

**IN THE AUCKLAND DISTRICT COURT**

**CIV2012-**

<b>BETWEEN</b>	<b>GRACE HADEN</b>
	<b>First Plaintiff</b>
<b>AND</b>	<b>VERISURE INVESTIGATIONS LIMITED</b>
	<b>Second Plaintiff</b>
<b>AND</b>	<b>NEIL EDWARD WELLS</b>
	<b>Defendant</b>
<b>AND</b>	<b>WYN HOADLEY</b>
	<b>Second Defendant</b>
<b>AND</b>	<b>GRAEME JOHN COUTTS</b>
	<b>Third Defendant</b>

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**Affidavit of Grace Haden with regards to new evidence to support application  
S289 Rescinding order for fraud, District Courts Rules 1992 & 17.2.2 & 17.2.3  
District Courts Rules 2009 , Obtaining a decision by fraud and deceit,  
miscarriage of justice**

**DATED 4 April 2012**

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**Grace Haden**  
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**AUCKLAND**  
**095201815**  
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Lay litigant and Director of Verisure

1. My full name is Grace Haden I am a licenced Private Investigator, member of the Certified Fraud Examiners Association and former Police prosecuting Sergeant.
2. On 18 July 2006 Neil Wells, Wyn Hoadley and Graeme Coutts initiated proceedings by way of a Statement of Claim ( SOC ) CIV -2006-004-001784 **Annexure A** against myself, Verisure Investigations Limited ( VeriSure) and a legally registered charitable trust named the Animal Welfare institute of New Zealand ( register number 1809454) incorporated on 27-APR-2006, of which I was a trustee. ( The legal AWINZ ) **Annexure B**
3. The SOC was filed unsupported by any affidavits or evidence.
4. The proceedings were taken in a manner which prevented discovery and through the successful striking out of the defence of truth and honest opinion, went to a Quantum hearing in which the uncorroborated evidence of Mr Wells was accepted.
5. After exhausting the appeal process, I made a complaint to the law society and through this new evidence came to light which proves that the proceedings were taken with intent to use the court to deceive and that the claims were fraudulent.
- 6. The impact on the SOC is as follows**
7. In the SOC Mr Wells, Ms Hoadley and Mr Coutts claimed to be trustees of the Animal Welfare Institute of New Zealand an unincorporated charitable trust which was formed pursuant to a trust deed executed on 1 March 2000.
  - a. This statement has with the new evidence referred to below been proved to be false.
8. The SOC further claimed that this trust called the Animal Welfare Institute of New Zealand (AWINZ trust) was the approved organisation which had filed an application with the minister on 22 November 1999.
  - a. The new evidence proves this to be highly improbable.
9. There were two claims by the alleged trustees of the AWINZ trust against myself and the legally registered AWINZ, one for passing off the other for Breach of fair trade.
  - a. The new evidence shows that there were no grounds for these claims .
10. There was one claim by Neil Wells against all myself, VeriSure and the Legal AWINZ for defamation. No evidence was ever provided to support these

allegations and no evidence was given as to why the statement was false or known by the maker to be false.

- a. The new evidence proves that the alleged defamatory statements attributed to the defendants were in fact true and reasonably understood by Mr Wells to be true at the time they represented to the court that they were not true.

11. On 9 and 10 March 2007 there were a number of interlocutory applications heard before Judge Sharp. These involved the tort of passing off and the claim of breach of fair trade. No evidence was present to support the allegation that Mr Wells, Ms Hoadley and Mr Coutts were trustees of any trust

- a. In light of the new evidence they were not entitled to a favourable judgement.

12. The Defendants, through counsel misled the court with regards to discovery and discovery was thereby evaded.

- a. The new evidence reveals this act to be deliberate and with intent to prejudice the case against the us and seek and advantage for Mr Wells, Ms Hoadley and Mr Coutts.

#### **Effect of the fraud on the court**

13. The interlocutory hearings, based on the fraudulent claims brought about \$12,200 costs against me, VeriSure and the legally registered AWINZ, jointly and severally.

14. The matter progressed to settlement conference before a different judge but there was no settlement.

15. During the settlement conference Mr Wells and Mr Didovich produced a trust deed dated 1 March 2000 purporting to be the original of **Annexure C** which had been supplied prior to proceedings being launched

- a. The deed produced in court was different to that of the copy **Annexure C** and did not bear the plaintiffs joint names.

16. On 28 June 2007 Judge Sharp issued Minutes with regard to time tabling **Annexure D**. Directions required the debt to be settled in 14 days and directed the Plaintiffs in the proceedings to file an amended statement claim within 21 days.

