

IN THE MATTER of an Inquiry pursuant to section 42
of the Plumbers, Gasfitters and
Drainlayers Act 1976 ("the Act")

AND

IN THE MATTER of **PAUL BRYNLEY GEE**

Hearing Commenced: 3 May 2011

Appearances: Mr D Laurenson for Investigator
Mr W Gordon for the Practitioner

HEARING BEFORE MR S PARKER (CHAIR), MR G HARDIE,
MR A BICKERS, MR J SIMMISS AND MS S INESON
MEMBERS OF THE BOARD

MR PARKER: Good morning I'm Stephen Parker, Presiding Member. Welcome to the PG and D Board meeting; the hearing taking place in respect of Mr Gee. I'd like to introduce the Board members, Sue Ineson, John Simmiss, Graham Hardie, Alan Bickers; as I mentioned myself, Presiding Member. The parties, here we have Mr Laurenson prosecution and the Investigator, Mr Hammond; Mr Gordon for the defendant and Mr Gee. Mr Bruce Corkill is the legal assessor, and our deputy registrar,

or acting registrar for this hearing is Charlotte Miller. We have the stenographer, Theresa Murray and obviously she is going to need some breaks as we go through, this is not a eight hour flat session. Mr Gordon, I would like you to please confirm Mr Gee denies the particulars and pleads not guilty to the charge?

MR GORDON: That's correct.

MR CORKILL QC: Media applications. Mr Chairman Members of the Board, if you go to tab 2 of the bundle you will see an undertaking there given by and on behalf of TV 1 for coverage in respect of this hearing, I understand that there was also a similar application from TV 3 although that has now been withdrawn is that the position Ms Phillips?

MS PHILLIPS: That's correct, there is one still remaining from Nelson Mail.

MR CORKILL QC: There's one from Nelson Mail. I am going to ascertain from each party what the position is in relation to these applications.
Mr Laurenson?

MR LAURENSEN: On behalf of the Investigator there is no opposition but the only thing that we would seek leave to reserve is the ability for any particular witness who doesn't wish to be recorded or filmed or photographed - I understand the Board applies the In-Court Media Coverage Guidelines of 2003 and just the ability for any witness who doesn't want to be recorded or filmed or photographed to apply for orders by the Board under Rule 11 (7).

MR CORKILL QC: But otherwise the Investigator has no objection to either of the media applications is that correct Mr Laurenson?

MR LAURENSEN: That's correct.

MR CORKILL QC: Mr Gordon?

MR GORDON: No, we have no objections.

MR CORKILL QC: Do you understand the point Mr Laurenson made about individual witnesses applying?

MR GORDON: Yes. Yes that's fine.

MR CORKILL QC: Do you have any submission about that.

MR GORDON: No, no that's fine.

MR CORKILL QC: Is there a representative from TV 1 here at the moment?

MS PHILLIPS: No, but I understand they will be appearing some time over the next three days.

MR CORKILL QC: My advice for the Board is that this a fairly standard application for media to participate in a hearing of this nature. A very important principle in hearings of this kind where they are held in public is what we call the principle of open justice. In view of the fact that there is largely consensus between the parties then I recommend to the Board that it is appropriate to allow the media to be present. As far as TV cameras are concerned I am going to direct that the Board should apply what are known as the In-Court Media Coverage Guidelines of 2003. The purpose of using these guidelines, which are used in all standard hearings of this nature, is that they set out the rules for individual issues that might crop up in terms of how cameras should be used and so on. So my direction to you is that it is appropriate to allow the media to be present, and in particular as far as television coverage is concerned, there is a schedule to the guidelines that I've just mentioned and I am going to suggest that clauses 1, 2, 3, 6, 7, 8, 10, 11, 12, 14, 15, and 16 should all

apply. You may take it from me that those are all conditions, standard conditions which require for instance a camera to be located in one place only, the television cameraman may not take shots of members of the public who are present, may not take shots of exhibits without leave of the Board and may not take shots of any person who is granted exemption from filming in terms of Rule 1. I'll ensure when the television people turn up that a copy of Schedule 2 is made available to them and that they are directed to those particular conditions that I've just outlined, so that's my recommendation to the Board.

MR PARKER: We so rule.

Some housekeeping matters. In case there is a shake or a fire there are exits either side here and the assembly point is down by the restaurant which is about a 200 yard walk over in this direction, follow me. There is bathrooms here, women's and men's. I'd ask you, the room is fairly large, to speak clearly and perhaps with a little more volume than you might be used to. No cellphones at all, please, turned off. If you have to have them on please have them on silent. Start times for the day at the moment we are 9.30 but I think during the course of the day we may consider progress and I will talk to the legal assessor about where we need to move. Morning tea stood will be 10.30 for 15 minutes, lunch is at 12.30 for 45 minutes, afternoon tea is at 3 for 15 minutes and at this stage I expect that we will adjourn the day - well depending on progress. So either party do you have any housekeeping matters? Mr Laurensen?

MR LAURENSEN: There are two preliminary matters that the Investigator would like to be determined, one is the application for leave, if you consider that as a house keeping matter?

MR CORKILL QC: We'll come on to that in a moment I've got that noted.

MR LAURENSEN: Other than that, the two witnesses that are required, or asking to give evidence by telephone, but other than that no.

MR CORKILL QC: Mr Laurenson, I think probably we should deal with the application in a moment and we'll deal with issues pertaining to witnesses after you've opened.

MR CORKILL QC: Mr Gordon?

MR GORDON: No we have no problems.

MR CORKILL QC: Mr Laurenson perhaps we could deal with the application for leave, Members of the Board, this is tab 3 of the bundle. I'll just clarify with Mr Gordon is this application for leave to amend the charge?

MR GORDON: We oppose it.

MR CORKILL QC: Mr Laurenson?

MR LAURENSEN: Well the grounds - first of all the nature of the amendments are attached to the notice of charges and are marked in red behind the application and I'll - I can go through each of them with you if that's required. The grounds of the application for leave to amend is set out in the application and primarily the reason for seeking to amend the charges or the particulars of the charges is as a result of information that became apparent during the briefing of the witnesses for the hearing and so what the amendments seek to do is to bring the charges and the particulars of the charges in to line with the evidence that will be given at the hearing. In the Investigator's submission the principle - the guiding principle which the Board should consider and take into account in determining whether any charges should be able to be amended is really what's in the interests of justice and in particular whether or not there's any prejudice to any party in allowing the amendment and what the Investigator says is that in this case

there can be no prejudice to anyone and in particular no prejudice to Mr Gee for the reasons set out at paragraph 3 of the application. The first is that, as I've said, the amendments are based on information contained in witness statements. Those witness statements were provided to Mr Gee, in most cases I think they were in January of this year which was when - which is when they were - the timetable was first required because the hearing was going to be earlier, so he's had the witness statements, most of them, since then. In the application it's said that at that time Mr Gee still had further weeks before his witness statements had to be filed and served and of course the timetabling was pushed out and the only witness statement that Mr Gee has filed is his own and that wasn't provided until the 18th of April which is in line with the timetable but what that shows is he had plenty of time to make any enquiries, brief any evidence and address any of the issues that were raised by the amendment sought. So all in all, what the Investigator says is that Mr Gee's has had ample notice. And what I'd also say is that if you were to - and I'm not suggesting you should, but for instance in a criminal trial, even in a criminal trial, which this is not, once again the question is whether or not there's any prejudice and it's not unheard of even in a criminal trial for charges to be amended even after the evidence has been given, if the evidence has changed and in order to bring it in line and the only question is is there any prejudice to, in that case, the accused? So all I'll saying even by analogy with something which give even more protection to an accused the question is whether or not there is any prejudice?

Now, just in terms of the amendments, if I could just briefly take you through those and explain what they are and why they've occurred. If you first of all go to page 3 of the attached draft and under the heading 68 Greenwood Street, that's one of the properties. The first thing that is deleted there, and this is to Mr Gee's advantage is a particular which alleged the gas cooker in that case, there was insufficient clearance between the cooker and the bench the reason that was, that is sought to

be deleted is that while briefing Mr Donnelly it became apparent that the kitchen and the benches weren't actually installed at the time Mr Gee installed the cooker. So what the Investigator seeks to do is to withdraw that charge, not seeking to put any blame on Mr Gee there because the bench wasn't there. What is sought to be included is a particular to the effect that a bayonet fitting connecting the cooker was actually installed inside a wall. The reason that is installed now is that that became apparent to Mr Hammond when he inspected the property in January and it's alleged that that is in contravention of the standard set out there, so that's why that's included.

And 4.5, it's just, you can see the amendment there, it's just reflecting the same amendment but in relation to the certification requirement.

Next one over the page, page 4, Motueka High School, now I should say here, I'm actually going, as a result of something Mr Gee has said, seek to make a minor amendment to this one and I will explain why that is, but the main reason for this amendment was because it became apparent that Mr Gee was saying that at the time he installed the heater there the metal enclosure which is the subject of a charge which was ultimately put on the cylinders and which was there when Mr Lamborn inspected it, had not been installed. Mr Gee is saying that it was installed later by someone else and so what the Investigator seeks to do in this charge is to say we don't necessarily accept that it wasn't there when he did it, but even if it wasn't, then we include at B to the effect that you should have known that it would be installed and therefore you failed to ensure that what you should have known to be installed had adequate ventilation. Now the slight amendment I seek to make to this, what is already there is as a result of something that Mr Gee says in his witness statement which we just got in sort of mid April, and that is he seems to be saying that he in fact didn't even install the bottles, not only did he not install the enclosure over the bottles but he didn't install the bottles. Now once again we don't necessarily accept that, but what the Investigator says is that even if he

didn't install the bottles, it doesn't change the case, the fact is that even if he didn't install the bottles he should have known the bottles would be installed - he should have known the enclosure should be installed and therefore he breached his obligation in not ensuring adequate ventilation. So the amendment that I would seek to what is there is in 4 of 6, second line where it says "You did install" after "Install" sorry, after "You did" I would seek to insert "Either" And then small (a) in brackets and then (a) starts "Install two 45 kg bottles in a metal enclosure". So you take out the (a) that was there, so (a) starts after it, and then at B we will just take out "Without", put in "Not" and "ensuring" would become "ensure".

MR CORKILL QC: So that also involves you've added the word either so it reads "You did either install two 45 kg LPG cylinders", delete the word "Either" at that point?

MR LAURENSEN: Yes.

MR CORKILL QC: So that it carries on "In a metal enclosure with insufficient ventilation to allow the safe dispersal of any gaseous discharge or (b), not insuring that the metal enclosure" et cetera.

MR LAURENSEN: Yeah so the Investigator says regardless of whether or not he installed the bottles it doesn't matter. And in terms of prejudice to Mr Gee the Investigator says there can be no prejudice to Mr Gee in this case because what he says is that he didn't he install the bottles, but even in any case he's saying he didn't think that there was any necessity for an enclosure anyway because there was no legal access. So he's putting forward his defence as to what the position will be anyway. 4.7 stays the same. In terms of the next amendment is at 5 Powick Street on page 5, now this amendment, page 5 on over to page 6, this amendment arose as a result - the application is there were two LPG cylinders on a wooden deck and they should have been on a non-combustible surface not a combustible surface, so that's what the auditor say and that's what

Mr Hammond saw but while talking to the witness Mr French it became apparent that the deck might not have been built at the time that Mr Gee installed the bottles and the installation, and so at the time of seeking this amendment the Investigator sought to say well either you install them on the deck or if the Board finds that the deck wasn't built at the time you didn't ensure that they wouldn't be placed on the deck because you knew that it was going to be built. Now, I don't seek to make - there's one amendment that I'd seek here and that's a typo, and you see at B, it says "Would not subsequently be located on a non-combustible material" that should be - take out "non" it should be "combustible". And the same with 4.13 B should be "Non" and that's obvious.

Now there's a complication that still doesn't - I don't seek an amendment, but this issue will arise when we come to the issue of Mr French giving evidence. When he initially signed his statement he said that he couldn't remember whether or not the deck had been installed at the time, it may or may not have been. Subsequently he has recalled things, he's had a conversation with another person, and he now wants to say in his statement that the deck definitely wasn't there at the time that Mr Gee -

MR CORKILL QC: That's an evidential matter to be dealt with in due course.

MR LAURENSEN: That is. All that means is A he might become redundant on the basis of the evidence but who knows what the Board will find.

MR CORKILL QC: Presumably there's the identical handwritten amendments that you just made to 4.6 should also be made to 5.6?

MR LAURENSEN: Yes thank you. And the same for -

MR CORKILL QC: Oh and taking out "Non".

MR LAURENSEN: Yes. And also for the ones in relation to Motueka High School - sorry 4.6, yes, and then Powick Street, the 4.12, same for 5.12 and 5.13. So they are - that's the basis for the application.

MR CORKILL QC: Mr Gordon?

MR GORDON: We oppose the application on three main points. The counsel has stated that the application was made due to when he was briefing the witnesses. We contest that it's in fact while they've been collecting the evidence from the witnesses that wasn't collected during the course of the investigation. There were no statements submitted prior to the counsel speaking with the witnesses, in which case he was getting the primary evidence to submit with the charges. So as far as Greenwood Street goes there was no additional evidence that was obtained bit briefing of the witness as it was the primary interview of that witness. With regard to the 8 Ball Unit on Par Street, counsel has just stated that it was as a result of Mr Gee's statement that they wanted that amended. I find it difficult to believe that when Mr Gee's statement was submitted in April, and the application was made on the 1st of February for those amendments to the charges, so we find that very difficult to believe. And with Powick Street, there's really just a change in the wording, but all that information was available from the outset of the investigation into Powick Street and as such they should have had the charges right first time round.

MR CORKILL QC: Any submission in reply?

MR LAURENSEN: Just that I fail to see that the difference between briefing and collecting information is - there's absolutely nothing wrong with in the course of briefing to be obtaining information for the purposes of the charges. In terms of the Ball Park that's the High School one, he said that I relied on the Gee statement of the 18th of April I think whereas the amendment application was sought in February of 2011, the point there was that the main application to amend that was on the basis that Mr Gee

had said earlier that the enclosure was installed later, it was only the more recent amendment that has been made as a result of Mr Gee had in his statement that the bottles weren't installed by him. So most of the amendment we sought in the February application was as a result of him saying earlier that the enclosure was installed by someone else.

MR CORKILL QC: Thank you Mr Laurensen. Mr Chairman, Members of the Board. I'll just give you a legal direction about the situation. First of all there's no question that the Board has the legal ability to make the amendments to the charge in the manner sought. You have a jurisdiction pursuant to your general power to regulate your proceedings as you think fit. Secondly, Mr Laurensen is correct in saying that the general law in relation to situations like this, and it is a very common situation, is first of all do the interests of justice require the amendment? And is there any prejudice to the respondent party if the amendment is made? Now, I don't think I need to take you through the amendments again, there are - as you know, there is a total of seven sites in this charge, the amendments only relate to three of them. Mr Gordon has made a submission challenging the way in which these amendments have come to be made. There may be reasons that Mr Gordon is able to put to particular witnesses about how the information surfaced and whether it is reliable, because that's the key - going to be the key question for the Board in the end, is whether the information - whether once aligned with the charges, if that's where it goes, there will be a key question about whether the evidence is reliable, that's an evidential matter about which there can be questions in the course of the hearing. In terms of the key question is there any prejudice to an amendment to the charge in the manner sought at this stage, the application as Mr Laurensen has said was made on the 1st of February 2011. There has been some months that have obviously passed since then and one would have to conclude that there has been ample notice of the amendment. The further refinements that are advanced orally today, particularly to 4.6 and 5.6 are fairly modest in nature and are really only tidying those particular, 4.6 and 5.6 up. In his submission just now

Mr Gordon did not make any submission alleging prejudice in the sense that Mr Gee is embarrassed in the technical sense by late notice, and quite properly so, given that the length of notice that has been given. As I say, this is a fairly standard situation that crops up in decision making bodies of this kind. In the absence of any direct prejudice to the amendment of the charge my direction to you is that it is appropriate to make the amendments sought, including the oral amendments about which Mr Laurensen has just described to us now. So my direction to you is that the charge should be amended as indicated. If the Board wishes to discuss that, I and members of the public and others will withdraw.

ADJOURNED [10 AM]

RESUMED [10.07 AM]

MR PARKER: So the Board's deliberated and its decision is that the interests of justice outweigh any apparent prejudice to Mr Gee. The written that oral amendments to the amendment to the charge be accepted.

MR CORKILL QC: I think the next step is that Mr Laurensen should open and then there are some logistical issues to sort out with regards to witnesses when you've done that.

MR PARKER: So, Mr Laurensen?

MR LAURENSEN: So hopefully you all have a copy of the opening submissions in front of you. I'll just run through that. As you will have seen from the charges, Mr Gee faces charges in relation to gasfitting that he carried out at seven properties in the Nelson Bay area and in Westport between May 2003 and June 2006.

It's alleged that in carrying out that gasfitting he contravened various provisions of the 1996 version of NZS 5261 which applied up until the 1st

of September 2004 and various provisions of the 2003 version of that standard which applied from the 2nd of September 2004 and also it's alleged that he certified that gasfitting in contravention of Regulation 24A (4) of the Gas Regulations and I'll explain that in terms of why the Investigator says he breached that provision.

In terms of the charges, he faces two charges under section 42, the first under section 42(1)(b) which is the most serious charge and then the alternative one under section 42(1)(c) of the 1976 Act which you will be familiar with. As I've said the charge under 42(1)(c) is in the alternative so you would only have to consider that charge if you find the Investigator hasn't proven the charge under 42(1)(b).

The particulars under both charges are exactly the same.

In terms of the law, burden and standard of proof, the burden of proving the charges is on the Investigator. There is absolutely no onus or burden on Mr Gee to prove anything.

The standard of proof is the civil standard of on the balance of probabilities, or more likely than not. It's important to note that it is not the very high criminal standard of beyond reasonable doubt where you have to be sure that all the elements have been proven, it's civil, balance of probabilities, more likely than not.

I just refer to one case of the Supreme Court that refers to what that civil standard is in relation to disciplinary proceedings and I refer to one part where it says: "The civil standard is to be applied flexibly, according to the seriousness of matters to be proved and the consequences of proving them". I just make the point that that doesn't mean that if there is a more serious charge then the Board changes from being on the balance of probabilities, all it means is that it could be that in cases where the allegations are more serious a decision making body might decide that

more proof is needed in order - or more evidence is needed in order to satisfy that standard of on the balance of probabilities.

At page 4 I refer to section 42(1)(b) and what's meant by that. I just set out some dictionary definitions that have been applied. Mr Corkill will of course direct you on the meaning of those in his directions I won't spend any more time on that, but I do point out of course that in terms of section 42(1)(b) a serious level of incompetence and/or impropriety is required in order to satisfy that charge. And it's been decided in the High Court case of Walsh and Keenan.

Section 42(1)(c), once again I won't say anything more about that, but it sets out the way in which the Board has approached what is meant by integrity of the trade, simply the good name of the trade, and there's also the reference to the Owen Wynyard case there, where the Judge in that case held there was a decency to a lack of probity.

In terms of regulation 12, the reason this is relevant is because in certifying gasfitting there is a statement to the effect that all regulations, not only the gasfitting is safe, but all regulations are being complied with. Now the reason that regulation 12 of the Gas Regs is that that provides from October 2002 to 1 September 2004 Regulation 12 provided that all gas installations had to be installed in accordance with Part 1 of the 1996 version of the standard and then from the 2nd of September 2004 Regulation 12 is amended and provided that gas installations had to be installed in accordance with Part 1 of the 2004 version. So all that means is that up until the 1st of September 2004 it was the 1996 version, from the 2nd of September 2004 it is the 2003 version. And you will see some of the properties, some are before September 2004, some are after, so there's reference to both 2003 and 1996 version of the standard.

In terms of certification. In most - in fact all of the properties, as well as alleging that there was a breach in terms of the installations, there is also

an allegation that Mr Gee breached his certification obligations under 24A(4). So that's why I refer to the requirements there.

Regulation 24 requires that gasfitting must be certified and regulation 24A sets out the requirements of that certification and they include what's set out at sub 2 there, a statement that the appliances and fittings worked on are safe and a statement that the gasfitting is carried out in accordance with all applicable requirements of the Act and these regulations. So that is where Regulation 12 comes in which provides that gas installations have to be installed in accordance with Part 1 of the standard. (4) says that: "However a person must not certify gasfitting unless he or she is satisfied, on reasonable grounds, that the statements that must be provided under subclause (2) are accurate. And it's that provision, as I'll explain, that the Investigator says that Mr Gee breached in certifying a number of these installations.

The Gas Act. I just refer there to the definition of fittings because the certificate says it must require a statement that the appliance and fittings worked on are safe. Now fittings in the Gas Act 92 is defined as meaning "everything used, or designed or intended for use, in or in connection with the supply, distribution compression, or use of gas". What the Investigator says is that in relation to installations that involved safety issues in relation to say LPG bottle stations, that that is a fitting in terms of the definition of fittings under the Act and so that comes under the certification requirements.

At 14 I set out how the Board's standard form gasfitting certificates have a standard statement in them which is set out there, to the effect that the certifier is certifying that any appliances and fittings worked on are safe and all worked carried out with the applicable requirements of the Gas Act and the regulations. And that is what the Investigator says in this case in respect of the installations is that in signing the certificates which included that statement, Mr Gee breached that provision which I referred to earlier

at 24A(4) in that he didn't have reasonable grounds for being satisfied that the appliances and/or fittings worked on by him were safe or that they were carried out in accordance with the regulations because they were in contravention of Regulation 12 in that they breached various provisions of Part 1 of the standard that Regulation 12 requires them to be installed in accordance with.

So that's the - could I just ask at this stage is there still - is the intention still to break at 10.30? The reason I ask is that just in terms of getting witnesses here I was going to get Mr Hammond to ring someone but if we are going to break at 10.30 that can be done then.

MR PARKER: Yes we are.

MR LAURENSEN: So now - that's the legal background to the charges. Now what I propose doing is going through the particulars of each of the charges and explaining what the Investigator's case is in respect of each of the seven properties in respect of which Mr Gee faces the charges. The first property is the Milton Street Fish and Chip Cafe. During 2003, June 2003 two Blue Seal GT45 gas fryers were installed at that fish and chip shop. The gas fryers were supplied by a company by the name of Host Services Limited which supplies and services commercial catering equipment. There will be evidence from a Director of that company, Mr Strachan, who will say that on the 24th of June 2003 he and his son delivered those two fryers to the Cafe, that they unpacked them and they assembled them but that they did not install them or connect them to the gas supply.

The Investigator says that a company by the name of Allgas Products Limited, which Mr Gee worked for from February to December 2003, did a number of things in relation to the installation of those fryers. That Allgas installed the two gas cylinders and connected them to the gas fryers or to the pipework that ran to the gas fryers, he says that they supplied and

installed the gas pipework which included two flexible gas hoses that connected the bayonet fittings to the gas fryers. He says that they connected the gas fryers to the pipe - to the gas supply and that the company - someone from it, tested and certified the installation of the gas fryer to the pipework.

Now if I can just at this stage refer you to some documents that the Investigator relies on. If you could please look at tab 12 of the bundle, these are documents that will be produced by a woman by the name of Gwen Morrison who worked for Allgas at the time and she will refer to some of them, or all of them actually. But if you just go to first of all page 154 of tab 12, you will see that there's a letter - a quote there, the evidence will be that that's from Allgas to Milton Street Takeaway, you see at there top dated 16 June 2003 "thanks for the opportunity to provide a quote. Install the bottles. From bottles to salamander and onto the fryers. Fit two bayonet hoses, test certify". You will see there the two gas fryers are supplied by Host Services.

If you go over to 160, 161 you can see a work sheet or a checklist and you will hear evidence about that, but that just shows the various work that was carried out, tests done. 162, to 163 you can see the items and Ms Morrison will explain they are items that were invoiced for. In fact, if you first of all go to the invoice which is at 166, you can see there an invoice dated the 27th of June and it includes testing and certifying, installing cylinders et cetera and then if you go back to the checklist, or the items invoiced for which is at 162 and 163, you can see there's a line there on 162 and first entry after that is 27/6/03. The evidence from Ms Morrison will be and also - you can see also the invoice number 84206, so all of those items on the next two pages of that date and with that invoice number were part of that invoice and you can see things like on 27th of June 2003 the first entry is "Paul, nine hours labour", that's the only labour entry and the evidence from Ms Morrison will be that that is Paul Gee. You can see over the page on 163 that there's an item there,

seven items down, "Cert" certificate, that's a gasfitting certificate, so they charge for gasfitting certificates, so obviously someone from that company certified it and of course I will come to that, we say Mr Gee did. And you will just see the final thing is you will see on the bottom of page 163 the last item is two flexible black rubber hoses. And also you can see over the page on 164, three items up from the back, gas cooker bayonet hose, two of them.

Now coming then to paragraph 18 of the submissions, what the Investigator says is that Mr Gee who was employed at the time, that is in June 2003, he certainly carried out work on that installation, we've seen the nine hours labour and he admits that he did at least some of it, and he certified it says the investigator. And if you go to page 71 of the same tab 12 you will see the gasfitting certificate. So you can see there it's a certificate, 136 Milton Street, description of gasfitting, two fryers, Blue Seal GT 45; you can see tests results were carried out, they're dated 15th of June 2003 and then certifying name Paul Gee, see his signature, and he admits there's a document filed where he admits that's his signature and it's dated as being certified on the 26th of June 2003. So they're the documents relating to the installation of these two fryers and the certification of them.

On the 9th of April 2009, I'm at paragraph 19 of the opening, there was an explosion at that Cafe. You will hear evidence from a forensic scientist by the name of David Neal who is employed by the ESR, that he was engaged by the police on the following day, and I just make a correction to my paragraph 19 it says on the 10th of February 2009, that should be the 10th of April 2009. So what happened was the explosion was on the 9th of April 200, Mr Neal will give evidence that he went there the following day on the 10th of February.

MR CORKILL QC: 10th of April?

MR LAURENSEN: Sorry, 10th of April. He'll give evidence including the following set out at paragraph 19, but he took a series of photographs and I'll refer you to some of them shortly which are at 1 to 17 of tab 13 of the bundle and his evidence will go through each of these photographs and explain exactly what they are but you will hear that some of those photographs -

MR PARKER: Tab please?

