In the early 80's my father occasionally mentioned a 'vet' attending to health problems with his kangaroos, **it was only in the later part of the 1980's that he suddenly began referring to him as "my friend the vet" who assisted him to draw up two wills.**

In a second affidavit Mr. X claimed:

- The scope of his assistance to G... 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'.**

As stated in Dr. Singers report of 'Undue Influence and Financial Exploitation' and by AGAC Chair Anita Smith in her submission to the LACA inquiry:

- Perpetrators of financial exploitation of older people deliberately develop a relationship with the victim with **the goal of self financial gain.**

It appears that Mr. X became my father's 'friend', gained access to his bank accounts and books of blank cheques which my father pre-signed, after the 'will interference' took place in late 1988

Note: One of the cheques pre-signed by my father was presented to the funeral directors by Mr. X [the executor] after my father's death in 2002; however, he quickly covered this up by threatening them with the '**privacy Act**'.

3.2:

The late 1988 'will interference'.

The 'will interference' involved:

- **Will 1:** The downfall of my father's existing 1987-88 will under which **Mr. X and his colleague gained nothing.**
- **A change of solicitor to Mr. X's own solicitor friend, solicitor S.J. for the purpose of drawing up a 'new will'.**
- **Will 2:** The final '**new 1989 will**' named Mr. X as the sole executor and sole trustee of a substantial trust fund for the animals over which Mr. X had sole control and it also left Mr. X and his colleague various shares of the estate which, depending on the eventual sale price of my father's 8½ acre **██████** property, would have amounted to between **\$800,000 to \$1 Million dollars** or more.
- Owing to my father's many changes of mind and disagreements with those 'assisting' him to draw up the 'new will', while the interference occurred in the later part of 1988, **the will drawn up by solicitor S.J. was not finalized until December 1989.**

Will 3: I provided the following evidence to the NSW Guardianship Tribunal in 1995 and also during the NSW Equity Court 'will dispute'.

- As a result of his kangaroos being released from his property under 'suspicious circumstances' in around 1992, my father drew up a 'new will' which did not contain a 'trust fund' for the animals.
- This will was divided into 10ths with 3/10ths being left to each daughter and 1/10th being left to Mr. X for assisting him to draw it up.
- **This will was never located. (missing will)**

Note:

When the NSW Guardianship action was triggered in late November 1994:

- Will 2 under which Mr. X and his colleague stood to gain shares of the estate which would have amounted to between **\$800.000 to \$1 Million dollars** was my father's last locatable will.

The Victim's Hospitalization:

- In mid July 1994 a kiosk attendant from a nearby caravan park became concerned when the victim had not called in for his newspapers for a few days.
- The Police were called and they found the victim unconscious on the floor of his putrid vermin infested home.
- It was estimated he had been lying there for 3-4 days.
- The Police admitted him to hospital.
- At this time he had no wearable clothing.
- He was described as an odorous old man.
- It was estimated he had not bathed or changed his clothes for well over two years.
- He was so filthy he had to be soaked in a bath for over two hours to remove the dirt.
- His toenails were like claws.
- He was dehydrated.
- He was diagnosed to be in the early stages of dementia and having Parkinson's disease.

Note: The victim's GP had not diagnosed that the victim had Parkinson's disease prior to this time.

Mr. X's involvement during the victim's first weeks in hospital: (Prior to my arrival in Sydney).

- Both the victim and Mr. X told hospital staff he had no family contact.
- The victim advised hospital staff that **Mr. X was looking after him.**

Note: Studies show that victim's of financial exploitation can have a fear of abandonment and are often coached and controlled by perpetrators of this crime who convince them that only they can look after them, while others will lock them up, or are only after their money etc.

In late 1994, I was not aware of the term 'undue influence', however, when the sudden Guardianship action occurred a few months later, I advised the Guardianship Tribunal that after visits from Mr. X and Mrs. T, my father became different towards me (meaning he appeared to be suspicious and fearful of me) and **Mr. X had too much control over my father.**

Hospital records show Mr. X's intention to have the victim return to his uninhabitable home:

- Mr. X advised hospital staff he had arranged for contract cleaners to clean the house.
- He paid a plumber \$400.00 from the victim's funds to have one filthy overflowing toilet unblocked for the victim's use.

When I first met Mr. X and Mrs. T at my father's property in Sept. 1994, Mr. X suggested that I should hire a high pressure hose and hose the front part of the house out so that my father could return to live in his home.

During the NSW Equity Court 'will dispute' Mr. X claimed in a sworn affidavit'

- At no stage did he consider that the victim should return to his property.
- He did arrange for the unblocking of a toilet.
- He denied my claim of him suggesting that I should hire a high pressure hose to hose the house out, to enable my father to return to live in his house.

5.2:

Hospital Occupational Therapists report of the victim's living conditions:

Prior to a patient being released from hospital, a Hospital Occupational Therapist or Social Worker will visit the patient's home to assess its suitability for their needs, and I firmly believe that if was not for this policy, **Mr. X would have arranged for my father to return to his home where he could retain control of him.**

The Occupational Therapist's home visit resulted in the following report:

General background:

- Patient lives alone in own home which is almost fully paid off.
- Patient's 'friend' (**Mr. X.**) reported that patient had not allowed anyone inside the house for a long time. (**This was untrue**)

Kitchen:

- Sink full of clutter.
- Water still running.
- Phone there but not on.
- Stove dirty and unused.
- Filth all over floor. (Animal excreta)
- Patient apparently nursed sick kangaroos on kitchen floor.
- Tables were covered in rubbish.
- Patient had dropped his trousers just outside kitchen door and they were soiled.
- Patient was obviously[unable to read this comment]

Bedroom:

- Very cluttered.
- Dark and damp.
- Bed was unmade and rotting obviously from the many times the patient has been incontinent.
- Linen piled on bed was putrid.
- Some clothes were on the floor and were also putrid.
- Bedroom door would not open properly and was falling to bits from white ants.
- White ants had eaten some of the furniture.
- Access very limited due to clutter in room.
- Patient was using the bush for a toilet.