17. Despite an attempt to settle the claim the strike out was enforced but a new statement of claim was never filed.

18. In October 2006 I was contacted by the registrar of the court. The matter had been taken back for a quantum decision and in so doing the court was advised that I would probably not attend. I had not been served in any capacity.
19. On 10 December 2007 Mr Wells swore an affidavit **Annexure E** for quantum only and does not address the claims in the statement of claim.
  - a. On 24 January 2008 Mr Wells filed another affidavit relating to the income he received for training animal welfare officers through Unitec.
  - b. I raised objections with regards to its contents and this affidavit, as a consequence, had no effect on the proceedings.
20. On 13 March 2008, Judge Joyce hears the matter for Quantum; it is in the same week as a bankruptcy action was instigated against me for the interlocutory sums. This saw my attention and energy divided between two large legal matters all in the same week.
21. I was debarred from a defence and expected the proceedings to be along the line of a formal proof. Instead it leapfrogged straight into a quantum hearing with Mr Wells swearing in the witness box that the contents of the SOC were true.
22. On 14 May 2008 before Judge Joyce's decision was released, on the directions of the high court judge before whom I appeared for the bankruptcy, I filed an application for a set aside and stay CIV No. 2006/004/1784. This was addressed in Judge Joyce's Judgment in CIV -2006-004-001784, this application too, was lost due to the deceit.
23. Throughout the High court preceding and the subsequent judicial review application CIV 2008-404-5500 and CIV 2010-404-2050 I repeatedly attempted to bring up the issue that the decision was obtained by fraud and sought proper consideration of the court with details of the fraud.
  - a. I know now that fraud was never considered as it was outside the scope of the appeal
24. After employing several lawyers and exhausting all avenues for appeal I took the matter to the law society with regards to the conduct of lawyers concerned.

#### **New evidence**

25. In an attempt to exonerate himself and others, Mr Wells produced documents **Annexure F**. These documents with the exception the alleged copy of original trust deed **Annexure C** are documents which have never been seen before and came into my possession on 6 July 2011, well after the court process was over.

26. As a result of these documents I made a complaint to the Law Complaints Review Authority as these documents have a direct bearing on the integrity of the statement of claim and the plaintiff's victory in the interlocutory applications and by withholding them secured the judgement in their favour by Judge Joyce.
27. In 2009 I made an Official Information act (OIA) application for two documents whose existence I became aware of after receiving a copy of a letter released under LGOIMA dated 5 November 2009, from Waitakere city council .**Annexure G**, The properties of this letter show, to me as an experienced investigator of fraud, that it was prepared by Mr Wells and the signature of Wyn Hoadley was pasted into it.
28. Because MAF refused to release the requested documents, it took a further 2 years to obtain them via the ombudsmen.
29. On 3rd September 2011, I received the Audit report **Annexure H** from MAF, released upon the direction of the Ombudsmen.
30. On 23rd September 2011, again through intervention of the Ombudsmen, I received the revocation letter **Annexure I**.
31. This information and a detailed report showing how this information impacted on the proceedings was also sent to the LCRO and I resolved to await the outcome of their investigations before taking any legal action.
32. On 24 November 2011 Mr Wells had the judgement of Judge Joyce sealed.
33. On 13 December 2011 without bringing the sealed documents to my attention or making a demand for the judgement sum, he commenced bankruptcy action for an escalated sum of \$123,887.08 **Annexure J**
34. In a parallel move Liquidation proceedings **Annexure K** are commenced against VeriSure Investigations Limited, which despite being a legally registered company was held liable for no other reason than being "my alter ego"
35. ON 20 December 2011 Mr Wells filed **Annexure L 4** on the charities web site for a trust formed by trust deed 5 December 2006 **Annexure F8** which comprised of the plaintiffs and the previous manager of dog and stock control Waitakere Tom Didovich. This trust was also called AWINZ.
36. This trust became a charity on 28 September 2007 and has paid the costs associated with the litigation as shown by the annual returns filed by Neil wells on their behalf with the charities commission. **Annexure L 1 - 4**

### **Details of the new evidence**

37. The new evidence **Annexures F, H, I, J, K and L4** due to their dates of release and publication, were not available at the time of the hearing or at any other time during the court process.
38. The new evidence proves that there has been a serious miscarriage of justice through the fraud and deceit on the court in
- a. Fabricating a SOC which was sworn as true and there by treated by the court as truth.
  - b. The interlocutory applications before Judge Sharp where the standing of Wells Hoadley and Coutts was challenged.
  - c. The settlement conference where a fabricated deed was produced.
  - d. The application for stay and set aside which in the absence of this new evidence failed.
  - e. The Judgment of Judge Joyce was obtained on the basis that the fabricated statement of claim was accepted as fact and based on Mr Wells deceitful affidavit.
39. The new evidence supports my assertions to the court that
- a. Mr Wells, Ms Hoadley and Mr Coutts had no merit and no standing in their claims of passing off and breach of fair-trading act.
  - b. Mr Wells, Ms Hoadley and Mr Coutts together had no acceptable evidence of being trustees in a trust charitable or otherwise at the time of the statement of claim being filed.
  - c. Mr Wells, Ms Hoadley and Mr Coutts had no evidence of together being the approved Organisation.
40. The new evidence provides proof of perjury, fabricating evidence, deceit and fraud on the court during these proceedings and associated proceedings.