MR LAURENSEN: Oh tab 13. So you will hear evidence from him that some of the photographs were taken before anything was moved and some of them were taken after the fryers were moved away from the wall. He will give evidence that there were two gas powered fryers that were connected to the gas by flexible reinforced rubber hoses and the Investigator says there were the GT45's that were installed by Allgas. He will say that when he was there, as I've said, the gas fryers were moved away from the wall and he doesn't recall there being any form of restraint such as a chain fitted between the gas fryers and the wall and nothing of this kind appears to be visible in the photographs he took. He will say there was a breach at the supply end of the hose attached to the left most fryer and a section of the rubber hose in that area also appeared to have been cut off.

Now if you look at those photographs at tab 13 you can see photograph 1 first of all, I'm just pointing on the right-hand side of it you will see a yellow pipe connecting to a bayonet fitting and you can see a black hose with sort of a metal coil area, that's what's referred to, that is the rubber hose with the metal reinforced lining that was attached to the left most fryer that Mr Neal talks about. Just going through those photographs, if you look at Photograph 3 you can see a closer up version of it. So he's saying there's a breach in that, and you can see as well as the rubber in photograph 3, as well as the rubber not being there having been, it appeared to Mr Neal, cut away there's a - right up where it connects to the brass bit, looks like there's a hole there and that's what he's saying is the breach. If you go to

6 and in 7, you can see closer up versions of that same part of the rubber hose that was connected to the left most fryer. Over to 9 the same. 12, you can see, Mr Neal will give evidence of this, that there, you can see that's showing the left most fryer and you can see the metal coil bit is where it goes under the back of the fryer and up near to where it's connected to the bayonet fitting. So that's obviously right at the supply end because you can see the rubber's not there. And finally just 16 and - 16 and 17 is just other views. Now these are after the fryers have been moved away and you can in fact see in 16 there are - there's the second bayonet fitting on the right-hand side there which is closer to the wall which is connected you'll hear from Mr Neal, to the right fryer. And 17 is just another close up. Mr Neal will give evidence that the other gas fryer had an undamaged rubber sheath, or the hose attached to it had an undamaged rubber hose, but the metal hose within it felt as if it had also been breached. So he was saying the rubber was still there but having felt it he felt the metal reinforcement inside had been breached. So if you just look at Photograph 10, it's quite hard to see, if you look you can just see the yellow bit underneath where that - and I'll show you a better copy of it, but that is why the bayonet fitting is connecting to the right fryer. If you go over to Photograph Number 11 you can see a more close up view of it. You can see there the bayonet fitting appears to be up against the wall and then you've got the rubber hose coming in hard down and around sort of in the middle slightly to the left of the photograph. And 16, I have already referred to that, that's just another view of the right-hand one, you can see it sort of coils hard back and that's after the fryer's been moved away.

Mr Neal will give evidence that in his opinion the main cause of the explosion was the breaching of the gas hose to the gas fryer which allowed a release of propane vapour into the cafe and that, in his view, the cause of the breach appeared to be the failure of the metal hose, in his opinion most likely due to continual flexing.

Now as a result of that explosion a complaint was made and Mr Gee, given that his name appeared on the certificate as the certifier, was one of the people subject to the complaint. He was given an opportunity to comment on the complaint and he did so first of all in a letter through his lawyers on the 15th of July and that's in bundle 12 to 16, and. And in that he stated that he only installed the pipework. He didn't install the fryers. He said he didn't carry out the work from the bayonet fitting to the fryers or install the fryers or the gas station, and he said he did not believe he signed the gasfitting certificate or the signature on it was his. So he's saying that although his name is on the certificate and his signature is there, although it certifies the installation of the fryers, the only thing he did was to install the pipework and that he doesn't believe it's his signature on it. So as you will see from a later letter he's saying that his signature is forged basically.

What happened then was Mr Hammond interviewed Mr Gee in his lawyer's presence on the 29th of July 2009. At that interview Mr Gee again said he only installed the pipework and he denied issuing the certificate. Mr Hammond then interviewed Mr Gee a second time on the 5th of August. During that interview what Mr Gee said then and I've got - there's a typo in my written submissions on para 22, you will see there it says "Mr Gee said that on 23 June", that should in fact be 26 June, it's the date of the certificate, and you will see Mr Hammond's evidence as to exactly what was said. But he said at that time, that is on the 26th of June, which is the date that the certificate says it was certified, it was his wife's birthday and he believed he was not at work that day and that he was trying to find details because he believed he and his wife were on holiday. So what he's saying there is he didn't even think he was around on the 26th of June and I suppose reinforcing his statement earlier that he didn't sign it. What happened then though was that Mr Gee then voluntarily provided another statement, you will remember that he had already provided one statement through his lawyers in response to the complaint. He provided another one on the date - dated the 5th of

November 2009 and this time he said that although he had initially expressed the view that perhaps his signature had been forged on the certificate, on reflection and having had the opportunity to check matters further he was not sure now whether it was correct, and that's at paragraph 7 you can have a look at that. He said that - now just in referring to that I'll just ask you to turn to tab 12, bundle - page 71 which is the certificate, because you will then understand what he was saying here. He said that the work type on certificate 282245 which is the bundle on page 71, the Milton Street certificate, he says is ticked in the boxes on the right as pipework installed, so you can see there third box down on the right, pipework installed, ticks "yes". And he says to the best of his recollection the line on the left referring to the fryers was blank when he signed the certificate and so he now believed the certificate had been altered after he signed it. So now he's saying that yes, he accepts he signed it, but he thinks that at the time he signed it the only reference to any work done was the tick in the box and that reference under description of gasfitting to the fryers that whole line wasn't there. So he's saying that must have been added after he signed the certificate.

And I just, at paragraph 24 I refer to a signed statement dated 27th of January 2011 which is at tab 14 in which Mr Gee accepts that he signed all the certificates that were the subject of - are the subject of these charges although he goes on to say in that certificate that he believes information was added afterwards and things like that, but the main point from the Investigator's point of view is there is no issue as to whether or not it's his signature on any of these certificates.

So a big issue for the Board as suggested by the Investigator in this case will be whether or not you think it is credible that when Mr Gee signed that certificate he would have signed it with just a tick in pipework only and without there being any reference at all to anything else on the certificate. And that will be the subject of evidence and that will be an issue that you will have to decide.

The Investigator's case, and this is in respect of the first particular of the charge, is that it's not credible and that Mr Gee in fact did certify the installation of the two gas fryers in that certificate. It's important to note here that Mr Gee is not being charged with actually installing those two fryers. There's - what he is being charged with is - I mean he's admitted he installed the pipework, but he's not being charged with actually connecting them up. We don't - don't know for sure who did that, but what the Investigator says is it doesn't matter because he certified it and that is the conduct with which he's being charged and it is alleged that in certifying the installation of those two fryers he breached 24A(4) in that he didn't have reasonable grounds for being satisfied that the installation was safe or that it was carried out - the work carried out on the installation complied with Regulation 12 and that is because the Investigator says that the installation breached two provisions in Part 1 of the 1996 version of NZS 5261.

What I might do if it's okay with the Board is I'll just finish this installation if it's okay with the Board?

The first standard that the Investigator says the installation breached was 106.1.1, and I understand that all Board members have a copy of the 1996 version is that - hopefully and you will just see there it's the top of page 16 of my version of the 96, 106.1.1 "gas pipework shall be designed and installed to avoid leakage of gas or damage by corrosion, stress or other means". And the Investigator says that that was breached in that the flexible gas pipework connected to the gas fryers was not connected in a manner that would avoid damage to the flexible hoses. Mr Hammond will say that being connected to the base of the fryers, and you will see in those photographs and you will get more evidence on that, but you will see that the hose is actually connected underneath and up to the base of the gas fryer, it's not on the back of it or anything like that, it's under the base, that that meant that the hoses not only must have lain on the floor to

some extent but must also have been at risk of being damaged by the lower metal edges of the fryer as they were moved in and out and it's submitted that that appears to be exactly what has happened in this case and might well have been what actually caused the damage, as they were moved in and out, because the hose comes down, round underneath that edge and up underneath the base, as it was moved in and out, regardless of whether or not it's laying on the ground, you've got that problem of the way it's installed. And the other manner in which the Investigator says the installation was in breach of Part 1 was clause 108.2.9 of the 1996 version, which is on page 20 of my version is "gas appliances should be supported and secured to prevent stressing of the gas pipework against the...(Reads)...specifically designed and constructed" and this is simply a case where you will no doubt be familiar with this, this requirement that Mr Hammond says that what you need when you've got appliances that are going to be moved in and out that are connected to fixed pipework by flexible hoses is some form of a restraint that restricts the distance from the wall that the gas appliance can be moved so that it's stopped before there's any pressure or stress put on the hose and the Investigator says that wasn't applied in this case and that will be a matter of evidence for the Board to decide.

ADJOURNED [10.40 AM]

RESUMED [10.56 AM]

MR LAURENSEN: So I just finished the particular in relation to the Milton Street Cafe so I'm on page 9 headed "audits".

What happened as a result of the complaint Mr Hammond inspected seven installations that Mr Gee had certified and as a result of some compliance concerns that arose out of that he then asked for a number of other installations certified by Mr Gee be audited. As a result they were and some audit reports came back, there were some compliance issues

raised and then Mr Hammond then sent some of those audit reports to Mr Gee's lawyer's with a letter dated the 7th of January asking for a response and you will see that letter at the bundle in 89.

Mr Gee's lawyer then responded to that letter in a letter dated 12th of March 2010, if I can just refer you to that, this is at tab 12, page 119, now I just want to refer to the first page of that letter, this is, you will see there this is a letter from Fletcher Vautier Moore who were acting for Mr Gee in relation to this. You will see that they refer to the letter of 7 January, this is dated 12th of March, and you will see that they say I apologise for the delay in getting this response to you, but as you would doubtless appreciate your report has given rise to a number of issues which have had to be carefully considered and discussed with Mr Gee". So the responses that are in this letter are as a result of giving careful consideration and discussion by Mr Gee. And various bits of that letter will be referred to during the evidence. And what happened then after Mr Hammond received this letter from Mr Gee's lawyers, he then arranged to interview Mr Gee in relation to some of the installations that were the subject of the audit report and what has happened now is that six installations that were the subject of audit - of those audit reports are now the subject of particulars in this case, so something that's important to note is that although there were other installations that were referred to in various audit reports and things, the only ones that are the subject of these charges and which you need to consider and concern yourselves with are the six that are referred to in the charges, the six properties, so that the Investigator does not seek to say or rely on anything that's in any of the other ones.

The first one in the charges after the Milton Street Cafe is an installation at 73 Main Road in Havelock, this is an installation at a Mussel Boys franchise restaurant in July 2003. At that time Mr Gee installed another one of these Blue Seal GT45 gas fryers, the same type that was installed

in the Milton Street Cafe and he certified that installation and you will find the certificate signed by Mr Gee at tab 72.

The Investigator will call a person by the name of Paul Suisted, he's been issued a with a section 45 notice to attend and give evidence. He was the owner of the franchise of the Mussel Boys that operated out of that address at the time and he will give evidence as to the nature of the installation.

What the Investigator says in terms of the particulars of the charge first of all particular 4.2, 5.2, is that Mr Gee installed the gas fryer in contravention of two provisions of the 1996 version of the standard and they are two of the same particulars that you've already seen, the first one is 106.1.1 flexible gas pipework was not connected in a manner that would avoid damage to it in that part of it was lying on the floor, and the same allegation will be made in terms of this was the same appliance where the gas pipework was installed underneath the base so you've got the problem of it of rubbing against the base if it's moved in and out. And the second issues of non-compliance alleged in the particulars is 10.2.9 which is once again this one about failing to fit a restraint to restrict the distance that the gas fryer to be moved out from the wall and so protect the hose from being stressed in any way.

The second particular in relation to the Mussel Boys Restaurant is 4.3, 5.3 which is the certification one where it's alleged that Mr Gee breached regulation 24A (4) in that he didn't have reasonable grounds for certifying that the fryer was either safe or installed in accordance with the regulations because the Investigator says it didn't comply with those two provisions under Part 1 of the 1996 Act.

The next property, it's a residential, at 68 Greenwood Street in Motueka. What happened there was it's alleged that Mr Gee installed a Westinghouse gas cooker at that property and that he certified that

installation, together with there was another appliance also the subject of that certification which was a Bosch water heater, and you can see the certificate for that at bundle 73 where Mr Gee has signed - certified the installation both for the cooker and the Bosch water heater. It's alleged that Mr Gee installed that cooker in contravention of two provisions in part 1 of the 1996 version, the first one we've already referred to, 108.2.9, lack of restraint, same grounds as the other properties, there was no restraint from the wall and so also putting stress on it. The second provision is clause 106.3.2, and I'll just take you to that, and you will see that on page 16 of the standard, hopefully it's the same as mine, 106.3.2 "Gas pipework shall be designed...(Reads)...build up of gas should leakage occur" and the basis for this is that the bayonet fitting that connected the hose to the cooker was installed inside the kitchen wall, it was actually connected to one of the wood shafts running down and so it's alleged that in doing that it wasn't located so as to avoid a hazard build up of gas should leakage occur. So what Mr Hammond will say is - and actually I'll take you to a photograph to show you this, this is the bundle of photographs tab 13, photographs 21 and 22. These are photographs that Mr Hammond took when he went to the property in January of this year. You can see there probably the best one and I think Mr Hammond has some clearer copies of this, but I think you can see photograph 22 you can see there's a circular hole cut in the wall and this is behind the cooker and you can see the framing, the wooden frame inside the wall and the bayonet fitting is screwed inside that wall to the side of the framing, so you can see there what the allegation is if there's any leakage at that point it will accumulate inside the wall and build up to a dangerous - could build up to a dangerous level.

And the second - what - it's important to note what Mr Gee says in relation to this. In his lawyer's letter that came in response to the audit reports of 12th of March 2010, he said - the letter from his lawyer he said that the cooker was not installed by him. So Mr Gee is saying that he didn't install it, and that is also what Mr Gee told Mr Hammond when Mr Hammond

interviewed him. So this presumably is another case where Mr Gee is saying, like Milton Street, that although he's signed it, he only installed the water heater, and that the reference in the certificate to the installation of the cooker must have been added after he signed it. You will hear evidence from the owner of the property Mr Donnelly. Now Mr Donnelly will be here to give evidence and he will give evidence in relation to it and that's set out there what is in his statements. One of the things that Mr Donnelly will say is that when the cooker was installed the kitchen that was part of - I should start again, the cooker and the heater were installed as part of renovations and part of the renovations were the installation of a kitset kitchen; at the time the cooker was installed the kitchen hadn't been installed and it could be that if there was a chain fitted that the chain was removed when the kitset cooker was installed. He also says that there were some markings on the back of the cooker that could have been caused by a chain, although you will hear evidence from Mr Hammond that he inspected it and he couldn't see any signs of a restraint having been fitted.

In terms of the other particular in relation to Greenwood Street, that's the certification one, where it says that it's alleged that Mr Gee contravened 24A(4) that he didn't have reasonable grounds for certifying that the installation was safe or in accordance with the regulations because it breached those two provisions in the standard.

The next provision, the next property is an installation of a space heater at Motueka High School. During July 2003 Mr Gee installed that space heater and it's alleged also the cylinders, although he says in his statement he didn't, and he certified that installation so what is clear is he certified the installation and the certificate is in the bundle at 74. What happened was that there was a metal enclosure and we've seen it in photographs 23 and 24 of tab 13, was at some stage fitted over the two 45 kg cylinders that were connected to the space heater. You will see that there's no upper level or high level ventilation in that cylinder and that's the

criticism, or the compliance concern or safety concern that Mr Hammond has. Because without that high level ventilation it is said that it's unsafe because there's no adequate ventilation to allow the safe dispersal of any gas that might leak from inside the cylinder.

What Mr Gee's letter have said was that when they were interviewed about this concern there was no high level ventilation, is that it's their understanding that units of that nature are in widespread use and that is generally an accepted mode of installation. So they're not saying he didn't fit it or anything, they're saying in their view it's okay. When Mr Hammond interviewed Mr Gee he said the LPG boxes were locally made and none of them had a top vent. He also said that the box was delivered to the site by others and installed over the cylinders. So in terms of the particular in relation to the High School it's alleged that Mr Gee - well even if he didn't install them, it's alleged, and that was the issue that I raised with the amendment of the charge, is that either they were installed in a metal enclosure with insufficient ventilation to allow the safe discharge, dispersal of any gas discharged - it should be safe dispersal, in the metal enclosure or if he didn't install the cylinders or didn't install the box then what he didn't do was ensure that the metal enclosure that he knew or ought to have known would be installed over the cylinders had sufficient ventilation to allow the safe dispersal of the gas.

What Mr Hammond will say is that in a case like this, although the installation of LPG cylinders in enclosures doesn't fall within the definition of gasfitting, the installation is unsafe because of the absence of this high level ventilation, and that Mr Gee as both the installer of the space heater and the certifier of the installation should have ensured that the metal enclosure, which he ought to have known would be installed, had adequate ventilation and the reason that Mr Hammond says that he should have known, if he didn't know, that the enclosure would be fitted was because this was an area where there was a carpark, there was vehicle access, it was also open to the public, there could have been

pranksters, so he should have known and should have ensured there was some form of protection.

Just one issue on that in terms of evidence. Mr Gee's statement of April of this year says that he didn't think that - not only does he say he didn't install the cylinders, but he didn't think that an enclosure was required because in that area there was no vehicle access, it was an enclosed area. There will be evidence - the Investigator seeks to call a witness by the name of Mary Wilson who is the executive officer of the High School who was employed by the High School at the time and she will give evidence to the effect that her recollection is that there's always been vehicle access to an area, it's an area that used to be used for a club room for the bowling club and an extra car park for the bowling club and she remembers driving around to see children in the classroom and things.

Just in terms of certification, the other particular is that Mr Gee in certifying the installation breached that certification requirement in that he didn't have reasonable grounds for stating that the installation was safe because of this lack of ensuring that the enclosure had the high level ventilation.

The next property is a property at the Westport Holiday Park where Mr Gee installed a Rinnai Infinity at the holiday park, it was on the office block I think of the reception area, that's also the bedrooms for the owners.

This is a case where the clearance - there are two installations involved in this alleged non-compliance issue where the clearance between the nearest part of the flue of the Infinity and an openable window directly above it was less than 1.5 metres. In this case you will hear that Mr Hammond went there and measured it and it was 1340 millimetres, and you can just see the installation at photograph 5 - sorry 25 of the bundle - sorry, of tab 13. So there's the Infinity and there's the window above, point to note about 13 and 14 is the distance.

The alleged non-compliance is with - and we're on to the 2003 version now because it was in February 2005 is 1.6.3 F of the 2003 version. Page 37 it starts "Gas appliances shall be located to minimise the risk of harm to persons" and so it's alleged that when you've only got that gap that isn't sufficient to minimise the harm to persons inside the buildings because of the risk of the products of combustion going up and going into the window. In terms of where the 1.5 metres comes from, what Mr Hammond says is that given the window was top hung and opened outwards the clearance should have been at the very least the 1.5 metres or the 1500 millimetres that is the distance provided for as a means of compliance in Part 2 of the standard at 2.6.13.3, now I can take you to that, but in essence is what it says is for this type of unit a means of complying with 1.6.3(f) would be if the distance between the flue and an openable window was 1.5 metres, now Mr Hammond says although that is only a means of compliance, there is no other way of trying to comply with it and given the distance is less, the only way of complying would have been to have the distance of 1.5 metres in the circumstances. So although a breach of a Part 2 provision isn't in itself a breach of a Part 1, Mr Hammond says in the circumstances of this case by not complying with that Part 2 provision he has not complied with Part 1.

Now in response to this and another property Mr Gee's lawyers referred to copies of an Australian document, or two documents. If I could just refer you to those, they are - and what is suggested by Mr Gee is these reduced clearance that is required to only 500 millimetres, not the 1.5, so they do comply. So if you look at pages 122 and 122A of tab 12, you will see there's a letter dated 13th of February 2001 from the Australian Gas Association to someone from Rinnai in Australia referring you will see there to a model REU 3203 W-A unit saying "I refer to your letter and attachments which is related to the intended application to the Gas Technical Regulations regarding dispensation for particular requirements of clause"; you will see there will he says "The appliance relates to the

above mentioned water heater" whatever model that might be "In summary is as follows" and you will see there the second bullet point "The appliance may be affixed to an external wall such that a distance of 500 millimetres is maintained horizontally between the flue terminal and openable window on the same window". So that's what it states. And then attached to that there's a - over on 122A there's a document which appears to relate to the installation of an Infinity's 32 and 26 in what's known as a flush mount kit and you will see there that there is at 2 there's a - on the left there's a drawing and you see an arrow which says "500 millimetres from opening window or eaves", so anyway these are the documents that Mr Gee has referred to. The Investigator's case is that these documents basically have no relevance to either the units that was installed in this case or to New Zealand conditions and in any event, the Rinnai that was installed by Mr Gee wasn't installed in a flushing mount box anyway, it was directly on the wall. So once again there is just no relevance.

The particular in relation to that, the second particular of the certification particular, once again it's alleged that in certifying it he contravened 24 A, didn't have reasonable grounds to be satisfied that the installation was safe or that the work was in accordance with the regs because it breached that standard 1.6.3(f).

The next property is very similar to the previous one, it's a residential property 5 Malvern Avenue, at Atawhai. This time it involved the installation in June 2006 of a Bosch 25 water heater on the outside of a building. The clearance this time between the nearest part of the flue and an openable window above was only 540 millimetres, you can see that in Photograph 28 of tab 13, you can see there the Bosch unit and just above it there's a window and the evidence will be that that's a dining room just above that. So it's alleged that he breached the same provision, 1.6.3(f), there was insufficient clearance and once again Mr Hammond will say that in relation to that, given that it's top hung and opening outwards it would

have to be at least 1500 millimetres in order to comply with 1.6.3(f). And in response to that Mr Gee's lawyer referred to the same Australian documents that I referred you to and the Investigator's case is quite simply that those documents don't apply and, in any event, in this case it's not even a Rinnai, it's a Bosch, and once again it's not in a flush mounted box. And certification is the same allegation, didn't have reasonable grounds et cetera.

The final property is 5 Powick Street, Westport, this was the installation, if you look at bundle 72, at tab 272 - sorry, 27 it's the installation of a Rinnai Infinity 32 gas water heater. You will see actually on the certificate it incorrectly says 5 Park as in P-A-R-K, but I don't think there's any disputes that it was actually Powick Street and it did relate to that. The safety concern in respect of this installation, as I think I mentioned earlier with the amendment to the charge, was that ultimately the two 45 kg cylinders were located on a wooden deck. Mr French, the owner of the property and this is one of the witnesses that I have to address you on about the form of his evidence, but he's given a statement that Mr Gee carried out gasfitting here as part of renovations that were carried out on the house and part of those renovations included the installation of this deck and he will say that the deck wasn't actually installed at the time that - and you will see - there's been an amendment to his statement he's, after having various conversations with people, he now thinks it wasn't installed, and he said it wasn't installed, but what happened was that to ensure the house could have hot water from the heater, there were actually two heaters, one was existing; prior to the deck being built, the cylinders were put on wooden blocks which raised the bottles to around about the level the deck would be built, so that then they could be connected up and they could use the water heaters.

In terms of the investigator's case Mr Hammond will say that the location of the cylinders contravened an appendix to the 2003 version, that is G3.2, in that they were not located on a supporting base of non-combustible

material. Now, although, and I can take you to that Appendix G3 at the back of the 2003 version, G3.2, if you look at page 151 of my version of the standard anyway you will see at the top G3.2 cylinder, second paragraph down, "cylinder should be installed on a surrounding base which...(Reads)...material of non-combustible material". You will see over on page 150 that this is informative, so it's not one of the mandatory parts of the standard. But what Mr Hammond says, and you'll hear evidence from him to this effect, is that although it isn't a mandatory part of the 2003 standard, standard practice within the gasfitting trade is to ensure that LPG cylinders are located on supporting base of non-combustible material as failure to do so raises important safety issues. He says that the installation was unsafe because in the event of fire on or around the deck the cylinders could topple over and spill LPG into the fire with disastrous consequences as LPG contains approximately 500 times the energy of LPG vapour. And he says it's the responsibility of both installing gasfitter and the certifying gasfitter to ensure that the LPG cylinders are mounted safely, that is on a non-combustible surface. If Mr Gee was aware that a timber deck was to be built Mr Hammond says he should have ensured the LPG cylinders would not subsequently be located on that timber deck and he should not have certified the installation until he was satisfied that the cylinders would not ultimately be located on a supporting base of non-combustible material.

What Mr Gee's lawyer said in response to this concern that was raised during the audit was that LPG cylinders are frequently fitted to wooden houses throughout New Zealand. When interviewed by Mr Hammond Mr Gee challenged the findings of the auditor about the hazard associated with LPG cylinders being located on a timber deck, rather than on a firm non-combustible base and Mr Hammond will say he appeared unaware of the risks if it - the consequences in the event of a fire.

Now, as I have said just, in terms of particular 4.12, Mr French's evidence is now going to be, I understand certainly in his latest statement that the

deck wasn't there, and so it's alleged that Mr Gee didn't ensure that the LPG cylinders would not subsequently be located on a combustible surface, namely the deck, and that, particular 4.13, it's another breach of the certification obligation in not ensuring that the LPG cylinders weren't ultimately located on a combustible surface when he knew that the deck was to be installed.

And finally, I just set out there the witnesses that will be called and I think the first one is going to be Gwen Morrison who is the person who worked at Allgas in relation to the fish and chip shop.

MR CORKILL QC: Mr Laurensen can we have a bit of a discussion about timing issues, and then you have got two witnesses that you have an application for. First of all, just so the Board has some idea of where it's going today, what witnesses were you intending to call and in what order?