Bathroom:

- One bathroom had a bath in it that was leaking.
- Bath filled with rubbish.
- Shower had had an animal living in it.
- Sink very dirty.
- Medicine cupboard was filled with empty medicine bottles and tubes of cream.
- Another shower at back of kitchen but was full of objects and obviously never used.

6.2:

Lounge room:

- Completely cluttered.
- A few large arm chairs that had objects sitting on them.
- The upholstery had been destroyed.
- Empty meals on wheels trays were stacked in the corner (many of them).
- The floor throughout the house was covered in straw, animal droppings and dirt.
- Fireplace full of ashes.
- Fridge in lounge room had beer and chocolate in it.
- Electricity still on.
- Cobwebs all throughout the house on ceilings and walls.
- Mildew on walls and ceiling.

Toilet:

- Two toilets.
- One at the back of the kitchen was blocked and very dirty.
- The other, near the other bathroom was **blocked and full of human faeces.**
- Patient had obviously been flushing toilet and it had been running over by the mess on the floor.

Laundry:

- Was outside unused and rusted.
- Filled with cobwebs and animal excretion.
- Patient's clothes were unwashed and very soiled.

Back and front yard:

- Very Overgrown.

Overall:

- The house was very dirty, filled with cobwebs and animal excretion.
- There had been rats, but they had gone.
- **It is amazing that the patient survived for so long living in such conditions.**

Note:

The rats and mice were still in residence in September 1994 and not mentioned was the abhorrent odor that permeated the house.

Please view the supporting DVD and consider why the two applicants in the NSW Guardianship matter, who were both aware of the victim's long term self neglect and inhumane living conditions, would place Mr. X's name under the heading of:

- **"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?**

7.2:

The situation that caused Mr. X to have a 'genuine concern' for the welfare of his 'hidden' financial interest in the victim's estate:

Because of my father's hospitalization in July 1994 Mr. X lost sole control of him and by late October early November 1994, he had a 'genuine concern' that his 'hidden' financial interest in my father's estate was in jeopardy, for the following reasons:

- He became that I had maintained telephone contact with my father.
- He became aware that I knew of my father's wills and of changes he made to them.
- He also became aware that I knew that he had 'assisted' my father to draw up a two wills.
- **He was aware that I was suspicious of his involvement with my father.**
- **When he informed me that his own solicitor S.J had become my father's solicitor, I told him I felt this was totally inappropriate.**
- **Both Mr. X and solicitor S.J strongly objected to me having joint Power of Attorney, as this would enable me to look into their past financial and legal dealings with my father.**
- **After solicitor S.J put up very strong resistance to releasing the will he was holding on my father's behalf to me, the joint Power of Attorney eventually resulted in both me and my father becoming aware that will 3 was missing.**
- **Mr. X was aware that I returned to Victoria for work commitments in late September 94.**

In mid October 1994:

Mr. X's 'hidden' financial interest was placed in further jeopardy when, **after 18 years of no contact, two financially predatory family members, H & R made contact with the victim.**

- The initial contact was via a letter from daughter H. who advised the victim that daughter R. was getting a divorce and required funds as she faced the possibility of becoming 'homeless', faced life living on the streets and may commit suicide.
- The letter also stated that daughter R's marital home was **mortgage free; she had \$40,000** in her bank account and a small joint debt.
- The subsequent visits by daughters H and R began in late October 1994 and involved them taking their father to the bank to withdraw funds for daughter R.

Note:

Mr. X was aware of the letter from daughter H and he was also aware of H and R's subsequent visits and their trips to the bank to withdraw funds from their father's accounts.

Part 3

How Mr. X covertly triggered applications for 'financial management orders to the NSW Guardianship Tribunal:

The NSW Guardianship Act of 1987 states that an application can be made by:

- 'Anyone, who in the opinion of the Tribunal has a 'genuine concern' for the person with a disability, can lodge an application'.

The NSW Guardianship Act of 1987 does not state that an application can be made by:

- Anyone, who unbeknown to the Tribunal has a 'genuine concern' for their 'inheritance' or a 'genuine concern' for the proceeds of a 'crime' against a person with a disability.

In November 1994 I held joint Power of Attorney with Mr. X and at this time I was in Melbourne in the process of relocating to Bendigo in Central Victoria.

Without my knowledge, Mr. X resorted to subterfuge and covertly triggered the Guardianship action because of his 'genuine concern' that his 'hidden' financial windfall was in jeopardy of:

- Being exposed by me or
- Being interfered with by the two formerly estranged, financially predatory family members.

The 'genuine reasons' for the sudden 'urgent financial management order' applications:

The two separate 'urgent' applications for 'financial management orders' were dated **25.11.94** and **1.12.94**.

Prior to and on these dates **Will 2 of 1989** under which Mr. X and his colleague had a 'hidden' financial interest, **was my father's last locatable will**.

The applications for 'financial management orders' were based on:

- The 'hidden' self financial interests of Mr. X and his colleague.
- The self financial interests of family members H and R, who, until six weeks prior to lodging an application for a 'financial management order, had been estranged from the victim for over 18 years.

Neither of the above had a 'genuine concern' for the subject of their application's welfare.

2.3:

The covert steps taken by Mr. X to trigger the 'urgent' NSW Guardianship action.

Step 1:

He created a 'genuine reason' to trigger Guardianship action by telling my father to place his property on the market for less than its value.