### **Why the court was deceived.**

41. It may be appropriate first to cover **why the court was deceived.**
42. The background to this is that in 2006 as a result of being approached by a Waitakere dog control officer, I had questioned the existence of the Animal Welfare Institute of New Zealand (approved organisation AWINZ), a private law enforcement authority which operated in Waitakere city using the council's staff, infrastructure and resources.

43. The approved organisation AWINZ solicited public donations using the Council Logos in a deceptive manner.



44. The approved organisation AWINZ had the appearance of being a council operated entity but my investigation revealed that it was a private initiative and not council owned.
45. Despite the approved organisation AWINZ operating as though it was a legal entity, we could not find any evidence as to who or what it was or who comprised it; it did not appear on any register.
46. Effectively the approved organisation AWINZ was a RNZSPCA type organisation but run by one person, Mr Wells, who at the time was the manager of dog and stock control. The approved organisation AWINZ operated in a situation where by expenses were paid for through rates but the profits were private.
47. On 27 April 2006 we successfully registered the name Animal welfare Institute of New Zealand ( AWINZ ) **annexure B** and thereby proved by default that no other legal person existed by this name. We also achieved charitable status thereby proving we were the only charity by that name.
48. On 22 November 1999 **Annexure P** Mr Wells had made an application to the Minister of Agriculture ,for approved status using the pseudonym AWINZ, our successful registration proved that the statements which he had made in this application were false.
49. The approved status gave the fictitious AWINZ law enforcement authority equal to the RNZSPCA. The powers include search and seizure and also by virtue of section 171, the ability to retain proceeds of prosecution. Fines can be up to \$350,000.
50. My questions with regards to the approved organisation the fictional AWINZ revealed that Mr Wells was acting in a situation of gross conflict of interest and in

a situation identified by the United Nations convention against corruption as public office for private pecuniary gain.

51. Because we had now highlighted that the approved organisation AWINZ was not registered as had been alleged, Mr Wells now had to obtain the registered name and convince the Minister and MAF that AWINZ was in fact a trust and had existence beyond himself.
52. Mr Wells initially sought to have our legal charity AWINZ struck off the register but was advised by the registrar of the proper procedure **Annexure W**
53. This procedure however required evidence and as there was no documentary evidence to support Mr Wells claim, he had to resort to other means.
54. On 2<sup>nd</sup> June 2006 I receive threats from a woman who called herself a lawyer but was in fact a law clerk and the wife of Nick Wright who was later to represent Mr Wells and his associates in court. Her demands are that we abandon the name and the web site or she would see would make a complaint against my Private Investigators licence.
55. When her tactics failed we received a lawyer's letter followed by a copy of a trust deed **Annexure C**. From what I have ascertained this deed had not been on file with any Local or Government department and the new evidence in fact proves that it was missing as late as 10 May 2006.
56. We offered to meet but instead the SOC was filed. I believe that this action was two fold
  - a. To force the release of the name.
  - b. To prove to the authorities that AWINZ the approved organisation had legal existence as a trust, thereby covering up the fraudulent application **Annexure P**
57. In his oral evidence as in his affidavit **annexure E** Mr Wells gave a background to the approved organisation AWINZ, in giving this evidence he was deceitful and intended his uncorroborated evidence to serve as proof to MAF and other authorities that he court had made a determination as to who or what the approved organisation AWINZ was.
58. The use of the court for deceit is confirmed through **Annexure I** on page 3 Mr Wells the author of the document states "*There was no need for MAF to separately mount an inquiry that allegation when that issue was central to the Court Proceedings commenced in 2006*" and on page 6 "*Surely MAF could have approached this in a different manner without so much angst ,particularly if it is*

*prepared to initiate an investigation on the complaint of one person who has already been declared by the court to be relentless and vindictive.”*

- a. This determination was made on Mr Wells uncorroborated evidence
- b. I have been relentless in the pursuit of justice.

59. **The court was used for the purposes of identity fraud**, by referring to various groups of people as AWINZ. They all took on the look of being one and the same organisation and by repeatedly using words such as “the legitimate business interest of AWINZ“ Mr Wells gave a fictional AWINZ, the approved organisation which in reality was a trading name for himself , a feeling of reality.