MR LAURENSEN: Other than Mr Neal, who I think the Board is aware is not able until Thursday at 9 o'clock, all of the other witnesses can be available today. Now - and I - I mean I just don't know how many we're going to get through, this will depend on how many questions there are of those witnesses but I was proposing to call Gwen Morrison first, there is Mr Donnelly and Mr Strachan will be available straight after that. Mr Anderson was here but I understand he has something between 11.30 and 3 so he can be slotted in after 3 now it looks like; Mr Suisted I understand will be here after lunch, so he will go next. We then have the evidence which I would - actually I haven't mentioned there Mary Wilson in that list there, but there will be - I have applied to have Ms Wilson give evidence by telephone and my understanding is if that's allowed she's available any time today or tomorrow, so we can arrange that, same with Mr French will be available today or just depending on where we get to. Then we have Mr Lamborn who gives evidence of what he found during the audits, he's here and he can give evidence at any time it's convenient, if there's a gap in witnesses we can fit him in - well there's Mr Hammond

who will give evidence last, other than Mr Neal. So in terms of timing I just don't know. It will depend on how many questions there are of the witnesses but if there aren't too many I would think we will get through a lot of them today.

MR CORKILL QC: How do you see the timing going from your point of view knowing what questions you want to ask?

MR GORDON: We probably have one to two pages of questions per person apart from Mr Hammond where there is substantial questions and probably Mr French as well.

MR CORKILL QC: So do you think realistically the Board is going to be able to hear from all these witnesses by the end of tomorrow?

MR GORDON: I would say so, yes.

MR CORKILL QC: Mr Chairman, Members of the Board I just want to flag there seems to me to be quite a lot of witnesses here and probably I think we should keep a close eye on progress and I want to flag the possibility the Board may want to consider perhaps sitting a little later this evening, perhaps starting a little earlier tomorrow, same sort of thing, late tomorrow. I don't think one can sensibly make any decisions about that at the moment. I think we need to see how the thing unfolds, but it's my understanding Mr Chair that the Board probably wants to be in the position if it possibly can be of deliberating by lunch time on Thursday so it has enough time to do that, and in order to meet that target the evidence will have to move efficiently between now and then. My advice to you is we'll keep a watching brief on it and see where things get to.

Now, Mr Laurenson you've got these two applications in respect of A) Mr French and B) Ms Wilson let's deal with that now.

MR LAURENSEN: Well first of all Mr French, that I understood was an application for Mr French to give his evidence by telephone last week and that was because Mr French is in a management role in his company, lives in Westport, it would require him basically, according to him, a three hour trip each way or roundabout, so it's a day out which he said he just can't afford and so he asked if he could give evidence by telephone; I made that application on behalf of Mr Gordon on behalf of Mr Gee, Mr Gee had no opposition to it, it was granted I understand. However, I accept that since then Mr French came back and said that as a result of discussions with various people other things had occurred to him, and he wanted to change his statement. So of course we filed an amended statement and now I understand Mr Gordon has come back and he now opposes Mr French - he says that he feels that due to the changes in Mr French's statement sent to us on 29 April 2011, that's the amended statement, he should also attend rather than give evidence than by telephone. I just don't know why, maybe you'll need to hear from Mr Gordon as to why he says that he now has to be by - he now has to attend.

MR CORKILL QC: So you are pressing your application?

MR LAURENSEN: Yes I am.

MR CORKILL QC: And Ms Wilson?

MR LAURENSEN: She is the executive officer of Motueka High School; it's the new term this week, my understanding is, it's according to her, it's an hour each way of travel; she says she doesn't have the time either to take that sort of time out at the moment. So she has asked if she could give evidence by telephone. Now when I asked for that application to be put before the Board I copied it in to Mr Gordon so he could give a response. Now he says yes we do object, because exhibit PG 016 which cannot be done over the telephone. Now PG 016 is one of the exhibits that Mr Gee

puts in. And all I would say is if that is the objection he can give us the best copy he's got and we can get it couriered to Ms Wilson and it can be before her to answer any questions in respect of her.

MR CORKILL QC: So on that scenario you would get a better copy to her today and do her tomorrow?

MR LAURENSEN: Yes, if Mr Gee has a better copy, she has been given a copy but I accept that in scanning and all that sort of thing it may not be good enough.

MR CORKILL QC: Mr Gordon?

MR GORDON: We've got no problems with that, we can provide the better picture if it's going to speed the process up then we have no objections to that. With regard to Mr French that's a wee bit of a different story in that Mr French has now put in two statements which tell two different stories and also the Investigator has put in two different statements which tell two different stories with regard to the positioning of the water heaters and also the sequence of events. I think it would be very difficult to actually ascertain what is the actual sequence of event by telephone.

MR CORKILL QC: So you are saying that because the two versions have been stated then I suppose what you are saying is this is a credibility issue in relation to Mr French and from your point of view it would be preferable if he was present?

MR GORDON: Yes, it's really just so we can get it on the whiteboard of what was alterations, what wasn't, what was the locations of the heaters to start with and where they were actually moved to and in what sequence.

MR CORKILL QC: Mr Laurenson. I mean there is a difficulty, isn't there, by reason of his amended brief.

MR LAURENSEN: The main thing that's been - I think what Mr - the main thing that changed was first of all Mr French referred to a conversation which could well be said to Mr Gee's advantage, where it was suggested that someone had said that the water heaters ultimately had to be located on a firm base or something, so that was included, the other thing though that Mr French has said is that there's some confusion - there are two water heaters at the property, one was installed in 2001 before the alterations and one was installed during the alterations, which is the one that the Investigator says Mr Gee installed. Now from the certificates it appears that a Rinnai 24 was installed in 2001 and a 32 was installed in 2004. Now what Mr French has said that he thinks the certificates were wrong and that the 24 - the 32 was installed in 2001 and the 24 in 2004. Now the Investigator says it doesn't really matter which one was installed when, there may be confusion, the Board doesn't really have to reach a view on that because ultimately the question is Mr Gee did some work and did he ensure that the bottles that were connected to both of those heaters was not installed on the deck? So -

MR CORKILL QC: I understand your case, but the problem about it is it's become a bit messy because of the way the evidence has unfolded. Mr Gordon's quite within his rights to say well we need to understand all this a bit better and wants to refer to no doubt documents that he will perhaps get the witness to - so it's a case of in the interests of justice what was the fairest way of trying to deal with what may be a credibility issue.

MR LAURENSEN: How about I raise the issue of video conference? Because I think Mr French said at one stage that he could get access to a video conference facility.

MR CORKILL QC: I think Mr Chair what I'm going to recommend in the interests of moving along, first of all there doesn't seem to be a problem by Ms Wilson providing the document can be couriered over. It is a bit

unusual to come in by telecon but given the consensus, given that it's a relatively narrow point and it can be dealt with in an efficient way that seems to be the answer to that, so I direct you that it's appropriate to have Ms Wilson join by telecon.

As far as Mr French is concerned I suggest, the concern you will have heard me articulate is that there is a credibility issue here. A video conference does have the advantage that the person can be seen and that is the main thing that's missing obviously in a telecon, and video conferencing is a fairly regular facility which is adopted both now in the courts and other Tribunals. There are some logistical issues, it has to be said, and it may entail frankly this Board having to go to a telecon facility in order to do it. I don't know what facilities are here. Rather than waste time here I suggest we park that issue until the lunch hour so that the enquiries can be made and perhaps deal with it straight after lunch.
Mr Gordon?

MR GORDON: If they can provide copies of the plans of the before project and the completed project then we could work off those, if it's going to speed things up, if they can get those over here for us to look at then that would be able - we'd be able to work off those. Then we'd could go to teleconference, but we would need the plans prior to the alterations and the actual plans of the alterations.

MR CORKILL QC: So that's the as built versus the plans?

MR GORDON: We want to see what the original was, probably the demolition was, what the original building was on, what the proposal was or the as built.

MR CORKILL QC: Does that give you something to work on in the meantime?

MR GORDON: And we'd need probably the location of where the water heaters were originally and bottles.

MR CORKILL QC: I'll leave you to work on that in the lunch hour and we'll get on with your first witness.

MR LAURENSEN CALLS**GWENDOLENE KAY MORRISON (Sworn)****EXAMINATION BY MR LAURENSEN**

- Q. Is your full name Gwendolene Kay Morrison?
- A. Gwendolene Kay Morrison, yes.
- Q. And have you previously signed a statement in relation to this matter?
- A. Yes.
- Q. Could you please have a look at tab 11 of the bundle in front of you and if you could just have a look at that and then look at the last page of that document is that the statement that you signed - a copy of the statement that you signed?
- A. Yes.
- Q. Could you please read the statement to the Board?
- A. "I have been employed by Elgas Limited since May 2009. From February 2002 until May 2009 I was employed by Allgas Products Limited, Allgas and the Gas Company in various roles. Allgas sold LPG, carried out LPG cylinder testing and sold, installed and serviced LPG appliances and installations in the Tasman district.

When I started with Allgas I drove a truck making the small truck deliveries of LPG to customers. When I was not making deliveries I would help in the shop doing things such as filing and customer service. During I started managing the parts store.

John Darnley was the general manager of Allgas until early 2004. Mr Darnley's wife, Avis Darnley, managed the shop and his daughter Annie (Julianne) Darnley, was the office manager. Other employees included: Tony Hunter, sales manager; Paul Gee, a gasfitter who installed and serviced LPG appliances; Tim Armstrong, who was training to be a gasfitter and who assisted Mr Gee. David Bergemann, who initially drove a truck making LPG deliveries and later drove an LPG tanker -- during 2003 he also worked in the service department servicing small LPG appliances; Clem Bishop, who was also in the service department. Dave

Richards cylinder testing; Jan Richards shop/fill bay/office; two tanker drivers Ed & John who were replaced by Paul Bryan and Jolyon Wiren in 2002 and in 2003 another bottle trick driver, Tony.

As far as I was aware, Mr Gee and Tim Armstrong did most of the gasfitting installation work. Although I understand Mr Darnley was a gasfitter, he carried out a managerial/administrative role but also did some gasfitting from time to time until he finished as general manager in early 2004.

I am aware that during June 2003 Allgas contracted to install two gas fryers and associated Pipework at the Milton Street Takeaway in Nelson. Because Elgas Limited bought the business of Allgas, I still have access to some of the Allgas documents relating to the Milton Street Takeaway job, which I printed out from the Rees computer system used by Allgas".

- Q. Can you just pause there please, and if you could please go to tab 12, keep your finger where you are and go to tab 12, page 153?
- A. Yes.
- Q. Now, the documents you referred to there printed out and shown at 153 and keep going over the page and looking at the documents, 154, 155, 156, 157, 58 and 59, are they documents you printed out -
- A. Yes.
- Q. And then if you could go to 162 and look at the pages through to 166, are they also documents that you printed out?
- A. Yes.
- Q. And if you could just carry on reading please from paragraph 6?
- A. "Once a customer approached Allgas to install an appliance, someone from Allgas, normally Tony Hunter would then visit the site and provide a quote. In the case of the Milton Street Takeaway, it appears the job was quoted by Mr Darnley as the cover and summary sheet states that he quoted the job".
- Q. Go to that same tab, page 153, is that the cover and summary sheet you refer to?
-

- A. Yep.
- Q. You were at the bottom of the page and -
- A. "And the letter dated 16th of June 2003 providing the quote is in his name".
- Q. And go to page 154, is that the letter you were referring to in Mr Darnley's name?
- A. Yes. "The work sheet for the job is likely to have been prepared by the person doing the quote in order to estimate the cost of doing the job and is what the quote would have been based on".
- Q. Go to 155 is that the work sheet?
- A. Yes.
- Q. Is that it at 155 and over to 156?
- A. Yes. "The picking sheet was prepared by Avis Darnley as a record of the parts to be ordered for the job".
- Q. Go to 157 is that the picking sheet that you referred to?
- A. Yes. "And is provided to the gasfitter as a record of what parts must be collected from the parts store before going to the job. Invoice number 84208 for the job dated 27 June 2003".
- Q. And just pause there and go to 166 is that the invoice?
- A. Yes.
- Q. Now, just one thing there, I think there might be a typographical error, you refer in your statement to invoice number 84208, where the invoice dated 27 June 03 is 84206?
- A. I've got 206 here, oh 206 - invoice 208 for the job.
- Q. So should that be - your statement be 206?
- A. Yes sorry, it's the only invoice I remember seeing.
- Q. And the invoice is at 166?
- A. Yes.
- Q. Carry on reading from where it says "Is in respect of"?
- A. "Is in respect of the items dated 27th of the 6th 03, invoice 84206, on the client invoice lines printout".
-

- Q. When you refer to the client invoice lines printout, if you go to 162 and can you see the client invoice lines for that invoice 84206, starting on page 162?
- A. Yes.
- Q. And then going over to 163 and 164?
- A. Correct.
- Q. Can you carry on with the last sentence in paragraph 6?
- A. "Showing on the Milton Street account dated 21/1st/04 is the purchase of an additional gas cooker bayonet hose".
- Q. Is that 165?
- A. Yes.
- Q. Carry on reading paragraph 7?
- A. "The checklist for gas installation form for the Milton Street takeaway job would have been given to the gasfitter assigned to do the work to be filled in while doing the job".
- Q. And you referred to the checklist, just have a look at 160?
- A. Yes.
- Q. Is that the document you are referring to?
- A. Yes.
- Q. And read from "I note"?
- A. "I note that the client invoice lines printout records hours of labour for "PAUL" in respect of invoice number 84206.
- Q. You referred to the printout line, if you go to 162 refers to nine hours, is that the second to last entry on 162?
- A. Yes. "The PAUL is a reference to Paul Gee. Although there was another Paul, Paul Bryan employed by Allgas at the time, he was a truck driver and did not do installation work. Also to avoid any confusion between the two Pauls, work carried out by Paul Bryan was always recorded as Baldyman. This does not mean that Paul Gee did nine hours work as the customer was invoiced for the quoted hours. During 2002 I was responsible for filing the gasfitting certification certificates, gasfitting certificates, for installation jobs. I would send the top pink copy to the Plumbers Gasfitters and Drainlayers Board and the white copy to the
-

customer and I would give the blue copy to the gasfitter who did the work and keep the yellow copy for the Allgas file".

CROSS-EXAMINATION BY MR GORDON

- Q. Thank you very much for attending today. I see on the quote sheet the date on the quote sheet is the 16th of June 2003, page 154?
- A. Yes.
- Q. Now, I just wonder if you would be able to flick back to number 71 in that same bundle which is the gas certificate issued for that site and could you just read out what the test date is and test results?
- A. It's the 15th of the 6th 03.
- Q. 15th of the 6th 03. Okay. So that quote was actually put out the day after Mr Gee had done the test, would you agree with that?
- A. That's what it appears to say, yes.
- Q. Now, I also see the work sheet is dated two days before the pipe install, so that's 155 is the document there and at the bottom of the sheet it's dated 13th of the 6th 03?
- A. Yes.
- Q. So that would have been two days before Mr Gee did the pipe install, would that be correct?
- A. Well that would be - yes, I'm assuming so, it's the day that we would have printed out the list of required parts.
- Q. Now, on the picking sheet, that's 157, the picking sheet has the same date as the quote being the 16th of the 6th, is that correct, if might be hard to see on your copy?
- A. It is.
- Q. That's the 16th of the 6th?
- A. Okay, sorry it is hard to see on that one.
- Q. Is it?
- A. But - (Nods).
- Q. So if that picking sheet was actually put out for the equipment that Mr Gee should have taken with him, he couldn't have actually got it because it
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wouldn't have been printed until after he'd actually done the work, would that be correct? If that is the 16th of the 6th.

A. Like I mean sorry, it's hard to see. (Witness looks at Mr Gordon's copy).

MR CORKILL QC: So what are you saying having looked at it?

WITNESS: Yes, so he's saying that's it's 16th of the 6th and the 13th of the 6th but the work was done on the 15th of the 6th?

CROSS-EXAMINATION CONTINUED BY MR GORDON

Q. Yes, that's right.

A. The sheet - it was all a file - I didn't deal with this but I was shown it by Tony Hunter and what it was is he said it was a file that they just filled in the bits on and it just went through and produced all of this in one hit - you know, one arrangement, so I would have thought that yes, if that says the 16th I'm surprised that it doesn't say the 13th, the same date as this, but - but it appears to look like the 16th, so they may have started it one day and finished it another, I'm sorry.

Q. Okay that's fine. Thank you. Now with the next sheet being 158 that's a contractor payment sheet, can you tell me a wee bit about the sheet, what it's actually for?

A. No, I didn't really know. I tried to find that out.

Q. It just seems -

A. I got the impression that if a contractor had of been getting paid for the job to be done this is where it would have effectively come in. Like I say, from what I gather the system generates the whole thing as it goes and then they use the appropriate ones that they needed. If it was a staff member doing it then this effectively didn't count, but if it was a contractor brought in, like another independent gasfitter, that's when that would have been placed as a payment to them for their work.

Q. So what you're saying is because Mr Gee was actually employed by Allgas then this sheet shouldn't have really been -

- A. No it just would have been - it just would have printed off from what I - because it all comes as one big file and I printed the thing out, so that possibly wasn't involved in the Milton Street deal for their work, sorry.
- Q. Is it possible that someone had a bit of a scam on the go where they were actually invoicing for contractors when they weren't actually doing that job?
- A. I say I don't know anything about that, but I'd hate to think that, I wouldn't - not from anything I've seen. This side of it was done by two people either Tony Hunter or John Darnley, that spreadsheet.
- Q. Okay. Now I see on the invoice sheet that there's charges there for concrete slabs and a cage, the actual scene examinations don't show that those items are there, so is there a chance that items are charged out that weren't actually used, that's looking at documents 163 and 164?
- A. You saw "slabs" somewhere sorry? Because it sat in a concrete bunker from what I remember, it was on concrete.
- Q. It's on 164, fifth line down, slab?
- A. I don't - I mean the site as I - all I remember about the site it was in a concrete indented into a wall like, we used to drive down between that and the business next door and the bottles were in a concrete bunker area sort of thing. So I don't know whether the initial install of it was on a concrete slab anywhere or whether that was the original place.
- Q. Okay but they've been charged for those items for the cage and the install haven't they?
- A. Yep.
- Q. So if they weren't in fact used it would be a tidy wee profit for somebody whether or not it - if they didn't actually use those items and charged the customer?
- A. We used to only order the cages in on demand, so - in the time that I did it, you know, prior - like even in 2003 all I was doing was listing parts taken. My dockets would have all had a docket number and then the actual job was quoted, so one price was charged to the customer, a quote - I mean I wouldn't have thought we used part numbers because of the stock levels, and I had to do a stock take every week on small things
-

and monthly on large, so if a stock item hadn't have been used it would show in my system. As you say, if you got a big item like a cage it had to be charged out otherwise it was sitting in stock when I should have charged it, so you used to order it with a job number and when you processed it into the system when it arrived it automatically billed to that job, so it counted for that stock every time.

Q. Now, you stated that you did the gas certificates in 2002, is that correct?

A. I filed them.

Q. Filed them?

A. Yes.

Q. Do you know who did the certificates in 2003?

A. Probably Jan, she would have been up there working at that time so she would have done the filing because I ended up down in the store which was another building.

Q. And is Jan Mr Darnley's daughter is it?

A. No, Jan Richard's she was working in the shop.

Q. If you could have a look at item 71 again please which is the gas certificate, now you will see that there's some different writing on there and there's actually different coloured inks in different sections, do you recognise any of that writing at all? Anyone's handwriting?

A. Possibly - no - well possibly Annie, Julie Ann Darnley, for that bit there.

Q. For the main section where - near where it's stamped entered?

A. Yep.

A. The top piece.

MR CORKILL QC: Hold it up and show the Board what you are referring to.

WITNESS: This piece here, (indicates), top.

MR CORKILL QC: Are you talking about the address and the consumer name?

WITNESS: Yeah.

MR CORKILL QC: So that writing there is -

WITNESS: It looks familiar but I can't really say, I never saw her write any out.

They were handed to me at times to give out to gasfitters to be signed and then brought back and then the normal process before distributed to where they should be, but I never saw anybody write on them.

CROSS-EXAMINATION CONTINUED BY MR GORDON

Q. When you were doing it what did you used to do with the certificates once they had been signed by the tradesmen?

A. Well, what would happen is they always went back to Annie, she would hand them on to me when they were completed. I put the pink one in an envelope and sent it to the Gasfitters Board. The yellow one went to our filing cabinet with the address of the property. The blue one went back to the gasfitter concerned and the white one was mailed out to the customer, because it's their copy.

Q. And why did you stop doing the filing and such like, did someone else take over that role or?

A. Yeah I basically ended up driving a little truck and doing the deliveries and then down to the store and managed the store for the service department and the parts and things, so I did that bit.

Q. Do you know if the same process carried on as far as -

A. As far as I know, yes, yeah.

Q. And if that process didn't carry on and the tradesmen weren't given a copy of their certificate would it have been possible for someone to alter the certificates prior to - after the - say, for example, if they weren't giving the certificates to the tradesmen would it be possible for someone to alter that certificate and the tradesmen not know about it, just in your opinion?

A. Well, the only ones that would have come - there's four copies - in those days there were four copies and the blue sheet automatically went to the gasfitter, so there was only three copies that needed to come back. If the gasfitter had been there they could take that copy with them on the spot, so you know, you'd be altering three out of four. The only file of blue ones

- that I saw in there were John Darnley's which would have involved anybody that he was signing off as well. So he would have kept the blue copy of any of those. So the rest of the blue copies remained with the gasfitters and we only needed the three others back.
- Q. Now there was three of the Darnley family working from the office sort of in managerial, administrative type roles?
- A. (Nods).
- Q. And do you think it would be fair to say if you fell out with one of them you would fall out with all of them?
- A. No.
- Q. They were pretty independent were they?
- A. Yes.
- Q. Did you ever see Mr Darnley's daughter actually sign anything on his behalf or for him?
- A. No, no.
- Q. And seeing you were taking over the parts role and delivery and such like, did you have much cause to be in the office with them?
- A. No, I had - I was down in another shed.
- Q. In another shed?
- A. Yeah, and the dining room was above me so I didn't really have to go anywhere, I didn't go up there if I didn't have to. I had plenty to do.
- Q. So once you moved to the new job then what they were doing you sort of weren't aware -
- A. No, I got given the packing slips, the slips I needed, and I ordered everything, I had everything I needed in an office down there.

MR LAURENSEN: One issue, I understand that Ms Morrison was concerned about her name being published in respect of this I would like to apply to not have your name is that right?

WITNESS: Yes, is there any need? I just didn't see any need, I didn't realise what was involved.

MR CORKILL QC: So are you making an application now Mr Laurenson?

MR LAURENSEN: Well I suppose I am, I don't know if I can make it but the witness would want to make an application that her name not be published in any way, I suppose it's an application for name suppression of a witness on the basis of her privacy and there's no real need why the name needs to be published in order to report this.

MR GORDON: No we have no problems at all.

MR CORKILL QC: Members of the Board, in view of the fact there is no opposition to this step I advise you that it's appropriate to make an order that this witness's name be suppressed.

MR PARKER: Yes, we so rule. Members of the Board do you have any questions?

MR HARDIE

Q. I just wanted to clarify when the certifier signed off the certificate of compliance it was generally normal practice for the blue copy to be removed and the certifier who signed it to take it with them if they were a contractor?

A. Yes.

MR BICKERS

Q. Just a bit of clarification please, can you turn to page 160, 161 of the bundle?

A. So who fills that out? Who filled that out?

A. It's been written out by Avis and it would be given to the gasfitter and then completed by the gasfitter.

Q. Completed by the gasfitter. So the heading might be filled out by one person and the balance filled out by the gasfitter, is that what you're saying?

- A. Yes.
- Q. I just look at page 161 at the bottom it says "Six hours worked"?
- A. Yes.
- Q. Now, when I go to 162 it says "Nine hours worked"?
- A. Correct.
- Q. And it also says the 27th of June when it's been suggested that the work was carried out on the 15th. How - can you just explain to me how you'd get into the printout 27th of June and nine hours when the sheet says six hours?
- A. The 27th of June was the day that it was actually entered into the system. The job saying six hours is what the gasfitter has said he worked at doing that job, that's exactly what he's done. The nine hours labour, because it's been incorporated with the job, I imagine that that job when she's finished tallying, equalled the quote. It's not necessarily meaning that they did nine hours. If they did ten hours and they quoted nine, they still only charge nine. If they did six hours and they quoted nine, they would have charged nine, it's a quote.
- Q. Okay, so irrespective of what hours the gasfitter works, the nine - the quoted hours go into the charge sheet?
- A. Yes.
- Q. And the dates show a date of entry which is on some back entry system, it's not a correct daily -
- A. Correct, it's not the day of - it's actually been entered, that's the day it was entered into the system and I probably entered those parts into the system that day.

MR PARKER

- Q. Leading on to a similar question at 157, Mr Gordon had raised the point about dates which are a bit hard to read, that's in a database I assume is that correct?
- A. Yes.
-

Q. Is it possible those cells are auto dating or print dates? Is there any reason - can you offer any reason other than that, why those dates are as they are?

A. No, the person to have asked would have been Tony Hunter because he left this whole system with me when he resigned - when he retired and he's the one who could have explained all of how that worked.

(Witness excused)

MR LAURENSEN CALLS**JOHN DOUGLAS STRACHAN (Affirmed)****EXAMINATION BY MR LAURENSEN**

Q. Is your full name John Douglas Strachan?

A. Yes.

Q. And you previously have signed a witness statement in relation to this matter?

A. Yes.

Q. There's a bundle in front of you, could you please turn to tab 8? Have a look there, turn over the page, is that a copy of the statement you signed and is that your signature?

A. Yes.

Q. Could you please read it?

A. "I John Douglas Strachan state I am a Director of Host Service Limited which supplies and services commercial catering equipment. Host Service Limited was incorporated as a company in September 2007. Prior to that, the business operated as a partnership. The Hostservice Company, Hostservice, in which I was a partner. I started the business in 1996.

During May Hostservice provided a quote, which was accepted, to Milton Street Fish and Chip Cafe for the supply of various appliances, including two Blue Seal GT LPG fryers. The quote was only for the supply of the appliances and was not for the installation of any of them.

On the morning of 24 June 2003 my son, Mark, and I went to the Milton Street Fish and Chip Cafe, where we unpacked and assembled each of the fryers. We did not install them or connect them to the gas supply. As I recall, the gas line for the fryers was not finished at the time. On that morning we also unpacked and assembled two other appliances, a used Blue Seal E602 fryer and an Avanti toaster grill. I recorded that visit in my diary, which records that we left the Hostservice premises at 9.15 am and were back there at 12.50".