For some time after the Tribunal hearing my father claimed:

- Mr. X told him to sell the property to help his family.
- Mr. X told him that a low reserve would attract more interest and have people fighting over the property like bees around a honey pot.
- My father was very distressed when as soon as the Guardianship action was triggered **Mr. X told him to take the property off the market.**

Note:

At this time was unaware of Mr. X's covert involvement in the triggering of the Guardianship action and I didn't believe my father's claims as I believed my sisters had put him up to selling the property and that by blaming Mr. X, he was protecting them.

Step 2:

To be seen as a 'financially disinterested' party, Mr. X influenced others of use to him to approach the Tribunal:

Applicant 1 was my father's GP:

Mr. X and solicitor S.J communicated with my father's GP and suggested to him:

- As he was my father's treating doctor, **it would hold 'more weight'** if he approached the Guardianship Tribunal for a **'financial management order'**.

Solicitor S.J. also contacted the GP and asked him to provide him with a 'written report' of my father's ability to handle his own affairs and of course, this report was contaminated by Mr. X's opinion.

- Without my father's knowledge or permission, the GP provided solicitor S.J. with a report which was contaminated by Mr. X's opinion.
- This report was later provided to the Guardianship Tribunal.

Applicant 2 was daughter H:

When contacted by daughter H, who, after learning of the impending property sale for less than its value had a 'genuine concern' for her inheritance:

- Mr. X and Mrs. T advised her to approach the Tribunal for a **'financial management order'**.

3.3:

Step 3:

To negate the possibility of me being placed as the 'private financial manager' where I would have the authority to investigate his past legal and financial dealings with my father.

He advised the GP:

- Over \$20,000 has gone from the accounts since one daughter gained Power of Attorney via a new solicitor.

Both Mr. X and Mrs. T advised daughter H:

- A large amount of money had gone from your father's accounts since I began handling his affairs.

The GP's involvement with Mr. X:

After lodging an 'urgent financial management order' application dated 1st December 1994, on the 14th December 1994, the 'very easily influenced GP' wrote to Mr. X in response to his recent phone call to him concerning my father's ability to make rational business decisions and advised him:

- He had approached the Guardianship Board for a 'financial management order'.
- He had involved the Hornsby ACAT team, the hospital Geriatrician, **previous solicitor S.J** and two daughters' H and **June**, who all wanted the Guardianship Board involved.

Note: The GP was confusing me with daughter R at this time, as I was in Victoria and was totally unaware of what was transpiring behind my back.

- **The GP also advised Mr. X to expect to be contacted by the Tribunal.**

This GP was Mr. X's 'star witness' during the 'will dispute' during which he stated in a sworn affidavit:

He approached the Guardianship Board in late 1994 because:

- Mr. X told him of the property sale for less than its value.
- Mr. X told him of 'missing monies' from the accounts.

4.3:

Step 4:

To have himself placed as the 'private financial manager, where he would be protected from scrutiny.

As both the GP and daughter H falsely described by both applicants as:

- **'A person who had a 'genuine concern' for my father who took a personal interest in his welfare, without payment'.**

And the GP placed Mr. X's name under the heading of:

- **The Guardianship will need one or more doctors or other reports about the person's ability to manage personal or financial affairs.**

Documents subpoenaed from the Tribunal during the 'will dispute' revealed that as a result of the above, Mr. X was contacted by the Tribunal Investigation Officer and he advised her verbally:

- He didn't know how the property came to be put up for sale.
- He told the victim not to sell the property for this amount.
- **He had been very active in ensuring the property was not sold for less than its true value.**
- The victim showed him a letter he had signed agreeing for the property to be sold for **\$1 Million dollars.**
- He also saw a letter from the Agents saying that an offer had been received for this amount.
- He had contacted agents in the area and was told the property would be worth \$1.5 Million to \$2 Million dollars.
- The agents stated that if it was sold for \$1 million it would be 'regarded as a steal'.
- Owing to the conflict within the family **it would be preferable for an independent person to manage the victim's affairs.**
- **He indicated his willingness to act as the 'private financial manager'.**

5.3:

Contradictory evidence regarding Mr. X's claims of the previous page:

As stated previously, after the hearing my father consistently claimed:

- Mr. X told him to sell his property to help his family.
- Mr. X told him a low reserve price would have people fighting over the property like bees around a honey pot.
- Mr. X later told him to take the property off the market.

Information provided by me:

- My father denied writing any letter of acceptance of an offer for \$1 Million dollars, and he did not possess a writing pad.

Documents subpoenaed from the Estate Agents during the 'will dispute' revealed:

- My father had received and **refused an offer of \$1 Million dollars.**
- He also refused a **subsequent offer of \$1.2 Million dollars.**
- He advised the Agents that he wanted the property to be auctioned, **but wanted to speak to an (unnamed friend) and his solicitor first.**

Other relevant information:

- **Mr. X did not provide the 'alleged' letter of acceptance of the offer of \$1 Million dollars as evidence to the Guardianship Tribunal in 1995 and he was unable to provide it as evidence in the 2002-05 will dispute, because it never existed.**
- **Mr. X failed to tell the Investigation Officer of his other covert activities or that he had a 'genuine concern' that the proceeds of his prior exploitation was in jeopardy.**
- **Mr. X didn't need to contact agents re the property value, as he was well aware of the value of the property.**
- **I don't believe a person with a 'hidden' financial interest in the subject of an application's estate would be viewed as an 'independent person'.**
- **Being placed as the 'private financial manager' would allow him to achieve steps 3 and 4.**

6.3:

My father's reaction to the pending Guardianship action against him:

- He was extremely angry with daughter H who he believed was fully responsible for the Guardianship action against him.
- He suffered from heart disease and as he was extremely emotionally and psychologically disturbed, it was a miracle that he didn't suffer from a further heart attack at this time.
- After the Guardianship action was triggered he withdrew his property from sale **at a financial loss of around \$10.000.**

My father's telephone calls to Guardianship Investigation Officer:

While in an extremely confused and agitated state he made numerous calls to above officer:

On the 6th February 1995:

- He stated he did not require a financial manager
- It was only after daughter H found out about the reserve that she started to doubt my ability.
- I think I cancelled the Power of Attorney that I gave Mrs. Walker.
- Mr. X may have Power of Attorney. I think I gave it to him. I'm not sure.