- a. The various groups can be summarised as follows

#### AWINZ approved organisation

- Neil Wells Only

#### AWINZ trust purported deed 1.3.2000

- Coutts, Grove,Giltrap, Wells

#### AWINZ litigants no trust deed

- Coutts, Hoadley,Wells

#### AWINZ charity deed December 2006

- Coutts, Hoadley,Wells , Didovcih

### **The evidence of the fraud is particularised as follows**

60. **Perjury deliberately misleading the court**

61. In his oral evidence as in his affidavit **annexure E** Mr Wells falsely led the court to believe that initiative for the integration of dog and stock control services with animal welfare (traditionally a role for the RNZSPCA) came from either council or MAF.

62. The council Archives released a document **Annexure M** which is a business plan of Mr Wells dated 15 January 1996 which clearly shows the concept to be for his private pecuniary gain.

- a. There was no legislation in place to facilitate this business plan.

63. Mr Wells a barrister ,who was well connected with the labour party and was the former head of the RNZSPCA offered to write the bill to facilitate it.

64. In the transition stage of the bill into the act , Mr Wells was employed as an independent advisor to the select committee when a second bill was introduced. The two together formed the basis of the new Animal Welfare Act.
65. Mr Wells introduced the concept of “approved organisations” section 121 Animal Welfare Act, into the Act which facilitates organisations other than the RNZSPCA to become law enforcement authorities under the Act.
66. Approved organisations have wide powers of search seizure, and by virtue of Section 171 the ability to retain proceeds of prosecutions. Fines currently are up to \$350,000.
67. While working on the select committee Mr Wells communicates with Tom Didovich the manager of dog and stock control Waitakere city.
- a. Mr Wells is paid through the council's dog and stock control funds to set up a trust which will facilitate the continuation of the pilot programme which Mr Wells had initiated to trial his plan.
  - b. **Annexure N** shows relevant documents through which Mr Wells as consultant trains staff and sets up his concept all paid for by the rate payer.
    - i. **N1** is Mr Wells proposal to Waitakere city to establish an animal welfare trust in the city
    - ii. **N2** Mr Wells invoice for training the staff as animal welfare officers
    - iii. **N3** Tom Didovich suggests names for the trustees, this shows that trustees were recruited for their names and status.
    - iv. **N4** invoice for \$4,303.13 from Mr Wells to Tom Didovich for discussing options for a trust
68. There was however Government opposition to the idea of councils becoming involved in animal welfare and Mr Wells advised MAF on 19 January 1999 that the city secretary had agreed that AWINZ had more independent separation from the city. **Annexure O1**. In a parallel move Mr Didovich is telling the council executives that they must continue to set up the trust **Annexure O2**.
69. On 22 November 1999 Neil Wells made a fraudulent application for approved status using the pseudonym of AWINZ **Annexure P** and falsely claimed that it existed by way of trust deed and was in the process of being registered under the charitable trust act.

70. When it was disclosed that the application had been filed prior to a deed **annexure C** being allegedly signed, the court came to a conclusion that Mr Wells “ *had got ahead of himself*”
71. Evidence obtained since the hearing has proved that this is not the case, **Annexure Q** proves that AWINZ was throughout 1999 being portrayed as being real and in existence.
- a. **Q1** memorandum from the RNZSPCA recording a meeting with Neil wells and Tom Didovich who had claimed to have established a charitable trust.
  - b. **Q2** letter dated 22 August from Mr Wells to Barry O’Neil MAF in which he makes the identical claim that AWINZ had been formed by way of trust deed and was being registered under the Charitable Trust act 1957, he falsely signs on behalf of the board of the animal welfare institute of New Zealand , when no such board exists.
  - c. **Q 3** 28 October 1999 Neil Wells and Tom Didovich apply for community funding Mr Wells signs as trustee and in his own hand again alleges that the trust is in the process of being registered as a charitable trust.
72. Over the years I have made many requests for information from MAF seeking the release of documents which show the involvement of any other person or persons in the approved organisation AWINZ prior to May 2006.
- a. I have ascertained that there are no documents in the application or approval process which bear the signatures or consent of any sort from any other person apart from Neil Wells acting for the approved organisation AWINZ.
73. The application Mr Wells made to the minister on 22 November 1999 is consequently a false document intended to gain a pecuniary advantage. This is a criminal offence; Crimes act 1961 259 Using altered or reproduced document with intent to deceive.
74. While the AWINZ application is being considered Mr Wells repeatedly assures MAF and the minister that a trust deed exists and that “AWINZ” will be registered under the charitable trust act. **Annexure R.**
- a. **R1** 28 January 2000 Maf asks Mr Wells for evidence as to registration
  - b. **R2** 17 March 2000 Mr Wells responds seeking to have the issue of registration revisited and falsely misleads MAF as to the significance of

registration. Being that it creates a legal person capable of trading in its own name.