- Q. Just pause there please Mr Strachan, you refer to a record in your diary, could you please just keep your finger in your statement there, and go to tab 12 on page 167, you will see the pages are numbered in the bottom right-hand corner. Now is that a copy of the entry for your diary that you refer to that includes the 24th of June 2003?
- A. Yes, that's correct.
- Q. And if you could just carry on reading from paragraph 4 of the statement?
- A. "A host service invoice dated 24th of June 2003 was then sent to Milton Street Fish & Chip Cafe for all the appliances".
- Q. Could you then please go to 169 of tab 12?
- A. Yes.
- Q. And is that the invoice that you refer to?
- A. That's correct.
- Q. Now, I just want to ask you one other question. You were aware I think that there was an explosion at the Milton Street Cafe on the 9th of April 2009, do you know what happened to the two GT45 fryers that were there after the explosion?
- A. We were called by the insurance people to collect and check appliances, including two gas fryers which we uplifted and took to our workshop; cleaned them, checked them and stored them.
- Q. And how did those two gas fryers that you collected and took back to your workshop compare with the GT 45 Blue Seal fryers that you delivered in June 2003?
- A. I'd understand them to be the same appliances.
- Q. Mr Hammond is going to give evidence that when he interviewed you he showed - you showed him a fryer, is that one of those fryers or -
- A. Yes that's what I understand, yes.

CROSS-EXAMINATION BY MR GORDON

- Q. Thank you for attending today. Now you're saying that your son and yourself assembled the fryers, how long does that generally take?
- A. They come crated normally in an MDF crate, so unpack, take off the plastic coating, 20 minutes, half an hour.
-

- Q. Now, you stated in your statement that the gas lines weren't finished at the time, what did you mean by that?
- A. As I recall the gas lines were partially installed, but I don't recall that they were finished off at the back of the appliances.
- Q. What makes you say that? For example, were they screwed to the wall, were they lying on the ground?
- A. Well, I remember it was the first time I'd seen the yellow pexal type gas line used and I remember it being fixed around on the architrave below the ceiling level and around behind the area of the appliances but as I recall the final fit off wasn't done, the pipelines were partially installed, that's as I remember it.
- Q. So you can't remember seeing any wing - what we call wing backs which are a fitting which screws on to a wall, do you remember seeing those behind the fryer at all?
- A. Not at that stage.
- Q. Now, I think it's said there you spent nearly three hours assembling - or three hours at Milton Street, was that entire time travelling - is that travel as well as the assemble, or was that just the assemble?
- A. No we would have left Richmond - I've got noted down my older son got to work at 9.15, his wife had a baby that morning or during the night before - he got there at 9.15, we left after that, drove into Milton Street in the truck, uncreated and assembled two fryers, unpacked the electric fryer and the toaster grill, signed up finance payments and got back to Richmond at 12.50.
- Q. Now, what do you generally - what sort of condition do you generally leave the appliances in? Is it just a matter of a gasfitter coming along and connecting hoses up, what sort of condition are they in?
- A. Well, in this case we unpacked them and left them ready to be connected.
- Q. Okay, and there's nothing else gets done to them at all by you?
- A. If hoses are fitted then it's under direction of a gasfitter and are tested and certified. But in this case we only - we delivered and unpacked.

RE-EXAMINATION BY MR LAURENSEN - nil.

MR HARDIE

- Q. Just serial numbers, do you keep any reference of serial numbers from the delivery of the original appliances to the ones that you picked up from, and cross-reference them?
- A. I don't recall that we did in this case. I've got the serial numbers down, I've got the original appliances. It could easily be verified but I don't recall that I wrote them down this time.

MR BICKERS

- Q. Mr Strachan, page 168 of the bundle is your diary for the 12th of May?
- A. Yes.
- Q. And I note it says "Milton Street Takeaway check on site". Was any gas wok done at that time do you recall?
- A. No, I don't.
- Q. You don't recall or there was no gas wok?
- A. No I don't recall. At some stage when I went there the gas line was partially installed.
- Q. That's the 24th you said earlier on?
- A. I didn't - on one of those days it wasn't finished and I couldn't be clear now which day it was, but I did go there earlier, certainly on the 12th.
- Q. So you are not certain of whether we're talking about - your comments that you made, gas lines were partially installed, you're not certain whether that was on the 12th or the 24th is that what you're saying?
- A. As far as I recall they were not finished on the 24th.
- Q. But you can't recall whether there was any work done on the 12th?
- A. No.

QUESTIONS ARISING BY MR GORDON

- Q. One thing on those serial numbers, so as you didn't check the serial numbers when you left would there - or could there have been a possibility of the fryers having been changed at some stage, because we're talking about a long period of time, by someone, is there a chance that the fryers
-

- could have been changed. I know it's easy to confirm once we get the serial numbers, but is there a chance that they could have been changed?
- A. Yes, there's a chance, but it would be very unlikely. The same people had owned the shop all that time; I'm not aware of any reason they would have changed them.

(Witness excused)

ADJOURNED [12.30 PM]

RESUMED [1.16 PM]

MR CORKILL QC: Just while that next witness is coming I had intended to ask earlier whether either side had a view about an order excluding witnesses apart from the professional witnesses who are in the room and Mr Gee. Mr Laurensen do you have a view about that?

MR LAURENSEN: I don't have a view about it.

MR CORKILL QC: Mr Gordon it is an order often made, particularly if there is credibility issues and it means a witness has to stay out of the hearing room until he gives his or her evidence. It may not be a particularly significant issue but I'm raising it.

MR GORDON: That's fine, we're flexible.

MR CORKILL QC: If the parties are flexible Mr Chair and Members of the Board we'll leave it where it is.

MR LAURENSEN CALLS**ROBERT RAYMOND DONNELLY (Sworn)**

Q. Is your full name Robert Raymond Donnelly?

A. Yes, it is.

Q. And you signed a witness statement in relation to this matter?

A. I have.

Q. You have a bundle of documents in front of you, turn to tab 10 please. Now is that a copy of the witness statement that you signed?

A. Yes.

Q. Now, Mr Donnelly I'm going to ask - I think before giving evidence today you've said that there are some other matters that you want to add and there may be bits of statement that you may want to change?

A. Yes.

Q. But I think you've said you would prefer to read through your statement and then come back and make those comments is that right?

A. Yep, that's all right. "In May 2003 my wife and I bought a property at 68 Greenwood Street Motueka. We have lived there ever since. Prior to moving into the property we had some renovations done to it, which included installing a new kitchen, a Westinghouse 7 gas cooker and a Bosch 22E external water heater. The cooker and the Bosch water heater were installed before the new kitset kitchen was installed. This meant there was nothing in the kitchen when the cooker was installed", there was no bench top or anything, or the cupboards or any of the joinery.

Paul Gee installed the cooker and the gas pipework running from the LPG cylinders to the cooker. The fixed pipework connected to the cooker's flexible hose is screwed into the side of a stud inside the wall behind the cooker".

Q. Just pause there. Just keep a hand in the statement where you are there, could you go to tab 13 in that bundle and you will see some photographs and could you please go to photographs 21 and 22?

A. Yes.

Q. Now, Mr Hammond, the Investigator in this case will give evidence that he took those photographs behind the cooker in your kitchen?

A. That's right.

Q. Do they look like the what can be seen -

A. Yep.

Q. And do they show what you've just described in terms of the fixed pipework being screwed in?

A. Yep.

Q. And if you then just go back to your statement at paragraph 3, that's tab 10. I think you were at - you were at paragraph 3, third line down starting "Mr Gee installed"?

A. Yeah. "The fixed pipework connected to the cooker's flexible hose is screwed inside the stud inside the wall behind the cooker. Mr Gee installed this. The cooker's flexible hose is connected to the fixed pipework through a circular hole in the kitchen wall that must have been cut by Mr Gee when he installed the cooker and the pipework. The position of the pipework, and the hole, has not been changed in any way since Mr Gee installed the cooker and pipe work. I think another gasfitter installed the Bosch water heater. Both appliances were installed around the same time.

I arranged for the supply of the two 45 kg LPG cylinders that supplied both appliances. I do not think they had arrived when Mr Gee installed the cooker and I cannot recall who actually connected the LPG cylinders to the gas pipework.

Within approximately one month of the cooker being installed, a builder, Mark Williams, and I installed the kit set kitchen".

Q. Can you just pause there and I will ask you a question, prior to the kitchen being installed had you moved into the house or anything?

A. Had we moved into - no, we were still living at Ngatamoto (ph), we were allowed to do renovations to everything before we actually moved into the

property, so that's why we were able to strip it down, because the people who were in there had died.

Q. So when was it that you moved in - took possession, not in terms of date but before or after the kitchen was installed?

A. I think - from memory I think we - it was after that had been fitted.

Q. Put it this way, did you use the cooker at all before the kitchen was installed?

A. No. "I cannot recall whether there was a chain fitted between the cooker and kitchen wall behind it. However, sometimes around August last year, Mr Gee came back to our house and asked if he could look at the back of the cooker as he thought he had fitted a chain. We pulled the cooker out from the wall and looked behind it and could see there was no chain. Approximately five minutes later Mr Gee rang and asked if he could come back and have another look at the back of the cooker. I said he could and he came straight back. We pulled the cooker out from the wall further this time and he pointed to the screw -

Q. You say "further this time", there's something in brackets, do you want to read that?

A. No, I was just coming down to it. "We pulled the cooker out and Mr Gee disconnected the bracket fitting". That piece you mean?

Q. Yeah.

A. So he could physical clearly pull the stove right out.

Q. You said "bracket fitting" he disconnected the what fitting?

A. The bayonet fitting. "And he pointed to a screw at the bottom right-hand right corner of the top of the panel on the back of the cooker as being where the chain would have been fitted".

Q. Could you just pause there. Could you please go to photograph 20 in that tab 13?

A. Yes.

Q. Have you got that there?

A. Yes.

Q. Once again that's - Mr Hammond will give evidence that he took that photograph of the back of your cooker?

- A. Yes.
- Q. Does that look like the back of your cooker?
- A. Yes, it is.
- Q. Now, you have said there he pointed to the screw in the bottom right-hand of the top panel on the back of the cooker, could you just point out there?
- A. No it's not the top panel, it's the one just below the top panel.
- Q. So if you could just point out then which one it is that you say he pointed to?
- A. That screw, (indicates), that's down here on the - below that top section.
- Q. Could you show us as well please?
- A. Sorry.
- Q. So there you are referring I suppose to that as the top of the right-hand bottom panel?
- A. Yes.
- Q. Maybe if you just - have you got a pen there?
- A. Yeah I have.
- Q. Just put a circle around -

MR CORKILL QC: Mr Laurenson just for the sake of the record is it just below where there appears to be a bend in the lower sheet?

EXAMINATION CONTINUED BY MR LAURENSEN

- Q. Yes, is that right Mr Donnelly?
- A. Yes, it is.
- Q. And then put a line out and put "RD"?
- A. Yep.
- Q. And that's indicating you have marked that giving your evidence?
- A. Yep.
- Q. So to be clear then you will be wanting to change the evidence in your statement where you said that he pointed to a screw in the bottom right corner of the top panel, to what you've just said?
- A. Yeah.
- Q. Now, carry on from -
-

- A. "I could see that the screw was slightly out from being snug against the back panel. There also appeared to be scratches around the screw that could have been caused by a chain. To my knowledge the position of the screw in terms of how far out from the back panel it is has not been changed since it was pointed out to me by Mr Gee.

If a chain was fitted to the screw then the nearest stud in the wall behind the cooker is a few inches to the left of the cooker and is now covered by the kitchen joinery. If a chain was connected to the stud then we would have had to remove it in order to install the kitchen and it would not be possible now to see the hole in the wall because the kitchen joinery now covers the studs. And I cannot remember removing a chain, but it is now almost eight years ago and so I would not necessarily remember".

- Q. Okay. Now I think you said you wanted to add something or elaborate?
- A. Yeah, there's a couple of things in here which I've got a little bit of concern about because at the time of when the auditor came round it was - I must admit I felt pretty intimidated. He was quite official in his approach and he only pulled the cooker out a fraction, enough to get the photos there, and it wasn't until Mr Gee came that he actually pulled the cooker right out and as soon as you pull the cooker right out there's evidence - you can see there's scratch marks where a chain would have been swinging possibly that far down, (indicates), the back of the cooker from that screw hole and the screw itself is out - out a wee bit, so it was obviously just screwed back in and then not put back in snugly.
- Q. Can I just pause you there. I should have asked you to show this before, you mentioned some markings?
- A. Yes.
- Q. Could you go back to tab 13?
- A. On that one where the screw is. You can't actually see the markings there.
- Q. If you look at Photograph 29, it's right at the end of tab 13, now is that a photograph you took?
- A. Yep.
-

- Q. And you provided it to me?
- A. Yeah.
- Q. Now, can you see where you say these markings are there?
- A. There's - if you look there there's look likes I think they're little rust pieces there, but just below them there's little parallel marks.
- Q. Once you've shown the Board could you also show us?
- A. (Indicates), there's little wee parallel marks here that go down, (indicates).
- Q. Show the Board again. But I think what you're saying is you're pointing -
- A. See those little parallel marks there, (Indicates).
- Q. You are pointing to on the middle of the photograph you can see what appears to be a round dot on the right-hand side of the cooker?
- A. Yes.
- Q. And then below that there are sort of four or so short parallel markings below that?
- A. Yes they are.
- Q. That's what you are referring to?
- A. It is, yeah. And the only way - because if, you know, with a chain being there, that's - it would really, that's how it would show up, it's been scratched against something. And we never, when that stove was installed we never had anything to do with the back of the stove other than when we put the bench and everything back on - when we moved the kitchen in there.
- Q. Now, just to be clear on that, I think you need to relate that to where you've shown the markings, to a bigger photo of the cooker. If you go to 20, I know you've said you can't see the marks on 20?
- A. What number - where's that?
- Q. Tab 13 still, tab 13 which is the photographs?
- A. Yes.
- Q. So hold that one in one hand, and then go back to 20?
- A. Yes.
- Q. Now, you've said you can't see those markings on 29 and 20, but can you point out where in photograph 20 they are?
-

- A. If you look in relation there's a - I don't know whether it's a tab or something there, that it's about that level, (indicates).
- Q. So which tab?
- A. That tab there, (indicates), comes in somewhere down about that level, (indicates).
- Q. You are pointing there to what looks like something with writing on?
- A. Yes.
- Q. Near to the bench?
- A. Yes.
- Q. So roundabout that level?
- A. Yeah. And it would almost be as if the chain had a loop in it, it's been pushed against the wall before the bench top was fitted, it's been removed and because the - the screw or the chain would have had to have been removed because it's the only way that we could fit that bench top, because the bench top covers the stud to the side of the stove where the chain would have been screwed in.
- Q. Okay, so you are saying that you think that the markings, those parallel markings may have been caused by the chain being squashed between the back of the cooker and the wall?
- A. I would say so. I'm only assuming that.
- Q. Just to be clear though, the shape of the cooker?
- A. Yes.
- Q. -- you can see in paragraph 20 --
- A. Yes.
- Q. -- it looks like from where that screw is that you said Mr Gee pointed to --
- A. Yes.
- Q. -- the cooker goes out towards the wall doesn't it?
- A. That's right, yes it us.
- Q. And then it goes up?
- A. Yes.
- Q. So could you explain how if the chain was screwed into that screw below where it goes out towards the wall --
- A. Understand what you're saying.
-

- Q. -- it would have made markings when pushed against the wall? Because it would have hit first the above bit.
- A. Yes it would have, and it wouldn't have been me. Yeah I'm not an expert on that, and like I said to you, I'm only assuming that's how it was done, whether it's time for assumptions or not is - but I can't see any other way those scratches are there, yeah.
- Q. And carry on if there's anything else you want to add?
- A. To that section, no. Can we go back to the statement now?
- Q. You can change anything you want.
- A. If we go back to the statement it sort of - there's a few things there that I'm not too sure about. When Mr Gee came back he walked round and inspected everything there. There was something that he alluded to which sort of got us thinking at a later date and that was - he just mentioned, he said that something about "I don't know why I changed the hoses", because there's two different types of hoses going from up into the gas cylinder - I mean to the gas califont to the hose that's going into the back. Now I never took anything into it; he never discussed it any further.
- Q. Just pause there, going into the back of what?
- A. Going in - well the gas califont sits up on a wall here, (indicates), the lines come down and go under the house, halfway up the wall there is a joiner where the hose goes through the wall into the gas cooker which is directly behind where - you know, where the hole is going into the wall.
- Q. In the kitchen you're talking about --
- A. In the kitchen, yeah.
- Q. -- that you showed us before?
- A. Yeah. Now we never thought any more about that until a while ago. We were lying in bed there one morning, as you do, before I went for a pig hunt and Gloria kept on saying to me -
- Q. Just pause there, who's Gloria?
- A. That's my wife, that there was an older fella and this has what's been concerning me from about the whole situation, is there seemed to be an older guy at some stage. Now, what I - I'm thinking it could have been the old guy that did the gas cylinder because that - it was that guy that
-

- checked the gas califont, because that was playing up, to get the right temperature and we don't know how the temperature was going to work.
- Q. So when you say the gas califont you're talking about the Bosch water heater?
- A. Yeah, the Bosch. So where this guy comes into it I don't know and I'm sort of having doubts myself whether Mr Gee actually fitted that, but I mean it's -
- Q. Fitted what?
- A. Fitted the stove, the gas stove. And I was talking to Mr Hammond about it, and he said well they're not worrying about that stove any more, so there doesn't need to be any concern on that.
- Q. Well, when do you say Mr Hammond said that?
- A. Well, when I was talking to him a while ago because I said I had concerns about whether or not Mr Gee had actually fitted the stove because there's this older guy that was - that the wife was pertaining to and we - we now believe that it was a possibility that he may have fitted the gas stove.
- Q. Okay, I suppose the question I've got to ask you is this statement obviously was prepared and you signed it?
- A. Well I did, but it's not the statement that I sent through to you and, you know, like I'm - I'm a Pisces, I'm a real dreamer and I just looked through it, and the way I looked at it everything was right, but it's a little bit more detailed to what my statement was that I sent through to you. It's - we were talking over the phone to it and you've obviously written down everything that was on there.
- Q. Don't get me wrong, I'm not trying to suggest you can't change it or anything like that I'm just asking you, given that you did sign the statement clearly saying that Mr Gee had installed the cooker --
- A. Yes.
- Q. -- I'm just asking you now why you are saying that you don't think he did, that's all I'm asking?
- A. You are entitled to, because I signed that, but it's - yeah, sort of a little bit more - have we not got my one that I sent to you?
-

Q. I can definitely get everything that was sent to you, but my problem is I don't - I can't be giving evidence in front of the Board as to what - but I can certainly -

A. Oh yeah it's just -

MR CORKILL QC: Isn't the short point Mr Laurenson is that this witness signed these two pages, he's read it out and then he's made some additions is that where it sits?

MR LAURENSON: Yes, and that's all I'm asking.

WITNESS: I'm sorry. Yes, yes, and there's nothing about the gas bottles and fittings and stuff. Do we need to talk about that?

EXAMINATION CONTINUED BY MR LAURENSON

Q. Anything you want to talk about.

A. Well, I found when Mr Gee was there that I found him he was very business like, he did a good job, he informed me that - about the gas bottles go - because the gas fittings go under the house from the gas bottles which was probably 10, 12, 15 metres away from where the Bosch cylinder was. I said to him that - 'cos he said it needs to be a concrete platform and the holes, the bench where the pipes go under the house needed to be blocked and I said well that won't be a problem because we're going to buy a concrete surround, put the bottles on that and they'll be basically self-contained, but unfortunately that never got round, and it was at that time that the assessor came and of course we got rid of our big gas bottles and I just had a little gas bottle there sitting on a step ladder which is - I think he was a bit upset about that. Yeah, and it seemed to me that they were looking for faults and it - yeah.

Q. When did you last speak to Mr Gee?

A. November. I think it might have been November. Pre-Christmas.

Q. What did he say to you then?

- A. What did he say to me? Virtually didn't talk to me much about what had happened because we'd talked it through earlier on and I felt that he was getting a raw deal. And he said that there was other cases and that was about it.
- Q. Is there anything else you want to change in the statement?
- A. I just wish it was - my other statement was there, because there's quite a bit in here which I can't remember - and I guess I made a mistake in not reading through something, but, you know, in paragraph 3 where it goes into all the - where Mr Gee's installed things here, the cooker's flexible hose is connected. There's quite a bit in there which basically - yeah.
- Q. What are you saying - when you refer to this other statement, what are you referring to?
- A. You know, the statement that I sent to you was basically how I saw it at the time. What's here is words that have been - bigger words that have been added in for me, you know?
- Q. Sorry, when do you say you sent me a statement?
- A. I e-mailed you the statement. Or did I?
- Q. Are you sure about it? I can't give any evidence. I'm just saying are you sure you e-mailed me a statement?
- A. No actually I didn't. You're right, because I said to you about it, and you said well there's no need because it's part of Mr Gee's.
- Q. Is this a statement that you said you had e-mailed to Mr Gee?
- A. Yes, yeah.
- Q. And that was something that he'd asked you for?
- A. No, he hadn't - I'd send - 'cos I - I'd sent - because there was- there were some photos of the kitchen because it all seemed to be around the kitchen stove and we had photos of the kitchen when it was completely demolished, everything was empty and the stove was there - or wasn't there I should say, but that's what he was putting the stove into.
- Q. Is there anything else you want to change before you answer any questions?
- A. No that's basically the concern. I apologise, I didn't send you that.
-

MR GORDON: We actually have a copy of the email that was sent. Is it appropriate for us to show the witness?

MR CORKILL QC: You can show it to the witness.

MR LAURENSEN: Could I see a copy of it please?

MR GORDON: This is the only one I've got.

MR CORKILL QC: Show it to Mr Laurenson first. (Mr Laurenson refers).

CROSS-EXAMINATION BY MR GORDON

Q. Is that the letter that was sent?

A. Yes.

Q. I'll leave that to you at the moment.

A. I mean to me it's exactly the same but there's quite a both of stuff in there, in paragraph 3 which is -

Q. Would you just like to read that out to the Board please?

A. "In 2003 a gas califont and stove was fitted. At the time of installation we were in the process of renovating our kitchen. All the benches, sink and cupboard were taken out leaving the area clear as per photo. As we had not received our large gas bottles the man that was installing the gas informed me that we would have to have a concrete base and block the vent under the house. At that time we intended to mount the bottles in a concrete surround which would have been - which would have covered where the pipe went under the house, so I was not too worried about blocking the vents. Once we received the bottles we never got around to doing it. After a period of time we found that the large gas bottles were costing us too much, so we sent them back and replaced them with little bottles. It was at this time that the man from the audit department turned up and informed us of our obligations to the safe storage and handling of gas. The audit consisted of taking a few photos. He pulled the stove out and informed us that there should have been a chain fitted on the stove.

- He took more photos and pushed it back. He also informed us that it should have had it above the bench, that's the gas stove should have been above the bench, and it was not until later that we realised there was no furniture in there at the time of fitting and that a chain had in fact been fitted but my friend who was helping me removed it so the bench top could fit. We found that the gas man that did the fitting was tidy, polite and thorough. We would not hesitate in recommending him to anybody who wishes to have gas appliances fitted and maintained. All the best Rodney Donnelly".
- Q. Okay, so that's the letter that you sent - your initial thoughts on the whole issue?
- A. Yes.
- Q. Now you mentioned just before that the person that installed the heater, you got them to look at the Bosch water heater - sorry the person who installed the cooker, you got them to check on the Bosch water heater because it was playing up, is that correct?
- A. Yes.
- Q. So that would indicate that the Bosch water heater was installed prior to the cooker being installed?
- A. I'm assuming that.
- Q. If it was on the wall and you asked him to go and check it then that would indicate the water heater was done first?
- A. Yeah.
- Q. So it would appear that there are two different people that have installed - one, this is for the water heater, and the second person has come back to install the cooker?
- A. It - well - would it appear? Um, I would assume so, but I'm - I'm not a hundred percent. I've got a nagging - we've got a nagging feeling that there was another person involved and I know that Mr Gee fitted the main pipe system, but this older chap keeps coming up.
- Q. Okay. Now you received a letter from the Board some time after the audit stating that the audit had been conducted and that there was some issues
-

- that are wrong with it and implying that Mr Gee had been involved in a gas certificate - illegal gas certificates, do you remember getting that?
- A. I thought it was the man told me that they were looking at prosecution - or not prosecution, that they were looking at Mr Gee. I'm a little bit unclear on that, sorry.
- Q. Okay, that's fine. And did you get a letter from the Board recently?
- A. Yes.
- Q. You did. And do you remember what that said at all, that second letter?
- A. Oh something about delete prosecution thing or something in it - or change - yeah.
- Q. That they were possibly mistaken in what they'd said in the first letter?
- A. Yes, that's right, yeah.
- Q. And what did you think when you received that letter?
- A. Well, nothing much, I was about to go pig hunting.
- Q. That's fair enough.
- A. Oh well I knew - I just thought it was part and parcel of what was happening, so - yeah.
- Q. Now, getting back to this statement, now this statement - the second statement, not the one I gave you, the other statement which is in the package here, so that was prepared for you by Mr Laurensen, wasn't it?
- A. Yeah, but to be fair to Mr Laurensen, he - when we were talking about the statement, you know, like I'm not the best person to de-siphon things - or describing things. You know, like he was very clear in what he said because if I said something he would go back and get me to clarify it. But I mean, these are basically his words that was used and possibly not necessarily mine. But in the context of the conversation I'm sure that's - that's what would have been said.
- Q. Okay.
- A. If you can understand that?
- Q. Yes. That's fine.
-

RE-EXAMINATION BY MR LAURENSEN

- Q. Carrying on from that Mr Donnelly you have said there was a conversation between you and myself?
- A. Yes.
- Q. Just have a look at this document?

MR CORKILL QC: Show it to Mr Gordon it first.