Note:

Under suspicious circumstances, on the **3rd February 1995** which was just two weeks prior to the hearing of the 17th February 1995, Mr. X became:

- The sole executor of the will of the 2nd December 1994 and
- The sole Power of Attorney.

[Details of the will of the **2nd December 1994** are discussed in part 4 of this submission]

On the 9th February 1995:

My father rang Investigation Officer and stated:

- I would like to nominate Mr. X. [he quoted X's name and prominent position].
- I would like Mr. X to help me in every way possible.
- I don't want to sell never, never, not during my life.

7.3:

In regard to my father's calls to the Tribunal Investigation Officer:

In regard to undue influence:

I witnessed Mr. X and Mrs. T exerting undue influence over my father, who, at this time was the sole occupant of a hostel room.

- At this time I was in Victoria and my sisters H and R had ceased visiting the victim.
- This gave Mr. X and Mrs. T, who would only speak to my father alone, behind a closed door, **ample opportunity to deliberately anger and confuse him, turn him against others and instruct him as to what he was to say or not to say to the Guardianship Tribunal.**
- My father fully blamed daughter H for the Guardianship action and he was extremely angry and hostile towards her.
- Like me or the Tribunal at that time, he was not aware of Mr. X or the GP's involvement in the Guardianship action and if he had known of their involvement, **he would have been angry and hostile towards him and he would not have wanted Mr. X to manage his affairs.**

Note:

As Mr. X claimed that my father lacked the capacity to instruct a solicitor on the 2nd of December 1994, as he didn't have a phone connected in his room in February 1994, it is amazing that he was able to locate a telephone and dial the correct number to speak to the Tribunal Investigation Officer.

Perhaps Mr. x assisted him to make this call.

PART 4

The NSW Guardianship hearing of 17th February 1995:

Those present at the hearing were:

- My father, who was driven to the hearing by Mr. X and was trembling with fear and had wet himself.
- Myself.
- My two estranged sisters H and R.
- Solicitor Mr. John B who represented my father.
- **Mr. X who attended the hearing under section 57 of the Guardianship Act of 1987.**
- Three 'expert' Tribunal members.

While in the reception area waiting for the hearing to commence, my estranged sister H handed Mr. X (who she only met in person at this time) the letter I provided to the Tribunal in which I described my concerns about him and his associates.

After reading the letter Mr. X approached me and in a quiet but threatening manner and he stated:

- **"I am warning you June, I am not a man to mess with".**

This threat by Mr. X added to stress and confusion I was already feeling by being accused of stealing monies from my father's accounts.

Regarding my father being legally represented at the Guardianship hearing of 17.2.1995.

At the commencement of the hearing, like others present, Mr. X was given the opportunity to object to my father being legally represented by solicitor Mr. John B.

- Mr. X agreed to my father being legally represented at the hearing as **it suited his covert purposes for the expert Tribunal members to 'take advice' from my father at that time**.

In relation to Mr. X's claim in the NSW Equity Court 'will dispute' of:

- **My father didn't know what was going on at the NSW Guardianship hearing on the 17th February 1995.**

After reading the remainder of this letter you will see that in some ways the above claim is true, as Mr. X - OAM was the only person at the Guardianship hearing who knew '**what was really going on**'.

2.4:

The NSW Guardianship Tribunal is bound by the principles of natural justice:

I believe this means that this legal Tribunal is bound to be 'unbiased' and to be 'fair' to all parties to proceedings.

What allegations were tested at the Guardianship hearing?

- The only allegations tested at the hearing were the allegations of 'missing monies' totaling over **\$36.000** which were directed at me by both applicants (courtesy of Mr. X) and these allegations were found to be false and misleading.
- The allegations I directed at Mr. X and his associates were totally ignored.

Sections 105 and 106 of the NSW Guardianship Act of 1987 and a clause on the Tribunal's application forms indicate:

- It is an offence to provide false or misleading information in an application.
- Penalty up to \$500.00.

How the Tribunal members treated the provision of the false and misleading information directed at me:

- **They turned a blind eye to the false and misleading allegations of daughter H.**

Rather than contact the GP, who did not attend the hearing as he conveniently withdrew his application after becoming aware daughter H had approached the Tribunal, the Tribunal members simply fabricated an excuse that had no bearing on 'reality' or 'the truth' on the GP's behalf by concluding:

- **We are satisfied the GP was under a misapprehension in connection to the withdrawal of \$20.000 or so from the bank accounts.**

During the hearing solicitor Mr. John B. mentioned a payment I had advised him was made to the Retirement Village to gain my father's placement there and this resulted in the Tribunal members adding to the excuse for the GP's lies, by concluding:

- **The withdrawal for this in part may have lead to some confusion by the GP.**

Note:

Mr. X sat in silence during the discussions of the alleged 'missing monies' and he was no doubt very satisfied with the expert Tribunal member's failure to place the applicants under scrutiny and very satisfied with the fabricated excuse that he knew, had no bearing on reality or the truth.

