

4 MAY 2011

MR LAURENSEN CALLS

MARY BERNADETTE WILSON (Sworn) (via teleconference)

EXAMINATION BY MR LAURENSEN

Q. Is your full name Mary Bernadette Wilson?

A. Yes, it is.

Q. And have you signed a statement in relation to this matter dated 29 April 2011?

A. Yes, I think it was 29.

Q. Do you have a copy of that in front of you?

A. Yep.

Q. Could you please read that?

A. I have to read the whole thing out?

Q. Yes please?

A. Oh good grief. "I am the executive officer of Motueka High School, Motueka. I have held that position since 1990. In that position I am responsible for the administration of the school, which includes its finances, property and personnel.

Some time around 2002 or 2003 the school started using a concrete block building on Pah Street as a classroom. The building is a stand-alone site a block away from the rest of the school. Prior to that the building being used by the rubber bowling green, which had an all weather surface, as its clubrooms. The northern side of the building is shown in photographs 23 and 24, which are attached to this statement.

The classroom was very cold and so it was decided to have some form of heating installed. I was responsible for the school's property at that time and so School Support Limited of Nelson, which managed the school's property work at the time, made arrangements for heating to be installed. Some time during 2003 a Rinnai gas heater was installed in the classroom. I have been shown a gasfitting certificate number dated 17

July 2003, which is attached to this statement. July 2003 would have been around about the time the gas heater was installed.

I understand it's been suggested that at the time the gas heater was installed, there was no vehicle access to the area where the two LPG cylinders are located. That is not my recollection. There has always been vehicle access to that side of the building. It is opposite a bowling centre, where there has always been a huge amount of parking and I do not recall there ever being anything separating the carpark from the building. I have a clear recollection of driving my car around to that side of the building and parking when visiting the children in the classroom.

I have been shown a photograph marked exhibit PG018 which is attached to this. That photograph has an arrow which I understand is alleged to point to where a fence line used to be when the gas heater was installed in July 2003. I do not recall a fence line being there. In any event, I do not recall there being anything preventing vehicle access from other parts of the school to the side of the building where the LPG cylinders can be seen in the photographs.

There has not been any need for any work to be carried out on the heater or the LPG cylinders since they were installed in 2003".

- Q. And did you receive some documents by courier yesterday?
A. Yes, I did.

CROSS-EXAMINATION BY MR GORDON

- Q. Morning Ms Gordon thanks very much for taking time out to speak to us. Now you state the standalone building was used as a club room for the bowling - a club beside the rubber bowling green is that correct?
A. Apparently so.
Q. On one of the photos you will see there's an enlarged area to the left of the building, is that the artificial bowling green is it, if you look at PG 016 you will see a large area right beside the club rooms, it's a black area?
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- A. Oh yeah that's right.
- Q. Now, you say that do you, from your recollection, there was no vehicle access to the northern end of the building. If you have a look at that photo you will see a line coming through across the top of the bowling green and also on the other side of the carpark and perhaps if you look at the photograph on PG 016 E it might give you a better view of it?
- A. Oh yeah, yes.
- Q. Now if you have a look at Photograph PG 016 C you will see a fence line towards the back of the photograph?
- A. Oh the fence line on the other side of the -
- Q. Yes, on the other side of the carpark?
- A. Yep.
- Q. Now, what we believe is that fence line perhaps carried - continued right along across the top of the bowling green, do you think that's correct?
- A. Um, you've always been able to get through to the northern side of where that fence is.
- Q. Yes.
- A. I just don't remember there being a fence there, that's all, but I mean let's face it, this is eight years ago that you're asking and it's not something that was a particular high priority ever, and I certainly didn't ever spend a lot of time there. So I'm just telling you to the best of my recollection, and yeah, I don't recall there being a fence. It's a shame I didn't actually get given these photos sooner before I was asked to commit things to paper and so forth, because I can see there is clearly potentially has been fencing across there somehow, but - yeah I just have this feeling that I was able to drive around through that entrance to the north of the building and access the students from that northern end, but like I say -
- Q. Okay, you don't recall if there was sort of an enclosed area where the gas bottles are situated now, on that, the larger photo you have there, you will see just to the northern end of the building, just off the end of where there's 62 written with an arrow, there's sort of a dark shadowed area, do you recall what that was at all?
- A. No, I don't.
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- Q. But it is possible that that is another enclosed area, isn't it?
- A. Given what's on these other photos, yeah sure.
- Q. Now, if you have a look at PG 016 A, now this is in fact looking at the other end of the building, but you will notice there there's a whole lot of fence posts that have been whopped off at ground level would you agree with that?
- A. That's what it looks like, yeah.
- Q. And on photo PG 016 B you will see there's actually a post beside a downpipe nailed or connected to the side of the building?
- A. Yep.
- Q. That's at the northern end of the building, that's about the same height of the fence on the other side of that building, isn't it, the other side of the carpark?
- A. Oh is it? Sorry I'm not very good with -
- Q. Okay that's fine.
- A. Yep.
- Q. Who was the caretaker at the time that all these alterations were done?
- A. It wouldn't have anything to do with the caretaker to be honest. The way our school ran at that time was that we contracted School Support which is a building consultancy-type company to do our building work, so the committee would - the property committee would decide this needs to be done and obviously in this case the gas needed to be provided for heating and School Support would go away and do all of the paperwork and make the decisions and so forth and they would have done the inspections afterwards. It would be - and given the fact that that was an off-site part of the school, the caretaker would have very rarely had anything to do with the building at all, to be honest.
- Q. Oh yes. Now if you'd like to have a look at PG 016 D, this looks like an estimate, do you know if that's for the same - for the same job of the carpark et cetera?
- A. Um.
- Q. It's just that it was found in the same bundle of documents?
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- A. I think what they're talking about - what this is talking about is to the south of that rubber bowling green there is now - there's now a building and - oh yeah you can see it on your in Exhibit E there's now - the plan for drawing up that building, that - this 16th February thing is related to, I would say, that building, that's what it looks like to me, yeah.
- Q. Okay, because I see they're just mentioning around the rubber mat and such like, so obviously they've removed that and if you look at number 12 says "it's existing fence will be removed at no residual value, would you agree with that?"
- A. That's certainly what it says, yes.

MR CORKILL QC: Mr Gordon you referred to a 1 (6) (b), I'm not sure that the Board has seen that so I will just tidy that up before we go back to Mr Laurenson. Thank you. It's just being handed out. So just for the sake of order, are you going to produce these photos through Mr Gee or otherwise?

MR GORDON: We can do.

MR CORKILL QC: Okay they can be assigned exhibit numbers and so on when he gives evidence.

RE-EXAMINATION BY MR LAURENSON

- Q. Just one question thanks Ms Wilson, you talked about in your evidence how you would - you have a recollection of driving around the building and parking to see the children, just looking at PG 016 E, the big - big photograph?
- A. Yeah.
- Q. Could you just - I know it's hard from where you are but just describe where you - in relation to that where you would drive, presumably you come off Pah Street?
- A. Yep. I would have gone up through that little gap towards the bowling club pavilion and around to the left.
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- Q. So just to be clear we're talking about - the building we're talking about is the white building -
- A. On this picture that I've got in front of me there's a building right to the north of the photograph that's called "bowling club" and it's been stamped on top of it.
- Q. Yep?
- A. And so what I'm talking about is that I would have driven towards that building and parked in the north of our little building.
- Q. And your little building is the building directly below the bowling club pavilion building?
- A. That's correct.
- Q. To the left of the building that seems to be sort of a roof of half white and half orange?
- A. That's correct.
- Q. So whereabouts would you have parked in relation to your building?
- A. Right on the north there.
- Q. Right on the north?
- A. Yeah where the arrow sits, actually, probably.
- Q. You would have parked right there?
- A. Yep.

MR PARKER: Questions from the Board? (No questions from the Board).

Thank you Ms Wilson. We have no more and you are free to hang up.

Enjoy your day.

(Witness excused)

MR LAURENSEN: Now in terms of witnesses, obviously Mr Hammond is about to be cross-examined. I spoke with Mr Gordon about where we fit Mr French who is going to be telephoned in. That depends on whether or not we've got the documents that were being couriered, so I haven't had a chance to hear back from Ms Phillips as to whether or not they are here?

MS PHILLIPS: They're not here yet.

MR LAURENSEN: They're not here. So perhaps if we can just carry on with Mr Hammond and at the morning break we can make arrangements with Mr French to be after that.

ANTHONY EDWIN HAMMOND (re-sworn)

CROSS-EXAMINATION BY MR GORDON

Q. Now Mr Hammond, how would you describe an investigation?

A. The process of acquiring facts surrounding a complaint and documenting those so that a report can be prepared identifying what the findings are.

Q. A generally accepted definition of an investigation is simply a search for the truth, would you agree with that?

A. Yes.

Q. And in this case go out and search for the truth?

A. I believe so.

Q. Now, in paragraph 9 of your statement - your first statement, which is under tab 4. So under paragraph 9 you've stated there that on the 24th 2009 I was appointed by the Board as Investigator under section 41 (4A) of the Plumbers Gasfitters and Drainlayers Act 1976 in respect of a complaint made by Lance Windleburn of the Department of Labour against Mr Paul Gee. Now that's not exactly true is it?

A. I believe so.

Q. Because Mr Windleburn didn't actually lay a complaint against Mr Gee but rather asked for the matter of the gas certificates to be looked at, or looked into and for the Board to explore the possibility of other

substandard installations that may have occurred in the region over the - over 2000?

- A. I received a letter from the Registrar of the Board appointing me to investigate a complaint that had been received from Mr Windleburn. Attached to that letter was a copy of the letter from Mr Windleburn setting out the details, but my actual appointment was by the Registrar to look into the complaint.
- Q. Okay but Mr Gee wasn't named as such in Mr Windleburn's complaint. I believe in my letter from the Registrar Mr Gee and another party were both named?
- Q. And the other party was?
- A. Mr John Darnley.
- Q. Now just while we're talk about Mr Darnley, he was Mr Gee's previous employer is that correct?
- A. Yes, I understand that Mr Gee was employed by Mr Darnley from February to November 2003.
- Q. Now, I also understand that although you didn't know Mr Darnley by name or by face at that time, but he was also a member of the New Zealand Institute of Gas Engineers of which you are a Fellow?
- A. I understand subsequently that he was, yes.
- Q. And I also understand that you conducted a verbal examination of him so he could obtain his craftsman status, is that correct?
- A. Yes I was one of two people who conducted an oral assessment of Mr Darnley to determine whether he should be granted craftsman status.
- Q. Now, I see in your statement I'm just trying to get a bit of background here, that you were closely involved with the development of the Gas Act and the Gas Regulations that introduced self certification for gasfitters so you have an in-depth knowledge of how the system was intended to operate is that correct?
- A. I believe so, yes.
- Q. And I see also that you are on the committee that contributed to the development of the NSZ 5261, is that correct?
- A. Yes.
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- Q. So it seems that anyone with the involvement in the development of the processes that you are now enforcing would be very protective of it and would not be very tolerant of anyone who would look like they may have breached the legislation in any way would you agree?
- A. No, I don't agree.
- Q. Why wouldn't you agree with that?
- A. Because the standard and the legislation was prepared in full consultation with a range of people from the industry, both in the management side, the operating side and well legislators and therefore the regulations and the standards produced all received approval from a wide range of persons and therefore, represent the full view of the industry, not me as an individual.
- Q. Do you feel that the average - the average tradesperson would know as much about as relevant legislation that you know?
- A. The average tradesperson may not know the full extent that I know, but that is not a significant matter in my view.
- Q. Now, I see in paragraph 10 that you had a number of documents provided to you?
- A. Yes.
- Q. That were - most of them were dated prior to you being appointed, so someone at the Board's obviously made the decision to investigate Mr Gee, was that the Registrar was it?
- A. The letter of appointment from the Registrar named Mr Gee and Mr Darnley. When I read the documentation I then proceeded to interview both Mr Gee and Mr Darnley after I had spoken to Mr Windleburn from the Department of Labour.
- Q. Now, I think there's just one thing we need to correct here, that in your statement it's stated that Mr Gee become registered in 1978, he would have only been five years old at the time, so I think -
- A. 1998 I believe, yeah my apologies for that.
- Q. I think that's the way it's recorded on the Board's website, that's possibly where it come from?
- A. It obviously isn't correct, thank you.
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- Q. Now, the altering of the gas certificates has been quite a big issue in Mr Gee's line of thought. Is the altering of a certificate an offence?
- A. I would have thought that after the certifying gasfitter has signed the certificate any alterations would render the certificate invalid.
- Q. So even though it's not the tradesperson or the certifiers - if when you say invalid, it's not actually an offence for someone to alter the certificate?
- A. I am unsure whether there is an offence in the Gas Regulations covering altering of certificates, but in my general view the certificate represents what is in place at the time the work is completed and therefore, if somebody makes an alteration then that may not represent the correct certificate so it's of only of value at that time.
- Q. So if someone alters it after the tradesman has done it, and as you say makes it invalid can the tradesmen then be held responsible for those alterations?
- A. If he didn't make the alteration, then probably not.
- Q. Now, with Mr Gee's previous employers Mr Darnley, was his wife and daughter employed at Allgas in their office?
- A. I believe so, yes.
- Q. Were they interviewed at all with regard to this case?
- A. No.
- Q. They weren't even interviewed with regard to the altering of the certificates?
- A. No. Not by me anyway.
- Q. Were they interviewed by anyone else that you know off with regard to -
- A. I am unsure whether Mr Windleburn in his investigation prior to the complaint being lodged - I'm unsure whether he spoke to them.
- Q. So even though Mr Gee had alleged that people had altered the certificates you felt it was of no consequence and didn't investigate that aspect of it?
- A. No that's not quite the situation. Mr Gee made some claims that there may have been some alterations to some of the certificates. I gave him a copy of the certificates that I collected from the Board's system and I suggested to him that he should go away and compare those with the blue
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copies which I presumed he was holding as the certifier of those installations. He would then be able presumably from the blues that he held, compare them with the Board's records and if there was a difference then he could then demonstrate that those certificates had been altered, but Mr Gee never produced any evidence to me of those - of his original blue certificates.