RE-EXAMINATION CONTINUED BY MR LAURENSEN

- Q. And then I sent you a draft, an email?
- A. Would have been one of these would it?
- Q. Have a look at that and see if you remember getting that document?
- A. Yep.
- Q. Can you just read that out what that says, who'd it from and who's it to?
- A. "From Dave Laurenson to Robbie Donnelly, subject gasfitters and witness statement. As discussed yesterday I have prepared a draft witness statement for your comments. Please read it through carefully flee and let me know if you would like it changed in any way. It is important that you are satisfied that it is accurate to the best of your knowledge. We need to get the witness statements done by this Monday so I'd be grateful if you could please get back to me with your comments as soon as possible".
- Yes.
- Q. Now, I read that other - the statement that you provided to Mr Gee and I see that you've put in there that a chain was fitted and it was removed and I just ask you the question why you signed a statement saying that you can't remember whether or not a chain was fitted, and what do you actually remember?
- A. What I'm saying there.
- Q. Here you're pointing to?
- A. I'm pointing to my statement - or my letter that I sent to Mr Gee, is that when we fitted everything the chain would have had to have been removed. If the chain was fitted on there, the chain would have had to have been removed, and I mean that's - I've obviously been playing with
-

words there because there's no way we could fit anything without it. As for physically seeing the chain I can't remember it. Mark Williams, he was the same, he said well if it had been there we would have taken it off anyway because it wouldn't have fitted in with where everything went, there was no studs there.

Q. I suppose it's just a question, can you remember now whether or not there was a chain fitted at any time between the cooker and the wall?

A. No I can't.

Q. And just one other thing, you were asked some questions by Mr Gordon about whether or not the cooker and the Bosch water heater were fitted by different people?

A. Mr Gordon is?

Q. This is Mr Gordon.

A. Oh sorry, just there.

Q. I just want to put some evidence that's going to be given by Mr Hammond to you and get you to make any comment you want to make about it?

A. Yes.

Q. He's going to say in a statement that he visited - that he spoke to you on the telephone on the 21st of May 10 and that you told him the cooker and the water heater were installed at the same time by the same person?

A. Yes.

Q. I was wondering if you had any comment to make about that?

A. Bearing in mind when we were thinking about it, when I was talking to the wife about it and it was everything coming up, she had always said you know, about this older fella, the balding guy, and in my mind it was all fitted but then there was an element of doubt and that's what I said to you that's why I'm feeling a bit uneasy that there is an element of doubt as to, you know, what actually went on.

Q. So I ask you now, can you remember now, what's your recollection as to whether or not the cooker and the water heater were installed by the same people or two different people?

- A. I would have to say I can't remember. All I can remember is this other guy doing - taking the front off the califont and adjusting it and everything. Yeah. I'm sorry.

MS INESON

- Q. The email that Mr Gordon gave you a few minutes ago that you read out from?
- A. Yes.
- Q. What date was on that email please?
- A. Good question.
- Q. The email that Mr Gordon gave Mr Donnelly?
- A. Yes, that would have been not long after Mr Gee came round and we got a phone call after the audit fella had been through, we got a phone call from Mr Gee saying that he was in the area and could he come and have a look at the work? And it was at that stage he alluded to us what was actually going on, that he was in the firing line and I said to him well I feel that the job you have done - there was nothing wrong with it in our eyes and it was after that that I sat down and wrote Mr Gee that letter, I says "if this helps well that's good".
- Q. So what I'm trying to establish was that before or after you wrote your statement with the assistance of Mr Laurenson?
- A. Well, well before.
- Q. Before?
- A. Before.
- Q. Is there not a date on the email?

MR GORDON: That is just a letter that was printed out from an attachment, it was an attachment to an email.

MS INESON: Okay but it doesn't have a date down the bottom?

WITNESS: No.

MR SIMMISS

- Q. Just a point of clarification, in paragraph 16 your statement you say you bought the place in May 2003, I see the gas certificate is signed 1st of May, obviously the gas wasn't carried out before you bought the property?
- A. No what it was - what happened is the old lady who had owned the place she'd died and possession, I'm not sure what date - in actual fact I think it was the 9th because we pay a Maori lease on there, that starts on the 9th of May, so I think our - would have been about the 9th of May when our actual possession date of the house was taken over. We were allowed to undertake - because no-one was in there we were allowed to undertake the bits and pieces inside, but we just stripped - it was an old two bedroomed house that we stripped the lounge and the kitchen completely.
- Q. Okay, and just a further point of clarification which is sort of following on from Mr Laurenson's point, you contracted Allgas to do the work which Mr Gee was an employee of and you still feel multiple tradesmen worked on the job?
- A. I couldn't put my hand on my heart and say it, but there was two different people that were there, definitely two people. You know, at what stage one was there -

MR HARDIE

- Q. Just a couple of questions Mr Donnelly, when the installation was completed did anyone demonstrate to you or your wife the operation of the appliances that had been installed?
- A. Only the gas cooker - the gas cooker was done. We didn't have the bottles there initially for the Bosch, but because the cooker was being put in - yeah no, that's all I can sort of thinking of, because I know the fella or whoever it was - and - yeah, I don't think it was Mr Gee - I'm assuming - I don't want to, you know -
- Q. So when you say that the gas stove was shown to you how to operate it, are you saying that there was a flame present?
- A. Yes.
- Q. There was?
-

- A. Yes.
- Q. On the certificate that was presented to you which is tab 12, page 73 in the bottom right-hand corner the certifying section talks about the responsibilities of the individual signing off the certificate. Did anyone explain that to you, the bottom right-hand corner?
- A. No, I couldn't - I couldn't say that - um yeah, I mean, I don't even know who took that out.
- Q. So no-one's explained to you that this was a legal document that was passed on to you?
- A. No I'm - no, I can't remember at that stage it's sort of - really if you could imagine we're excited moving into a new home - yeah, just - it may have been and just went straight over my head.
- Q. Just one last thing, you mentioned that when the auditor came to see you you felt intimidated?
- A. Yes.
- Q. Can you explain that to me a little bit more?
- A. Black shoes, black pants - yeah very official, just - yeah, I mean when he left the wife said to me, she said "mmm don't like that man", you know, there was just something about the mannerisms, you know, like I'm a contractor and I'm pretty jovial and - but I guess on a serious matter like this they've got to be serious, but it's just - just mannerism I guess might be better - a better way of putting it.

MR PARKER

- Q. Mr Donnelly, just two things. You use this phrase the audit man, is that audit man here?
- A. Is that the man there, (indicates), was it you? Yeah it is.
- Q. So audit man is an audit man, are we talking about an audit man or an Investigator, which person?
- A. Well, I just took it he was here to audit the process of what we did. Of the gas cooker at that stage.
- Q. Was the gas cooker brand new?
-

- A. Yes, yes, because we had - there was an electric stove in there and it was a fairly new electric stove and we ripped that out to put the gas stove in because we like gas.
- Q. So the sequence of events then, you buy the property, take possession but you have work done it?
- A. Prior to possession, yes.
- Q. Take out the stove, buy a new stove, the wall has already got a already got a wall covering on it?
- A. Semi, yes.
- Q. So can you take me through the point to where you had to go and re-line the wall?
- A. No, I didn't re-line the wall, no. No what we did, we moved in, got the two bedroomed cottage probably the length of this room is the kitchen is in the front section here, lounge was here, (indicates), it was an old 70s style - separating the two with a door, had an old fireplace. We gutted all that out and it was the old bin type flour bins, you know the old flour bins and those sort of things? We ripped all that out. We measured it up, me cobber who's a builder, we went to Placemakers and had a - and got the bench which went round the wall, the sink and then there was a breakfast bar. Because the unit is all contained, each section has got its own back, everything we did on the back wall was no problem.
- Q. So you acquired the Westinghouse stove?
- A. Yes.
- Q. Delivered?
- A. Yes it would have been.
- Q. And engaged someone then to install it?
- A. I think we organised everything at the same time. When we went there we went round Rocks Road, we went and got the stuff and it was - yes.
- Q. And then nothing was operating until after you moved in?
- A. No the gas stove was going, once - you know like once it had all been fitted and stuff.
- Q. So once the gas stove was going, the next time that the gas stove was moved, is that the point you make in your statement, Mr Gee came along
-

and said can we have a look behind the stove, six years later, I take it it was in 2010 I think it was?

A. Just bearing in mind that it was moved when we had to do - put the bench and everything in.

Q. Okay. All right.

(Witness excused)

MR LAURENSEN CALLS**EDWARD PHILIP ANDERSON (Sworn)****EXAMINATION BY MR LAURENSEN**

Q. Is your full name Edward Philip Anderson?

A. It is.

Q. And have you previously signed a statement in relation to this matter?

A. I have.

Q. Can you please just look at the bundle in front of you and go to tab 9. Is that copy of the statement you signed?

A. It is.

Q. Could you read it please?

A. "I have owned and lived at the property at 6 Malvern Avenue, Atawhai, Nelson with my wife for approximately 48 years. During 2006 we had some renovations done to the house, which included installing two gas hot water heating systems and a gas fire. We arranged for Paul Gee to install these appliances. Prior to this, we did not have any gas appliances at the house. Around June 2006 Mr Gee installed two external Bosch 25 water heaters and a Rinnai gas fire and two 45 kg LPG cylinders. One of the Bosch water heaters was installed at the rear, the southeastern side of the house. A window to the dining room is directly above that Bosch water heater".

Q. Could you just pause there please and go to tab 13, just maybe keep your finger there because you will come back to that, and you will see some photographs, if you go to Photograph 28 please which is right at the back of the tab, second to last one, come back one, see that there?

A. Yes.

Q. Is that a photograph of the Bosch water heater that you referred to?

A. Yes.

Q. And just above it, the dining room window?

A. Yes.

Q. If you just carry on reading your statement from paragraph 4 please?

A. "Sometime during 2009 an auditor advised me that the installation of the Bosch water heater at the rear of the house was non-compliant because it

was too close to that window. I therefore bolted the window shut to prevent it from being opened and it has remained like that ever since. No-one has changed the installation of the two Bosch water heaters since Mr Gee installed them. In particular, the location of the Bosch water heater at the rear of the house and the window above it have not changed in any way".

CROSS-EXAMINATION BY MR GORDON

- Q. Thank you for attending today. Now you've had no problems with the installation at all?
- A. No.
- Q. Have you ever smelt any gas entering the windows above the heater?
- A. No.
- Q. Now, are there any restraints on that window, I realise that you've screwed it shut, are there any restraints on those windows at all?
- A. They have had previously two safety chains to prevent them being opened so the children couldn't fall out them.
- Q. Approximately how far would that commit the window to open?
- A. Probably about that far. (Indicates).

MR LAURENSEN: So just for the record how far?

WITNESS: I would think about six inches.

CROSS-EXAMINATION CONTINUED BY MR GORDON

- Q. Now did you receive a letter probably about 18 months ago from the Board about the installation and faults with the installation?
- A. Yes.
- Q. Do you remember what that letter said at all?
- A. Um just to say that they were conducting an audit on the installation.
- Q. Okay, yep. Now in that letter it made some accusations about dodgy gas certificates and such like, do you remember that at all?
-

- A. No. I just seem to remember that it said that they were going to conduct I thought at that time a random audit on that installation.
- Q. Okay that's fine.
- Q. Now, do you think it would be a bit unusual that Mr Gee would install one unit as per the legislation and such like and then it's alleged that he installed the other one in a dodgy-type manner, do you think that's a bit odd?
- A. Well, I do, from a lay person's point of view, where it was installed was absolutely the logical place to put it. .

RE-EXAMINATION BY MR LAURENSEN - nil.

MR HARDIE

- Q. Why did you think it was the logical place?
- A. Because it was right outside the shower that it was heating, so it was directly through the wall from that - if it was further up the wall it was likely to be impeding people coming up the stairs, so it just seemed, you know from our point of view perfectly logical to place it there.
- Q. So from a layman perspective?
- A. Yes.
- Q. When the installation was completed and you were presented with the certificate on completion, was that explained to you at all about the purpose of that certificate?
- A. Well, we knew we had to get compliance certificates because with all the alterations we had a whole heap of compliance certificates, so it had no particular significance other than to say that it met the requirements.
- Q. So as far as discussing what was written in the certificate, was that ever explained to you?
- A. I don't think so.

(Witness excused)

MR LAURENSEN CALLS**PETER REGINALD LAMBORN (Sworn)****EXAMINATION BY MR LAURENSEN**

Q. Is your full name Peter Reginald Lamborn?

A. Yes, it is.

Q. And have you signed a witness statement in relation to this matter?

A. Yes I have.

Q. Could you please have a look at tab 5 in the bundle in front of you and just have a look through that, and at the last page?

A. Yes I have.

Q. Is that your signature?

A. Yes.

Q. Is that a copy of the statement?

A. It is.

Q. Can you read it out please?

A. Certainly. "I Peter Reginald Lamborn of Melbourne, Australia state: I am the Managing Director of Casey Inspection Services Pty Limited", referred to as Casey from now on, "a company based in Burwood, Victoria, Australia. Casey is a compliance and competency auditing organisation with a specific mission to manage the performance of onsite compliance and competency skills of plumbers and gasfitters. I was also the manager of Casey Services New Zealand Limited, the competency auditing contractor engaged by the New Zealand Plumbers, Gasfitters and Drainlayers Board from 1 April 2004 until 31 March 2010.

I have been a craftsman plumber and a craftsman gasfitter in New Zealand since 2004. I currently hold a plumber and gasfitter registration qualification in Victoria and a supervisor certificate in New South Wales, Australia which entails plumbing, drainage, gas roofing, mechanical services and air-conditioning, and also with advanced studies in plumbing, drainage, roof and gasfitting. I have approximately 40 years experience in those disciplines.

In June 2009 Casey Services New Zealand Limited received instructions from the Board to carry out special audit inspections on a number of gas installations in Nelson and surrounding areas, including those referred to below. I took photographs of many of these installations, which are attached to my audit reports in respect of the installation.

73 Main Road, Havelock. On 3 September 2009 I visited the Mussel Boys Restaurant at 73 Main Road, Havelock to carry out a special Audi in respect of a gas installation at that property. The Board provided me with a copy of the gasfitting certification certificate in respect of that installation which is numbered 286044".

- Q. If you just go to tab 12 please, page 72. The pages are in the bottom right-hand corner. Is that the certificate you are referring to?
- A. Yes it looks like it. Yes.
- Q. So just carry on reading from paragraph 4.
- A. "The gas installation was a Blue Seal GT45 gas fryer connected to two 45 kg LPG cylinders, in respect of which I found the following issues of non-compliance: The gas fryer was not appropriately restrained so as to prevent damage to the flexible gas pipe work connected to it. There was a chain fitted. However, it was not appropriate in that it was connected to the wall behind the gas fryer at one point and then was looped around the back wheels of the gas fryer back to another point of connection on the wall".
- Q. Just pause there and go to page 104 of tab 12 please, are they photographs from the audit?
- A. Yes, it is.
- Q. And do they show the chain?
- A. Around the wheels, yes.
- Q. Just carry on reading?
- A. "This meant that in order to pull the gas fryer out from the wall to, for instance, clean behind it, it would be necessary to disconnect the chain from the wall, at which point the gas fryer would not be restrained at all
-

and could then be moved forward so as to damage the flexible gas pipework.

The flexible gas pipework connected to the gas fryer was lying on the floor underneath the gas fryer".

Q. And can that be seen in photograph 104 as well?

A. Yes. "While at the restaurant I met with the owner, he told me that he had not seen the person doing the gasfitting and that no other gasfitter had completed any gasfitting work since the fryer was installed. I prepared a report in respect of my special audit dated the 3rd of September 2009".

Q. Did you first of all prepare a handwritten one?

A. Yes, I did.

Q. Could you look at the bundle, tab 12, page 102? And over to page 103 through to 105 is that a copy of your handwritten report and photographs attached?

A. Yes, it is.

Q. And then after you did a handwritten report, did you subsequently have that typed up?

A. We did.

Q. And if you look at page 130?

A. Yes.

Q. And 31 is that the typed version of that report?

A. It is.

Q. Just read from underneath 68 Greenwood Street please?

A. "On the 31st of August 2009 I visited 68 Greenwood Street, Motueka to carry out a special audit in respect of a gas installation at that property. The Board provided me with a copy of the gasfitting certification certificate in respect of that installation, which is numbered 278223".

Q. And is that at page 73 of tab 12?

A. Yes.

Q. Just carry on reading please?

A. "The gas installation comprised a Westinghouse 517 gas cooker and a Bosch 22E external water heater connected to a 9 kg LPG cylinder. I

- found the following issues of non-compliance in respect of that gas cooker. A restraint was not fitted to the gas cooker to prevent damage to the flexible gas pipework connected to it and there was not any indication that a chain had ever been fitted".
- Q. And if you just have a look at page 7, are they the photographs that you took when you did the audit?
- A. Yes. "There was insufficient clearance between the gas cooker and an adjacent bench in that the bench top is above the level of the hob and the periphery of the front left burner was only approximately 100 from the bench".
- Q. And 96 is a photograph of the cooker and the top of the water heater?
- A. Yes.
- Q. And of course for the Board's information this is a matter that isn't being pursued -

MR CORKILL QC: Speak up both of you please.

EXAMINATION CONTINUED BY MR LAURENSEN

- Q. For the Board's information this is the issue that isn't pursued because the kitchen wasn't installed at the time?
- A. "I prepared a report in respect of my special audit dated the 31st of August 2009".
- Q. Is the handwritten version of that at page 95?
- A. Yes, it is.
- Q. And is the typed version at 125 --
- A. And 126.
- Q. -- is that right?
- A. Yes, yes, it is.
- Q. Over the page to paragraph 9 please?
- A. "On the 31st of August 2009 I visited the Motueka High School at 8 Ball Unit, Pah Street, Motueka to carry out a special audit in respect of a gas installation at the school. The Board provided me with a copy of the
-

gasfitting certification certificate in respect of that installation, which is numbered 280649".

Q. I won't ask Mr Lamborn to go there, but for the Board's record it's at page 74, the certification certificate?

A. "The installation comprised of a Rinnai RF 18004 gas space heater which was connected to two 45 kg LPG cylinders. I found that there was insufficient ventilation for the LPG cylinders in that they were contained in a metal enclosure with no high level ventilation".

Q. And if you just go to page 100, and this is at tab 12?

A. Yes.

Q. Are they the photographs taken during the audit?

A. They are.

Q. Paragraph 10?

A. "I prepared a report in respect of my special audit dated 31st August 2009".

Q. Is the handwritten version at page 99?

A. Yes.

Q. And photographs at page 100 and 101?

A. Yes.

Q. And is that the typed version at 135 and 136?

A. Yes.

Q. Carry on from paragraph 11?

A. "On 30th of August 2009 I visited the Westport Holiday Park at 37 Dommett Street, Westport to carry out a special audit in respect of a gas installation at the holiday park, which comprised two Rinnai Infinity external gas water heaters and a gas cooker. The gas cooker and the Rinnai Infinity 20 on the front of the building (the Rinnai Infinity 20) were connected to one 45 kg LPG cylinder and the Rinnai Infinity 24 on the roof of the building was connected to two 45kg LPG cylinders. The Board provided me with a copy of the gasfitting certification certificate in respect of that gas installation, which is numbered 349722".

Q. And that is at bundle 75?

A. Yes.

- Q. And carry on reading from 12 please?
- A. "I found that there was a clearance of only approximately one metre between the flue of the Rinnai Infinity 20 and the bottom of the openable window above it".
- Q. And if you just look at page 113 of tab 12 please?
- A. Yes.
- Q. Is that a photograph you took during the audit that shows what you talk about there?
- A. Correct. "While I was there I spoke to the caretaker of the holiday park, who said that he had seen the person doing the gasfitting in respect of the installation and that no gasfitter had carried out any gasfitting work on it since. I prepared a report in respect of my special audit dated the 30th of August 2009".
- Q. Is the handwritten version at page 111 of tab 12?
- A. Yes, it is.
- Q. And the photographs taken while there, 112 through to 115?
- A. Yes.
- Q. And is the typed version at 140 and 141?
- A. Yes.
- Q. Paragraph 14 please?
- A. On the 2nd of September 2009 I visited Malvern Avenue, Atawhai, Nelson, to carry out a special audit in respect of a gas installation at that property, which comprised two external Bosch 25 water heaters and a Rinnai gas fire connected to two 45 kg LPG gas cylinders. The Board provided me with a copy of the gasfitting certification certificate in respect of that installation which is numbered 388566".
- Q. Is that at page 76?
- A. Yes, it is.
- Q. Read from 15 please?
- A. "I found that the clearance between the flue of the Bosch water heater at the rear of the house and the open window above it was only approximately 500 millimetres".
- Q. And if you go to page 118 at tab 12?
-

- A. Yes.
- Q. Is that a photograph of the heater and window that you refer to --
- A. Correct.
- Q. -- that you took during the audit?
- A. Yes. "I spoke to the owner of the property who told me that the person who did the gasfitting in respect of the installation had been seen doing the work and that no other gasfitter had completed any gasfitting work on it since. I prepared a report in respect of my special audit dated the 2nd of September 2009".
- Q. Just pause there please. Now could you just look please at page 117, due to my fault, for some reason your handwritten - or a full copy of your handwritten version of your report wasn't included in the bundle and I've alerted Mr Gordon to this, that I would just get Mr Lamborn to produce a full copy?

MR CORKILL QC: Mr Gordon it's a handwritten report.

MR GORDON: Oh yes we've seen it, that's fine.

EXAMINATION CONTINUED BY MR LAURENSEN

- Q. If you could produce that as Exhibit A, is that a full copy of your handwritten report for 6 Malvern Avenue? PRODUCED AS EXHIBIT A - full copy of handwritten report 6 Malvern Avenue.
- A. It is.
- Q. And is the typed version at 145 of tab 12.? And 146?
- A. Yes, that's right.
- Q. And could you please read from paragraph 17?
- A. "On the 30th of August 2009 I visited 5 Powick Street, Westport, to carry out a special audit in respect of a gas installation at that property, which was a Rinnai Infinity 32 external gas water heater connected to two 45 kg LPG gas cylinders. The Board provided me with a copy of the gasfitting certification certificate in respect of that installation which is numbered 319000".
-

-
- Q. Is that at page 77 of tab 12 ?
- A. It does seem to have the wrong address on it.
- Q. Oh yes, sorry.
- A. Instead of Pah it's got Park.
- Q. But the address that you went to was 5 Powick?
- A. Yes, it was. "I found that the two 45kg LPG cylinders connected to the appliance were located directly on a wooden deck adjoining adjoining the house".
- Q. If you look at page 108 of tab 12 please. Is that a photograph of the cylinders on the deck that you took during your audit?
- A. Yes. "I prepared a report in respect of my special audit dated the 30th of August 2009".
- Q. And is the handwritten version at page 107?
- A. Yes.
- Q. And photographs taken during the audit on 108 and 109?
- A. Yes.
- Q. And is the typed version at 151 of tab 12, and 152?
- A. Yes.

CROSS-EXAMINATION BY MR GORDON

- Q. How would you describe an audit?
- A. Well, we - an audit is time spent on site to look at compliance and best practice, yes.
- Q. So in effect it's a search for the truth of and the standards?
- A. Oh - yes, just to make sure that it complies with the current regulations.
- Q. Now, for Main Road in Havelock which is 104 in the photos, you stated there "a fryer was connected to two 45 kg bottles", what else was connected to those bottles?
- A. I'm not sure.
- Q. If you have a look at your photos, if you go to 104? In fact if you turn to 105?
- A. Yes.
- Q. You'll see that there's a cooker beside the deep fryer?
-

- A. Yes.
- Q. Do you know if that was connected to the same line?
- A. I'm not sure. I suppose - when we go to do the audit we're looking at specific things on the certificate.
- Q. Okay. That's fine. So in conjunction to the fryer obviously we can see that it's right next door to the fryer?
- A. Yes.
- Q. Is it someone - is it possible that someone could have moved the fryer to install that cooker?
- A. Yes.
- Q. Now, you say that the chains were connected to the back wheels, this would be in photo 104, it just seems to me just looking at this photo that that chain seems to come right round and loop around the front wheels?
- A. No I think it - the back wheel to me, the front wheel's out here, (indicates), oh I would have thought it was the back wheels.
- Q. The back wheels?
- A. Yeah.
- Q. I just needed to clarify that.
- A. Yeah. The legs are at the front here, you see one of the legs so it certainly looks like the back wheels to me.
- Q. Now, you mentioned that you spoke to the owner and they'd not seen the person doing the work but that no other gasfitting work had been conducted on that site?
- A. Yes, he was very vague.
- Q. Because in fact I've conducted a check of the records and probably only - there was a gas certificate issued for that site on 4th September 2009 and that had a test date of the 1st of September 2009, what day did you conduct your audit?
- A. 3rd of September.
- Q. 3rd of September, so two days prior to that the gasfitter had been there and did some work and - and yeah what was -
- A. That's another gasfitter?
- Q. Yes.
-

MR LAURENSEN: Perhaps you could put the evidence to Mr Lamborn, have you got certificates or something?

MR CORKILL QC: Have you seen it Mr Laurenson?

MR LAURENSEN: No. (Mr Laurenson refers to document).

CROSS-EXAMINATION CONTINUED BY MR GORDON

Q. Is that the same location?

A. Well, same address.

Q. Same address?

A. Yes.

Q. So they weren't exactly telling you the truth, were they?

A. I don't always get the truth.

Q. So it would be fair to say that there's been additions and alterations done in the six years from the time that it's alleged Mr Gee did his work to when the audit was conducted?

A. Yes, looks like it.

Q. Who should have checked for that sort of information, you or the Investigator as far as this is concerned?

A. Well, we're given the certificates - we were given the certificates to check and ask the questions. So if an owner or manager is there we ask the questions on who did the work. Often, you know, years before the work was done and you don't always get the right answer.

Q. Now, on that audit sheet you've stated -

MR CORKILL QC: Just before you move on to a new topic are you going to produce that certificate for the Board to see?

MR GORDON: Yes we can.

MR CORKILL QC: Right we'll just tidy that up before we move on to a new certificate.