3.4:

The announcement of the 'new will' of 2nd December 1994:

During the hearing solicitor Mr. John B. advised the Tribunal and all present:

- **On the 2nd December 1994 he had drawn up a 'new will' on behalf of my father.**
- This will left the estate equally divided between his three daughters.
- All three daughters were named as **executors**.
- All three daughters were initially given joint Power of Attorney, **however, later that day he changed his mind and he made daughter June the sole Power of Attorney.**

Discussion re the changes to executors and Power of Attorney on the 3rd February 1995:

Solicitor Mr. John B. also advised the Tribunal:

On the **3rd of February 1995**, he attended the victim's hostel room at a pre-arranged time, for the purpose of **adding a codicil to the December 1994 will and to make a change to the Power of attorney** which resulted in:

- **Mr. X becoming the sole executor of the will of the 2nd December 1994**
- **Mr. X becoming the sole Power of Attorney.**

Note:

Changes to wills, executors and Powers of Attorneys are signs of financial exploitation.

How the Tribunal members treated the changes of executors and Powers of Attorneys on the 3rd February 1995:

Regardless of my not being in Sydney at the time, the change naming me as the sole Power of Attorney on 2.12.1994 added to the Tribunal member's suspicions of me, however, **solicitor Mr. John B was not placed under scrutiny regarding the changes he made on the 3rd February 1995 and the Tribunal members simply concluded that by making these changes:**

- **They were satisfied that the victim was acting in an irrational manner.**

Note:

Documents provided by solicitor Mr. John B. during the 2002-2005 'will dispute' revealed that:

- **On 3rd February 1995, Mr. X and Mrs. T 'just happened' to be in the victim's room or nearby at the exact time of solicitor Mr. John's B's appointment with the victim to make changes to the executor and Power of Attorney.**
- **Mrs. T witnessed and signed the codicil to the will which resulted in Mr. X becoming the sole executor.**

Once again, Mr. X sat in silence during this discussion and he was no doubt very satisfied with the Tribunal member's lack of interest and their false conclusion regarding the changes of 3rd February 1995.

4.4:

The NSW Guardianship Tribunal relies on 'credible' and 'relevant' evidence:

My involvement in the Guardianship matter:

Being the only family member who maintained contact with my father and the last person to learn of the pending Guardianship action against him, I contacted the Tribunal Investigation officer who advised me that if I wished to attend the hearing, I would have to lodge an application to become a party to the proceedings.

As I considered being accused by both applicants neither of whom had access to my father's bank accounts of misappropriating over \$36,000 from the accounts, to be a 'serious matter', I advised the Tribunal Investigation Officer that as I suffer from anxiety attacks in stressful situations and may not be able to efficiently represent myself at the hearing, I wished to be represented by a solicitor.

- **My request to be legally represented at the hearing was denied.**

As a result of the above I lodged an application and provided details in writing of the 'mind games' Mr. X, Mrs. T and solicitor S.J. subjected me to while I was in Sydney assisting my father in September 1994.

The many concerns I raised included the following:

- Over the years my father had discussed his wills with me.
- I was unable to locate his last will. (the missing will)
- During conversations with Mr. X he frequently mentioned my father's will.
- He questioned me to ascertain if I was aware of the contents of my father's will.
- He appeared to know more about the contents of my father's will than my father did.
- He is or was a beneficiary in my father's will, and is or was a trustee of a trust which he said is still valid, although my father insists it wasn't. (missing will)
- Mr. X initially advised me he didn't know who my father's solicitor was.
- He later advised me that his own solicitor was also my father's solicitor.
- Mr. X and Mrs. T had gained access to my father's bank accounts and held books of blank cheques which my father pre-signed.
- They were evasive when questioned regarding their access to the bank accounts.
- Mr. X objected to me having joint Power of Attorney with him.
- Regardless of being aware that I held joint Power of Attorney with Mr. X, solicitor S.J refused to provide me with a copy of the will he was holding on behalf of my father.
- When solicitor S.J finally released the will to me, it was not the will my father expected to see, it was the will which included a 'trust fund' for the animals, under which Mr. X and his colleague stood to gain considerable shares of the estate.
- On sighting the will released by Mr. X's solicitor, my father insisted this was an old will and that he had done a much easier will which didn't include a 'trust fund'.
- While my father was in hospital, in Mr. X's presence, Mrs. T was overheard instructing him: **"If you go to see your solicitor ~~Gamb~~, you go alone and don't take June"**.
- My father was happy to have me around while he was in hospital; however, he became different after visits from Mr. X and Mrs. T.
- **Mr. X had too much control over my father and as much as he insists he only has his best interest at heart, and is not doing anything for financial gain, I don't believe him.**

5.4:

How the NSW Guardianship Tribunal treated my evidence:

As access to bank accounts, interference with wills, changes of solicitors, especially to a suspected perpetrator's own solicitor, evasiveness when questioned in relation to these matters and undue influence are all signs of financial exploitation, my evidence as described on the previous page should have raised a **RED FLAG** to the possibility of prior exploitation by Mr. X.

Regardless of Mr. X's 'hidden' tactic of throwing suspicion of financial wrongdoing on me proving to be baseless, I was automatically seen as a 'potential' financial predator and my evidence was seen as 'lacking credibility' and not being 'relevant' to decisions the Tribunal had to make as to who to place as my father's 'private financial manager'.

Who was the best person to place as the 'private financial manager'?