- c. **R3** 25 March 2000 Mr Wells assures the Minister “ a signed copy of the Deed of trust will follow, the original is being submitted to the Ministry of commerce for registration as a charitable trust in accordance with section 20 ( a) of the Deed.
  - i. The deed we are presented with in 2006 **Annexure C** does not have a section 20 ( a)
  - ii. The original is never sent only a verified copy, Mr Wells had registered two other trusts at about this time and knew the procedure.
  - iii. This statement indicates that there is only one trust deed, this impacts on the fact that we had two originals before Judge Joyce.

75. The application process is supported By Mr Didovich who represents the council and on council letterhead gives approval for the Council’s resources including staff to be used in the venture. **Annexure S**

- a. Mr Didovich who has been involved in the process and in 2006 became trustee of an AWINZ trust which ultimately became a charity ( AWINZ charity ) knew at the time of writing this letter that AWINZ did not exist .
- b. His letters to the minister were with intent to deceive .

76. Mr Didovich later also obtains legal opinions for Mr Wells through his council discretionary funding to support the AWINZ application.

77. In court Mr Wells gives evidence that the application dated 22 November 1999 was not the application which was considered and that there was a later one. However I found no evidence of that. All documentation including the approval document confirms that application dated 22 November 1999 led to the approval of the fictitious AWINZ as an approved organisation.

78. The application process was not smooth. Both MAF **annexure X 1** and treasury **annexure X 2** opposed the AWINZ application Mr Wells appears to yield extra ordinary power and slates MAF for their diligence. **Annexure X3**, in this letter he clearly states that he brokered the pilot programme in Waitakere in 1995,

79. Mr Wells a close associate of Bob Harvey, who at the time was the president of the Labour Party, consulted him and was provided with an opportunity to edit the

caucus papers submitted by the minister of Agriculture at the time, Jim Sutton

**Annexure T1.**

- a. This document is then re drafted in to the papers which ultimately go before caucus, **Annexure T2** and saw the AWINZ proposal approved
- b. Significantly in the approval process AWINZ is referred to as being incorporated, something which Mr Wells later seeks to correct but without disclosing that AWINZ is in reality not a legal person in its own right and has no definition or legal existence.

80. The fraudulent application of AWINZ was approved by caucus and the Fictional AWINZ becomes an approved organisation.

81. Mr Wells signs two MOU's one with Tom Didovich and the other with MAF, **Annexure U** all without defining who or what AWINZ is and all without any other signatures except Mr Wells

82. In 2005 Neil Wells becomes manager of Animal welfare Waitakere when Tom Didovich resigned.

83. The spin and the deception in Mr Wells evidence paints a different picture than that of reality and persuades the court to view AWINZ as legitimate, his evidence knowingly deceitful , to conceal the corruption surrounding the approved organisation .

**84. The plaintiffs in CIV -2006-004-001784 claimed to be the current trustees of a trust allegedly formed in 2000**

**85. Wyn Hoadley as trustee**

- a. Annexure **F2** shows the trust deed was missing on 10 May 2006.
- b. Wyn Hoadley was appointed through a section number which is not recorded in the deed **Annexure C.**
- c. She did not sign any documents which gave her binding obligations any deed and as the deed was not present she could not agree to the terms and conditions of the deed.
- d. Associated evidence indicates that she was out of the country
- e. **There is no evidence that Wyn Hoadley was a trustee**

**86. The existence of a trust which included Neil Wells and Graeme Coutts.**

- a. The minutes **Annexure F2** allege that the last meeting was in June 2004 and the next meeting is scheduled for Mid-September 2007 or Late October 2007. The trust deed **Annexure C** requires "*The Board shall meet not less than 4 times per year*"

**This proves that the deed was not being complied with.**

87. I was on a trust with Mr Wells in 2005. He was chairman. Each trustee had copies of the trust deed. The master copy was secured in a place where we all knew it could be found, we had meetings every month, Minutes were taken signed and distributed, the trustees held the bank accounts and I was treasurer. We controlled the running of a building. I mention this in contrast to how the alleged trust AWINZ was being run.

88. An approved Organisation run by its trustees would require ongoing involvement and regular meetings. Between June 2004 and May 2006 there were a number of significant events which would require the meeting of the trustees. All of these matters were dealt with automatically by Neil Wells and go to prove that the approved organisation was at all times just Neil Wells. The matters which I can prove are:

- a. 1/09/2004 inspectors manual produced.
- b. 1/09/2004 web site registered however this was in Mr Wells own name.
- c. 9/03/2005 there was an application to Inland Revenue as an employer and for an IRD number.
- d. 9/03/2005 the employment of movie monitors.
- e. 15/03/2005 Wells obtains funds from beauty with compassion some \$100,000 which are used to fund the litigation.
- f. 1/04/2005 statistics and annual report due to MAF.
- g. 15/06/2005 prosecution of animal welfare offenders and receipt of the funds to the AWINZ.
- h. 4-Oct-05 Wells applies for a position in council as manager dog control.
- i. 30/11/2005 Wells appointed to that making him both parties to the MOU **Annexure U.**
- j. 27/03/2006 fundraising decisions.
- k. 29/03/2006 replies to questions re AWINZ by Grace Haden.