- Q. Did you look at the process that was in place at Allgas at all, because we're looking at a period of time here where certification was fairly new and processes and procedures were still being put in place, did you look at their process and procedures?
- A. I'm not sure you are correct in saying fairly new, it was - the certification was introduced in 1993 so it had been running for ten years at the time Mr Gee signed the certificate. Sorry what was the other part of the question?
- Q. Did you look at the processes and procedures that were in place at Allgas?
- A. I spoke briefly to Gwen Morrison about the certificates and she indicated that she on some occasions filled in some of the details on the certificate ready for the gasfitter to certify.
- Q. But she was dealing with the process prior to this incident with Mr Gee, I understand that it was Ms Darnley and Mrs Darnley that were running the office at the time, so surely they should have been spoken to about the processes that were in place?
- A. Mr Gee never produced any information for me that led me to believe that certificates were being altered, but as I said before, when I provided Mr Gee with copies of certificates I obtained from the Board's records, I asked him to compare them with the blue copies that he had and he has not produced anything back to me that showed that the blue copies showed something different to the other copies that have been provided to the Board.
- Q. So you just - because he hadn't produced you with blue copies you didn't think it would be part of the investigation to actually find out what processes and procedures that were being followed were?
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- A. I didn't think it was appropriate to investigate that aspect any further, no.
- Q. Do you know if there is a common practice for office staff to complete certificates for tradesmen?
- A. I understand it's quite a common practice for a lot of the certificate details to be filled out by office staff prior to the gasfitter signing the certificate on completion.
- Q. And this is one of the reasons that the Board has gone to the computerised certificate system isn't it, to take away any fraudulent use of the certificates, is that correct?
- A. I'm not sure whether that's the reason or not, you'd need to ask the Board.
- Q. Now, Mr Gee and Mr Darnley were both implicated in this case, in particular the explosion, do you go back and check their files?
- A. Files held by the Board?
- Q. The files held by the Board?
- A. Yes. When you say checked their files, I checked for details of registrations and licensing arrangements and from Mr Gee's file I provided a copy of some correspondence which I submitted as part of my report.
- Q. Had - according to file had Mr Gee appeared before the Board before for any discipline matters?
- A. I had no information that he had appeared before the Board, no.
- Q. What about Mr Darnley?
- A. I don't recall any appearance by Mr Darnley before the Board.
- Q. And when you were checking the files did you notice if Mr Gee had submitted a considerable amount of information to the Board?
- A. Yes that was the information I was referring to a few moments ago.
- Q. And that information was?
- A. Concerning letters and so on that Mr Gee had written to the Board and to a Member of Parliament complaining about various matters that had occurred previously.
- Q. Now, we're led to believe that Mr Darnley had actually been involved with a discussion with the Board at some stage regarding a gas certificate which he'd created and submitted, did you notice that on the file at all?
- A. No.
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- Q. Now, I see from the initial interview of Mr Gee that you had 46 handwritten lines of notes which converted to about 68 typed lines of information and these are from your initial notes. Are your notes recorded in a notebook or on loose leaf pages?
- A. Loose leaf pages.
- Q. So as it's on loose leaf pages, you could re-write them or submit a new sheet without it being traceable?
- A. If there was any reason for doing that, yes, I could.
- Q. And likewise I notice you don't rule off on those pages, so things could be added in if you wanted to?
- A. I believe most of the pages carry numbers, for example, if it was the second interview of Mr Gee then it would be Paul Gee 2 the pages numbered 1, 2, 3 and generally at the end of the recording I note the time that the interview closed, so that indicates that I've finished making my notes.
- Q. Has anyone ever told you that it's standard practice for an Investigator to use notebooks generally with numbered pages to alleviate anything accusations of things being added or deleted?
- A. I can understand in a criminal investigation, the police interviews and so on, that may be the practice but I have not discerned it necessary to do that in terms of the investigations that I have carried out on behalf of the Board.
- Q. Now, in paragraph 12 E of your statement you mentioned a job from Milton Street, now that job sheet has been filled out by two people, this is in part 12, 160 is the document that we're talking about. So do you agree that that's been filled out by at least two people?
- A. Yes, I do.
- Q. Now, in paragraph 12, I can't find any record of that in your notes, is that what was actually said at the time? It states there: "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 he'd done"?
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- A. I can recall that discussion, whether it's recorded in my notes I can't remember, but certainly in that interview with Mr Gee and with Mr Fraser that I believe was what was said.
- Q. Did - when you record your notes you record them as you're conducting the interview or do you do them after the interview is finished?
- A. I generally record some matters during the course of the interview, the key points, and then I tidy those up when I've completed my interview, usually in arranging appointments to interview people I usually allow an hour afterwards to sit down and write those up before I go on to the next interview.
- Q. Now, in paragraph 14 who selected the seven installations to be inspected?
- A. Those seven I selected.
- Q. You selected?
- A. Yes.
- Q. How did you do that?
- A. I looked at a group of certificates that had been provided to me from the Board's records and selected a couple of installations that I considered to be very similar to the Milton Street type of installation, ie commercial installations where there might be fryers or other appliances in a commercial kitchen and then I selected two or three others at random from those, these were domestic installations so that I could see a further range of Mr Gee's work.
- Q. Now, you also mention that there was compliance concerns with those installations?
- A. Yes.
- Q. Now, a lot of this was to do with pexal pipe not being painted, is that correct?
- A. A lot of them were to do with pexal pipe being exposed to ultraviolet light, yes.
- Q. Now, Mr Gee provided a response to that, didn't he?
- A. Yes.
- Q. And what was that response?
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- A. He provided a manufacturer's - an extract from a manufacturer's brochure regarding pexal pipe which suggested that if protection from ultraviolet light is required, then painting was sufficient. And that document was dated from memory 2002, or thereabouts and my investigations of the requirements for pexal pipe subsequently show that whilst that might well have been the situation in 2002, all of the technical literature these days provides for a very different requirement, and so when I inspected those installations I applied the current requirements to those from the manufacturer's recommendations and that is that pexal pipe is covered and screened from ultraviolet light, but Mr Gee demonstrated to me with that document that he provided that at the time there was a justification for him following the manufacturer's recommendations and therefore those charges did not proceed - or those aspects of the complaint did not proceed where pexal pipe was concerned.
- Q. So out of those seven complaints he hasn't been charged with anything from those - sorry from those seven inspections?
- A. No, the - those seven, most of them were pexal pipe complaints, but there were a couple of others which again Mr Gee was able to give me an explanation that satisfied me of what I believed to be a non-compliance matter, may not have been a non-compliant matter when he did the job.
- Q. Did you record any notes to do with those inspections at all?
- A. Yes in my report to the Board there is an appendix which lists all of the findings from those.
- Q. Oh so there was no handwritten notes, there was only the summary of the -
- A. I can't recall now whether I have written notes of that, I would need to check.
- Q. Okay. Thank you.
- A. I think it was covered - from memory I believe it was covered in one of the interviews with Mr Gee when he explained to me and he provided me with the document from the pexal pipe manufacturer and when he provided me with some other information.
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- Q. So at this stage there were no chargeable offences and there was still no result as far as identifying anyone to do with the explosion at the Milton Street?
- A. Well no we're not - that's not quite the sequence, after I had completed my assessment of those seven installations referred to in paragraph 14 I believed there was sufficient concerns to have a wider look at the work that Mr Gee had done and I therefore went to the Registrar and asked him to conduct audits of Mr Gee's work over the period and for that I selected 25 installations and those installations were audited before I then went to Mr Gee.
- Q. Yeah but getting back to my question, at that stage, because we can move on to the audit, at that stage Mr Gee had answered all the questions about the seven inspections you'd done?
- A. No, no, no. I don't believe that's the sequence, I didn't speak to Mr Gee about the seven installations and hear his side of the story until after I'd - after the audits had been commissioned.
- Q. Okay. So in paragraph 15 you stated you requested a series of special audits to be carried out?
- A. Yes.
- Q. How were those audits requested?
- A. I met with the Registrar and the then legal advisor Belinda Greer at the Board's offices and asked for a wider - a larger number of audits to be carried out of Mr Gee's work and at the same time of Mr Darnley's work.
- Q. So at that stage did you have to submit to them your reasons why?
- A. Yes, I - I spoke - I don't believe I did it in writing, I spoke with the Registrar and indicated that I had identified seven installations in addition to the Milton Street Fish and Chip Shop where there may be some concern and asked that a further number of installations be audited.
- Q. Would it not have been prudent to interview Mr Gee regarding those seven installations before going to ask for another 24 sites to be audited?
- A. My view at the time was that I had seen sufficient from those seven sites to at least raise some concerns and therefore the sooner some audits were carried out, time was already moved on considerably since when
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some of the work was done and therefore the sooner the audits were carried out the better.

Q. So how did you actually justify the special audits to the Registrar and the legal counsel at the time. First of all who was the Registrar?

A. It was Phil Routhan.

Q. So how did you justify the special audits?

A. I have got some notes I think somewhere, can I turn to those notes?

Q. Yes.

A. Yes, I met with Belinda Greer and Phil Routhan on the 30th of the 7th 09 at 2.30 at the PG and D Board offices. I discussed the possible falsification of certificates and Mr Routhan provided me with a document from Mr Gee's file and he made available if required handwriting expertise to determine if necessary, because at that stage Mr Gee had claimed that some of the signatures on some of the certificates were not his. He subsequently withdrew that claim, but initially he complained that some of the certificates may not have been signed by him. And then I indicated to Mr Routhan that audits were likely to be required and Mr Routhan suggested we looked at some installations - some other installations while we were in Nelson.

Q. So Mr Routhan suggested you look at other installations whilst down here?

A. Yes, but those were not Mr Gee's installations, there was another matter that I'd raised, because I had seen pexal pipe in not only Mr Gee's installations, but also in a number of other places in Nelson, there seemed to be a large amount of pexal pipe used in Nelson in particular and a lot of that was exposed and so there then was a question of whether pexal pipe had been used inappropriately on a much wider scale than just in the case I was investigating on behalf of Mr Gee and Mr Darnley, and so Mr Routhan suggested that I should look at some of these other installations around the area as well as proceeding with this complaint and I subsequently provided a report back to the Registrar, nothing to do with this particular case, not involved with Mr Gee or Mr Darnley, after I carried out a number of checks throughout the Nelson province. I think 12 other

gasfitters but this was an entirely separate matter to the case I was investigating regarding Mr Darnley and Mr Gee.

Q. So initially you're the one that's approached the Registrar saying you wanted the audits conducted into Mr Gee of 24 occasions, is that correct?

A. Yes.

Q. So those audits were in fact part of the investigation?

A. Yes.

Q. Now at this stage it looks like the Registrar has a substantial input into the process as far as the audits and such like, would you agree with that?

A. No it was my request for the audit to be conducted and I selected which installations were audited. I don't think the Registrar had any inputs other than to make the arrangements - make the necessary financial arrangements for the auditing company to carry out the work.

Q. Now, at the start of this process we requested copies of all the investigator's notes, was that - I don't recall seeing that note included with everything we've got?

A. I believe the whole bundle that I've got here was copied, but I stand to be corrected if it isn't, I believed it was. Certainly no intent to withhold that information.

Q. Now, I presume letters were sent out to the consumers that audits were being conducted, who would have done that?

A. I'm not sure. The - having requested the audits, the next involvement I had was when a set of audit findings were provided to me for the 24, 25 installations carried out by Mr Gee and for a similar carried number carried out by Mr Darnley and that from memory was some four to five months after I had requested the audit. I had no involvement in contacting the consumers or what responses the consumer had after the audits or whatever, none whatsoever.

Q. Now, you've just mentioned that you received copies of the summaries of the audit, were summarised - or summaries of audits sent to the consumers?

A. I've no idea. No idea.

- Q. If you recall at the previous hearing we had into this - into parts of this case, it was said then that - or the Investigator claims that the audits were not part of the investigation but now you've said that they are, and letters were actually sent out summarising the audits telling the people what was wrong at their locations by the Registrar or the Acting Registrar at the time, would that be correct?
- A. I'm not sure. I certainly don't recall at the previous hearing saying that the audits were not part of the investigation. In my view the audits were carried out and provided information that was a part of the investigation.
- Q. Part of the investigation, okay.
- A. What I may have said is that I did not carry out the audits, they were done independently, that's what I may have said.
- Q. Now, in paragraph 20 of your statement you said there was a number of - you stated you saw photographs taken after the explosion, and enclosed 19 photographs, these were a combination of photographs taken by the forensic scientist from the Institute of Environmental Science and Research Limited and also the police, that correct?
- A. Yes.
- Q. Now, which photographs were taken first, the police photographs or the ESR photographs?
- A. I don't have any definite knowledge of that. I understand the police carried out an investigation and then called in the ESR scientist so they may have taken those photographs first, but I've no knowledge of which were taken first.
- Q. Okay. I'd like to have a look at - we'll go to those photographs. Now I'd like you to look at Photograph 19. Do you know who that person is in the photograph?
- A. I'm not absolutely sure but I suspect it might be Nick Hobson.
- Q. Nick Hobson?
- A. Mmm.
- Q. And who's Nick Hobson?
- A. Nick Hobson was I understand called in by the police on the recommendation of Tony Smith from Energy Safety as a gasfitter - a local
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Craftsman Gasfitter who may be able to assist them with their investigation.