In making their quasi legal decision regarding the 'most suitable' person to place as the 'private financial manager', the Tribunal members concluded:

- **"Mrs. Walker has expressed some distrust in her correspondence to the Board as to the actions and motivations of Mr. X, but he seemed to this Board to be open, forthright and a most suitable person to be appointed because of his long term relationship with Mr. M██████ and Mr. N██████ obvious reliance and trust in him.**
- **Mr. X has indicated his willingness to act. The Board accepted that he could interact with Mr. M██████ so that Mr. M██████ within the limits of his dementia disability which has led to this management order may be able to influence the broad directions of the management of the estate.**
- **The Board thought that Mr. X could bring to the task of management an ingredient of affection and friendship which can add to the task of management. A long knowledge of the person and his interests may contribute to the task of management.**

In their subsequent findings the Tribunal/Board members also falsely concluded:

- **The Board is confident that it has given 'due weight' to all of the evidence before it when exercising its power to appoint a manager for Mr. Moreland's estate and throughout the Board has been concerned to achieve the best interests of Mr. M██████ himself.**

As, like the Tribunal members, my two sisters H and R were very impressed by Mr. X's professional standing in the community, they agreed to him being placed as the 'private financial manager', I was powerless to object.

Part 5

Self 'financially interested parties' lack of interest for the on-going needs and welfare of their financial benefactor after the Guardianship hearing.

Having secured their own personal financial interest, family members H, R and 'alleged' friend, Mr. X ceased visiting the subject of their 'urgent' applications.

18 months after Mr. X was placed as the 'private financial manager':

- The clothing I purchased for my father prior to the Guardianship hearing had worn out.
- Hostel staff were providing the 'millionaire' former subject of 'urgent' applications for 'financial management orders' with cast off clothing belonging to other hostel residents, as those who were seen as having a personal interest in his welfare, failed to take any interest in providing for his on-going personal needs.
- On becoming aware of my father's need for new clothing and being unable to travel to Sydney in person, I contacted a local department store and arranged to have a staff member visit my father in his hostel room to take his measurements and then provide for his clothing needs.

As well as the above:

- Over a year after he vacated his home, my father was still receiving electricity and water accounts, as Mr. X had failed to have these services terminated.
- My father's personal mail, much of which came from overseas as a result of his long term interest in kangaroos being covered in various news and magazine articles, was being re-directed to the dead letter office.
- Taps on the property and in the house were left running.
- Anything of value was stolen from the property i.e.: gates, windows, fencing, doors, door fittings, light fittings, furniture, tools and guttering etc.
- What wasn't stolen was smashed.
- Derelicts were using the property for shelter.
- Locals were using the property as a rubbish dump.
- As the property was a 'fire hazard' the local council placed an order over it to have it cleaned up, however, this order was ignored for well over 12 months.

As a result of the above, I wrote a letter of complaint to the OPC and provided them with a video showing the state of the property.

2.5:

Actions of the appointed 'private financial manager' Mr. X while under the 'normal' supervision of the Office of the Protective Commissioner (OPC)

In his trusted role of the 'private financial manager', at some point in time, **the OPC required Mr. X to provide them with my father's last known will.**

As discussed previously, Mr. X was present at the Guardianship hearing on the 17.2.1995 and like others present, he was made aware of the existence of the 'new will' of the 2nd December 1994, however, instead of providing the OPC with this will:

- **He provided the OPC with the will of December 1989 that was drawn up by solicitor S.J, under which he and his colleague gained a financial benefit.**

Regardless of the fact that the will of the 2nd December was well documented in the NSW Guardianship findings of which the OPC received a copy of; **this deception by Mr. X was unobserved by the OPC.**

My requests for information from the OPC:

Some time after the Guardianship hearing, I contacted the OPC to ascertain 'what will' Mr. X had provided them with and I was very curtly advised:

- **We can't tell you that, it would be an invasion of privacy.**

Note:

Owing to the arrogant and disinterested attitude of the OPC member I spoke to, Mr. X's provision of the will of 1989 to them instead of the will of 2nd December 1994 was not revealed until after my father died in 2002.

Property sale Number 2:

Owing to unpaid Council Rates (for many years) and mounting land Taxes; my father's property was sold in around 2000 for around \$2.4 Million dollars...

When learning of the impending property sale, I advised the OPC that:

- I did not want solicitor S.J to be involved in the property sale.
- **My request was ignored and solicitor S.J acted with Mr. X in relation to the property sale.**

As I was concerned that Mr. X may have sold the property to a company he was involved in or to a family member or friend, after the 'sale' I contacted the OPC and asked them what supervision Mr. X was under during the property sale and I was advised verbally:

- **We don't supervise private financial managers, we trust their integrity.**

Part 6

Claims made during the 'will dispute'

Statements made by solicitor S.J during the NSW Equity Court matter regarding his involvement with Mr. X and my father's wills:

- Mr. X was a client of the practice at the time he took over in 1977. Since then he acted for Mr. X in some conveyancing matters and a dispute with a coal mining enterprise.....
- In 1988 or 1989 Mr. X asked him: **"Would you go and see a 'good friend of mine' who wants a will drawn up", subsequently, at some time in 1989, he met G. of.....**
- On the **14th December 1989** he again attended G. property accompanied by his secretary. He paraphrased the will to G. and G. signed the will. He and his secretary witnessed his signature.
- Shortly after Dec. 1989, Mr. X asked him: **"Did you do that job for Garth? He said "Yes".**
- Apart from this brief conversation, he did not discuss the will of the **14th December 1989** with Mr. X until about **2002**, after G. died.
- Subsequently he heard little of G.
- He sometimes asked Mr. X **"How is G?"**
- In 1994 Mr. X or his secretary Mrs. T said: **"He (G.) is in Hospital".**
- In **2002** he could not locate the file relating to his preparation of the will dated **14th Dec. 89.**

Note:

I believe that solicitor S.J passed away in late 2004.

As stated previously, Mr. X was present at the Guardianship hearing when the discussion regarding the 'new will' of the 2nd December 1994 took place.

Former friend and executor of my father's 1987-1988 will Mrs. B stated:

In August 1988, Mr. X rang and speaking in an angry and intimidating manner he stated:

- I have just found out what G. has done with his will and I don't approve of it.
- I am going to get him to change it.