- l. 30/03/2006 Brookfileds invoice issued to AWINZ.
- m. 1/04/2006 statistics and annual report due to MAF.
- n. 5/04/2006 Wells in an email claims Wyn is chair designate appointment of animal welfare officers, - Chair persons are elected by the trustees; she was not a trustee and there was no consensus.

**This goes to prove that the trust did not operate the approved Organisation and that at all times Mr Wells was trading as AWINZ and not acting as trustee of a trust.**

89. **Bank accounts/ Assets.** The letter to Mrs Heather of Beauty with compassion **Annexure V** indicates that a bank account has been opened in early 2005 and the minute **Annexure F2** shows that here were no meetings, it is therefore again proof that Mr Wells acted independently in soliciting the donation and in setting up the bank account.

90. The audit report **Annexure H 4.2.1** confirmed that the bank accounts were set up between alleged meetings. *“we were advised that it only opened a bank account and kept financial records such as cash book records and invoices from March 2005. Neil Wells told us that AWINZ had no financial transactions or need of a bank account prior to 2005.”*

- a. In 2007 I saw the bank accounts on screen at the National Bank and was advised that there was only one signatory Mr Wells and that there was no trust deeds associated with account.
- b. The bankruptcy and liquidation action **Annexure J and K** again show Mr Wells claiming this money in his own name when the funds in reality are reported on a public register as belonging to a charity **Annexure L**.
- c. Mr Wells Prepared and filed the financial reports for the charity AWINZ **Annexure L 1-4**

91. The evidence shows that here was no involvement of anyone other than Mr Wells in the operation of the so called trust funds and therefore the trustees did not hold these funds on trust and as such there can be no Trust.

**There is no evidence therefore to support the claim that the 2000 trust deed is valid and that the three plaintiffs were trustees of that or any trust.**

92. The action in CIV -2006-004-001784 is misuse of charitable funds. Only Mr Wells stood to gain from this litigation personally. His actions in the initial concealment and the later use of the charitable funds he obtained from Beauty with Compassion may well fulfil the criminal charge of Money laundering a crime under section 243 Crimes act 1961.

**93. The plaintiffs in CIV -2006-004-001784 claimed to be a charity**

94. The only trust which was recorded as a charitable trust in 2006 was the legally registered AWINZ of which I was a trustee. I confirmed with IRD at the time that no other charity with the name "Animal Welfare Institute of New Zealand" existed.

95. The AWINZ charity which now exists was formed by trust deed 5 December 2006 **Annexure F2** , it was formed without any evidence of continuation of a trust and in light of the new evidence could not be a continuation of the 2000 deed.

96. The funds are represented on the charities web site as their funds, these funds were used to pay Brookfields invoices made out to "AWINZ".

97. There has been no evidence produced that these funds are in the control of the trust. Evidence would suggest that only Mr Wells controlled the funds.

**Conclusion: the plaintiffs together were not a charity**

**98. The plaintiffs in CIV -2006-004-001784 claimed to be the approved organisation Animal Welfare Institute of New Zealand**

99. MAF did not hold a trust deed prior to 2006 and did not know who the alleged trustees were other than three names Mr Wells had given them.

100. The people named on the blank trust deed have never consented in writing to MAF or the minister to be part of the approved organisation.

101. The trust did not meet; they were not involved in the running or decision making of an approved organisation.

102. Wells Hoadley and Coutts claimed to be a continuation of this trust therefore due to the evidence already out lined; they could not be the approved organisation.

**Conclusion : Wells Hoadley and Coutts were not the approved organisation, Only Neil Wells had that power ,Only his signature and consent was attached to the documents relating to the approved status and subsequent contracts.**

**103. Wells Hoadley and Coutts alleged Passing off and breach of fair trade against Grace Haden and the legal entity the registered charitable trust AWINZ which was Incorporated on 27 April 2006**

104. These were two of the three claims in the SOC. For reasons as given above the new evidence shows those plaintiffs could not claim that they were the approved organisation or the trust formed in 2000.

105. Wells, Hoadley and Coutts had first formed an informal relationship on 10 May 2006 and adopted a trading name. Their formation as an informal group did not pre-exist the legal registration of the legal entity Animal Welfare Institute of New Zealand (Annexure **B**) Their claim was total fabrication and known by them to be fraudulent .