Q. But that is one of the police photos is it?

A. It was part of the bundle provided to me by Lance Windleburn and therefore I assume it's one of the police photographs.

Q. Now, the reason I ask is that because on the assumption that the police were there first and took their photos, there's no gas hoses or anything connected to those bayonets and the fryers have been pulled out from the wall?

A. Mmhmm.

Q. But yet in the scientific report, if you look at the other photos, the majority of it, the hoses - well nearly all of them the hoses are connected and the appliances are up against the wall, so we seem to have a wee bit of an issue with the scene possibly being altered here. And if you look at photographs 15, 16 and 19, the bayonet, particularly the left-hand side bayonet has - it shows in three different positions would you agree with that?

A. Yep.

Q. Now, you didn't conduct a scene examination yourself did you?

A. No. It was some time after the incident had occurred that I was appointed as investigator.

Q. So a lot of the information that you've put forward is based on what you can see in the photos, the same as us?

A. Yes.

Q. So we've no - you've no way of knowing if the scene's been altered or not based on what we've got here?

A. No.

Q. Now, getting back to paragraph 21?

A. Yes.

Q. Now, in paragraph 21 you've - you claim that two bayonets were installed very close to the ground, how do you know that that's where they were installed originally?

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- A. Because in looking at the photographs there appears to be fixing positions on the stainless steel sheet which is covering the wall in the positions where the pipe lies in the photograph. I cannot see signs of other fixing positions on that stainless steel sheet, therefore I have presumed that the fittings were placed initially in the same position as they appear in the photograph.
- Q. Now, with regard to the hoses that were used, in paragraph 22 you state the metallic hoses are more flexible and tougher than the rubber reinforced hoses used in the installation, now that's your opinion is it?
- A. Yes, the rubber hoses are listed as cooker hoses and are basically designed, in my opinion, for domestic use. In the commercial situation as I've mentioned on a number of occasions, the frequent cleaning and so on that takes place, moving of the appliances in and out, then more substantial hoses are a better choice in my opinion.
- Q. But rubber hoses are legal, they are permissible?
- A. Yes, I don't believe using a hose is an illegal move, it's just use of a material which is not particularly satisfactory.
- Q. Now, in paragraph 25 you've made a comment regarding the pipework, only comment on certificate 282222, which is on page 78 do you know whose writing that is? Do you know whose writing that is?
- A. No idea.
- Q. So - and if it's not Mr Gee's writing, that could quite easily have been added in after the certificate had been signed, if Mr Gee has just ticked say, for example, "Pipework", so that could have been added in later?
- A. Yes, I guess it could have been added in any time.
- Q. Now, yesterday I was speaking to the auditor about 8 Point Road which was - which we stopped the conversation or the questioning on that issue. I'd like you to look at the back under exhibit PG 004/2. Now yet again here's an example of where someone has written in "Run gas pipe line for reticulation" now that's been ruled off and they've gone in and added the installation of hobs and such like underneath this --
- A. Yeah.
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- Q. -- is that correct? Now just based on the dates we're presuming that this was filled out in a similar manner to the ones that Mr Gee had filled out - or had filled out for him for the fish and chip shop. Would you agree that it is possible that the fryers and such like have been added to the certificate after Mr Gee has signed it?
- A. On this certificate you mean? Or -
- Q. No we've now looked at certificates where things have been ruled off and other things have been added in, is it possible that the fryers could have been added after Mr Gee has signed for the pipework?
- A. Yes, it is possible.
- Q. Now, this isn't really a shining example of what we'd expect from a certificate is it, this one from Point Road?
- A. No.
- Q. No. It's pretty abysmal?
- A. Yes.
- Q. And you will see that there's all sorts of additions and alterations made to that certificate including the deletion of Mr Gee's name who was originally put down there as being the person responsible for this job, and this is in fact the location we're at now, so this indicates to us that it's not really - or these people were not afraid of altering gas certificates, would you agree with that?
- A. There appears to be a alterations made but I do note that Mr Gee's signature does not appear on that certificate, and the signing - or the addition of the signature should be the closing off of that certificate and should have completed the operation. Obviously something has changed here, but Mr Gee has not signed at that time. It may well be that certificates were completed in that form ready for Mr Gee signed, I see nothing wrong in that, that's perfectly satisfactory, but as his signature isn't there, then obviously he didn't get called on to sign that particular certificate.
- Q. Now, a lot of this handwriting looks very similar to the handwriting on the job sheet for the fish and chip job, would you agree?
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MR CORKILL QC: What document are you referring to?

CROSS-EXAMINATION CONTINUED BY MR GORDON

A. Are you referring to 160 are you?

Q. Yes, 160.

MR CORKILL QC: Comparing that with?

MR GORDON: With that previous from Point Road.

MR CORKILL QC: PGO 4/2?

CROSS-EXAMINATION CONTINUED BY MR GORDON

Q. Yes. Obviously we're not handwriting experts, but do you think they're similar at all?

A. It's very difficult to tell from copies, I don't have any comment.

Q. No, that's fine. But just included - before we move on from that exhibit that is an example of how it shouldn't really be done isn't it?

A. I agree, yes.

Q. And it does indicate that Mr Darnley or his staff have submitted that one and that they're not afraid of ruling out if pipework was done and adding things afterwards?

A. I have no idea the background to that certificate at all.

Q. Because one comment you did make was that you could not understand why Mr Gee would not write down pipework only and you could not understand why he would submit a gas certificate knowing full well they were going back to the site to sign off for other things. Would you not say this is an example of exactly that happening?

A. As I say, without having further information about that certificate I've no idea what the background of it is, no idea who did what and when.

Q. Okay. Now, you realise here we are getting into a lot of the things to do with the fryers and such like and a lot of it is guesswork for us because Mr Gee didn't install the fryers, but I'm going to ask a few questions on

that work anyhow. Do you know if the owner conducted any maintenance on the fryers?

- A. I spoke with the owner principally to try and determine whether A), there had been any alterations done to the installation and secondly to determine if he knew who had actually connected up the fryers and he was unable to provide me with any information.
- Q. Now, I see in your notes that - that he - well is it true that the owner mentioned Mr John Darnley and he was not aware of anyone else involved?
- A. I'd have to go back to my notes to recall that. Yes, I spoke with Mr Ron Clark the shop owner on the 5th of August 2009. Mr Clark was very vague about the details of the installation. He told me he could not remember who did what. He spoke highly of John Darnley. Not aware anyone else involved. Did not provide any information to the government inspector. He appeared to be traumatised by the event and not able to recall. Cleaners had been in earlier in the day and had cleaned. Did not smell gas and did not recall of any leaks. Installed gas fryers because of the problem with the past fryer. There was no gas on site before the installation. That was all the information I was able to obtain from him.
- Q. Now, he stated the cleaners had been in earlier?
- A. Yes.
- Q. Based on those photos do you think they'd cleaned behind the fryers?
- A. I think - I don't really have an opinion on the state of the cleanliness of the fish and chip shop from some photographs, I've no idea.
- Q. Okay. Did you in fact interview the cleaners?
- A. Yes, I believe I spoke to the cleaner. No I think I spoke to the cleaner subsequently, very recently, but I don't believe I interviewed the cleaner at the time.
- Q. Okay so there's no notes to do with that at all?
- A. No. If I had of done there would have been some notes.
- Q. So the owner couldn't identify Mr Gee as the person who installed the fryers?
- A. No.
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- Q. And he wouldn't tell you who installed the fryers or didn't know who installed the fryers?
- A. Said he didn't know.
- Q. And we don't know if the cleaner reported any damage to the hoses at all at any stage?
- A. I don't believe so.
- Q. And we don't know about the maintenance of the fryers if anything was ever conducted?
- A. No.
- Q. And do we know if they're the original fryers?
- A. I believe we do. The numbers on the fryers were recorded on the job sheet and Mr Strachan from Host Services indicated I believe that the fryers that he held in his store after the explosion and that were subsequently re-installed, were the same fryers.
- Q. But we don't know of that for sure do we, no-one's actually checked the serial numbers?
- A. No-one's actually checked the serial numbers as far as I am aware of the ones now installed.
- Q. They're not in the new certificate from when the fryers have just been recently re-installed?
- A. I've got a copy of that certificate I'm not sure whether they are on that certificate or not. I did obtain a copy of that certificate but I'm not sure where it is at the moment.

MR CORKILL QC: You can perhaps look for it during the break.

CROSS-EXAMINATION CONTINUED BY MR GORDON

- Q. Do you think the owner performed his duty of care to maintain the equipment?
- A. I think from the level of damage that I see to those hoses I believe that there should have been possibly some action taken to determine whether the installation needed to be modified to prevent such damage occurring. Certainly was signs of damage.
-

- Q. Now, do you know if there was any reports of the smell of gas prior to the explosion?
- A. Mr Clark told me that there was no report.
- Q. It's just I notice in a newspaper article that the neighbours had mentioned the smell of gas, so that wasn't part of your investigation, you weren't aware of that?
- A. No.
- Q. Now, I see in your notes that you also spoke to Tony Smith of ES, what's the ES stand for?
- A. Energy Safety.
- Q. Energy Safety, okay. And he stated he believed the case related to work done after the installation was certified, did you follow up on that?
- A. Yes. What I believe he meant by that was that after the certificate had been signed, that the fryers were installed not by the person who installed the - who signed - who saw the pipework and signed the certificate. So on questioning him about that, that is the impression that he had gained from the information that was provided to him and I set about trying to verify that and have not yet been able to determine who it was who actually connected the fryer.
- Q. Now, I'd like you to look at Photograph 19 again. Now that pipe from the tee where it tees down to the right-hand side bayonet, now that's relatively straight along to the left-hand bayonet isn't it?
- A. Yeah there's a bit of a kink in the pipe though.
- Q. Yes but there's no kink immediately near the tee?
- A. No.
- Q. Now I'd like you to look at Photograph 16. Now this is a photograph of the same pipe, but it's connected to the hose and the wing backs on the floor and there's still no kink in that pipe by the tee, is that correct?
- A. Yes.
- Q. Now, yesterday we went to great lengths to describe the pipework and how the wing backs were connected to the wall and in particular you mentioned about the right-hand wing back being lower than the left, do
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you feel there's any other explanations of how it could be piped? We do have a whiteboard here if you would like to draw what you meant?

- A. Yeah I could in fact, the way I believe the pipework was arranged was (witness draws diagram on whiteboard) horizontal - sorry the floor level is there, (Indicates) horizontal run of pipe along the wall with a tee at that point, (indicates) and a short length of pipe running down to a wing back mounted on the wall at that point. The pipe then carried on horizontally to a second wing back where the second bayonet fitting was attached, so there's a bayonet fitting looking down at that point and a horizontal bayonet fitting there, that is I believe how my interpretation of those photographs of how the pipework was arranged. The hose then came from this - on a double back there as shown by one of the photographs, and the hose from this one, came down, there is a PVC pipe running diagonally down there, came down over that pipe and under the fryer. And that one came round there, (indicates), so I saw that as a horizontal run of pipe with a tee and a short branch down, this is why this one was closer to the ground than that one, because of this requirement for a short length. That's my interpretation.

MR CORKILL QC: Mr Gordon we'll need to stick some - just stay there

Mr Hammond, we'll need to stick some labels on this because it's going to have to go on the record. Can you put "floor", "horizontal line", and a few other words that indicate what you've just described please?

WITNESS: That's the right-hand wing back. A wing back is a fitting with has some screw holes in it that enables it to be fixed firmly to the wall. And this is the - so that's there, (indicates), and here we have the left-hand wing back.

MR CORKILL QC: Just stick your initials on the bottom of it and we'll print it off.

Thank you, we'll do that later.