Mrs. B. was shocked by the way Mr. X spoke to her and she noted the conversation in her diary.

2.6:

Sworn evidence provided by Mr. X during the 'will dispute' regarding:

- His knowledge of my father's wills.
- His knowledge of where my father's last will was located.
- His knowledge of who my father's solicitor was.

In response to a sworn affidavit provided by me in which I stated that In September 1994 I asked Mr. X if he knew who my father's solicitor was and that:

- Mr. X initially claimed he didn't know who my father's solicitor was but he thought he had a solicitor in the city.
- He later advised me that his own solicitor S.J had become my father's solicitor.
- He told me that he knew my father's will was with his solicitor.

Mr. X replied to my claims via a sworn affidavit:

In August/September 1994, I asked him if he knew who my father's solicitor was and he replied:

- 'He thought he had a solicitor in the city, **but he didn't know his name.**
- **He knew solicitor S.J. had done a will for G. but he didn't think he was his 'usual solicitor'.**
- **He didn't know who had his will or where it was.**

In response to my claim that in September 1994, Mr. X angrily advised me:

- **"The will containing the 'trust fund' was still valid and you girls are well provided for".**

Mr. X replied:

- **He had no knowledge of the contents of the 1989 will or any subsequent will until after G. died in 2002.**

In regard to claims made by me regarding Mr. X's knowledge of the will of the 2nd Dec. 1994:

Mr. X stated in a sworn affidavit:

- He had no recollection of being present and hearing a will being mentioned at the Guardianship hearing on the 17th February 1995.
- He had no recollection of ever reading such information in the Guardianship findings.

Note: The NSW Guardianship Tribunal records will confirm that the claims made by Mr. X are false and misleading.

Documents obtained from the NSW Kangaroo Management Program in around 2002 revealed:

On the **12th May 1989**, Mr. X had spoken to an officer from that program regarding their ongoing problems having my father reduce the number of animals he kept on the property and **Mr. X advised the officer:**

- **"He has been left money to look after them when Mr. M. dies".**

Part 7

My complaints to the NSW Guardianship Tribunal.

As the Tribunal members:

- Ignored the fact that applicants provided false and misleading information in their applications,
- Failed to give 'due weight' to my evidence,
- Failed to be fair to all parties to the proceedings and
- Discriminated between parties to the proceedings,
- Placed a person I distrusted in the position of my father's 'private financial manager'.

I lodged a complaint to the Tribunal regarding the handling of my father's case and I was advised:

- I had 'no right' to question the Tribunal's reason for decisions.

Further complaints resulted in the former Tribunal President Mr. Nick O'Neill advising me in writing:

- **'It is not the role of the Tribunal to ascertain 'the truth' or otherwise of allegations made before it'**

As I believe it not being the role of a 'legal Tribunal' to ascertain 'the truth' or otherwise of allegations made before it, opposes sections 105 and 106 of the NSW Guardianship Act of 1987 and also opposes the principles guiding the Tribunal, I again wrote to Mr. O'Neill, who, owing to my interpretation of his above statement, in a letter dated 9.12.1999, kindly provided me with the following explanation:

- **"In a number of cases before the Tribunal, a range of allegations get made that are not directly relevant to the role of the Tribunal.**
- **As has been pointed out before, the role of the Tribunal, is to determine whether or not a person is able to manage their own affairs or make their own life decisions and if not, whether there are decisions that need to be made on their behalf and if a substitute decision maker needs to be appointed for them.**
- **The Tribunal then needs to determine who should be appointed to make decisions on their behalf.**
- **Where allegations are made that are not directly relevant to the Tribunal determining those legal questions of disability, incapacity and need, it is not the role of the Tribunal to determine the truth or otherwise of those allegations.**
- **The Tribunal does take account of allegations that have been made that are relevant to decisions it has to make.**
- **Whilst it does not have the jurisdiction to determine whether wrongdoing has occurred, the Tribunal takes evidence in relation to those allegations to the extent appropriate for it to determine who to place as the substitute decision maker"**

Mr. O'Neill also advised me to **take my concerns to the Supreme Court**; however, as Supreme Court action is only available to people with deep pockets, and as I had no family support at this time, this option was not available to me and the option of taking my concerns to the Administrative Decisions Tribunal was not applicable until around 2002.

2.7:

As the NSW Guardianship Tribunal is 'allegedly' an accountable Tribunal, I lodged many complaints regarding the handling of my father's case with various ministers for the Ageing and Disabilities, however, this action proved to be futile as the Ministers simply got their heads together with the Tribunal President and in replying to my complaints they simply repeated information previously provided to me by the Tribunal.

In 1999 the Hon Faye Lo Po' MP who is mentioned in part 1 of this submission, advised me

- **It is not the role of the Tribunal to test every allegation made at a hearing.**
- **Rather as a fact finding body, it addresses itself to questions of whether a person is incapable of managing their finances and whether there is a need for a formal order.**

Mrs. Lo Po' also stated:

- **As Minister for Community services, the Guardianship Tribunal falls within my portfolio responsibilities.**
- **However, it is an independent Tribunal and it is not appropriate for me to comment on or to attempt to influence to influence decisions made by the Tribunal.**

In regard to the above, I did not ask Mrs. Lo Po' to interfere with decisions made by the Tribunal, I advised her of the problems that I am now describing in this submission.