CROSS-EXAMINATION CONTINUED BY MR GORDON

- Q. Now your audit sheet said that the workmanship was of a reasonable standard is that correct?
- A. Does it say that? (Witness refers).
- Q. It says there "Is the workmanship of a reasonable level?" And you've circled "Yes"?
- A. Yes.
- Q. So the rest of the workmanship was of a reasonable standard?
- A. (Nods).
- Q. Is that a yes is it?
- A. Yes. Oh can I just elaborate on that if I can. In this particular case there was a chain and it was in place, so not what you'd like to see, but certainly there was some restraint there. Unfortunately they have to disconnect it, take it off the hook to move it out and that's where the issue starts, but, you know, a lot of places you go and there's certainly no chain. So in this case there was a chain.
- Q. Now, we'll move on to 68 Greenwood Street. Now your report shows that you met with Mr Donnelly who stated he had no concerns with the installation, is that correct?
- A. Yes.
- Q. So your 125 is the typed version of that?
- A. Yes.
- Q. Now, was the work of a reasonable standard on that job as well?
- A. Yes.
- Q. Now, you say there was no sign of a restraint being fitted to the oven, is that correct?
- A. Correct.
- Q. So you didn't see any signs of a chain or anything at the back of the oven?
- A. No.
-

-
- Q. Now, you've mentioned that the stove was lower than the bench. Which was installed first, the stove or the bench?
- A. I don't know we didn't ask that question. It was in place with the bench besides it, so as far as I'm concerned it didn't comply.
- Q. Now, the Investigator said that there was - a bayonet was fitted into a cavity behind the stove?
- A. Mmm.
- Q. And that it was illegal - sorry the - now you've made no mention of that, did you see that bayonet fitting in the wall at all?
- A. I can't deny that I've taken photos that you can actually see the hole - yeah somehow, in the process of jotting it down I'd missed it.
- Q. But you did see it at the time, you did think it was illegal?
- A. Well it was illegal - well it's non-compliant.
- Q. Not compliant, yeah?
- A. I suppose I took it - I looked at the photo so I've actually missed it.
- Q. Do you remember what the colour of the pipe was that was leading to that bayonet?
- A. I've got a feeling it was black but I -
- Q. Do you know what colour - did you look outside the building at all?
- A. No.
- Q. Now, we'll move on to Motueka High School. Now, you met with the caretaker's assistant, this is at 100 in the photos, and 135 is the typed version of the report, which is easier to work off. Now you met with the caretaker's assistants Stuart, who knew very little about the installation according to your report is that correct?
- A. Yes.
- Q. What did he know?
- A. Very little.
- Q. Very little?
- A. No. He took me out there to have a look. We looked at the heater, we went round the corner and looked at the LP gas bottles.
- Q. It's just that when I was reading through it a lot of these certificates, in particular this one, just looking at page 136, under the further information
-

- there seems to be quite a bit of information there, so how did you know that Mr Gee was the contact person for the gasfitting?
- A. Well, I went inside and spoke to them and I would have asked that question.
- Q. Spoke to?
- A. Stuart and maybe others that were in the room there. So I've asked the question and I've got an answer.
- Q. So is that the same for all of those? So you've got the answer that he was a contact person, that he was a person that did the - conducted the gasfitting?
- A. Yes.
- Q. And who was it that actually sighted him doing the gasfitting?
- A. I'm not sure now, it's a while back.
- Q. And they just all described him as 25 to 45 years old?
- A. That's what's down there in the report.
- Q. Because that seems to be, just looking at a few of these others, they all seem to say 25 to 45 years old on the majority of those reports that you've put in, would you agree with that?
- A. I would agree with that.
- Q. So although he provided very little information you've ended up with quite a bit there about what's gone on or what hasn't gone on and yet again you've got that the workmanship was of a reasonable standard or level sorry?
- A. There's a fair bit of work in this job, there was some pipework to run, the Rinnai heater inside, the gas bottles, and - connect up the Rinnai and then run the pipework back to the gas bottles or gas cylinders, so there was a fair bit of work in that area. There's a couple of things - there was one thing that didn't comply.
- Q. Now, with regard to the steel cabinet over the bottles would it be normal to put restraint chains on those bottles even though they're inside a cabinet?
- A. Restraint - really it is restrained by being in the cabinet, yes.
- Q. But would it be normal to put chain on them?
- A. No.
-

-
- Q. It wouldn't be. Did you notice if there was chain on them?
- A. I couldn't open them.
- Q. You couldn't open them?
- A. (Shakes head).
- Q. Did the steel cabinet look like it had been installed after the bottles?
- A. Well, I don't know. I didn't give it that much thought. I suppose it had ventilation at the bottom, but there was certainly no ventilation at the top, just a cover.
- Q. Closing lid?
- A. Mmm.
- Q. So if the steel cabinet was fitted after the installation, that could have sort of been fitted any time, couldn't it?
- A. Oh it could have been, yeah could have been.
- Q. Could have been days, months, years then?
- A. You would think the school though would want those sort of things fixed straight away though, you would think they would probably ask the gasfitter to do that, because I'm sure that there's more damage done at high schools than anywhere else, so different to a domestic house.
- Q. Yeah it's not actually on school grounds though.

MR CORKILL QC: Is that a question - do you want to put that as a question?

MR GORDON: No no, it wasn't a question I was just saying it wasn't on school grounds.

CROSS-EXAMINATION CONTINUED BY MR GORDON

- Q. Now you state in your summary that "the installation and connection of the gas appliance has been seen as non-compliant in the areas of LPG cylinder enclosure being ventilation" is it under the current NZS 5261?
- A. Yes.
- Q. What section would it be under in the 1996 version?
- A. I have no idea.
- Q. Well, do you know if it's a requirement under the 1996 version?
-

A. I think it would have been, I'd have to look at that.

MR CORKILL QC: Do you want to see the 1996 standards?

WITNESS: Yes. Yes it certainly is.

CROSS-EXAMINATION CONTINUED BY MR GORDON

Q. Can you just read that section for me?

A. Appliance enclosures.

MR LAURENSEN: Which one?

WITNESS: Appendix G, ventilation, 1.4.

CROSS-EXAMINATION CONTINUED BY MR GORDON

Q. And when did the new version come into effect, that was in August 04, wasn't it of the 5261?

A. Mmm. Do you want me to read this one.

Q. Yes you can read this.

A. "When an appliance is installed in an enclosure or a compartment designed or adapted specifically to house an appliance, ventilation" okay, yeah, we're not talking about gas bottles are we there?

Q. No.

A. Fair enough.

Q. So gas bottles aren't actually covered in there?

A. No.

MR PARKER: Can we just get some clarity, are you asking about ventilation of bottles or ventilation of appliances?

MR GORDON: Of the bottles.

MR PARKER: Have you ascertained that the 1996 standard doesn't have about bottles or does?

MR GORDON: It doesn't have about bottles.

MR PARKER: It doesn't?

MR GORDON: The 1996 doesn't.

WITNESS: Yes.

CROSS-EXAMINATION CONTINUED BY MR GORDON

Q. And as this job is conducted on the 17th of the 7th of 03, then it obviously comes under the 96 version doesn't it?

A. Yes.

ADJOURNED [2.55 PM]

RESUMED [3.14 PM]

CROSS-EXAMINATION CONTINUED BY MR GORDON

Q. We'll move on to Westport Holiday Park which is 37 Dommett Street, Westport. Now your typed version of the report is on 140. Now you've stated the distance from the water heater to the window was about one metre is that correct?

A. Approximately.

Q. Now, the Investigator stated the witness was considerably more than that, at 1.340 metres, who's right?

A. Well, I didn't put a tape on it.

Q. You didn't put a tape on it?

A. I knew it was less than 1.5.

Q. Is there a tolerance built into these measurements? Like is it exactly at 1.5 metres that you won't get gas entering a window?

- A. Well that's what the standard says.
- Q. That's what the standard says, but is there a tolerance, do you know of a tolerance in the standard?
- A. I don't think so.
- Q. Did the owners say anything to you about smell coming into the room?
- A. No.
- Q. And were there any signs of the window being riveted or screwed shut?
- A. No.
- Q. Did you look for any signs?
- A. No. It was an opening window and was taken as being openable.
- Q. But if the window had of been screwed or riveted shut that installation would have been legal is that correct?
- A. Yes, correct.
- Q. Do they have these same distances in Australia?
- A. Yes.
- Q. And I see on that one again the workmanship was of a reasonable standard with the exception of the distances?
- A. Yeah, the work was quite good, but again those clearances are important, minimum clearances.
- Q. Okay. We'll move on to 6 Malvern Street, now your typed is on 145 for this one, your typed report. Now the Investigator's come up with a different distance to you which was 540, you said approximately 500 was your distance, is that correct?
- A. Yep.
- Q. And did the owners say anything about the smells coming into the room at that location?
- A. No.
- Q. And was there any signs of that window being screwed shut?
- A. No.
- Q. And did you look for signs?
- A. Yes.
- Q. You did?
- A. Yes.
-

- Q. Did you notice any other means of security on those windows?
- A. No.
- Q. Now, which location did you do first, Malvern Street or Westport Holiday Park? So Malvern Street was the second one, you did Dommatt Street Westport on the 30th of August and Malvern on the 2nd of September?
- A. Yes.
- Q. Now, seeing you'd seen two installations by the same installer with a similar problem?
- A. Yes.
- Q. What did you think about that?
- A. I probably thought that he didn't know the regulations in regard to that. That's what I thought.
- Q. That's what you thought, yeah -
- A. Or if he knew about them, he didn't apply them.
- Q. Okay. So you didn't think there was - that he could have been satisfied on reasonable grounds that he - or satisfied I should say that what he was doing was right, having seen it on two occasions?
- A. Probably not, that didn't come into my mind. I would have thought that there are some things that you work on performance, but you wouldn't risk distances like that - he needs to have proved to himself that they're never going to get any fumes back into those rooms, so it's a chance that you wouldn't want to take and sign off and underperform.
- Q. And it's also a chance that you wouldn't want to take by installing something wrong in case you got picked up in an audit would that be correct?
- A. Oh I don't think they think of the audit. I would have thought they should be more concerned about signing off something that doesn't comply, that's the one.
- Q. So if you're thinking that's the way that he thinks that he was signing off something that wasn't complying then he could quite well have been mistaken in what he'd done as far as the distances, the clearances?
-

- A. Yes, he probably didn't look at the code and maybe thought it was less than that, maybe even 500, but in fact those sort of things you probably need to look at, just to make sure you do get the distances right.
- Q. So the chances are he could have had an honest belief that he had the distances right?
- A. Oh yes, yes, but he would have gone through a competency audit so he would have known and given answers back on what the requirements were, so I would say he knew them, but probably didn't apply them.
- Q. When was that competency audit?
- A. Oh I'm not sure now, but he would have one or two over the last six years.
- Q. Okay we'll move on to 5 Powick Street and your typed report for this one is 151. In fact before we head to that - if you go to 77 which is the gas certificate, now on the gas certificate is the type of work under Regulation 24 (1) is "alteration" ticked there?
- A. It is.
- Q. And the category is "domestic"?
- A. Yep.
- Q. So we're talking about an alteration?
- A. Yes.
- Q. Now, as far as the work conducted, the description of gasfitting to which the certificate applies, it's a water heater, outside, it's a Rinnai Infinity 32 serial number 0104000095, is that correct?
- A. Yes.
- Q. And there's also a note there about vent around cylinders to be sealed is that also correct?
- A. Yes.
- Q. Now, do you know to what extent, seeing it is an alteration, do you know to what extent the alteration was?
- A. No.
- Q. So it is possible that Mr Gee did re-position the gas cylinders as part of his alteration to the system?
- A. Yes.
- Q. Did you see any vents that needed to be sealed around the gas bottles?
-

- A. Certainly the decking was certainly a problem because it had holes between the decking, so gas can filter down below the bottles.
- Q. So if Mr Gee didn't position those gas bottles and if they were on a concrete slab would that have been compliant?
- A. Yes.
- Q. Was that a yes was it?
- A. Yes, it was.
- Q. Now, did you notice a Rinnai Infinity 24 when you were conducting that?
- A. Up on the wall, first floor.
- Q. On the wall on the first floor?
- A. Yes.
- Q. Is that just along with the gas bottle is it?
- A. Yes.
- Q. Did that look like a new installation?
- A. I think it did. Far away of course.
- Q. Far away. How far would you say?
- A. Looking up probably about six, seven metres.
- Q. And that was on the first floor you are saying, so down a level?
- A. Yes.
- Q. And there was a 24 on the upper level?
- A. Yes.
- Q. Now, did you conduct an audit with Mr Gee at this location that we're at now?
- A. Yes.
- Q. 8 Point Road. Now that's - am I correct that he was called here and then he said "I didn't do any of this work"?
- A. He was called there?
- Q. He come to the actual audit with you?
- A. No. No sorry, I didn't have Mr Gee with me. The first time I've met you is today.
- Q. You didn't come to this location - I mean 8 Point Road where we are now?
- A. Sorry yes we did.
- Q. And you remember an audit?
-

- A. Yes.
- Q. And he informed you that he didn't do any of the work?
- A. It's a while ago now, I wouldn't -
- Q. This is all evidence that's going to be brought out by Mr Gee. Now there's a copy of the gas certificate for this location?
- A. Yep.
- Q. And this is a copy of your inspection service hard copy?
- A. Yep.
- Q. What's the purpose of that hard copy, the service form?
- A. It's for an on site audit.
- Q. An on site audit?
- A. Yes.
- Q. Okay. Did the Board get invoiced for that audit?
- A. I would have thought so.
- Q. Even though Mr Gee wasn't the person to be audited?
- A. When you say - what are you saying there then?
- Q. Well Mr Gee has come to the site with you, it's been determined that he's not the person that had filled that form out, not the person responsible for the work, but yet you've still got your services form there, was the Board invoiced for that work there?

MR LAURENSEN: Perhaps I could just ask what the relevance of this is?

MR GORDON: I was moving on to the other person who did the work who was the other co-respondent in this case.

MR CORKILL QC: But what issue in this case does all this go to?

MR GORDON: This is to do with Mr Darnley and the manner in which certificates have been altered. We can stop the question there, we're not too phased.

MR CORKILL QC: I don't know frankly what this witness is going to be able to contribute to that topic, even if that topic is relevant. This witness doesn't know anything about certificates being altered, he hasn't given any evidence about that has he?

MR GORDON: No not at this stage, no.

MR CORKILL QC: At the moment it's difficult to see how it is relevant to any issue in this charge.

MR GORDON: Okay. Well I have no further questions then.

RE-EXAMINATION BY MR LAURENSEN

Q. Mr Lamborn, you were asked some questions about 37 Dommett Street and 6 Malvern?

A. Yes.

Q. And in respect of 37 Dommett you were asked whether or not there were any signs of the window being screwed or riveted shut and you said "no" and you were asked "Did you look?" And you said "no"?

A. Yes.

Q. And then in respect of 6 Malvern you were asked if you saw any signs of it being screwed shut and you said "no" and you were asked "did you look?" And you said "yes"?

A. Yes.

Q. I'm just wondering why you did look to see if there were any signs at 6 Malvern but you didn't look at 37 Dommett?

A. It seemed to me that one I couldn't see whether they were an opening window so I went and had a look at it.

Q. At 6 Malvern?

A. Correct.

Q. Now, the only other thing is you were - you said that at 5 Powick Street the Infinity unit on the first floor --

A. Yes.

- Q. -- was a 24, Rinnai 24. Now Mr Hammond will give evidence that when he went there he took a photograph of the - of an Infinity 24 on the ground level?
- A. Okay.
- Q. Now, I'm just wondering do you have any comment to make about that as to whether or not you are sure -
- A. It's been a while, yes, I would think that I thought it was a 24 up there, but it may not be, mmm.
- Q. And could you just look at page 151 of tab 12 and you will see there it says "Work carried out. Installation of Rinnai Infinity installed at a high level at the front of the property", what do you mean by that, can you remember what that's all about? Where that -
- A. Oh that will be the Infinity up on the wall on the first floor.

MR HARDIE

- Q. The installation at 73 Main Road, being that another installation took place, is it in your opinion, having heard some of the things said, that another installer could have removed the restraint chain and re-installed it in a different way?
- A. Yes, possibly, but - can I make a point that the manager or owner could do the same thing? Remove the chain and pull it out and they probably do that on a regular basis.
- Q. Leading on from that, with respect to your visit on site there, did you notice as to whether there were multiple bottles installed on that premises perhaps leading to different installation?
- A. I did walk around the property, I think there was multiple bottles.
- Q. So could it be that those multiple bottles were for different installations within the property?
- A. Possibly.
-

MR BICKERS

- Q. Just a couple, I got a little bit confused at Mr Lamborn at paragraph 17 you talked about a Rinnai Infinity 24 and then I think you talked about a Rinnai 24, are we talking about two different Rinnai units?
- A. Yes.
- Q. Just one other question, propane is heavier than air, is that right?
- A. Yes.
- Q. So in paragraph 10 where you were concerned about no high level ventilation, what is the purpose of high level ventilation?
- A. On?
- Q. In a metal enclosure, you said in the metal enclosure no high level ventilation?
- A. Flow through ventilation, flow through ventilation around the bottles, that's what the high level ventilation is for.
- Q. For what purpose?
- A. To push any gas out.
- Q. Wouldn't the grill at the bottom -
- A. Well, it doesn't say that in the code, it says high and low ventilation.
- Q. Well, we've established that the code doesn't say anything?
- A. Yes.

MR PARKER

- Q. Can I just go back to this Exhibit B, I assume, if I may, that this is -

MR CORKILL QC: Could the witness be given a copy of that?

MR PARKER

- Q. On page 72 of tab 12, I saw that the Mussel Boys, 73 Main Road, Havelock, is the original certificate dated 15/7/03, if I've heard this correctly this is an online certificate I think that's been produced that suggests that there has been other work done on that property since this certificate was issued. Mr Lamborn you have not seen this certificate before, Exhibit B?
-

- A. No, no.
- Q. If you were to look at the certificate and look at the one of number 286044, can you tell me, other than one is not signed and the other one is, what does this certificate actually tell us?
- A. What are we comparing it with?
- Q. What does this certificate -
- A. What are we comparing it with though?
- Q. With page 7, folio 12, original certificate 286044 signed by Mr Gee on 15th of the 7th 03. I'd like to make two observations, in this certificate I notice that the gas supplier is Rockgas, this is in the white certificate?
- A. Yes.
- Q. Exhibit B. I notice in 15/7/03 it's certificate 286044 the name of the gas supplier is Allgas?
- A. Yes.
- Q. I cannot, I don't think, unless I'm missing something, I cannot understand what work this pertains to, but given are an auditor you might be able to elaborate?
- A. What work are you talking about?
- Q. Well it has been suggested to you that this is a gas certificate that pertains to a property that was done, the date of 1 September 2009 and I'm trying to ascertain looking at the certificate if you can give me a view of what work this certificate effectively pertains to, or is it say a certificate where someone has said they've tested the property and it's compliant?
- A. I would have thought that it is a cooker and a water heater. But no pipework by the look of things, maybe. Oh no, it's got pipework.
- Q. So you would accept that this piece of paper certifies that the installation as of that date has been totally re-tested and certified?
- A. It's a leading question isn't it? It's a leading question that one because I would think you'd like to think that that tells us that it's been commissioned and tested.
- Q. Well, I look at the original certificate 286044 was only for a fryer?
- A. Yes.
-

- Q. I think I have one other question related to what Mr Bickers raised, so what is the value then, of placing a steel cabinet in your view over the bottles? What purpose does it serve?
- A. Protection.
- Q. Protection from?
- A. Oh from anything I suppose. I think the bottles usually in carpark areas and that usually have some sort of protection.
- Q. And if they don't have a steel cabinet over them how -
- A. They have bollards or something like that.
- Q. Is that particular to a commercial installation versus if that was the same sized bottles to a residential?
- A. You see it more with commercial and industrial rather than - but either one.

(Witness excused)

MR LAURENSEN: Just before I call the next witness I want too make one point of clarification which may answer some questions. In terms of the charge at Mussel Boys which is the 73 Main Road the Investigator's case is not going to be based on the photographs of the chain that Mr Lamborn took. It's accepted that it's been changed. The only reason they're referred to and are there is that is because that is the document that was sent to Mr Gee for comment and I'll be saying that that's got some relevance. The case will be based on what Mr Suisted says who was there at the time and so it will fall or stand on what he says as to the nature of the installation at that time.

MR PARKER: Thank you.

MR LAURENSEN CALLS**ANTHONY EDWIN HAMMOND (Sworn)****EXAMINATION BY MR LAURENSEN**

- Q. Is your full name Anthony Edwin Hammond?
- A. It is.
- Q. And have you signed a statement in relation to this matter?
- A. Yes, it's the statement at tab 4 dated the 19th of April.
- Q. Would you please read that?
- A. "I was in July 2009, when appointed Investigator in respect of the complaint referred to in this statement, licensed as a Gas Inspector by the Plumbers, Gasfitters and Drainlayers Board, registration number 13945.

The category of Gas Inspector was deleted from the Board's licensing arrangements when the Plumbers, Gasfitters and Drainlayers Act 2006 came into force on the 1st of April 2010. I was therefore not able to renew my Gas Inspector's licence when it expired on the 31st of March 2010. Since the 2006 Act came into force I have been appointed as an Investigator under section 91 (1) of the 2006 Act for three further investigations to date.

In paragraphs 3 to 8 I list my qualifications and experience; I would propose to take those as read unless any member of the panel wishes me to read them?

MR PARKER: Thank you.

EXAMINATION CONTINUED BY MR LAURENSEN

- A. Turning then to paragraph 9, "The Investigation. On the 24th of July 2009 I was appointed by the Board as Investigator under section 41 (4A) of the Plumbers, Gasfitters and Drainlayers Act 1976 in respect of complaint made by Lance Windleburn of the Department of Labour against Paul Gee.
-

- I have been provided with various documents by the Board in relation to the complaint, which include copies of the following".
- Q. Can I pause there Mr Hammond? What I was proposing doing is given all the bundle references are in the statement I wasn't going to refer to Mr Hammond to them to confirm that that is the document, unless the Board wants to do that? It may take some time. I might refer to some, but otherwise I'll just take that as having been produced by Mr Hammond.
- A. So "I have been provided various documents by the Board in relation to the complaint, which includes copies of the following: Under (a), the letter from Mr Windleburn dated the 8th of July together with attachments; a letter from the Board to Mr Gee dated the 14th of July 2009; a letter from Mr Gee's lawyer, Fletcher Vautier and Moore, dated the 21st of July 2009 together with an attached statement dated the 15th of July and exhibits; a second statement of Mr Gee dated the 5th of November together with attachments and then gasfitting certification certificates 282245, 286044, 278223, 286049, 349722, 388566, and 319000.

Through enquiries with the Board I have established that Mr Gee is a certifying gasfitter and a certifying plumber. He is recorded on the Board's register as having become a Registered Gasfitter in 1978, a Craftsman Gasfitter in 1995, a registered plumber in 2005 and a Craftsman Plumber in 2007.

I interviewed Mr Gee at the offices of Fletcher Vautier Moore, lawyers in Nelson on three occasions. Mr Bruce Fraser who acted for Mr Gee was present at all three interviews. The first of the interviews was on the 29th of July 2009. During that interview I advised Mr Gee of the Board's process for complaints and that he did not have to answer any of my questions if he did not wish to do so. Mr Gee confirmed that he was employed by Allgas Products Limited to carry out gas installation work in February 2003 and that he was employed by Allgas for ten months. Mr Gee stated that he was totally disappointed in the standards of installation work expected while working for Allgas and on occasions he

was told to do work that was unsafe. Mr Gee explained the way in which the pexal pipework was run from the cylinder location to a position for the fryers at the Milton Street shop. He said that the pexal pipework ran outside, where it was clipped to the wall at high level, and then ran down the door into the kitchen, where it then ran down the wall to the bayonets, which was at the low level to avoid heat at high level. He stated that neither the fryers nor the cylinders were on site when he completed his work, although he had been told where the cylinders were to go. He said there were no tee connections left for a pizza oven or any other appliances. When I asked Mr Gee to outline the systems used for allocating and recording work, he stated that he completed a job sheet which was returned to the office. I showed him the job sheet for the Milton Street shop and he said that the details relating to the pipework were filed by him, but that he did not fill in the details of the appliances or the final test".

- Q. Just going back there you said it was "filed" by him?
- A. Sorry, were "filled" in by him, my apologies. He said he did not know who had filled in those details. "During the interview, Mr Fraser wrote the initials PG under the first column of test results and "Not" under the second column of test results.
- Q. Can you just stop there please and go to tab 12, page 160 is that what you refer to as the job sheet he showed you?
- A. That's correct.
- Q. And just indicate to the Board where you are saying Mr Fraser put the PG?
- A. On page 160 the two columns that run down the sheet covering appliances general test results, beneath test results there are the initials PG which is where Mr Fraser put the PG referring to the fact that the details in those columns - in that column was filled out by Paul Gee and the next column over, the "Not" at the bottom, is the information that Mr Fraser wrote the "Not" to represent that those were not for Paul and in particular they refer to the test.
-

- Q. Just on that, are you able to indicate the writing on 160 and 161 that Mr Gee said he did not fill in you've already pointed to the bit above "not"?
- A. Yep, the information relating to the fryers under the appliance section where there is the two columns fryers, in the second line GT45 and then two serial numbers 256700 and 256699.
- Q. Did he say whether he'd filled in any of the details in that section under appliances?
- A. He certainly indicated he hadn't filled in those details at the top, but I rather believe that the pipe size figures of 25, 20, 16 millimetres and the two ticks in the columns pipe supported were Mr Gee's.
- Q. Is there anything on 161 that he said wasn't his?
- A. No.
- Q. I think you were at the last sentence in E on page 5?
- A. "Mr Gee said that usually the certificates were filled out by the office staff from the details entered on the job sheets. When I showed him certificate number 282245 for the fryer installation he denied that he had issued such a certificate and confirmed that the address of PO Box 7065 on the certificate was not his. He claimed he never had a post box at that time. He denied doing any work other than installing the pipework from the cylinder location to the bayonet fittings for the two fryers. I then showed him a batch of 95 gasfitting certificates covering the period that he was employed by Allgas, which I understood to be from February to December 2003 and he stated that he was amazed as he believed he had not done that amount of work. He again said the address on the certificates was not his, although he recognised Allgas' Post Office box number on them. He also said that the writing and many of the certificates were not his.
- Q. Sorry, many of the what?
- A. Sorry, "many of the signatures were not his. He identified two certificates number 223490 and 318981 as being examples in his view of ones having signatures that were different. I questioned Mr Gee about purchasing certificates from the Board and he said he did not do so while employed by Allgas. He said he only did so after he left Allgas and set up his own business. I told him I had been provided with documents from the Board
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that recorded that he bought four books of ten certificates from the Board in November 2003. Mr Gee stated that he did not hold the certifier's copy of the certificates initially. He said at the time he was unaware of the certifier's responsibility to retain a copy of each certificate for seven years, but that when he left Allgas he obtained a number of certificates which he believed were for the work that he had done. Mr Gee requested, and I provided him with, copies of the 95 certificates. I then asked him to compare them with the ones he held as certifier. I also advised him that the Post Office box number used on the certificates was that of his employer Allgas. When I asked Mr Gee about his reason for leaving Allgas, he said he was given a written warning about his attitude and work and so he decided to leave. He stated that the company was run by John Darnley and that Mr Darnley's wife and daughter were in the office and Mr Darnley's son-in-law David Bergemann, who he considered to be a bully boy. He stated that the office staff also included Gwen Morrison who was most helpful and still worked for the company, which had now become Elgas. He suggested she might be able to help explain how the business operated. He also said that Tony Hunter was employed by Allgas as a salesman and that Clem Bishop did some contract work for Allgas.