CROSS-EXAMINATION CONTINUED BY MR GORDON

- Q. Thank you very much for doing that. Now I'd like you to look at Photograph 15 and you may have to turn it round so you can look down on it. If you look at where that tee is, it's coming down to the bottom wing back, if you just have a look at the edge of the tee does that pipe appear to be kinked to you, where it starts heading off to the left-hand wing back?
- A. It looks to be - the pipe curves after it - after the pipe passes out of the tee there is a curve in the pipe. How sharp that curve is I can't see.
- Q. Now, with the pexal pipe, as I understand it, it has aluminium on its inside and once it's curved you can only physically straighten it back out, is that correct? It won't spring back into place by itself?
- A. That's right, as you mould it to a particular shape it retains that shape.
- Q. It retains that shape, yeah. I've only got a short piece here sorry, so if we were to bend that, this is 20 mm, it takes a lot to have to bend it and straighten it, doesn't it, 15 mm obviously bends a bit easier, so if it was bent to a certain position, say if someone wanted they'd have to really force it to straighten it out?
- A. It would be difficult to straighten out, you'd have to apply some force to straighten it.
- Q. But the 15 mms obviously a lot easier than - that's 20 mm?
- A. Yeah.
- Q. So it looks on photograph 15 that the pipe is bent and curved down but in these other photographs it looks like it has been - well it's a lot straighter, put it that way?
- A. Yes.
- Q. So that would indicate that someone's - how can we put this, someone's moved the pipe to take their photos?
- A. What in 15? - I can't tell - I can't tell whether it was moved.
- Q. Is it possible that the damage to the rubber hoses and such like occurred in the moving of the appliances?
- A. Certainly I believe the damage has occurred with the moving of the appliances out for cleaning and then replacing.
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- Q. And we've already agreed that in photographs 19, 16 and 15 that the wing back is shown in three different positions?
- A. 19 - certainly in 16 and 19 they're different because in 19 the bayonet fitting has been unplugged and I'm not sure in 15, I can't really -
- Q. In 15 it shows the left-hand wing back being on top of the pipe and 16 it shows it being on the floor?
- A. Yes 15 is very difficult to interpret in my view.
- Q. Okay. If we have a look at photo 16, you mentioned yesterday about there being some screw holes, so that's where you believe the bayonet was - bayonet was originally, the left-hand bayonet?
- A. Yes. There's some screw holes by the piece of brown paper, that's lying against the back wall.
- Q. Now you just noticed above that there's one more hole directly above that?
- A. Yes.
- Q. And further along above the other tee can you see some more holes directly above where that wing back is, it looks like there's a bit of plaster board or something been torn out?
- A. Yes, there's some marks there certainly. I'll just look on 19 to see what I can see on 19. I can't in fact see no marks or that hole on 19.
- Q. So no matter what order these photos were taken, whether it was police first or scientific people first, things have been moved around a little bit in some of these photos?
- A. Yes certainly.
- Q. Now, did you interview the people that were first at the scene at all?
- A. No.
- Q. Because I understand Nick Hobson was called to the scene, as you said earlier on to make it safe?
- A. Yep.
- Q. Is that true?
- A. Yes, and I interviewed Nick Hobson. I interviewed Nick Hobson on the 5th of August 2009.
- Q. And what did he have to say?
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- A. He indicated he was called to the scene to assist the police. He was asked to check the safety of the site. What he found was that the gas had already been turned off by the fire brigade and he could initially only look over the counter at the fryers. All looked okay. He noticed that pexal pipe had been installed and he noted its flexibility, but did not light it in that position, should have been sleeved. He then commented to me that the pipework standard was poor. When I questioned him he indicated that he worked for John Darnley in 1994 for nine months before he set up his own business. He did not know Paul Gee, other than the name. He showed me what he considered to be an approved LPG hose sample. He did not use rubber, but he used stainless steel braided hoses for his installations. He again told me that he thought Franklin Plumbers Merchants stocked the rubber hoses and then I went down to Franklins, went into their store, Plumbers Merchant and found the black rubber hoses with a red stripe and just checked on them to determine if they were suitable for the first, second and third family of gasses. By doing that I was just making sure that the hoses used were suitable for LPG and the markings on those hoses indicated that they were.
- Q. Now, we have a letter here from Mr Hobson, is it permissible for us to submit the letter?

MR CORKILL QC: Well Mr Laurensen have you seen the letter?

MR LAURENSEN: No.

MR CORKILL QC: First of all show it to Mr Laurensen and then see where we go.

MR LAURENSEN: Well, I'm not sure what it's being submitted for but obviously it's - well I've got no problem with it being put to Mr Hammond, but obviously we don't have the opportunity to - what it says is it says something that he says that he said to me and I don't think I have any real - well I don't agree with all of it, but it can go in, but it's got to be on

the basis of course we don't have the opportunity to cross-examine Mr Hobson and put the position as we actually see it.

MR CORKILL QC: I guess the first question is is this witness going to be able to comment from his own knowledge about anything that's in the letter?

MR LAURENSEN: There's something in there where he refers to Mr Hammond.

MR CORKILL QC: Do you want this witness to comment about something - on something in the letter that is within his own knowledge?

MR GORDON: Yes.

MR CORKILL QC: Right then it's permissible for that to happen and then we'll see where we go from there: We won't produce it yet please Ms Miller.

CROSS-EXAMINATION CONTINUED BY MR GORDON

Q. Now I really just have one question to do with this letter and that's really to do with where it states in paragraph 3 "During this time I walked through the shop briefly with Detective Gaskell who asked me for my thoughts on what may have caused the explosion. I noticed that the deep fryers were not sitting against the wall by approximately 400 millimetres, this enabled me to look behind them and I could not see a restraint fitted" now all of the photos that we've been shown, this is the first person on the scene, the scientific photos show the fryers hard up against the wall, so based on these photos and based on the first person at the scene it would appear that the fryers have been pushed back into the wall, would you agree with that?

A. Certainly if Mr Hobson says they were 400 millimetres away from the wall I have no reason to doubt him at all.

Q. That was all I really wanted to confirm.

ADJOURNED [10.03 AM]

RESUMED [10.22 AM]

CROSS-EXAMINATION CONTINUED BY MR GORDON

- Q. Before we move on I'm just going to draw Mr Gee's version of the pipe layout and I just want to see if you think that it is plausible. At the top of picture 16 everyone will notice that there's a stainless steel sheet. Now some of the photos indicate that this pipe line actually drops down like that. We don't have any photos of where it goes to and the scene's been altered now, so we can only assume. Based on the wing back holes the pipe originally come along like that, (indicates), was teed down to the wing back. It come along and curved down like so. The wing back, the single hole that I referred to earlier on was a clip over the pipe like so and the pipe was clipped like that. The bayonets, both, as Mr Gee has stated faced to the right like that. Now based on the evidence and I understand we've only got what we can see in the photos, would you agree that that's plausible is that basically what Mr Gee stated?
- A. One concern over the diagram you've drawn is the apparent length of the pipe from the tee to the left-hand bayonet which appears to be considerably longer because it's bent and comes down compared to the indications from photograph 16 where if that hole you're talking about is to support the pipe clip then that length of yellow pipe between the tee would have to be cut back. It didn't appear long enough to go that full length.
- Q. If I just add to it, because this pipe drops down at the moment, or did then, there is one of the photos that we've seen that indicates it, by the time that pipe comes up to the level obviously that gives the added length?
- A. Yeah but that would then take the right-hand bayonet fitting over to the left. Over more. Where do you believe the right-hand bayonet fitting was fitted?
- Q. Just nearly - nearly above where it was.
- A. So where did the extra length of pipe come from the tee to the left-hand bayonet fitting?
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- Q. The pipes could have been altered, what I'm trying to get at is where the screw holes or for the left-hand bayonet?
- A. Yeah.
- Q. Yep, so that's plausible based on where those screw holes are that that could have been done and based on where the hole is above it for the clip?
- A. Well, I've no knowledge of whether that is the layout or not. My only interpretation is from these photographs.

MR CORKILL QC: Mr Gordon, I think you better just put "clip" beside the three clips and better put left bayonet and right bayonet, "LB" and "RB" so that later people could see what it was you were saying. (Mr Gordon draws on whiteboard). Thanks.

CROSS-EXAMINATION CONTINUED BY MR GORDON

- Q. Now Mr Gee has stated he only signed for the pipework and not for the installation of the fryers, but you seem to have placed a lot of emphasis on him signing for the entire job. Now I'd like you to look at the certificate for the job, number 71 and we realise it is difficult looking at photocopies. Now 71 on the copy that I've got in front of me I can quite clearly see that there's two different colours of pen that have been used on the certificate where it says "Unflued and complied" above the "entered" part is in blue in mine and the remainder is in black. Do you agree with that?
- A. There certainly appears to be a different shade for some of the writing, yes.
- Q. And it would appear that the 2 has been altered at some stage, as it looks like there's a 1 underneath it?
- A. Yes.
- Q. And the - yeah no, that's probably all we wanted to - so it does indicate that certificate has been altered from when it was originally filled out, would you agree?
- A. I can't comment on that because all I really can comment on is that since this contains Mr Gee's signature, then I believe that's the certificate as
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submitted by Mr Gee. What might have been subsequently altered, I can't tell from looking at it. The - for example, the 2 might have been changed prior to Mr Gee signing it, I've no idea.

Q. Okay. That's fine. So as far as you're concerned if there's a signature on it, that's it, end of story?

A. From my - from my investigation I believe that is the certificate for the Milton Street installation signed by Mr Gee.

Q. For the entire installation?

A. Yes.

Q. So when you interviewed Mr Gee he stated he had concerns about the certificates being altered after he'd signed them and your words were "it's not a significant issue in my view", do you still stand by that view?

A. Yes.

Q. But we now have a situation where it is a significant issue?

A. Mmhmm.

Q. As you are alleging Mr Gee has certified the entire job. So I just want to confirm that you didn't ask Mr Darnley about this issue?

A. Gee I'd have to look back at my notes to confirm what I said to Mr Darnley. I certainly interviewed Mr Darnley about the Milton Street job. I interviewed Mr Darnley initially on the 28th of July 2009 and Mr Darnley told me that whoever carried out the certification of an installation, they signed the certificate for that work. Then he repeated that each person who was able to sign certificates signed their own certificates. Paul Gee signed his own certificates. That appears to be the only information relative to this particular - oh he talked about the time - talked about the job sheet and the time and materials and he explained the system of how that information was transferred once the person on site carrying out the work completed the work the certificate came back to the office and details were transferred for invoicing and on to the certificates.

Q. Why wasn't that information provided to us?

A. Those notes are relative to the complaint involving Mr Darnley and I provided those in connection with that complaint not in connection with the complaint against Mr Gee.

- Q. But parts of it are relevant to Mr Gee aren't they?
- A. That particular part is, yes.
- Q. Is there anything from subsequent interviews with him that is relevant to Mr Gee that we don't have?
- A. There's some statements here about the reason why Mr Gee resigned from his appointment with Allgas, so those details I can read out now if that would help?
- Q. No that's fine. We'll move on. Was Mr Darnley's wife interviewed with regard to your inquiries into him?
- A. When I went to see Mr Darnley at his house in Waikanae he told me that his wife was pretty sick and she was not able to be interviewed. I did not formally request to interview her, but in the discussion - in my discussions with him he pointed out that she was ill and could not be interviewed.
- Q. Okay that's fine. What about his daughter, was she interviewed with regard to any of it?
- A. No.
- Q. Nothing at all?
- A. No.
- Q. And she's likely to be the person that would have held information about the altering of certificates, wouldn't she?
- A. I found out satisfactory information in that respect from my interview with Gwen Morrison and she told me of the processes that were used in the company.
- Q. That was a year previous though, wasn't it?
- A. Yeah, I felt that met the requirement.
- Q. At what stage does Mr Gee stop being responsible for what he signed?
- A. Depends in which sentence you mean that. A certificate is only relevant I suppose for the day that the installation is actually carried out and commissioned and put to work, so that his responsibility ends from that installation once he has completed commissioning. But in the other sense that a certificate needs to be retained by the gasfitter who certifies the work for seven years implies that he is responsible for ensuring that the
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information relative to that job is retained and available if needed for up to seven years after the work is completed.

Q. So I can take it then if someone alters the layout of the pipework then that would take away his responsibility?

A. If there's a gasfitting carried out on the installation, and alteration of pipework would be defined as gasfitting, then the work needs to be re-certified.

Q. So that would happen anywhere along that pipe line, for example, we know that a pizza oven was installed and they teed in a pipe line halfway along, would that gasfitter then take responsibility for the other aspects of the installation?

A. The person who carries out that work is required to ensure that the entire installation is sound in terms of test for gas leaks and carry out the installation tests to ensure that the installation is safe and then he signs for the work that he has done which covers insertion of the tee, the branch line to the pizza oven and the pizza oven itself.

Q. So whoever installed the pizza oven, they have taken over responsibility for the safety of that job as far as gas leaks and pipes being attached to walls and all those other sorts of things?

A. They should have carried out a pressure test to ensure that the entire installation was gas tight.

Q. And the same would go as if they altered the gas station, if they upgraded the gas station to allow more gas to reach the pizza oven?

A. It depends what they do, if they - if the - the gas regulator at the cylinders is the boundary point for what is gasfitting and what is not gasfitting, so if alterations were made between the cylinders and the regulator, then that is not gasfitting. If the regulator and - from the outlet to the regulator is worked on, that is gasfitting and therefore requires to be certified and therefore if the alteration is made from the regulator, then that needs to be re-certified.

Q. So in this case we can - we could take it that someone's gone in to install a pizza oven after Mr Gee has certified the pipework, someone's altered the station?

- A. Yep.
- Q. So that's been altered, so the responsibility for that has been taken away from Mr Gee, but you are saying he's still required to have the documentation for a period of seven years --
- A. Yep.
- Q. -- is that correct?
- A. Yes, and that work on the pizza oven was done by Mr Darnley, Mr Darnley issued the certificate for that.
- Q. Now, when you interviewed Mr Gee did you ask him how much experience he'd had completing gas certificates?
- A. I can't remember specifically asking that question, bear in mind that I was interviewing him in 2009 and I had at least 200 certificates that he'd completed, I didn't think I needed to question him about his ability to certify or fill out certificates.
- Q. At that time. Okay: So in essence we can't really confirm exactly how the installation, what it looked like initially as far as our pipework goes and as far as the hoses go and the installation of the fryers, would that be fair?
- A. From the information I have been provided with I developed what I believe is a view of the installation, you have given me a slightly different view today, I cannot tell which of those is the actual -
- Q. Because we are looking at a period of six plus years aren't we?
- A. Agreed.
- Q. So it is quite possible that things have changed and what we're looking at now isn't the way it was when it was installed?
- A. Yeah. I have to say though that Mr Gee at no time pointed out that information to me.
- Q. I seem to remember that he did mention both bayonets pointed to the right which is the way we've indicated there?
- A. Yeah, there was no mention of changes in height or anything like that.
- Q. Do you have any statements from anyone that actually saw the installation originally?
- A. No.
-