I also asked Mrs. Lo Po' to implement an Inquiry into the Tribunal, to which she replied:

- **I'm afraid I cannot support your call for an inquiry.**
- **Courts and Tribunals like the Guardianship Tribunal form part of the judicial arm of the Government.**
- **Their independence has developed historically as a safeguard against the possible misuse of influence by members of Parliament.**
- **In the case of the Guardianship Tribunal the relevant legislation states that appeals against their decisions are to be to the Supreme Court of NSW.**
- **I hope that this information has been of assistance to you.**

Part 8

Conclusion:

I believe I have shown that:

- The NSW Guardianship Tribunal is a legislative regime that fails to adequately address the legal needs of people with disabilities in the areas of abuse, neglect and exploitation.
- Both the NSW Guardianship ACT of 1987 and the Tribunal itself provides no protection whatsoever for people with disabilities
- The NSW Guardianship Tribunal makes legal decisions regarding the rights welfare and protection of people with decision making disability based on discrimination and guesswork.
- The NSW Guardianship Tribunal is open to abuse by financial predators.
- The fact that evidence before the Tribunal is exempt from proceedings under the Defamation Act, supposedly to protect the interests of vulnerable people, simply serves to 'protect' people who lie in applications
- The NSW Tribunal members who presided over my father's case made a mockery of:
 - (a) The principles guiding the Tribunal and
 - (b) The principles of natural justice.
- The NSW Guardianship Tribunal is not an 'accountable' Tribunal.
- The principle guiding the Tribunal of "taking the person's view's into consideration", when this person may be acting under the 'undue influence' of another party with a far superior intellect and an ulterior motive, without firstly testing the reality of those views, is not in the best interest of the person concerned.
- The NSW Guardianship Tribunal is a Fact Finding Tribunal that makes quasi legal decisions without finding out all of the real facts.
- The NSW Guardianship Tribunal appears to place more importance on the 'expertise' of their members, their well run office and getting through their increasing workload in a 'timely manner', than they do on the rights, welfare and protection of the people with decision making disabilities, who are the reason for the existence of the Tribunal and for the employment of the Tribunal members and staff.
- The secrecy surrounding NSW Guardianship protects people who make false accusations and hides the incompetence, bias and negligence of the tribunal members
- The only people the NSW Guardianship Tribunal Act of 1987 provides 'real protection' to, is the Tribunal itself and applicants.
- The responses to my complaints from former NSW Guardianship Tribunal President and various Ministers for Ageing and Disabilities show that all the Tribunal wants to know is **"whether a person has the ability to manage their own affairs and if not, who to place as the substitute decision maker"**.

2.8;

In relation to former NSW Guardianship Tribunal Deputy President Marion Brown's statements in her submission to the LACA inquiry of:

- **Financial abuse was by far the most common form of abuse experienced by older Australians, which resulted in an application being made to the Tribunal.**
- It should be noted however, that most of these applications **would not relate to a situation of financial abuse or exploitation.**

These two statements appear to contradict each other and as:

- **It is not the role of this legal Tribunal to ascertain the 'truth' or otherwise of allegations made before it** prior to making legal decisions that affect the basic human rights of a person with a disability.
- The Tribunal does not have the jurisdiction to determine whether or not wrongdoing occurred prior to their involvement.
- Does not establish the names of all 'financially interested parties' via checking existing and earlier wills.
- Does not thoroughly check changes to solicitors, executors or Powers of Attorneys.
- Does not ascertain the names of all people who have had access to the person's bank accounts or determine when these people acquired this access.

This Tribunal would have 'no idea' or 'real interest' in whether or not a person with a disability had been financially exploited prior to becoming their involuntary clients and 'no idea' whether or not a 'financial predator' was sitting in front of them, as all of the above points effectively negate the Tribunal's role of protecting their vulnerable, involuntary clients from abuse, neglect and exploitation and leave the Tribunal open to abuse by financial predators, which is exactly what occurred in my father's case.

Further case study:

In around September 2006 there was a story on the television program '**A Current Affair**' regarding an elderly woman who I will call Mrs. Francis J. Mrs. J was a widow who was legally blind. She had no children but did have nieces and nephews who assisted her on occasions but they all lived some distance from Sydney.

The story concerned a Moslem taxi driver named S■■ who at times drove Mrs. J. to her medical and hospital appointments. **He 'befriended' Mrs. J. and somehow became her 'guardian'.**

When Mrs. J. was on her deathbed in hospital, S■■ arrived with some documents for the 'legally blind' Mrs. J. to sign. One of the documents was a 'will' under which S■■ gained financially and the other document legally changed her religion from I believe it was Catholic to Moslem.

After Mrs. J. died, S■■ inherited Mrs. J's home and buried her without a coffin, as is Moslem custom.

I approached 'A Current Affair' for full details of this case; however, they would not release the video footage or details to me because of the '**Privacy Act**'.


3.8:

The alarming point about this quasi legal Tribunal is that if, like other family members, I hadn't been in touch with my father, Mr. X could have easily influenced my father to tell the Tribunal that he had no family and Mr. X could have feigned a 'genuine concern' for my father and taken him before Guardianship Tribunal without my or my sisters knowledge and he would have easily achieved the same outcome.

I firmly believe the reason Mr. X didn't approach the Tribunal at an earlier time was because my father was meant to be found dead in his home, before family members or the authorities became involved.

I trust you understand the frustration that I and others who have 'genuine concerns' about the rights, welfare and protection of people with disabilities, who, unfortunately become 'involuntary clients' of this quasi legal Tribunal feel, as for many years our attempts to have this Tribunal exposed and 'investigated,' have been ignored and in the best interests of people with decision making disabilities who will possibly become involuntary 'clients' of this Tribunal, we would like to see recommendation (29) of the LACA Committee's findings that **the Standing Committee of Attorneys General (SCAG) conduct a 'review' into the legal needs of older people appearing before Guardianship Tribunals or Boards** to be carried out as soon as possible in order to change the current situation which is a national disgrace.

Yours Sincerely,



June Walker.