106. The minute's annexure **F2** substantiates the fact that they did not trade together.

107. By relying on the statement of claim as if it was true and evidence the indications are that they have committed the criminal offence of fabricating evidence section 113 Crimes Act. *"Everyone is liable to imprisonment for a term not exceeding 7 years who, with intent to mislead any tribunal holding any judicial proceeding to which section 108 applies, fabricates evidence by any means other than perjury."*

**Conclusion: The claims of passing off and breach of Fair trade were fabricated claims and had no merit.**

The new evidence shows **that Evidence was deliberately withheld**, this evidence was essential in that it proved that the trust which was alleged to have existed and was being portrayed as the approved organisation

- a. Did not control any funds.
- b. Did not act according to their trust deed.
- c. Played no role in the approved organisation.

108. Had these documents been made available for court or even verified by the lawyers before court action commenced the claims would not have been made as they are meritless and had no chance of success.

- a. The circumstances revealed by the new evidence shows why the trustees could not meet with the trustees of the legally formed AWINZ charity, it is because most had no idea what was going on and they had no legal basis to force the legally registered charity to give up their name.

109. **Truth as a defence** The judgement of Judge Joyce did not consider the truth of the statements alleged in the statement of claim. The new evidence particularly **Annexure H** the audit, records their concerns with the financial accounting and governance of the approved organisation.

- a. The audit reports parameters were set in such a manner that it did not examine and could not examine who the governance of the approved organisation was apart from those Mr Wells advised them of.
- b. The meeting was held at Waitakere city council and Mr Didovich's lack of attendance is recorded. Mr Didovich was the former manager Waitakere city council who has been referred to earlier in this affidavit.
- c. Truth is never defamation and no finding of defamation could have been found if the truth had been examined and all evidence had been available.

**Conclusion: The audit report though independent findings, supports the fact that he alleged defamatory statements were true and were deliberately portrayed by Mr Wells to false and therefore defamatory**

#### **Implications of other documents**

110. **Annexure F3 and F4** the resignation of Sarah Giltrap and Nuala Grove.

- a. Nuala Grove in her resignation letter **Annexure F4** indicates that she believes she was helping Waitakere City Council and addresses the resignation to Mr Wells in his council role.
- b. Waitakere City Council was not involved at all in the operation of AWINZ.

111. **Annexure F5** This document allegedly an email to Wyn Hoadley, is unsigned and seeks the support of Wyn Hoadley.

- a. The properties of the electronic document, which was sent to me by the law society, shows that it was created 25 May 2011 by Neil Wells and conflicts with allegation that the document was created on 9 July 2006.
- b. The document does not look like an email.

- c. The audit report **annexure H** claimed that Neil Wells had lost all his governance documents which were on his lap top in 2008.
- d. Mr Wells frequently provided unsigned documents as proof, when I know as an investigator and Mr Wells should know as a barrister, that an unsigned document is not proof of anything.

112. **Annexure F8** is a deed signed 5 months after litigation commenced and this trust is shown to be a charity on 28 September 2007.

- a. The trust deed for this charity was never produced in court; it clearly existed prior to the hearing on Quantum before Judge Joyce.
- b. The plaintiffs were not trustees of this trust and they were not the charity which was registered in September 2007.
- c. The registration of the charity and the trust was all part of the larger deceit.

**113. Significance of the audit report Annexure H**

- a. The auditors worked within parameters which did not consider the application process for the approved organisation AWINZ.
- b. The process was an audit and not an investigation.
- c. The auditors did not consider matters such as structure and nature of the trusts and who the trustees were.
- d. The auditors met all but the fourth Trustee of the charity AWINZ, Tom Didovich had they researched the significance of this fourth trustee they would have found that Tom Didovich was The former manager Animal Welfare Waitakere and the person who Mr Wells replaced and who had extensive dealings in the approval process of the approved organisation by providing consents for two local councils.
- e. The audit report records that Mr Wells was unwilling to provide all documentation and provided them only with limited evidence.
- f. The audit report independently verifies that the alleged defamatory statements attributed to me were in fact true. Truth is never defamation.

**114. Significance of the trustee's letter to the Minister. Annexure I**

- a. The trustee's letter written by Neil Wells but not signed by him sought to do two things;

- i. It was an attempt to assure the authorities that charitable trust AWINZ was one and the same as the approved organisation.
  - ii. Ensure the withholding of information from me.
- b. This letter was finally released to me through involvement of the ombudsmen.
- c. This letter also ensured that AWINZ the approved organisation continued to operate in Waitakere for a further year, until after the amalgamation into the super city at which time Mr Wells left the council.