- Q. Now, looking at document 153. Now this is the cover and summary sheet. Now if you'd like to look down at the description of work, could you just read that out for me please?
- A. "Install two 45 kg LPG bottles and Rego Combi regulator. Run gas line from bottles to salamander along to fryers. Fit two bayonet hoses, test and certify. For security a bottle cage has been included.
- Q. So there's nothing there about the install of the actual fryers themselves or the commissioning of the fryers, is that correct?
- A. That's right.
- Q. So if Mr Gee's certificate, if it was - if the fryers weren't written on that certificate then it would be quite fair to say that what he'd been signed for being the pipework was what he'd actually done?
- A. Well, if he wasn't signing for the fryers I would have expected him to have put on the certificate what he was signing for. I've got a certificate that he filled out earlier which I produced in my evidence that he wrote on there "Two bayonet fittings were installed".
- Q. That was the one earlier on. That someone wrote on there you mean?
- A. Well it was written on the certificate "two bayonet fittings". I would have thought if Mr Gee had put in the pipework and two bayonet fittings, he would have written on the certificate "two bayonet fittings and the pipework".
- Q. But it would be quite possible that he just ticked the pipework and didn't put anything in that description, he's not legally required to put anything in there is he?
- A. Well that section usually covers the details of the gasfitting carried out, that would give a bit of an indication that no gas fitting was done there.
- Q. I see in document 165 that a gas bayonet hose was sold to Milton Street Takeaways. Do you know what that was used for, this was on the 21st of the 4th of 04 which was the following year?
- A. Where's that shown sorry?
- Q. 165?
- A. I don't know what that is for, no.
-

-
- Q. But you will agree that it has been sold to Milton Street Takeaways, hasn't it?
- A. Yes.
- Q. How often should a gas hose be replaced?
- A. It certainly should be replaced if there's any sign of damage, but there is no specific limited life, it really depends on the type of installation it is and how often the appliance is pulled in and out.
- Q. And no-one was questioned about the extra hose, what it was for or where it was fitted?
- A. No.
- Q. Would you agree in this case that the hoses have been left until they've failed?
- A. The hose certainly failed, pretty obvious from the photographs that it failed.
- Q. Now we haven't been able to establish who actually installed the fryers?
- A. No.
- Q. Do you think that it's all very convenient that the shop owner and the owner of Allgas can't remember who installed the fryer?
- A. When I questioned the shop owner I expected him to have been able to give me that information, but for whatever reason he was not able to do so.
- Q. What about Mr Darnley?
- A. I have less certainty as to what Mr Darnley knew about the installation.
- Q. Is there any, for want of a better term "due diligence" required on other people, say health inspectors or anyone like that that come in to look at the shop, are they required to report anything they see?
- A. I would have thought that if when carrying out a health inspection a hose was seen to be damaged that it was a possible area for food and waste products to be trapped and the health inspector might very well comment on that. Whether that happened in this case I have no knowledge.
- Q. So there was no health inspectors or other people that come round and look at things like that interviewed at all?
- A. I did not interview in that section, no.
-

- Q. Now, bundle 44, now this is a letter sent out by Allgas Products dated 4th of March 2004 and it's from Allgas to the Plumbers Gasfitters Drainlayers Board and Mr Gee's signature block has been put on the bottom of that, would you agree with that so far?
- A. Yes.
- Q. And would you also agree that Mr Gee wasn't actually employed at Allgas at that time?
- A. Yes he was not employed on the 4th of March 2004 by Allgas.
- Q. Because that's the following year isn't it?
- A. Yes, I understand his employment terminated in November 2003.
- Q. So this would indicate that the staff there are quite happy to use other people's signature blocks and send it out on letters would you agree?
- A. It would appear so, yes.
- Q. So this question is probably going to seem a bit odd but do you have any proof that the certificate was not, and I say was not, altered by someone in the office?
- A. I can't prove it was not altered.
- Q. Now, have you looked at the electronic versions of the certificate on the Board's website?
- A. Of the -
- Q. The electronic version of the gas certificates on the Board's website?
- A. Yes, the database, yes.
- Q. Now, I've had a look. Now I've noticed that the electronic version contains information which is different to that on the certificates, particularly with regard to test pressures. Why would that be?
- A. I have no idea.
- Q. It also contains - the electronic version also contains different information from the certifier's copy with regard to the consumer's name, any idea why that would be?
- A. No idea.
- Q. And it also contains different information with regard to the test date, any ideas?
- A. No idea.
-

Q. And the Board's electronic certificate shows Mr Darnley as being the registered gasfitter and also being the certificate owner and that differs from what's on the certificate?

MR LAURENSEN: Well these statements are being made and there's absolutely no evidence being put to Mr Hammond, if he wants to get some sort of meaningful comment -

MR GORDON: So are you wanting copies of the -

MR CORKILL QC: Well you are asking the witness to comment on some evidence that you're giving. It would be conventional to refer that witness to the document and then he can comment on it.

(Mr Gordon hands Mr Laurenson a document).

CROSS-EXAMINATION CONTINUED BY MR GORDON

Q. I am going to produce these later, but if you would like them now then that's -

A. (Witness refers). So what is the question in regard to this certificate?

Q. So the Board's certificate, the electronic version of the certificate shows Mr Darnley as being the certificate owner and also being the registered gasfitter on that job, compared to the original, which doesn't show that information?

MR CORKILL QC: Would it be useful for the Board to see this as well Mr Gordon if you have copies?

MR GORDON: If you'd like,, these are electronic versions for all of the certificates pertaining to the charges.

MR CORKILL QC: Mr Laurenson is there any objection to this material coming in at this stage?

MR LAURENSEN: I have no objection to it, but I just ask what the relevance is to the information from the database from the original certificates, but it's up to the Board.

MR CORKILL QC: Let's see where the questions are go and relevance to be determined.

MR PARKER: I am just a bit confused because in here I understood that what's in these folios are the originals, so if they are not originals and these are originals. What are the original certificates? Are the certificates that are already produced in this form they're originals held by the Board, or some electronic versions produced that are originals?

MR GORDON: The pink certificates are the originals.

MR PARKER: So what are these then?

MR GORDON: These are the electronic versions which theoretically should be copies of the originals.

(Electronic version of certificates distributed to Members of the Board).

CROSS-EXAMINATION CONTINUED BY MR GORDON

Q. So the information is different on this certificate, is that the - on the pink original there's no information about the certificate owner or the certifier, is that correct?

A. Yeah the certificate owner is listed as Mr Darnley on the electronic version, that does not appear on the original.

Q. And likewise for the test pressures on the electronic version there is none?

A. Yep there are no test pressures shown.

Q. And also the test date differs?

A. Yes 15th of June compared to 26th of June.

- Q. And also the consumer's name is missing on the electronic version?
- A. Yes.
- Q. Now, these documents should theoretically be identical shouldn't they?
- A. Ideally they should be. But in any investigation I do I call for the original certificate, do I not rely on what's in the database. I am aware that in particular some of the early periods of the database being established not all the information was necessarily transferred and the pink copy remains the original.
- Q. The original one?
- A. Genuine copy.
- Q. Now, a member of the public going in to look at these would -

MR CORKILL QC: Mr Gordon at some stage you are going to have to explain to the Board why this is relevant to a particular charge.

MR GORDON: Well it will get there now.

MR CORKILL QC: Okay.

CROSS-EXAMINATION CONTINUED BY MR GORDON

- Q. So a member of the public is going to go in and they'll see what's on the electronic version is that correct?
- A. That is accessible for the general public, yes.
- Q. So really what I'm trying to get at is we've got a situation where we've got certificates being altered, we've got electronic versions which differ from our originals, do you think that's an ideal situation that we should be in?
- A. No it's not an ideal situation but as far as my investigation is concerned I relied on the information on the original pink copies held by the Board.
- Q. By the Board. Okay. That's all the questions I have for the fish and chip shop. We'll move on to Main Road Havelock. Did you conduct a scene examination at that location?
- A. No, I did not.
- Q. Did you interview the owner or the manager at that location?
-

- A. Yes, I spoke to - I spoke on the telephone to the current owner Tracy Kasiomani (ph) for the purpose of determining whether first of all she was the owner of the property when the original work was done and then if she was that owner to ask her some questions about the original installation. When I spoke to her on the telephone she told me that she purchased the restaurant in March 2008 and she advised me that the owner previous to that from the time that the work was done in 2003 was a Mr Paul Suisted. So I then contacted Mr Suisted with the intention of asking him about the installation. He told me some information and he agreed that he would provide a statement. Mr Laurensen spoke with him and sorted out the details of the statement and Mr Suisted was hopefully going to be here today to provide that statement and read it out. Unfortunately he's not turned up to give that statement. So the details of the installation as I believe it was originally installed were told to me by Mr Suisted.
- Q. Getting back to - just taking a step back, did you provide us with copies from that - the current owner?
- A. I don't think I took any notes from the current owner. All I did was determine that she wasn't the owner at the time the work was done and therefore my interest, shall we say, was ceased at that point, the only thing she did tell me was that the existing installation had now been pulled out and the entire kitchen had been - was in the process of being remodelled so that there was not even the information that Mr Lamborn had seen was not even available to be looked at.
- Q. When we spoke to Mr Lamborn yesterday we ascertained that there were additional gas appliances immediately next door to the fryer, was the gasfitter that did that work interviewed?
- A. No.
- Q. Now, he would have been the last person to do gas work on that site?
- A. He would have been, yes.
- Q. He would have been, so the ultimate responsibility there would have been his?
- A. Mmhmm.
-

- Q. Particularly if he moved the fryer?
- A. Mhmm.
- Q. And as you say, everything's been gutted out now and changed hasn't it?
- A. Yes.
- Q. Now, with regard to Greenwood Street when you made your recommendations to the Board regarding Mr Gee had you conducted a scene examination?
- A. No.
- Q. Had you interviewed Mr Donnelly?
- A. Yes. I spoke to Mrs Donnelly on the phone and then later in the day to Mr Donnelly by telephone.
- Q. But they hadn't been interviewed or made statements at that stage had they?
- A. They hadn't made any statements at that stage, I was in the process of completing my investigation and the information they gave me is as I've recorded in my report.
- Q. So I'm presuming Mr Laurensen that interviewed him recorded the statement?
- A. Sorry?
- Q. It was Mr Laurensen that recorded the statement?
- A. Yes after I'd spoken to Mr Donnelly and got some information, when it came to preparing the details for the case Mr Laurensen obtained a statement from Mr Donnelly.
- Q. Now I see in your statement that you inspected the installation on the 13th of January of this year?
- A. Yes.
- Q. And you took photographs of the back of the stove?
- A. Yes.
- Q. Did you record any notes to do with your examination of the scene?
- A. Yes, I did. Yes, on the 13th, Thursday the 13th of January I visited the property at Greenwood Street.
- Q. What did you record in your notes? We don't appear to have a copy of those.
-

- A. Mrs Donnelly was present during the inspection, I'd actually arranged an appointment to hopefully meet Mr Donnelly but when I got there only Mrs Donnelly was available. I found the cooker stands between the bench and a fridge freezer. I was able to pull the cooker forward for inspection and the fridge freezer was able to be moved to one side. The hose for the cooker only allows about 400 millimetres of forward movement. There was no chain and no sign of fixings on the wall or on the cooker. Mrs Donnelly said she thought there might have been a chain originally. She believed another person inspected the installation and could see marks on the back of the cooker where the chain was touching. But I could not see these. The bayonet fitting is positioned in the wall screwed to the inside of a stud. A hole approximately 300 millimetres down has been cut in the wall board. I then took some photographs and particularly the photograph of that bayonet fitting and the other fittings inside the wall which I submitted yesterday. My concerns revolved around the type of construction of that particular wall which showed diagonal slats of timber and that allowed any leakage from the joints within the wall to actually percolate through other parts of the wall and in particular next to the fridge freezer was a power socket with the fridge freezer was plugged into and that was a good source of ignition and therefore I was concerned about the fittings that were in the wall. They were one crimp joint and two screw joints and the bayonet fitting itself inside the wall.
- Q. That is quite a major thing as far as the safety is concerned, have the people been informed of that that they needed to get it corrected?
- A. I informed Mrs Donnelly that I was concerned about that fitting and she should get somebody to look at it. I did not follow that up in writing.
- Q. Now, you mentioned yet again about the marks on the back of the stove, that you couldn't see any. We do have some clearer photos if the Board thinks it appropriate or Mr Laurensen, it just shows the screws, they are close up photos of just the screws and the marks?
-

MR CORKILL QC: Are you going to produce these photos later through Mr Gee? If so, then they should be put to this witness and he can comment.