On the 5th of August 2009 I met with Mr Gee and Mr Fraser for a second time to seek further information. During that meeting Mr Gee said he could not determine which of the 95 certificates were genuine and had been signed by him. He said that on the 26th of June 2003 which was the day that the certificate for the Milton Street shop had been signed was his wife's birthday and that he believed he was not at work on that day. He said he was trying to find details as he believed he and his wife were on holiday. I advised Mr Gee that since he had signed the certificate he needed to respond as to who might have made the final connections if he had not. He suggested that John Darnley, David Bergemann, or reluctantly, Tim Armstrong, may have done so. He later added that Host Services may have connected them because he believed they had done

so elsewhere. When I questioned Mr Gee about the Allgas list of materials in respect of the Milton Street Takeaway and suggested that these may have been picked and set aside for him, he stated that he collected only what he needed to do his part of the job which was just the pipework. He stated that he was instructed to use pexal pipework and when I questioned him about UV degradation for the exposed section he said he told the owner to paint it as recommended by the material supplier. I showed Mr Gee a copy of a list of his certificates purchased from the Board which I was provided with by the Board staff. Apart from the four books purchased in his name in November 2003 he agreed that the purchases fitted his pattern of business as he spent six months working for others in 2004 before he started his own business. Mr Gee provided me with a copy of the written warning that led to his decision to resign from Allgas. He stated that he had an argument about safety standards and put his concerns in writing to Mr Darnley. He said this resulted in him being given a written warning. He denied that he had been intoxicated.

On the 6th of August I inspected seven installations certified by Mr Gee. The installations were selected from the full list of certificates completed by Mr Gee between January 2003 and March 2006. Some commercial installations were selected for their similarity to the Milton Street shop, and others were selected at random. Of the seven installations, all the gas equipment had been removed from one of the installations, I found two of the installations to be compliant and I identified compliance concerns in respect of the other four installations.

As a result of the compliance concerns that I identified during the inspections on the 20th of August 2009 I requested that a series of special audits be carried out by Casey Services New Zealand Limited on installations certified by Mr Gee between 2003 and 2006. Initially a sample of 10 percent was proposed and the installations were selected to give good coverage of the various types of work certified over that period. There were 24 installations identified for audit. Of these, seven could not

be accessed or had been disconnected and ten were found to be compliant with the requirements of NZS 5261. This left seven installations that had a variety of non-compliance issues identified.

With a letter to Mr Fraser dated 7 January 2010 I enclosed copies of a schedule summarising the results of my inspections: A schedule summarising the results of the 24 special audits, the gasfitting certificates and in some cases photographs of the four installations in respect of which I identified compliance concerns and the handwritten audit reports for the seven installations in respect of which non-compliance issues were identified, which included gas installations at 73 Main Road Havelock; 68 Greenwood Street, Motueka; 8 Ball Unit, Par Street, Motueka High School; 37 Dommett Street, Westport; 6 Malvern Avenue, Atawhai, Nelson, and 5 Powick Street, Westport, and sought Mr Gee's comments on the 11 installations in respect of which non-compliance issues had been identified, that was the four from my inspections and the seven from the special audits.

I received a letter from Fletcher Vautier Moore on the 12th of March 2010 which responded to my letter of the 7th of January 2010 and enclosed a number of documents including the typed versions of the special audit reports for the gas installations at those - at 73 Main Road, 68 Greenwood Street, 8 Ball Unit Par Street, 37 Dommett Street, 6 Malvern Avenue and 5 Powick Street.

The third interview then took place on the 20th of May 2010, principally to discuss the findings from my inspections and the special audits. Mr Gee's comments during the interview included the following: When commenting on the installation at 68 Greenwood Street Motueka Mr Gee said he did not uninstall the cooker and that the work on the cooker was rough. He said he could not recall the detail but that he did not put the pipe in the wall to the kitchen and he could not even remember leaving a tee for the cooker. When commenting on the installation at 73 Main Road Havelock

Mr Gee said he could not recall the details, but that a restraint was fitted but must have been removed. He said he wanted to go and see if there was a hook. When commenting on the installation at 8 Ball Unit, Par Street, Motueka High School Mr Gee said the LPG boxes were locally made and none of them had a top vent. He said the box for this installation was delivered to site by others and installed over the cylinders. When commenting on the installation at 5 Powick Street Westport, which is recorded on the gasfitting certificate as 5 Park Street, Mr Gee accepted that the two LPG cylinders were located on a combustible deck. He challenged the findings by the auditor about the hazard associated with LPG cylinders being located on a timber deck rather than on a firm non-combustible base and appeared unaware of the extra risk in the event of a fire where the cylinders could tip over and spill liquid LPG into the fire. When commenting on the installation at 37 Dommett Street Westport, Mr Gee referred to a letter from the Australian Gas Association addressed to Rinnai in Victoria relating to clearances around a Rinnai continuous flow water heater and said this showed that the manufacturer allowed reduced clearances. I advised Mr Gee that this letter has no validity in the New Zealand context and does not validate reducing clearances from those recommended in Part 2 of NZT 5261 for Rinnai or Bosch appliances. I also noted that the information provided referred to continuous flow water heaters positioned in recessed boxes which was not the case with this installation".

- Q. Can you just pause there please and go to page 122 of tab 12?. Now 122 and 122 A are they the documents that you referred to Mr Gee that were attached to the letter?
- A. Yep.
- Q. Do you have any comment to make in respect of whether or not they have any relevance to the installation by Mr Gee?
- A. Well, apart from the fact that they refer to the appliance mounted inside a flush box, which this was not, and they talk about horizontal clearances in the letter, rather than vertical clearances. The other point to make out is that the letter is dated February 2001. This letter was therefore issued
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well before the New Zealand Standard which came out in - published in 2003, came into force in 2004 which was the document that applied when these water heaters were installed in 2005 and 2006. So even if the letters had originally, when the new code was issued, the new code had specific requirements which were overtaken by this information in this letter.

Q. And you were at page 10, (f)?

A. "When commenting on the installation at 6 Malvern Avenue Mr Gee also referred to the letter from the Australian Gas Association and made the same comments about clearances as he made in respect of the installation at 37 Dommett Street.

The non-compliance unsafe installations. During the course of the period when much of the certification of gasfitting that was the subject of this investigation was carried out the Gas Installation Standard NZS 5261 was upgraded from the 1996 version to the 2003 version. However, it was not until August 200 that the Gas Regulations were amended to cite the 2003 version and hence any gasfitting work prior to August 2004 was required to comply with the 1996 version.

Turning now to the Milton Street Fish and Chip Cafe. The complaint to the Board was made after there was an explosion at the Milton Street Fish and Chip Cafe. I have seen photographs taken after the explosion of two Blue Seal GT45 gas fryers, it can be seen -

Q. Just pause there please. Evidence will be given that photographs 1 through to 17 at tab 13 taken were by Mr Neal, do you know - where did you get photographs 18 and 19 from?

A. When I spoke with Mr Windleburn and the Department of Labour who carried out initial the investigation into the explosion, he had been involved with the police immediately after the explosion and he had a series of photographs and he provided me with those two photographs together with the first 1 to 17 photographs, so that from 1 to 19 were photographs

taken by the police photographer at the time or immediately after the explosion.

Q. You are at 21?

A. "It can be seen from these photographs that two bayonet fittings were installed very close to the ground. One bayonet fitting faced downwards and the other faced horizontally and each was fitted with a reinforced rubber hose. The hose attached to the downward bayonet fitting was lying under the fryer and could easily be kinked and damaged. It was partially restrained by a piece of fabric".

Q. Could you just look at photographs 12 and 13 and explain what you mean there?

A. In 12, look at Photograph 12, you see the hose which is the black pipe with the red line through it is in a coil, in the 1 o'clock position of that coil you can see that there is a piece of rag tied around the hose and that goes round the bar of the fryer, so that hose is - the bit of fabric is an attempt to try and hold the hose up off the floor. And similarly in 13, although you can't see it so clearly in 13.

Q. Just carry on from where you stopped at 12 and 13, "The other hose"?

A. "The other hose connected to the horizontally facing bayonet was forced into a very sharp U-bend and also had the potential to be easily damaged as it also lay on the floor under the fryer".

Q. Just look at 10 and 11, can you see that there?

A. Yep. If I look first on 11 you can see the little bit of yellow pipe coming into the bayonet fitting and then the black rubber pipe coming out of that black bayonet doubles back on itself behind the leg of the fryer. You can see that's a very sharp bend at that point:

"I understand that a restraint was not fitted to either of the fryers to prevent damage to the flexible pipe connected to them.

Metallic braided hoses are much more flexible and tougher than the rubber reinforced hoses used in this installation. The rubber hoses used are specified as cooker hoses and are typically used in domestic cooker

installations where the hose can hang in a vertical loop clear of the floor behind the cooker and not be at the risk of damage under the appliance".

If I could take you to NZS 5261:1996, and take you to page 72 you will see it's a picture of a cooker with the pipework and ideally the rubber hoses that are used in this situation, if the pipework is positioned like this then the hose can hang in a neat loop behind the cooker and not be damaged underneath the appliance.

"Based on this evidence it is my view that the installation contravened clause 108.279 of NZS 5261:1996 in that no restraints being fitted to the fryers meant that there was nothing preventing stressing or and/or damage to the flexible gas pipework connected to the fryers when they were pulled out from the wall or to prevent them from tipping over. Gas appliances are required to be restrained to prevent tipping on to minimise damage in the event of an earthquake. Restraints are also needed to prevent over stressing of the pipework when appliances are moved, particularly when pulled forward for cleaning. This is a particular issue when an appliance is connected by a flexible hose as the hose and the pipework to which the hose is attached can be stressed by over extension. The hose connections are used extensively in the commercial catering trade to facilitate cleaning around and behind the appliances. When appliances are moved for cleaning it is important to restrict the movement to less than 90 percent of the hose length by fitting some form of restraint such as a chain between the wall and the appliance. Secondly, Clause 102.1.1, of NZS 5261:1996 -

Q. Is that 106 you mean?

A. Sorry 106.6.6 of NZS 5261:1996, "in that the flexible gas pipework connected to the fryers lay on the floor under the fryers and could become damaged by the fryers or from scraping on the ground as the fryers were pulled in and out. When flexible hoses are used it is important to ensure that they cannot be damaged by abrasion, kinking or permanent deformation particularly when trapped behind or under the appliance. The

- flexible gas pipework should have been installed so that it was raised above the floor. For example, if the connections for the hoses had been positioned at/or just below bench heat rather than very close to the floor the flexible hoses would not have been able to - sorry, the flexible hoses would have been able to hang in a vertical loop behind each appliance and not be damaged by abrasion, and trapping against the appliance legs as the appliances were moved in and out for cleaning".
- Q. Can you just pause there and look at Photograph 12 please. You are going to address this issue in a reply statement but in terms of how you say it should be applied, looking at photograph 12 can you see where the gas hose is connected to the fryer?
- A. Yes, on the 9 o'clock position of that circle of hose the hose finishes at that point and is connected into an elbow at the base of the fryer. That point then leads up behind the back of the fryer to where the controls of the burner.
- Q. So what does that mean in terms of how that hose should be installed so that in your view it complies with Clause 106?
- A. I would have expected that elbow to be facing the other direction and the pipe to have gone up behind the fryer so that the hose could be connected and hang in a loop behind the fryer between the bayonet fitting and this extension of the connection.
- Q. Would you need to have that bit of pipe coming out from underneath the fryer to be connected to the hose?
- A. Because the only way to retain the hose up off the floor is to make sure that the two connections are mounted more than half the hose length above the floor so it can't drop to the floor whenever it is pulled out. If you don't have that arrangement then whenever you pull it out the hose will drop to the floor and next time you push it back it will become trapped again, so you need to get most of the fixture, which is more than half the hose length.
- Q. Do you have anything to say about the fact that in this installation it appears that the rubber hose comes from underneath the fryer and goes in behind the back edge of the fryer?
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- A. Yes these fryers are made from sheet metal and so the back edge of the fryer is quite a sharp edge and that braiding against the hose would cause the cutting and degradation of the surface - the rubber lining - the outer rubber case of the hose could be cut by the sharp metal surfaces at the back of the fryer.
- Q. Can you carry on reading from paragraph 24 on page 11?
- A. "Gasfitting certificate 282245 issued for the two fryers on the 26th of June 2003 was signed by Mr Gee as the Craftsman Gasfitter responsible for ensuring that the installation complied with the requirements of the Gas Regulations. Although Mr Gee admits installing and testing the pipework he denies installing and commissioning the fryers and commissioning the pipework. He claimed that the LPG cylinders and the appliances were not on site when he completed his pipework testing on the 15th of June.

If Mr Gee had signed a certificate only for the pipework he should have clearly indicated this on the document when he signed it. In his second sworn statement dated 5th of November 2009 Mr Gee said he believed that the certificate covered only the pipework and this was shown by the tick in the pipework box on the right-hand side. He also stated that to the best of his recollection the line referring to the fryers was blank when he signed the form. However, I find it difficult to understand why a certificate would be signed only for the pipework when Allgas intended to install the appliances and LPG supply. The pipework could not be used until the two fryers were fitted as the fryers were the only gas appliances at the premises. In addition, if the certificate was only for pipework it should have been clearly stated that the appliances were not included; for example by writing something like "install pipework only". I note that gasfitting certificate number 282222 signed by Mr Gee and dated the 30th of May 2003 records as the description of gasfitting "Rerun pipework only in roof space" I obtained a copy of that gasfitting certificate from the Board.

If Mr Gee did certify the installation of the two gas fryers then, as the certifier, he should have been aware that the installation was non-compliant in the respects I have referred to before he certified the installation. If he did not install the fryers, then he still should have been aware they were non-compliant, either as a result of checking the installation himself, or if he did not inspect the installation, by questioning the person who did install the fryers about the installation. He should not have signed the gasfitting certificate until he had satisfied himself that restraints had been fitted and the flexible gas pipework was installed in such a way so that it would not be damaged.

Turning now to 73 Main Road Havelock. The gas installation at 73 Main Road, Havelock, now known as the Mussel Pot Restaurant, appears to have been installed on or before the 15th of July 2003 and comprised a Blue Seal GT45 gas fryer connected to two 45 kg LPG cylinders.

If no chain or any other form of restraint was fitted to the gas fryers restricting the distance that it could be moved out from the wall, then it is my view that the installation contravened clause 108.2.9 of NZS 5261:1996 in that no restraints being fitted to the fryer meant there was nothing to prevent stressing off and/or damage to the flexible gas pipework connecting the fryer when it was pulled out from the wall or to prevent it from tipping over.

I understand Peter Lamborn of Casey Services has given evidence to the following effect in respect of what he found when he carried out the special audit of this installation on 3 September 2009: The gas fryer was not appropriately restrained so as to prevent damage to the flexible gas pipework connected to it. There was a chain fitted. However, it was not appropriate in that it was connected to the wall behind the gas fryer at one point and then looped around the back wheel of the gas fryer back to another point of connection on the wall. This meant that in order to pull

the gas fryer out from the wall for instance to clean behind it, it would be necessary to disconnect the chain from the wall at which point the gas fryer would not be restrained at all and could then be moved forward so as to stretch and stress the flexible and fixed gas pipework. The gas pipework connected to the gas fryer was lying on the floor underneath the gas fryer.

Based on this evidence it is my view that the installation contravened clause 108.279 NSZ 5261:1996 in that the chain provided no restraint to prevent stressing of the pipework when the fryer was pulled forward as it had to be disconnected to allow any forward movement. The concept of a restraint chain is that it is 10 to 20 percent shorter than the hose and this limits forward movement before the hose is fully extended. Clause 106.1.1 of NSZ 5261:1996 in that the flexible gas pipework connected to the fryer lay on the floor under the fryer and could therefore become damaged as the fryer was moved in and out.

68 Greenwood Street, Motueka. The gas installation at Greenwood Street, Motueka appears to have been installed on or before the 1st of May 2003 and comprised a Westinghouse 517 gas cooker and a Bosch 22E external water heater. I understand Mr Lamborn has given evidence to the effect that a restraint was not fitted to the gas cooker to prevent damage to the flexible gas pipework connected to it.

Based on this evidence, it is my view that the installation of the cooker contravened clause 108.2.9 of NSZ 5261:1996 in that no restraint being fitted to the cooker meant there was nothing to prevent stressing of the gas pipework connected to the cooker.

I inspected the installation on the 13th of January 2011. At that time the cooker was fitted with a flexible hose but had no restraint. I took a photograph - I took photographs of the installation at that time. I looked for signs that a restraint chain had been fitted but could see none on the

back of the appliance or on the wall. The bayonet connector is positioned on the fixed pipework within the wall behind the cooker. The other end of the hose is connected under the cooker and there is about 350 millimetres of forward movement for the appliance before the hose is fully extended. The bench top to the left of the cooker is approximately 600 millimetres deep.

The bayonet fitting together with its screwed connections, used to connect the cooker hose to the fixed pipework, are positioned in the wall attached to the side of a stud behind the cooker. This assembly has the potential, if leakage was to occur, for a gas/air mixture to accumulate within the wall and be ignited by a spark from, for example, an electric power socket. The location is technically unsatisfactory as the wall linings allow gas to migrate throughout the wall. Based on this, it is my view that the installation of the pipework contravened 106.3.2 of NSZ 5261:1996 in that the pipework is not located to avoid any hazardous build up of gas should leakage occur"

- Q. I'll just pause you there please. At paragraph 33 you say you looked for signs a restraint chain had been fitted but could see none on the back of the appliance or on the wall. You will have heard the evidence of Mr Donnelly today. If you just have a look at Photograph 29 in tab 13. He pointed to those parallel lines running down between those two what look like black marks as possibly having been made by a chain, do you have any comment to make about that evidence?
- A. I looked pretty hard at the back of the cooker when I was there and could see no sign any chain or any marks the chain might have made. I took my own photographs of that situation and on those photographs I couldn't see marks from a chain.

MR CORKILL: Can you just repeat that? You could see no sign?

EXAMINATION CONTINUED BY MR LAURENSEN

A. I could see no sign. In order to explain about the fitting that lies within the wall I've got some photographs which are much better copies than the photographs that are in the bundle, they're much lighter and much clearer. If I could table those they could perhaps give the nature of the -

Q. They are better copies of photographs at pages 21 and 22 of tab 13 are they?

A. Yeah.

Q. Perhaps if you could just let Mr Gordon have a look and those and then produce those as - maybe they could be B so this is of photograph number 21?

A. 21, yeah, which is really dark you can't - I have also got photographs that I took of the back of the cooker and in particular concerned about the screw with particularly was supposed to have held the chain, on this particular photo which I took in January, there are no such details.

Q. So this is a better copy of photograph 20. I think you are now up to paragraph 35. Tab 4, page 14, paragraph 35?

A. Turning now to Motueka High School. "The gas installation at Motueka High School, 8 Ball Unit, Pah Street, Motueka appears to have been installed on or before the 17th of July 2003 and comprised a Rinnai RF 1004 gas space heater, which was connected to two 45 kg LPG cylinders. I understand Mr Lamborn has given evidence to the effect that there was insufficient ventilation for the LPG cylinders in that they were contained in a metal enclosure with no high level ventilation.

I inspected the installation on the 13th of January 2001 and took photographs at the time. During my inspection I noticed that the LPG cylinders were positioned on the outside wall of the classroom in a car parking area used by sports clubs, separate from the main High School buildings. There is no crash barrier for protection around the enclosure covering the two 45 kg LPG cylinders. The sheet metal enclosure surrounding the cylinders, hoses and regulate is attached to the classroom wall and has only a 75 millimetres opening at the base. The cylinders

themselves stand on a concrete slab base. The enclosure has a top cover to permit in situ filling but this is a close fit and is locked with a padlock. I was advised by the school caretaker, John Widgecombe, that only the LPG supplier Elgas holds a key to the enclosure.

Based on this evidence it is my view that the installation was unsafe in that the absence of any high level ventilation in the metal enclosure meant that there was insufficient air movement to allow the safe dispersal of any gas that might leak from the LPG cylinders, hoses or regulator or be discharged from the cylinder pressure relief valves. Even small amounts of LPG would accumulate and eventually fill the enclosure, leading to an explosion from any source of ignition around in a very public area. If a fire was to occur close to the cylinders, the cylinder pressure relief valves are designed to discharge gas to relieve excess pressure and prevent catastrophic failure of the cylinders".

Q. Just pause there, you might have heard a question from one of the Board members to Mr Lamborn he said that propane is heavier than air and so therefore why is upper, higher level ventilation required in an enclosure of this type have you any comment to make about that?

A. Yeah, there are two problems with a lack of high level ventilation, the first is that small leaks which can occur around the hoses, the cylinder connections and the regulator which is near the top of the enclosure can't be adequately ventilated they eventually fill the enclosure as it goes downwards. The second perhaps most important one is the fact on the top of the cylinders there are two relief valves one on each cylinder and those relief valves are designed to discharge LPG in the event that the cylinders become overheated due to fire or whatever surrounding those cylinders and that then blasts out large amounts of LPG and the top level ventilation is critical at that point to ensure dispersion as quickly as possible.

Q. You were at paragraph 38?

A. "The installation of the cylinders and the hoses and any enclosure around is not defined as gasfitting under the Act but the certifying gasfitter is the

professional who should have the appropriate knowledge to minimise the risks associated with the storage of LPG in cylinders".

- Q. Pause there. There were some questions asked of Mr Lamborn which indicated that there was nothing in the 1996 version of NSZ 5261 about enclosures for cylinders, do you have any comment to make about that and what the appropriate practice was around 2003 in relation to storage of cylinders?
- A. When the 1996 standard was written the Dangerous Goods Regulations were in place and this set down requirements for storage of LPG clearance distances et cetera, so they were not reiterated into NSZ 5261 in 1996, but they stood as a separate requirement. Of course after 1999 Dangerous Goods Regulations were gradually changed under HAZNO, Hazardous Substances and New Organisms Act and regulations and that set of regulations took over specifying clearance distances, ventilation and so on. When the 2003 standard was written it was the opportunity to include guidance information in the 2003 version to help gasfitters with those hazardous regulations.
- Q. Now, this installation and gasfitting was installed in July 2003, in your view what was the appropriate practice or the accepted practice within the gasfitting industry in terms of enclosures for LPG cylinders?
- A. Right throughout the time either under the Dangerous Goods Regulations or under the new Hazardous Regulations and in the 2003 code the requirements have been the same for high and low level ventilation at all times for LPG cylinders. The requirements haven't changed in terms of what is required in the field, it's just what the legislation's called.
- Q. Carry on from paragraph 39 on page 15 please?
- A. "During my interview with Mr Gee on the 20th of May 2010 he accepted that there was no high level vent, but said the enclosure for cylinders was provided by Allgas and delivered to site by others and installed over the cylinders. My inspection showed that this is possible as the enclosure does not have a full length panel on the side backing on to the wall and a slot has been cut in the angle iron support where the LPG vapour pipe emerges from the enclosure.
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When the installation was certified by Mr Gee the enclosure must either have been in position or its installation must have been planned, as to leave two LPG cylinders in that location without any protection was not good practice as it would be unsafe. There was, without the enclosure, the risk of vehicle impact damage and the risk of interference by pranksters both of which could have serious consequences for the unit occupants. Therefore, if the enclosure was not fitted at the time he completed the installation Mr Gee should have been aware that an enclosure would be fitted and he should have ensured the enclosure had adequate ventilation. He should not have certified the installation until, with the enclosure in position, he was satisfied that it provided suitable protection and had adequate ventilation.

Moving on to Westport Holiday Park. "The gas installation at Westport Holiday Park, 37 Dommatt Street Westport, appears to have been installed on or before 1 June 2005 and comprised two Rinnai Infinity external gas water heaters and a gas cooker. The gas cooker and the Rinnai Infinity 20 on the front of the building were connected to one 45 kg cylinder and the Rinnai Infinity 24 on the rear of the building was connected to two 45 kg cylinders.

I understand Mr Lamborn has given evidence to the effect that he found that there was insufficient clearance between the flue of the Rinnai Infinity 20 and the bottom of the window above it.

I inspected the installation on the 12th of January 2011 and took photographs at that time. When I visited the installation I measured the clearance between the nearest part of the flue of the Rinnai Infinity 20 and the window as 1340 millimetres. The window is top hung and opens outwards and is for a first floor bedroom. The rated input capacity for the Rinnai Infinity 20 is 160 mega joules per hour and it is a fan assisted

appliance. The building, which is two stories, is the residence and office of the holiday park proprietors, Mr and Mrs Montgomery.

The recommended minimum clearance between an openable window directly above and the flue of a fan assisted gas appliance of more than 150 mega joules per hour input rating is 1500 millimetres as set out in clause 2.6.13.3 table 16 of NSZ 5261:2003.

The actual clearance of 1340 millimetres does not meet the minimum recommended and the situation is further aggravated as the window is top hung and opens outwards thus tending to deflect rising flue gasses directly into the bedroom. The minimum clearances given in New Zealand 5261 are for guidance to ensure the products of combustion cannot cause harm to persons and need to be increased if the risk is higher than normal. In this case the risk is increased because of the type of window. The failure to provide adequate clearance did not minimise the risk of harm to persons resulting in non-compliance with clause 1.6.3 of NSZ 5261:2003.