**115. Significance of the Charities financial reports. Annexure L**

- a. Documents were filed by Mr Wells with the charities commission can be locate on the charities register **.Annexure L1-4**
- b. I am also in possession of a number of invoices supplied by Brookfileds made out to AWINZ. The accounts of the charity show that these invoices have been paid using the charitable funds.
- c. Part of those funds are the Lord Dowding funds, there is no provision for those funds to be used for litigation.
- d. In the 2009 Financial reports **Annexure L2** the statement claims that *“The Trustees have entered a charging order of \$100,000 on properties jointly owned by Haden.”* This statement is the only knowledge I have of this; all my properties were sold subsequent to this, due to my marriage break up.
- e. The properties of the electronic copies of the financial reports suggest to me as an experience investigator that either Mr Wells or his wife prepared them.
  - i. The audit report **Annexure H** was critical of nepotism.
- f. Each year the charity AWINZ lists the proceeds of the judgment as a contingent asset, the charity has done nothing to attempt to collect the judgement costs or debt.
- g. The accounts prove that Mr Wells was the only one who could gain from the proceedings and through the bankruptcy and liquidation again proves that he is treating the charitable funds as his own.
- h. His accounting and the control of the bank account proves lack of independence and adds to the weight that AWINZ in its various guises has always been Mr Wells.

**116. The involvement of Wyn Hoadley**

- a. Wyn Hoadley is a barrister a former mayor and has a history of being involved with animal welfare.
- b. She claimed to be the chairperson of AWINZ the approved organisation yet when I spoke to her in the early stages of litigation and requested the two trusts should meet; she has claimed she is not a messenger.
- c. She has been kept in the loop by me through the supply of documents and updated on developments.
- d. She is an officer of the court and through alleging that she was the chairperson of an approved organisation had a duty to ensure that she confirmed the accuracy of her allegations.
- e. As a barrister she would be aware of the duties and responsibilities of a trustee

**117. The involvement of Graeme Coutts**

- a. Graeme Coutts is a JP and as such has a higher obligation with regards to the law than the average person.
- b. I have attempted to let him know what is occurring and ensured he has received documents and updates.
- c. He has never questioned what his duties as a trustee are in court was surprised that he had anything to do with animal welfare officers.
- d. In my very first conversation with him he told me that the trust did not meet as it was not that kind of trust.
- e. He has had no documented involvement with the approved organisation and was selected as a trustee because he occupied the office next to that of Mr Wells.

**118. The involvement of Neil Wells**

- a. Evidence suggests that Neil Wells at all times has been the approved organisation AWINZ.
- b. The application **Annexure P** was fraudulently completed by him using a pseudonym.
- c. As a Barrister he is aware of the consequences of his actions and it was in both his financial interest and in the interest of his career and liberty to ensure that the corruption he was involved in was concealed.

- i. The protection he sought through these proceedings may well go beyond him.
- d. Mr Wells had everything to lose and knew that my questions would expose the truth behind the approved organisation AWINZ.
- e. Mr Wells is now seeking to put me out of business and bankrupt me. This has been his stated desire since the beginning.
  - i. On 28 September 2012 he told MAF that I was being bankrupted,
  - ii. Without a preliminary request for the judgement sum or a letter stating it was now due, he commenced that action on 24 November and sought to have the documents served on me at Christmas.
  - iii. The district court rules with regards to pursuing a judgment have been totally ignored and those steps skipped and gone straight to bankruptcy.
  - iv. This is his second attempt at bankruptcy and this has always been his desired outcome he commented to MAF in an email on 12 July 2007 *“the judge gave Haden until today to pay the \$19,200 or her defence will be struck k out. That means no trial, just formal proof and judgment and then bankruptcy.”*
  - v. Many, like me view this actions as vexatious.

### **Miscarriage of Justice**

- 119. The verdict has been obtained by an unfair or improper practice.
- 120. The statement of claim which was never proved was fraudulent in that the plaintiffs were not, and had no proof of together being the trustees of the animal Welfare Institute of new Zealand.
- 121. The withholding of the documents from discovery was to my prejudice as these vital documents would have had a bearing on my challenge to plaintiffs standing at the interlocutory hearings.
- 122. The audit report **Annexure H** should have been available prior to the appeal process but **Annexure I** ensured that it was withheld.
- 123. The lack of standing of the plaintiffs could not have succeeded in a successful claim, to be successful in a claim of breach of fair trade and passing off they would have had to have evidence of having pre exited the formation of the legally registered trust on 27 April 2006 and of trade.

124. Misconduct on the part of counsel, he should have ensured the standing of the plaintiffs before the statement of claim was filed and ensured that evidence existed and that this was available for discovery.
- a. The contents of these documents reveal that they were damaging to the plaintiffs case.
  - b. The withholding of these documents just as case law was deliberately withheld in the interlocutory applications, constitutes deliberate suppression of evidence to tip the scales in favour of the plaintiffs.
125. There has never been any evidence of what I said; who I said it to, what context it was in and the test for truth has never been applied. The new evidence proves that the alleged statements were true.
126. If my defence had not been struck out I would have had the right to see the evidence against me and had a right to Justice.
127. My right to justice has been deliberately obstructed to obtain a judgment by fraud and deceit.

SWORN at Auckland )

this 4<sup>th</sup> day of April 2012 )

before me: )

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Solicitor of the High Court of New Zealand