CROSS-EXAMINATION CONTINUED BY MR GORDON

- Q. Now what I've provided you with there are three photos?
- A. Yep.
- Q. The first one is PG 015A. Would you agree that that screw is slightly pulled out from the back of the stove?
- A. Yes it does not appear to be in its original hard - hard against the back panel, yes.
- Q. And just to the right-hand side of the head of the screw you will notice there's marks on the back of the stove there, possibly consistent with a chain being screwed against it?
- A. It's very difficult to say but there is certainly a mark beside the screw.
- Q. Okay. Now the second photo PG 015 B shows that same screw on an angle is that correct?
- A. Yes.
- Q. And PG 015 C shows considerable marks down the back of the stove would you agree?
- A. Yes.
- Q. Can you remember -
- A. Sorry can I just enquire whereabouts the screw - how far up the appliance the screw is? How far off the floor?
- Q. Just right on the edge where the oven starts to angle out, if you look at the - I think the second photo is probably your best view?
- A. Oh yes, okay. Okay, yep.
- Q. Now, the only reason we're actually going through all of this stuff with the stove is because as you've said Mr Gee signed the certificate, he takes responsibility for the whole job, but as you are fully aware, we - Mr Gee denies installing the stove but we will go through the process anyhow. What colour was the pipe leading up to the bayonet fitting in the wall?
- A. White.
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- Q. It was white. And the colour of the pipe leading along the wall outside to the water heater?
- A. Oh to the water heater, that was yellow.
- Q. Now, I seem to remember in your statement you mentioned that it's not an ideal situation to combine two different types of pipe, would that be correct?
- A. It's two different brands of pipe, it's not an ideal situation because there is no nationally agreed dimensional statement for macro composite pipe and so the crimped fittings which are relied on for the joints, the dimensions of the crimp fittings can vary.
- Q. Would it be fair to say that most tradesmen then wouldn't carry around two lots of pipes, two different types of pipes and two different types of fittings in their vehicles with them?
- A. It would certainly be unusual.
- Q. Unusual?
- A. Yep.
- Q. That's a possible indication that two people - that a different person has installed the oven to the person that's installed the water heater?
- A. Possible, yeah.
- Q. So when you laid the first charges there was no mention of a bayonet in the wall, was that really just based on the information supplied to you during the course of the audit?
- A. It was principally supplied from my inspection in January.
- Q. When you laid the initial charges against Mr Gee you hadn't been to the scene at that stage, so that was all just based on the audits was it?
- A. It was based on findings from the audit, yes.
- Q. And the auditor made no mention of the bayonet in the initial report did they?
- A. No.
- Q. That doesn't really say much for the standard of the auditing does it?
- A. I don't think I can comment on that.
-

- Q. We'll move on to Motueka High School, when you made your recommendations to the Board regarding Mr Gee, had you conducted a scene examination?
- A. No.
- Q. Had you interviewed anyone at the school?
- A. I don't believe so.
- Q. Now, you've taken photos and such like, did you record any notes when you undertook your scene examination?
- A. Yes. Yes notes of my visit of the 13th of January this year.
- Q. What do your notes say?
- A. The LPG cylinder's position backing on to building and facing carpark area for the bowling club and other supporting activities. Spoke to John Widgecombe (ph) the school caretaker, but he did not have a key to the cabinet. He suggested the only key was held by Elgas who is the suppliers of LPG. He has - since he has no key there is no ability to shut off the valves and the regulator and they could not be accessed in any way. The cabinet seals tightly all around except for an area of 75 millimetres deep clearance at the base on three sides. The installation stands on a concrete slab base. The cabinet is attached to the wall, but does not have a back to it other than at the top in the lid area. The outlet pipe passes through the side of the cabinet. The corner angle of the cabinet has been cut away to fit around this pipe. It is possible for the cabinet to be fitted after the cylinders were installed without disconnecting the pipework. Those were the notes. Oh sorry there is a second part here. The concerns are 1) no high level ventilation for the cabinet and hence risk of build up of LPG vapour from hoses, cylinder or regulator leakage; no access to the isolation valves in an emergency without smashing substantial brass paddock; no crash barrier to protect the cylinders from cars in the carpark, cabinet is only of a flimsy construction; regulator cannot be adjusted or maintained until Elgas provide access. Those are the notes.
- Q. We don't appear to have a copy of those?
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- A. I think that's probably because the notes were provided back in December, my notes and these are notes that I've taken subsequently.
- Q. Oh so they haven't been provided to us then?
- A. If you haven't - no I don't recall copying these for sending to you.
- Q. Okay. Now with regard to the enclosure, so we're all in agreeance that it could be added, the enclosure could have been added after the bottles were installed?
- A. Yes, agreed.
- Q. Did you see a restraint chain at all?
- A. No, I could not see inside the cabinet, I tried to peer down the side and round the back and so on but I couldn't see inside the cabinet at all.
- Q. And Mr Widgecombe he said that they didn't have a key at all?
- A. Mmm.
- Q. Were - did you interview Allgas staff to ascertain whether the enclosure was delivered at the same time as their first bottles or after it all?
- A. No.
- Q. Now, Mr Darnley he's the certifier - he is a certifying gasfitter, he's quoting for these jobs and purchasing equipment and such like, would it be fair to say - or would it be fair for Mr Gee to believe that the equipment being purchased was fit for purpose?
- A. I would have anticipated that if Mr Gee was signing the certificate covering an installation that he would be satisfied that the entire installation was suitable, complied with the codes and fit for purpose.
- Q. Yeah but when I get back to my question if Mr Darnley's a gasfitter and he's purchasing the equipment would it be fair to say that Mr Gee seeing Mr Darnley is his boss would take it that the equipment being provided is the correct equipment?
- A. That's not the certifier's - sorry that is - it is the certifier's responsibility to ensure that the entire installation complies with the requirements. Irrespective of who provides what for the installation, the signing of the certificate, certification process is the acceptance that all is compliant.
- Q. Now, in your statement you mentioned there's a 75 mm gap at the lower level of the enclosure?
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- A. Yes.
- Q. At photograph 23. Now photograph 23 shows a gap of at least 75 millimetres along the front of the cabinets?
- A. Yes.
- Q. Would it be fair to say that the gaps on the side of the cabinet are say approximately 150 millimetres?
- A. They're certainly greater than the area along the front I'll accept that, yes.
- Q. Now, it also shows quite a large gap up the side on the left-hand side by the hinges, that can be anywhere from 10 to 20 millimetres possibly?
- A. Where are you saying sorry?
- Q. On the left-hand side.
- A. Where the hinges actually are?
- Q. Yes.
- A. Yep.
- Q. So it's fair to say there is a reasonable sort of gap up that entire length?
- A. There is a small gap, yes.
- Q. Now, in your statement of paragraph 37 you mention a venting device?
- A. The relief valve you mean?
- Q. Pardon?
- A. You mean the pressure relief valve?
- Q. Yes. Is that referred to as a venting device or are they two separate things?
- A. The correct name is the pressure relief valve.
- Q. But the purpose is to vent gas isn't it once pressure builds up?
- A. Yes to relieve the pressure within the cylinder if the pressure gets too high.
- Q. Would that be covered by NSZ 5261, it's 1996, version section 106.10.2. It's 106.10.2. Top of page 18 on the version that we have?
- A. No that's not covered by that, that clause refers to gas venting devices within the installation. This is a liquid venting device - or a pressure venting device within storage area which is not part of the installation.
- Q. Okay, so it's not covered by that?
- A. Not covered by that.
-

-
- Q. Where would it be covered?
- A. It will be covered the Hazardous and New Organisms Regulations and previously by the Dangerous Good Regulations. And of course by the summaries, in the summaries of NSZ 5261:2003.
- Q. Now, what's the minimum requirement for protection of cylinders and such like from impact from vehicles at the time of this installation?
- A. There is a requirement to prevent any impact on the cylinders themselves, clearance distances generally about 500 millimetres.
- Q. Okay. So they could be - it could be a steel container or it could be a barrier round the bottles?
- A. Yes it's generally in the form of a tubular barrier or some posts concreted into the ground to avoid a vehicle being able to hit the cylinders.
- Q. Now at that time it was a bit of a legislative minefield for gasfitters, you've already mentioned you had the Hazardous Goods, we've got the Gas Regulations, we have the NSZ 5261 and you mentioned one other?
- A. Dangerous Goods Regulations, the Hazardous Substances.
- Q. Hazardous Substances and such like. So it would be fair to say that it was fairly difficult for - if there was changes then it would be fairly difficult for gasfitters to keep up with what was happening with all those pieces of legislation?
- A. The requirements around the cylinders have been well established for many years. There haven't been any changes in the details, the changes have rather come in the legislative structure that recorded those details, the requirements to vent, requirements to protect have been the same for many many years.
- Q. Okay we'll move on to Westport Holiday Park. When you made your recommendations to the Board regarding Mr Gee, had you conducted a scene examination?
- A. No.
- Q. Had you interviewed anyone?
- A. No.
- Q. And again I see in your statement that you inspected the installation on the 12th of January and took some photographs is that correct?
-

A. Yes.

Q. Did you record any notes at that time?

A. Yes, I did. On Wednesday the 12th of January. I made my contact to visit the site through a Lois Lyon who was the - who was managing the office in the absence of the park owner, Margaret Montgomery. When I made the appointment to visit the site I was told by Ms Lyon that Margaret Montgomery would return from holiday on the 11th of January and therefore would be available for me to interview her on the 12th of January. I understood from speaking to Ms Lyon that the property had been owned by the Montgomery's for about 15 years and when I spoke at the site - when - sorry when I arrived at the site Mrs Montgomery was not there, I was told that she had not yet returned from holiday. So I spoke further to Ms Lyon and asked her if I could take some photographs of the scene and have a look at the heater. She said that was okay. And during the course of doing that a gentleman approached me and asked me what I was doing. I told him that I was inspecting the installation and he explained that his name was Roger Montgomery and he was a part owner of the site. When I got to the site I took the photograph that's in the bundle, paragraph number 25. I could see that the window above the water heater was actually open at that stage and what Mr Montgomery told me was that the window was originally screwed closed after the audit was carried out in 2009 and he was not sure why the window had been re-opened. I noticed that the window was top hung and I asked Mr Montgomery what the room was used for and he said it was a bedroom. I measured the distance from the flue to the nearest part of the open window and I measured it as 1340 millimetres, as I recorded in my evidence. In talking to Mr Montgomery I learnt that the building is the actual residence of him and his wife and it has a small office at the front which is the reception office for the park, with the kitchen behind and all of the other rooms are their living accommodation.

Q. So, those notes would have been quite relevant to us?

A. Well, again they were written in January, so they were - I think they were after the other notes were given. There was no intention to withhold them.

Q. Now, you come up with a measurement of 1340 millimetres, the auditor come up with a distance of about a metre, so I'm presuming you're right?

A. Well I actually took a tape with me, and it's a metal tape so I was able to extend up to the window and I'm pretty satisfied that 1340 millimetres is the correct measurement.

Q. Did the owners say anything about any smell in the room, from gas?

A. No. All that Mr Montgomery said at the time was to indicate that it was normally closed but that it had recently been opened. I have to say that I then followed up a few days later with a call to Mrs Montgomery and explained that I had in theory arranged to meet her by appointment, I was sorry that I'd missed her and talked to her about giving a statement that would be able to be brought for the hearing. She got quite upset with me during the course of my interview with her over the telephone, perhaps I should read out the matters that concerned me when I spoke to her, because my purpose in visiting her was to establish whether the installation was as it was carried out on the day of certification or whether there had been any modifications to it, I had established both by talking to Mr Montgomery and subsequently confirmed by Mrs Montgomery that they were there when the original work was done and so my task was then to find out what, if any, information she had about why the window was open or closed or whatever. So reading from my notes that I took when I spoke to Mrs Montgomery by telephone she said she was very busy and it took me I think three telephone calls during the day before she would spend any time talking to me. Each time I spoke to her earlier in the day she said she was too busy to talk to me. She explained - I explained that I was trying to finalise the details for the hearing and I confirmed for her that the hearing would be held in the week commencing the 2nd of May. She asked me some questions about what it was all about and I indicated that there were some other installations apart from the one I wanted to talk to her about. And she said to me there are absolutely no problems with ours. I explained that the aim was to exam the competency so that we were able to maintain confidence in the gasfitting trade and that a statement may be needed from her. What she said then was that she

gave a statement to the lawyer about a month ago and had not heard anything since that time. He must be incompetent. She then went on to say the window was screwed shut ten days after the heater was installed and she put a notice up to stop her father from opening it. She said there's been absolutely no problems in the last four years. I reminded her that it was more six years ago since the heater was installed. She said I can't remember what I did last week how do you expect me to remember six years ago? She also said Mr Gee told me the clearance was okay, never mentioned the window needed to be shut. I tried to advise her that Mr Montgomery had said that it had only been shut after the audit and what she said was that we sat down and talked about it after the gasfitter left and decided it was not needed, absolutely been no problems. Not got time for this. I've made sure the window is now closed. The gasfitter did other jobs for us all okay. At this point Mrs Montgomery became very aggressive and very reluctant to be involved any further. She said she believed the whole issue was a waste of time and I should stop harassing this person, there are far more serious issues in the South Island of New Zealand than this.

- Q. Thank you for that. Okay we'll move on to Malvern Street in Nelson, when you made your recommendations to the Board again, had you conducted a scene examination?
- A. No.
- Q. And had you interviewed anyone?
- A. No.
- Q. And again, at the scene you inspected the installation on the 12th of January and you took some photos?
- A. Yes.
- Q. And did you record any notes at the time for this one?
- A. Yes. I made an appointment to meet Mr and Mrs Anderson at 8.30 on Thursday the 13th of January. They told me that they had been the owners of the property for more than five years and no work had been done since the original installation. The window that was of concern is to a dining room. It is top hung and opens outwards. Mr Anderson showed
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me a bolt which he had fitted to the window and in fact it was a bolt which was able to be locked. He indicated that he had fitted this after the installation had been audited by Mr Lamborn. I measured the clearances and it is 540 millimetres from the vent - the flue vent to the opening window. I also checked on side clearances as there was a shower window very close to the side of the heater, that clearance is 200 a below the flue, and I thought it was satisfactory. There is also a vent which vents the shower adjacent to the water heater. I asked Mr Anderson if when the installation was carried out the gasfitter made any comments regarding the window and asked him for the window to be kept closed and he said he could not recall any such information. I then took several photographs. Those photographs are shown at - one of them is shown at number 28.