When I discussed the situation with the proprietor Mr Montgomery he stated that after the auditor's visit in 2009 the window was screwed shut but it had since been unscrewed and reopened. He also confirmed that no changes had been made to the gas installation since the installation back in 2005"

- Q. Can you just pause there and please have a look at Photograph 25, and you said you spoke to Mr Montgomery, and he said it had been screwed shut at a certain time, but is that a photograph taken by you at the time is it?
- A. And that shows the window above actually open at that time.
- Q. Carry on at 47?
- A. 6 Malvern Avenue. "The gas installation at 6 Malvern Avenue, Atawhai, Nelson appears to have been installed on or before 1 July 2006 and comprised two external Bosch 25 water heaters and a Rinnai gas fire connected to two 45 kg LPG cylinders.
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I understand Mr Lamborn has given evidence to the effect that he found that the clearance between the flue of the Bosch water heater at the rear of the house and an openable window above it was only 500 millimetres.

I inspected the installation on 13 January 2011 and took photographs at that time. When I visited the installation I measured the clearance between the nearest part of the flue of the Bosch 25 water heater at the rear of the house and the window as 540 millimetres. The window is top hung and opens outwards and is for the dining room. The rated input capacity for the Bosch 25 water heater is 200 mega joules per hour and is a fan assisted appliance. The recommended minimum clearance between an openable window directly above and the flue of a fan assisted gas appliance of more than 150 mega joules input rating capacity is 1500 millimetres, as set out in clause 2.6.13.3 and table 16 of NSZ 5261:2003.

The actual clearance falls well short of the minimum recommended and the situation is further aggravated as the window is top hung and opening outwards thus tending to deflect rising flue gasses directly into the dining room. The minimum clearances given in NSZ 5261 are for guidance to ensure the products of combustion cannot cause harm to persons. In this case the risk is increased because of the type of window. The failure to provide adequate clearance did not minimise the risk of harm to persons and therefore results in non-compliance of clause 1.6.3 of NSZ 5261:2003.

5 Powick Street Westport. The gas installation at 5 Powick Street, Westport appears to have been installed on or before the 21st of October 2004 and comprised an additional Rinnai Infinity 32 external gas water heater connected to two 45 kg LPG cylinders. I understand Mr Lamborn has given evidence to the effect that he found that the two 45kg LPG cylinders connected to the appliance were located directly on a wooden deck adjoining the house.

In my view the location of the LPG cylinders was therefore in contravention of G 3.2 Appendix G of NSZ 5261:2003 in that they were not located on a supporting base of non-combustible material. Although Appendix G is informative and so not a mandatory part of the standard, standard practice within the gasfitting trade is to ensure that LPG cylinders are located on supporting bases of non-combustible material as failure to do so raises important safety issues. In my view, the installation was unsafe because in the event of a fire on or around the deck the LPG cylinders could topple over and spill liquid LPG into the fire with disastrous consequences as liquid LPG contains approximately 500 times the energy of LPG vapour. It is the responsibility of both the installing gasfitter and the certifying gasfitter to ensure that the LPG cylinders are mounted safely".

Q. Just pause there. You've mentioned how Appendix G to the 2003 version is informative, you say not mandatory, but you have said that in your view it would be unsafe not to place it on a non-combustible base. In your view then why would it be that that provision in Appendix G isn't mandatory and is only informative, do you have any comment to make on that?

A. The standard - the scope of the standard NSZ 5261, does not include storage of the liquid LPG, LPG in liquid form, it only covers LPG once it gets into the gaseous form. So the storage of LPG in its liquid form is covered as I mentioned by the Hazards Substances Legislation and there are requirements in that, although I might say some of the requirements are not quite as clear - some of the requirements in the standards are not quite as clear - some of the requirements in that Hazardous Substances Regulation are not quite as clear and to assist in that understanding what needs to be done with LPG storage, those guidance notes have been put into NSZ 5261.

Q. If you just carry on from 53 please?

A. "I have read the witness statement of Ross Kingsley French dated the 17th of December. I understand from this that it is possible that the wooden deck on which the LPG cylinders were located might not have

been built when Mr Gee connected the LPG cylinders to the gas appliances at the property but that Mr Gee would have known that the LPG cylinders would be located on the wooden deck once it was built.

I inspected the installation on it the 12th of January 2011 and took photographs at the time. During my inspection I noted that the deck was 300 millimetres above the surrounding ground level. With the existing 600 millimetre long hoses used to connect the cylinders to the LPG pressure regulator it would be impossible to connect to the regulator if the cylinders were not on the deck".

- Q. Just pause there and just explain maybe what you're talking about there by reference to photograph 26?
- A. If you look at photograph 26 the regulator which is the device fitted above the two cylinders screwed to the wall and with the two hoses connected into it, then the hoses that run from that regulator back down to the cylinder are approximately 600 millimetres long. If the cylinders were not on the deck but were standing on the ground, at ground level being 300 millimetres below, those hoses would not be long enough to join the cylinders to the regulator. Re-positioning the regulator is gasfitting, and altering the pipework around the regulator would be gasfitting. So that if the cylinders had been standing on the ground then a gasfitter would have been required to have made some alterations subsequently and Mr French has told me that no gasfitters made any alterations to that installation. Therefore, I can only conclude that the cylinders were that height above ground level when the regulator was installed and the pipework was connected to the water heater. The deck may not have been there, but the cylinders would have been propped up on blocks or something to enable them to be in that position in anticipation of the deck being built.
- Q. Now you were at I think just up to paragraph 54 where it refers to photograph 26, "the regulator is mounted"?
- A. "The regulator is mounted on the wall 500 millimetres above the cylinder valves and is attached on its outlet to rigid pipework which is positioned
-

within the wall structure. There are no signs that the regulator has been repositioned. It is difficult to see how the LPG cylinders could have been positioned other than on the deck unless significantly longer hoses were used and then replaced when the cylinders were moved up on to the deck. The property owners indicate that the hoses have not been changed since the work was completed in 2004.

The position chosen for the LPG station is particularly poor in my view. Not only are the cylinders on a combustible base but they are very close to a main exit door on the property, they are unrestrained against tipping and are positioned more than the recommended distance underneath an overhanging part of the building. Mr Gee should have found an alternative location and then designed pipework layouts et cetera around that alternative location. Once Mr Gee was aware that a timber deck was to be built he should have known the chosen position was not suitable and nearby windows limited adjacent alternatives. You he should have ensured that the LPG cylinders would not subsequently be located on a timber deck both by advising the owners of the property that it would be unsafe to do so and by installing the LPG cylinders in a location that would ultimately be safe, ie, somewhere where they could be located on a supporting base of non-combustible material. Further, in my view, he should not have certified the installation until he was satisfied that the LPG cylinders would ultimately be located on a supporting base of non-combustible material".

Q. Now there is another witness statement Mr Hammond that replies to some issues that were raised by Mr Gee in his April statement?

MR PARKER: I think we might take a break now and reassess where we're at.

MR CORKILL QC: With a view perhaps Mr Chair of at least doing that the break and perhaps a few questions but we'll see how we go.

ADJOURNED [4.56 PM]

RESUMED [5.09 PM]

EXAMINATION CONTINUED BY MR LAURENSEN

- Q. Mr Hammond have you signed another statement in relation to this investigation in reply to the witness statement?
- A. Yes I have.
- Q. Okay you've got that in front of you dated?
- A. 27th of April.
- Q. 27th of April 2011?
- A. Yes.
- Q. If you read that please?
- A. "I refer to my earlier witness statement of the 19th April in relation to this inquiry.

This statement is in response to the statement of Paul Gee dated the 18th of April 2011.

At paragraph 10 of the Gee statement Mr Gee says that from memory he had not used his certifying status to issue gas certificates prior to starting with Allgas in February 2003. In checking this I obtained details of two certificates from the Board's certification database. One was certificate no 155016, certified by Mr Gee on 4 August 1999 and the other certificate number 178663 certified by Mr Gee on the 14th of May 2000, both of which are attached to this statement".

- Q. And so just to have a look back to the statement, are they the first two certificates, the first 155016 and the second one 178663?
- A. That's correct.
- Q. And just in terms of producing, can we - I'm happy to get Mr Hammond to produce these or can we take them as produced given -

MR CORKILL QC: I think so, they are attached to the, brief it's the easiest way of dealing with the issue.

MR LAURENSEN: So we can take them as produced?

MR GORDON: Yes, that's fine.

EXAMINATION CONTINUED BY MR LAURENSEN

A. "Certificate number 155016 was for an alteration to a Smeg hob at 52 Scobie Road, Dunedin. Certificate number 178663 was for the installation of a spa heater, water heater, cooker and two bayonets at 92 Aln Street, Oamaru. Mr Gee's address at that time was given as 304 Tomahawk Road, Dunedin.

Regarding statements in paragraphs 31 and 45 of the Gee statement, based on photographs 16 and 19 of the Investigator's photographs I agree that the gas pipe supplying the two bayonet fittings was installed horizontally and the left-hand bayonet fitting, looking at the photographs, would have been attached by a wing back to the wall at the height shown by the screw holes in the back wall".

Q. If you could go to photograph 16 and 19 of stab 13 please and just explain what you mean by that?

A. If you look first of all at 16, the bayonet with the damaged hose is lying on the floor, just to the left of that there is I think a piece of brown paper and if you follow that brown paper up to its top right-hand corner you will see there are in fact some screw holes in the back - in the stainless steel back plate, that is where that bayonet was originally attached to, but it has come off that probably during the explosion.

MR PARKER: Could you just show us on the -

WITNESS: Just to the top corner, (indicates).

MR PARKER: I have it thanks.

WITNESS: The same on I think it's photograph 19. If you look at 19 then the bayonet has had the hose disconnected from it and it's lying on that white PVC pipe, then again if you go vertically upwards, you can see some indications that the screw hole, again that is, if you look at that diagram there's the bayonet fitting, if you go up over it, there's the screw hole where I believe it was fitted (indicates).

MR CORKILL QC: Might I suggest you put a ring around it and your copy can be brought over and shown to the Board?

EXAMINATION CONTINUED BY MR LAURENSEN

Q. Now you were on paragraph 6 I think?

A. "This resulted in the right-hand bayonet fitting being much closer to the floor than the left-hand one to allow for the tee junction and short connection to it as shown in 10 and 11 of the Investigator's photographs".

Q. That's 11?

A. 11 in particular you can see just how close the bayonet fitting finishes up to the floor. "With the right-hand bayonet being positioned with its outlet horizontally the hose connecting the right hand fryer was then forced into a U-bend against the floor in order to pass under the appliance and be attached to the connection on the base of the fryer as shown in photograph 11.

Even if the hose was positioned to bend upwards, rather than downwards, away from the floor, it is likely that as soon as the appliance was pulled out for cleaning, it would have fallen back on to the floor and be in a position to be damaged by the appliance wheels and/or feet as the appliance was moved in and out. Also with the other end of the hose attached to the fixed connection on the base of the fryer itself, it's hose inevitably lay on the floor under the appliance". Again that's shown in photograph 16.

It would appear from photographs 1 and 3 that the left-hand bayonet faced downwards when attached to the wall by the wing back fitting. If it had been positioned horizontally originally, as suggested by Mr Gee in paragraph 45 of his statement, then the joint between the bayonet and the wing back would have had to have been rotated and tightened through at least 90 degrees at some stage. I cannot see any reason why anyone would have done this as, when attached to the wall in the position indicated by the screw holes, it was sufficiently high above the floor to permit the insertion of the hose whether positioned in a downward facing or horizontal direction. In either case, horizontal, or downward facing, the hose for this fryer would still have lain on the floor under the appliance in order to be connected to the elbow fitted under the base of the fryer as shown in 12 and 13.

Regarding paragraph 51 of the Gee statement, it is my opinion that the right-hand bayonet fitting is still shown attached to the wall by its wing back, in photograph 11. Even if it is not attached to the wall, based on the height of the screw holes in the wall above the left bayonet fitting, the right-hand bayonet fitting appears to be in a position that it would have been in when installed by Mr Gee. The left-hand side bayonet fitting has become detached from the wall probably either as a result of the explosion or as a result of the appliance being pulled too far forward due to a lack of a restraint. The damage to the outer rubber sheath and the metal inner core and the kinking of the hose for this fryer are consistent with catching and rubbing against the lower metal ends of the appliance as it was moved in and out.

In any event, regardless of how high the bayonet fittings were installed by Mr Gee, because the hoses were connected to the elbows fitted at the base of the fryers, in my opinion the installation could not have complied with clause 106.1.1 of NSZ 5261:1996 when it was certified. Being connected to the base of the fryers meant that the hoses not only must have lain on the floor to some extent but must also have been at risk of

being damaged by the lower metal edges of the fryers as they were moved in and out. In fact it appears this is exactly what caused the damage to the left-hand fryer hose.

In my view the only way that the hoses could have been installed so as to comply with clause 106.1.1 of NSZ 5261:1996 would be to extend the solid pipework connection for the gas supply on each of the appliances and raise the level of the bayonet fittings so that the hoses were not lying on the floor under the appliance. The installation certainly should not have been certified with the hoses connected to the base of the fryers as shown in photograph 12.

I interviewed John Strachan of Host Services Limited at their premises on the 5th of August 2009. At the conclusion of my interview I inspected one of the Blue Seal GT45 fryers that Mr Strachan told me had been removed from the Milton Street Fish and Chip Cafe and was being stored by Host Service in their workshop. The point for connection of the gas supply was at the base of the appliance as is shown in photograph 12 of the investigator's photographs. There was no indications to show where a restraint might have been attached."

- Q. Now, there were some questions asked by the Board of Mr Strachan in relation to whether or not the GT45 fryers that he had at his workshop and that he showed you were the same as the ones he delivered in June of 2003, did you conduct a search of the Board's certificate database in respect of 136 Milton Street to determine whether or not there were any other gas certificates in respect of any other GT45 fryers after June of 2003?
- A. Yes, I did. The only certificate that I have been able to locate was for the fitting of the two fryers at the renovated shop after it had been rebuilt following the explosion.
- Q. What date was that? Do you have the date, you say following the explosion, some time after April -
- A. Oh yes, it was probably nine months after the explosion.
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- Q. Were there any other gasfitting certificates in respect of any gas installation at that property?
- A. No.
- Q. There's been some reference to a pizza oven being excluded at some stage?
- A. Yeah there was a pizza oven installed in I think it was 2005. That was at the at the fish and chip shop when the explosion occurred and that was eliminated as having any involvement in the explosion.
- Q. Carry on reading from paragraph 13 please?
- A. "Regarding paragraph 65 of the Gee statement, I" - this is Greenwood Street, "I agree that when I interviewed Mr Gee on the 20th of May he claimed that he did not install the cooker. However, when I subsequently spoke with the property occupier, Mr Robert Donnelly the next day, on the 21st of May, he told me that the cooker and water heater were installed at the same time by the same person. One matter raised by the auditor related to the height of the cooker relative to the adjacent bench which Mr Donnelly accepted as his responsibility as the bench was fitted after the cooker was installed.

Regarding the different colours of pipe identified in paragraph 63 of the Gee statement and exhibit PG 014, it should be noted that the branch to the cooker is a different size to the main run to the water heater and this may account for the difference in colour. It is not good practice to mix differing brands of macro-composite pipe as the critical dimensions of fittings and pipes can vary between brands making long term gas-tightness a problem. In my view, the differing colour and/or brands do not indicate that the tee and branch were installed at different times to the main run

- Q. Just, you refer there to exhibit PG 14?
- A. Yep.
- Q. If you look at tab 16 of the bundle and if you move your way through that, a bit over halfway through you will come to exhibit PG 014. PG 014, and just by reference to that, what do you understand that to be?
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- A. I understand that to be the main line running from the cylinder - from the LPG cylinder to the water heater and then the tee that tees off to the gas cooker in Greenwood Street and it's the other end of that white pipe that goes in through the wall that emerges inside the wall behind the cooker and is connected to the bayonet fitting in the photographs produced showing the bayonet fitting behind the gas cooker.
- Q. You are on paragraph 15?
- A. "At 8 Ball Unit, Pah Street Mr Gee suggests at paragraph 69 to 71 of his statement that changes have occurred in the area surrounding the LPG storage cylinder at Motueka High School since he certified the installation in July 2003. It is not easy to determine from the exhibits supplied by Mr Gee at PG 016 to 018 what the level of public access originally was to the LPG cylinders. However, the risk of vehicle damage is not the only reason why it is usual practice to fit some form of protection around LPG cylinders in publically accessible places.

Interference can be a problem in areas accessible to the public and even if vehicles did not have access pranksters could turn the valves on and off causing appliance problems. It is usual to provide some form of cage or enclosure to limit interference in public areas. The enclosure fitted at this site reduced the risk of interference but introduced another hazard by limiting ventilation.

Moving on then to 5 Powick Street. After reviewing Mr Gee's evidence in relation to 5 Powick Street I searched the Board's certification database and was able to locate only one other certificate for this property in addition to the one signed by Mr Gee. This is certificate 207367 which is attached to this statement. Mr Gee indicates that he identified certificate number 207397 as being for 5 Powick Street, but I believe that this is an error as 207397 is for an address in Palmerston North. I believe Mr Gee meant to refer to 207367 in his statement.

Certificate number 207367 is for the installation of a Rinnai Infinity water heater with 188 mega joules per hour capacity at 5 Powick Street. This is known as a size 24 water heater. It was installed and certified by Paul Emery in July 2001.

Certificate no 319000 is for the installation of a Rinnai Infinity water heater with 250 mega joule per hour capacity at the same address. This is known as a size 32 water heater and this certificate shows that the installation was certified by Paul Gee in October 2004.

When Mr Lamborn carried out his audit in August 2009 he indicated that two water heaters were installed at the property and that the Rinnai 32 was attached to the front wall of the property at first floor level.

When I visited the property on the 12th of January 2011 I saw two water heaters at the property and took a photograph of the Rinnai 24, which is attached to this statement, which was positioned to the left-hand side of the entrance door to the property close to where the LPG cylinders are situated on the timber deck

- Q. So just looking at that photograph attached to the statement, where is the deck in relation to that Infinity 24?
- A. Just to the right of that Infinity 24 is the entrance door into the house which is the start of the deck and further right - further over to the right is the position where the LPG cylinders are positioned. I haven't got a photograph that shows them, but that is on the left-hand side of the entrance door, and clearly marked Infinity 24.
- Q. In you look at Photograph 27 in tab 13?
- A. The Rinnai Infinity is just to the left-hand side of that door. The deck - the timber deck on which the cylinder stands finishes to the left-hand side of the floor line and the Rinnai Infinity is less than one metre to the left-hand side, so it's on the same wall as the door is.
- A. Yes you are now at paragraph 22.
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- A. "I have read the witness statement of Ross French dated the 17th of December 2010 which he confirms that there were two water heaters at the property although he may have been confused about the sizes/capacities.

Mr Gee says in paragraph 110 of his statement that he was unaware of there being two water heaters at the property when he certified his work. If that was the case I fail to understand how he could have tested the pipework he says he installed, then tested the complete installation before re-commissioning the installation without being aware of the existence of the Rinnai 24 water heater.

In paragraph 111 of his statement Mr Gee suggests that the LPG cylinders may have been positioned on the deck when the second water heater was installed, but Mr Gee signed the certificate for the installation of that second water heater.

In paragraph 105 and exhibit PG 025 of Mr Gee's statement he indicates that he did the gasfitting work at the Powick Street property for Allan Walker of Craddock's Energy Centre. He then stated that at that time he had not completed his plumbing qualification and so he was not able to carry out sanitary plumbing work. It is therefore likely that the Rinnai Infinity 32 water heater was attached to the wall and the water connections were installed by a plumber working for Craddock's before Mr Gee came to site to install the gas pipework and commission the installation. This is frequently the case at other sites. In such a situation the gasfitter is required to certify the water heater and its associated pipework installation when the work is complete and the heater is commissioned.

There is further confirmation that this is a new water heater installation in the invoice provided for the work by Mr Gee, exhibit PG 026. The material list includes a gas valve which would only have been needed if it was a

new installation, for an alteration a valve would have already been in place.

Also I note from the material list provided as part of exhibit PG 025 that a total of 19 metres of pex pipe in two diameters was used as well as nine fittings. Those lengths and diameters of pipe and in particular the high number of fittings would look to be sufficient to provide connections for both water heaters from the LPG cylinders position adjacent to the side entrance door.

When Mr Gee certified the installation of the Rinnai 32 water heater at 5 Powick Street in July 2004 the existing Rinnai 24 must have been in the installation".

- Q. Can you just pause there, are you aware Mr Hammond that Mr French signed an amended statement on the 29th of April 2011?
- A. Yes.
- Q. And you've seen that?
- A. Yes.
- Q. Now, you will be aware that what Mr French said there that regardless of what the two gas certificates say, his recollection is that in fact it was the Rinnai 32 that was installed in 2001 and that it was the 24, which is on the ground level near the deck, that was installed as part of the renovations in 2004. Now if that is the case does that change anything you have to say about your view of what Mr Gee's obligations as installer and certifier were?
- A. No. The information I believe is that there were two water heaters. I can't positively identify which was the 32 and where it was or where the 24 were originally, which was the original one, but the fact that there were two water heaters there - two water heaters were there at the time that the cylinders were relocated and work was certified by Mr Gee is totally unaffected by the fact that there might have been confusion over which heater - which heater was which.
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- Q. Mr French also says that he is now sure that the deck wasn't installed at the time the second heater was installed which was the 24, and that what happened was that the two LPG cylinders were put on blocks at approximately the height that the deck would be to allow the water heaters to function prior to the deck being fitted, do you have any comment to make about that if that was the case?
- A. If the cylinders were put on blocks then it would have been apparent that the deck was going to be installed and therefore certification should have been delayed until the permanent installation was completed with the concrete block.
- Q. Now, there's just one other aspect of Mr Gee's statement that I'd like you to comment on and that is if you look at tab 14 of the bundle which is Mr Gee's - sorry tab 15 of the bundle - my understanding, Mr Gordon will be able to confirm this, my understanding is that's the unsigned one but it's exactly the same as the one that was provided that is signed?

MR GORDON: Yes.

EXAMINATION CONTINUED BY MR LAURENSEN

- Q. Paragraphs 84 to 87, this is in relation to 37 Dommert Street which is the holiday park, you will see at 84 Mr Gee refers to notes 6 of table 16 of the 2003 version of 5261 it states: "Some gas appliances may be suitable for closer installation, refer to the manufacturer's instructions". Now just looking at that do you have any comment as to what the effect of that note 6, which is on page 101 of the 2003 version? Just to be clear, it's where you've got table 16 which is provided for the clearance of 1500 millimetres, note, "Some gas appliances may be suitable for closer installation, refer to the manufacturer's instructions"?
- A. Well, in some instances manufacturer's may put out specific instructions, but the minimum levels given cover the typical installation requirements and I am unaware of any manufacturer's instructions that change that requirement.
- Q. Are you aware of anything for the Rinnai Infinity 24 or 32 - sorry, the 20?
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- A. No.
- Q. In New Zealand?
- A. No.
- Q. And then if refers to at paragraph 85 Appendix F of the 2003 version, section F6 on page 149 do you have any comment to make about that?.
- A. The document refers to AS 5601 which is identical in its requirements for installation of the standard of appliances such as the Rinnai 24.
- Q. So, what does that provide in terms of the minimum clearance ?
- A. The table in 16 on page 101 is exactly the same in AS 5601.
- Q. And finally Mr Gee produces a diagram PG 023 which he refers to in 86 and he says "the tech note was for a flush box which would put the flue spigot nearer the window than if the appliance was fitted on the wall, see Exhibit 23" if you just look at that at tab 60 PG 23, do you have any comment to make about his diagram? It's six pages back from the end of the tab 60.
- A. That diagram shows the flue gasses travel in a nice straight line vertically upwards and that's not the case, once products of combustion emerge from a flue they travel in a cloud rather than in a direct line and this is perhaps worth noting that in the - in the Dommett Street property the wall on which the water heater is mounted faces west. In other words, the prevailing wind will be blowing into that wall and the movement of flue gasses will be anything other than by vertical line as shown by that diagram. The flue gasses would drift upwards, possibly by being pushed against the wall by the prevailing wind and caught by the opening window above.

MR CORKILL QC: Mr Chairman, Members of the Board I had a discussion with everyone earlier and there was some discussion that we might carry on until 6, but I think at this hour and given that it's only ten minutes away there's probably not much point in commencing cross-examination and so my suggestion is that this is an appropriate time to adjourn. I have also had some discussions with the parties as to a suitable commencement time in the morning subject to the Board's availability, I again think there is

a consensus subject to availability of witnesses, as from 8.30 in the morning, but that's a matter for the Board and depending on your comments.

MR PARKER: I think that we can be here as soon as possible after 8.30. We have just got something to deal to, but other than that. We will adjourn for the evening.

MR LAURENSEN: Just in terms of Mr Hammond's status that he is not under cross-examination so I can still discuss aspects of the case with him?

MR CORKILL QC: Mr Gordon, the relevance of that statement is that once the witness is under cross-examination he may not discuss his evidence with anyone. Mr Hammond hasn't reached that point just yet so what Mr Laurensen is saying that he wishes therefore to be able to discuss the case if need be overnight which would be the usual position if a witness hasn't got to the point of cross-examination, you understand that?

MR GORDON: Yes. Will we be cross-examining first thing in the morning?

MR LAURENSEN: Well what I was hoping is maybe having Mary Wilson to give evidence by telephone, but I haven't been able to get in contact with her, I have left a message. But subject to that, we will just carry on straight away with Mr Hammond I would think.

MR GORDON: Because it's leaving cross-examination, as you mentioned the case being discussed it seems to be prolonging it out for the actual cross-examination discussing the case and such like.

MR CORKILL QC: It's fairly standard I think Mr Gordon.

MR GORDON: Well we've got another witness coming in, if we interview Mary Wilson in the morning we've got another witness coming in between before the cross-examination starts is that quite appropriate?

MR CORKILL QC: Well in a situation like this where we're trying to accommodate members of the public et cetera, it's usual practice to interpolate people, particularly if their evidence is relatively short and can be dealt with efficiently, that's the suggestion, have you got a submission you need to make about that?

MR GORDON: But there won't be any more questions from Mr Laurenson to Mr Hammond?

MR CORKILL QC: Arising from Ms Wilson's evidence? Well it's not for me to say, we will have to deal with that issue when and if that point is reached. Think about it overnight and we will see if Ms Wilson is available first thing in the morning.

MR PARKER: We will adjourn for the evening. Thank you very much.

ADJOURNED [5.50 PM]