Q. Now yesterday Mr Anderson mentioned about some chains fitted to the windows did you see those at all?

A. Yes.

Q. So they were there?

A. Yes.

Q. Okay we'll move on to Powick Street, when you made recommendation to the Board had you conducted a scene examination?

A. No.

Q. Had you interviewed anyone?

A. No.

Q. And I see again on the 12th of January you took some photographs, is that correct?

A. Yes.

Q. And did you record notes at that visit?

A. I did, yes. I arrived at 1.15 on the 12th of January and the - I spoke to Mr French before I decided on making the appointment to go to the site, he told me that no changes had been made since the second water heater was installed. When I got there I found the cylinders were positioned on a wooden deck and I understand that they've been put on the deck after the deck had been built. I found that the deck is in front of a side door into the property and has two steps, return to photograph 27 in particular, there

are two steps, each - sorry two steps each 150 millimetres high giving a total height of deck above the surrounding ground level of 300 millimetres. The surrounding area is a tarmac drive. The two LPG cylinders are positioned against the wall under an over hanging roof. There is no restraint for the cylinders. If you look particularly at 26 you can see that there is no chain restraining the cylinders in position. Again looking at 26, the hoses, two hoses which run from the cylinders up to the regulator, which is the device just above the cylinders, those are 600 millimetres long and the hose connection to the regulator is approximately 500 millimetres above the cylinder valve to which the hose connects. The hose would not have been long enough to allow the cylinders to stand on the ground, bearing in mind the deck was 300 high. There were no signs of changes to the outlet pipework from the regulator. No sign that the regulator had been moved. The outer pipe comes out of the bottom of the regulator through a valve and then turns to an elbow to disappear into the wall of the property. I also found the front - sorry the first cylinder 450 millimetres from the building wall line. In checking with G 3.5 of the installation code, the code recommends that the cylinder should be no further than 400 millimetres under an overhang area. I found the first cylinder to be 450. However, because the deck is quite an open deck and in my opinion well ventilated I did not feel that the cylinders were too far underneath to have adequate ventilation. Those are my notes about Powick Street.

- Q. Now in paragraph 51 of your statement you claim in there that the gas certificates, bundle 77, comprised of an additional Rinnai Infinity 32 where Mr Gee has ticked that the job is actually alterations. So you stand by that that was an additional water heater installed by Mr Gee?
- A. Based on discussion with Mr French and based on the information that there was a second water heater installed - there were two water heaters at the property when I was there and there were two water heaters at the property when Mr Lamborn was there, I have assumed that that certificate refers to the installation of that second one.
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Q. Okay. Just one thing, do we have anything with regard to the plans that were coming for Powick Street?

MR CORKILL QC: Would you ask Ms Phillips to come back in please?

CROSS-EXAMINATION CONTINUED BY MR GORDON

Q. We'll just move on while we're waiting for that. For the pipework behind the gas bottles, if that was a new installation, I'm presuming the wall lining would have to be off, pipes installed, the wall lining put back on and then the bottles installed, would that be correct?

A. Yes the pipe - I couldn't see - once the pipe disappeared into the wall I couldn't see where the pipe went, so to have installed it it would have had to have been either before the external linings were fitted or before the internal lines were fitted I've no idea.

Q. Did those external lines look like they were new or was it part of the existing house, I know I've put you on the spot a wee bit with that one?

A. They were - it was cement rendered finish and it was painted in a very good condition. How recently it had been painted I couldn't tell, bear in mind it was on an overhang, so it all looked smart and tidy. What age it was I don't know.

Q. So for that rendering to have occurred those bottles would have had to have been out of the way wouldn't they?

A. Yes .

Q. And I'm just presuming here that you didn't have access to any project plans for that job?

A. No.

Q. Now, the gas certificate states that the project was an alteration and that a vent around the cylinder had to be sealed, that's what we've got on bundle 77, that's what it states on there, did you see any vents that needed sealing at all?

A. No.

Q. Do you know actually - who actually organised the work for Mr French?

- A. I understand that the work was carried out by Cradock's Energy Centre based in Westport.
- Q. Now, we know Mr Gee's done some of the gasfitting, do we know who did the plumbing at all?
- A. No.
- Q. So in saying that we can assume that there's no plumber been interviewed?
- A. That's correct.
- Q. Now, is it possible that other work's been done since Mr Gee signed his gas certificate for the operations?
- A. That was one of my purposes of going to site to see the situation and to talk with Mr French.
- Q. But at the moment there appears to be two water heaters on site, but there seems to have only been one gas certificate issued for the installation and Mr Gee's one for the alterations of that same unit. So -
- A. Sorry there are two certificates for the site, one for the installation of a 24 water heater and the one from Mr Gee for a 32.
- Q. For the 32 water heater. And the 32 water heater was in fact moved, it was in operation wasn't it, that wasn't a new install?
- A. I have not been able to fully determine that. All I am aware of is that Mr Gee made the gas connections to a 32 water heater and signed the certificate for that water heater.
- Q. Now getting back to your interview with Mr Gee, during the course of the interview you've stated that the system was too big to fail because of you and before you do in other people you should check out - make sure your own house is in order, do you remember saying something along those lines to Mr Gee?
- A. No, I don't.
- Q. Now, I also understand that you put in an interim report regarding this whole case, who did that go to?
- A. I put an initial report to the Registrar after I'd completed my investigation - yes after I completed my investigation I subsequently made some alterations to that report and converted that into a revised report.
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- Q. Now, just getting back to that - the Integrity 32, so as far as you're aware the Integrity 32 - oh Infinity sorry, 32, you're saying that it's a new installation and the 24 was an existing one is that correct or?
- A. That was my impression from the certificates, from the interviews with the telephone call with Mr French, that the original installation was a 24 and that the second installation worked on by Mr Gee was a 32. Subsequently I think Mr French has indicated that that may not be the order in which the heaters were installed, but I don't have any information that changes the opinion that initially a 24 Infinity 24 was certified and then secondly a 32 was added.
- Q. I'm just wondering if it would be possible. We're nearly at our lunch break, there's only five minutes to go, I wonder if it would be possible to review these plans over the lunch break and recommence if it's suitable?

MR PARKER: So have you finished otherwise have you?

MR GORDON: No we've still got more questions to ask but we need to have a look at the plans first.

MR PARKER: So what we'll do is stick with the original time, so we'll go to quarter to 1 - we'll start at quarter to 1. So we'll adjourn until then.

ADJOURNED [11.55 AM]

RESUMED [12.45 PM]

CROSS-EXAMINATION CONTINUED BY MR GORDON

- Q. Just prior to the break Mr Corkill myself and Mr Laurenson discussed about the timings and such like. We can probably speed the process up a little bit with the production of four invoices that we have which will help identify the gas appliances that were installed at Powick Street which might remove a lot of confusion that there is at the moment. I'll show them to Mr Laurenson first.
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MR LAURENSEN: What are you going to do with these? Oh you'll show them to him and then Mr Gee will produce them?

MR GORDON: Yes.

CROSS-EXAMINATION CONTINUED BY MR GORDON

A. (Witness refers).

Q. Now there's been some confusion about the number of water heaters installed at this property and we should be able to resolve it all now. Now what I've just given you Mr Hammond is four invoices from Caltex Westport Limited issued to Mr Ross French from Powick Street. If you have a look on the first page you will see there's a water heater been invoiced to him and this is on the 26th of the 7th 2002?

A. Yep.

Q. And that's Infinity 24, would you agree with that?

A. Correct.

Q. If you turn over the page to the next invoice and if you look at the third line down, it's dated 9th of the 10th 2001. Again it's an Infinity 24 which has been credited to him, would you agree with that?

A. Yes.

Q. And following on from that he's been sold an Infinity 32?

A. Yep.

Q. Over the page you'll see the top two lines is the invoice for work conducted by Mr Gee?

A. Yes.

Q. And over the page with the date of 14th of the 1st 2005 you will see a water heater Infinity 24 as being sold to him?

A. Yes, I see that.

Q. Would you agree with that?

A. Yes.

Q. So I can - so just to explain that, what's happened at this property and I'll get Mr Hammond to confirm this, is that he's been sold an Integrity 24

which has been mounted on to a wall, about six months later they've exchanged that Infinity 24 for an Infinity 32 which is a unit which Mr Gee has moved to upstairs in the building and then later on they've been sold another 24 - Infinity 24 to mount in the new alterations which is the heater that we've been discussing. Would you agree with that Mr Hammond?

A. Yes.

MR LAURENSEN: All I'd say about this is presumably this will be put to Mr French so he can confirm whether or not -

MR CORKILL QC: So perhaps the question is if Mr French confirms that's the position does that seem plausible on the basis of these documents?

CROSS-EXAMINATION CONTINUED BY MR GORDON

Q. Yes, so if Mr French confirms this, do you think that would be plausible?

A. Yes, yes it would.

MR LAURENSEN: Do you have any copies of those?

MR GORDON: Yes, I do.

MR LAURENSEN: Could I have a copy please?

MR GORDON: Yes.

CROSS-EXAMINATION CONTINUED BY MR GORDON

Q. So it would be fair to say now we've got a situation where we theoretically have two gas certificates which hasn't been issued, namely the first one would be the exchange of the 24 for a 32. And the second one would be the installation of the new 24 downstairs on the alteration, would you agree with that?

A. That's correct, they don't appear to have been available, certainly on the Board's database.

Q. No, that would be it, that would be all the questions I have, we'll just finish on that.

MR CORKILL QC: Shall we just tidy up one matter, maybe Ms Miller can hand around to the Board members copies of that last document?

RE-EXAMINATION BY MR LAURENSEN

Q. Mr Hammond you were asked some questions about your relationship with Mr Darnley in terms of how you'd met him for the purposes of carrying on an assessment and things, how many times have you actually met Mr Darnley?

A. I can recall the first time that I met him was to carry out the oral assessment together with the Board's audit manager Mr McIver (ph) at the time.

Q. When was that?

A. 1999. And then in about 2007 I carried out an investigation in Christchurch that involved a commercial installation, installation in a factory where Mr Darnley certified an installation after there was some problems with the installation and so I interviewed him to determine whether he - to confirm that he signed the certificate and to confirm with him that he had actually commissioned the installation. I have to say the complaint was not about Mr Darnley and his commissioning, but about who had done the work in the first place.

Q. Any other times you've met him?

A. I believe those are the only two - twice I've met him other than to interview in connection with this case, as far as I can recall.

Q. Now, you were shown this different view of how the pipework at Milton Street might have been installed, shown on the whiteboard there?

A. Yes.

Q. Does that change your view as to whether the installation of the pipework would have complied with clause 106.1.1 of 5261:1996?

- A. Yes with not having any details of the exact heights et cetera I still don't understand how the fryers would be connected to the flexible hoses without the hoses being on the floor underneath the appliance.
- Q. And why do you say that?
- A. Because even in the position indicated by Mr Gordon the hoses would have to have gone down behind the fryers and been connected to the connection on the bottom of the fryers, which inevitably would have meant the hose was underneath the fryer.
- Q. And you mentioned in your evidence the issue of the back edge of the fryer and the problem that that might cause, would this other type of pipework installation in any way change your concern about that?
- A. No it wouldn't and bearing in mind when I saw the fryer that had been removed from the Milton Street shop and was being stored at Host Services the only fitting on the fryer connection was at the bottom and it would have been a screw connection ready for the other end of the hose, so to me that would indicate that even if the bayonet was plugged in at the slightly higher height as shown in the diagram, the hose would still have been laying on the floor in the corner underneath the fryer to connect to the connection at - close to ground level of the back of the fryer.
- Q. Another proposition that was put to you was that there was - something along these lines, no legal obligation to include a description of pipework in the description section of the gasfitting certificate, do you recall that question?
- A. Yes.
- Q. Now, are you aware that regulation 24A 2C of the gasfitting regulations 93 requires that a gas certificate must contain a statement that the gas - sorry B, a statement - sorry A, an accurate description of the relevant gasfitting?
- A. Yes, I do.
- Q. Now, what is your view of just ticking the box in the installed - pipework installed section and putting nothing in the description section in terms of whether or not it complies with that procession?
- A. I believe that if that area is left blank then the certificate is incomplete and the clause 24A 2A has not been complied with.
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Q. Why is that?

A. Because that panel is provided on the certificate specifically for indicating what work has been done and unless the details are filled in there there is no clear description of what work is covered by the certificate.

Q. Now, you were also asked questions about the Mussel Boys installation at Havelock?

A. Yes.

Q. And you said that you'd spoken to a previous owner by the name of Paul Suisted?

A. Yes.

Q. And you said that when you spoke to him he gave you detail of what the installation was like when he owned the property at the time of the installation of the fryer, is that right, do you see that?

A. Yes.

Q. Now, given that you've been asked to talk about what you've - lots of other witnesses during the investigation told you, I'm going to ask you please can you tell me what Mr Suisted told you about the nature of the installation of the fryer at that property at the time he owned it?

A. He said there never was a chain on the fryer and the hose ran on the floor underneath the flyer and when I asked him why he particularly recalled that he said because he pulled the fryer out every night for cleaning.

Q. Did you say anything to you about when he owned or operated the franchise in relation to when the fryer was installed?

A. Yes the fryer was installed shortly after he took ownership of the property.

Q. You were also asked questions about your visit to Greenwood Street and you mentioned that Mrs Donnelly had said that she showed you an area where she thought the chain might have been --

A. Yes.

Q. -- installed? Can you remember where she showed you?

A. Yes, if I can take you to photograph 20, she pointed out marks on the upper section. If I hold the photograph up, on this section up here, (indicates), near the top on the back panel, as being where there's an

- indication, and she tried to point out these two screws here but I could find nothing amiss with those two screws.
- Q. Could you just show us as well please?
- A. Sorry it's the area up here, (indicates).
- Q. So you're pointing to on area on the, as we're looking at the photograph, the very right-hand side of the upper panel of the cooker?
- A. Yes.
- Q. Above - so in between the two screws on that upper panel?
- A. Yes. (Indicates).

MR BICKERS

- Q. Mr Hammond, I'm just going to deal with the Milton Street Fish and Chip Shop first. Can we have a look at photo 16?
- A. Yes.
- Q. Now, I think you said yesterday you pointed to the three screw holes that are just by the brown paper?
- A. Yes.
- Q. Yes. Looking at them, they seem to be an asymmetric pattern, does that tell us anything about the direction of the bayonet fitting? Can you deduce anything from the pattern of the screw holes?
- A. It's not easy because the wing back will generally have three holes but I believe it may well have been attached by only two of them. It's not easy to see exactly.
- Q. Okay. So that doesn't help us at all. Okay, so could you please go to Exhibit 160?
- A. Yes.
- Q. On page 160, under the test results, I note that - and there's been this discussion about who inserted it, so just leave that for the moment, but I notice that test pressure 7.5 kPa and 2.9 kPa?
- A. Mmm.
- Q. What does that tell us?
- A. There are two test that are required to be carried out. One is a pipework test initially and that would normally be carried out at the 7 kPa or
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- thereabouts level. And then when all appliances are installed then there is a second test required which basically it's a leak test on the installation, and that includes any hoses and any parts within the appliances that might be before the shut off valve and that would normally be at one and a half times working pressure okay.
- Q. So is that the correct pressure to have tested the fitting 27?
- A. It should be one and a half times.
- Q. We don't know what the working pressure is though?
- A. Working pressure on LPG installations would be 2.75.
- Q. So it's actually not one and a half times. So it's more like about 4 KPa's that's needed for the hose test?
- A. No sorry, I'm misleading you there, the installation test which is the complete leak test on the installation should be carried out at 2 kPa or the operating pressure, sorry I'm misleading you there, should be at 2.0 kPa or whatever the working pressure is, whichever is the greater, and 2.75 would have been the greater because that would have been the working pressure, so that 2.9 is appropriate for the 2.75 working pressure test.
- Q. Okay thank you for that.

MR CORKILL QC: So you are reading from?

WITNESS: Reading from NSZ 5261:2003 Appendix D 5 clause (e).

MR BICKERS

- Q. Thank you, can we turn to 71 in that bundle, same section, which is the gasfitting certificate and in terms of the test results on the right-hand side. So we've established there were two tests done?
- A. Yep.
- Q. Are those test results correctly recorded in your view or should there have been some further information about the second test, or does that cover the whole lot?
- A. Well unfortunately that test results section does not specify whether it's the results from the pipework test or the installation test and on a number of
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- certificates there is often confusion as to what figures get put into that section. That particular pressure of 2.75 is the working pressure, that's fine, but that test pressure of 7 it was actually tested at more than - more than 7.5.
- Q. 7.5, yes. With the benefit of now seeing the other document, I guess it is reasonable to assume that that refers to the first test and not the second test, is that fair?
- A. The test pressure of 7 kPa refers to that, yes.
- Q. All right, now one thing I need you to clarify, you talked about the pizza oven installation?
- A. Yes.
- Q. When was that installed?
- A. There is a certificate for that somewhere in the bundle. Maybe it's not - I'm not -
- Q. I haven't located a certificate for it, but maybe I haven't looked hard enough. Now I just want to clarify what you were telling us about the responsibility of the second certifier, so if I refer to the second certifier being the 2005 certifier for the pizza oven which I understand was Mr Darnley?
- A. Yes.
- Q. I'm not clear what you said in terms of the responsibility of that certifier in terms of safety, compliance or both? Can you just clarify what you said?
- A. I believe that the second certifier was certifying compliance of the work he had done which was the adjustments to the pipework and the actual installation of a pizza oven, he was certifying that that work complied with the code requirements and at the same time he was certifying that the rest of the installation was not being rendered unsafe or non-compliant by the work he had been doing. And to do that, that involved carrying out a pressure test on the entire installation once he'd completed the work.
- Q. Is that covered by regulations or a code or anything like that?
- A. In regulation 24A 2 D there is a requirement during certification for the gasfitter to make a statement that the gasfitter that the certification applies to does not make other parts of the installation unsafe or otherwise
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non-compliant with the Act or these regulations. And if you look on the certificate there's actually I think one of the statements in the right-hand - bottom right-hand corner, second statement.

Q. Yes I see it. Thank you very much.

MR PARKER: Has anyone else got questions on Milton Street.

MR HARDIE

Q. I just wanted to get a little bit of clarity in your opinion, you mentioned about the hose on the rear of the appliance being in your opinion designed for domestic purposes use. Is that something that you confirmed with the supplier at all, that it was unfit for use with commercial situation?

A. No did I not confirm it with the supplier and I don't believe I said it was unfit. For that use in a commercial situation in my opinion it's much better to use the stainless steel braided hoses, particularly if the appliance is to be moved in and out. But I still did not believe that the use of a rubber hose was necessarily a non-compliance issue.

Q. You referred to the pressure test that you refer to being from NZ 5261:2003?

A. Correct.

Q. I understand Milton Street was done under the 96 Act and wondered if the procedure was the same?

A. I believe the procedure was the same but I'll check the - Appendix B covers testing. In B 6 of NSZ 5261:1996 there is a requirement for a pipework test and then - that's under 6.1 and under B, 6.2, there is a requirement from the installation test and they refer to the minimum test pressures which are specified in B 3, which is one and a half times working pressure for the pipework test and working pressure or 2.0 kPa for the installation test. So the tests are exactly the same.

MR PARKER

Q. I have one question on Milton Street that follows on from Mr Bicker's questions about the certificate and it seems this might have interest in

some of the other certificates. I want to get some clarity, I think what you said was that the work that is done by the second certifier, using that phrase, must check that the work they've done does not impact on the original piece of work such that it remains tested and compliant?

A. Yes.

Q. Do I assume from that statement therefore that you effectively can have one - more than one certificate that is live regarding the certification of an installation such that the original work in its compliance, if found later to be non-compliant would be held against the first person who certified that work?

A. Yes, it's my opinion that when a certificate is issued it covers the work that is being performed as part of that certification process which is the - is the - in the case of the Milton Street job was the installation of the pizza oven, some pipework to it and a tee into the existing line.

Q. That is not re-certifying and taking on responsibility for the work of the installations preceding that item, or is it?

A. It is not in my opinion. But there is a responsibility elsewhere in the regulations for if there is - if a gasfitter finds during the time that he's doing work there is an unsafe installation, then he is duty bound to do something about that, particularly to report it and make sure the owner is notified.

Q. In your experience what level of examination would you expect the second person to be doing of the original piece of work?

A. I would certainly expect him to be subjecting to the pressure test as I've talked about, because that ensures the whole thing is gas tight, and inevitably to do that pressure test he has to visit various parts of the installation to turn things on and off, but in many cases there is pipework that's concealed behind walls and so on and he can't possibly know what the condition of that is, so it is what he can see he should be looking at and taking note of and if there is a non-compliance matter advising the consumer of that.

Q. Would you be expecting the second person to be pulling out appliances and checking for instance that wing backs are correct or not correct or that chains are or aren't fitted?

- A. I would expect him certainly to be checking whether there was a chain, but I would not be expecting him to pull appliances out and do any particular checks on hoses or whatever.

MR BICKERS

- Q. Just in response to a question you asked, the section you are referring to is it regulation 13 (2) "every person to whom this regulation applies must take all practicable steps to ensure the gas appliance or fitting is safe in all suitable circumstances" is that the one or is there another provision?
- A. No it's regulation 27. This is in the 1993 regulation?
- Q. Yes.
- A. "Any person entitled to carry out gasfitting who is carrying out any gasfitting work and believes on reasonable grounds that a gas installation or gas appliance presents immediate danger to life or property shall as soon as practical advise the owner or occupier of the property that's danger exists, and the Secretary", that places the responsibility on that second certifier to report to take some action if he sees some unsafe installation.

MR SIMMISS

- Q. Mr Hammond, just quickly going back to the certification, especially around Milton Street, the certificate 282245 records the test date of the test results at the 15th of the 6th 03 and we now know that the appliances weren't there until the 24th of that month, would you have expected a second certificate to have been issued with test results once the entire installation was fitted, because I would assume the test dated 15th of the 6th would be the pipework only?
- A. I have been going particularly by the fact that below Mr Gees' signature is the date of the 26th, it's after the appliances were installed and therefore that to me indicated that the certificate covered the installation of not only the pipework but the appliances because it was issued by and signed and bears Mr Gee's signature two days after the appliances had been installed.
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MR PARKER: So that's Milton Street thank you, just going through the list, 73 Main Road, Mussel Boys, has anyone got any questions there please? (No questions from the Board). 68 Greenwood Street? (No questions from the Board). Motueka High School?

MR BICKERS: Yes Mr Chairman I have some questions.

MR BICKERS

Q. Mr Hammond, thank you for your explanation yesterday about the gas build up inside the cylinder, I accept what you've told me as an expert, it's curious with the relative density of 1.55 that the test doesn't settle, but I'll accept your explanation. Mr Gordon referred to photo 23 which showed the cabinet at Motueka High School and a gap on the hinge side of the cabinet, is that gap wide enough to have provided ventilation?

A. Oh no, no.

Q. No. Okay. Now I'm curious and I need your help on a couple of other things here, NSZ 5261:1996, if you go to page 17 and clause 106.6.3, does this mean that the regulator and the pressure relief valve should be outside the cabinet?

A. Again, there is a difficulty here in that the cylinders are in theory not covered by this document, but NSZ 5261.

Q. I'm going to come to that in a minute if we may.

A. And that clause, I believe, is referring to pressure control devices within the gas installation which could well be on appliances, each appliance has its regulator, in several commercial installations there is often a reduction in pressure, so that would be within the installation itself.

Q. In your evidence, you referred to pressure relief valve?

A. Yes.

Q. And you said that that pressure release valve was to release pressure that might build up in the cylinder perhaps if the cylinder was in the sun or something like that?

A. Particularly for fire rather than -

-
- Q. Right. So would - when it says pressure control devices and I notice the next set of clauses deals with over-pressure protection, you were concerned that the regulator can't be accessed?
- A. Yes.
- Q. And so my question really to you is in terms of the design of those cabinets, irrespective of the ventilation issue, are they compliant or not?
- A. Not in my opinion.
- Q. Okay, fine you've answered. Now can I come to the next bit, you said in evidence yesterday that the gas regulator was part of the gasfitting work, is that the upstream limit of what the gasfitter is responsible for under the regulations --
- A. That's the upstream limit of what is defined as gasfitting.
- Q. -- correct?
- A. Upstream of that point it is not gasfitting in the strict definition.
- Q. Right. So let me then go - so what - if I interpret that, the connections to the gas bottles and the gas bottle installation are not gas fitting?
- A. That's correct.
- Q. And I think you said that at the time the Dangerous Goods Regulations are applicable to that portion of the work?
- A. Yes originally the Dangerous Goods Regulations and they've - they have gradually transitioned into the HAZNO regulations.
- Q. I appreciate that, but at the time we're dealing with this issue at Motueka School, so the Dangerous Goods Regulations, so does this Board have any jurisdiction over the gas bottle installation and the hoses between the gas bottle and the regulator?
- A. It is my opinion that because that work is carried out by the gasfitter, that compliance of that work with whatever the regulations might be responsibility falls on the gasfitter and it is the competency of the gasfitter that is the concern of this Board.
- Q. So it's a broader duty of care you're talking about?
- A. That is a good description, yes.
- Q. Beyond what is in the regulations?
- A. Yes that is a good description of it, an extra duty of care.
-

Q. Right, so in terms of the charge in this case how is - is this falling within a broader duty of care - the broader duty of care, is this falling still within the charge?

A. Yes.

MR CORKILL QC: It may be a matter that parties may need to make submissions about to you.

MR BICKERS: Yes, that would be helpful.

MR HARDIE

Q. You mentioned earlier that the requirement for protection around bottles had been available for many years, how many and approximately since when?

A. The Dangerous Goods Regulations have been established probably 20, 30 years, I'm not sure what the date of the regulations was, but from memory it's something like 1974 or something of that nature, I can't recall but it had been in existence for many years prior to this changeover.

Q. So the requirements that we're talking about protecting the bottles in position in situ have been available for a long time obviously well in excess of the installation?

A. Yes, and those regulations specify not only protection but the clearance distances and the areas where LPG can be stored and so on.

MR PARKER

Q. I think I've heard you say then that because a gasfitter undertakes the work, I'll call it, upstream of this regulator, the bottles and all other parts of the assembly which may or may not be the metal cabinet, because it's a gasfitter that does it they've got a duty of care to apply their trade and meet the requirements of some other piece of legislation and standard?

A. That's correct.

Q. That is an opinion or that is set in law is it?

A. That is an opinion.

- Q. Okay thank you. So is it possible for a gasfitter to test the installation, and I think I heard Mr Gordon comment that - or in some evidence that a smaller bottle was used to test before say the 45 kg bottles are supplied. And then walk away and just leave it certified, but the bottles aren't connected?
- A. I think there is a risk in doing that, particularly if the - once the two 45 kg's are put in position, the regulator should be checked, there is a test nipple on that regulator, the regulator should again be checked to determine that the required pressure for the installation is being supplied and that pressure is normally 2.75 kPa and it would be good practice in my view to once the two cylinders are connected up to do a further check as part of the commissioning of the installation.
- Q. And whether it was one bottle or two bottles at 45 kg, is it appropriate therefore then to ensure that you test the installation given the bottle that you're going to use, or is the bottle size in respect to the installation alone irrelevant?
- A. The bottle size should be irrelevant in most cases. If it happened to be a particularly cold area on a particularly cold day then a small bottle might not give the right evaporation or give a different evaporation rate, but in this sort of location that we're talking about, sunny Nelson despite the rain, then there should not be a problem.
- Q. I think you mentioned earlier that the obligation on the gasfitter can really only to the point where it's certified and they walk away, it is at that point that it is compliant we'll assume and that the ongoing requirement is of the owner or another gasfitter that attends to ensure that that integrity is maintained?
- A. Correct.
- Q. I don't believe gasfitters necessarily go round swapping bottles and I think in the evidence of Allgas that Ms Morrison might have been driving trucks that delivered bottles, so people who swap in and out bottles aren't gasfitters?
- A. That's correct.
-

- Q. But they are actually impacting the integrity of what you've said is the gas installation?
- A. Only in the sense that the connecting device that is required at the end of the hose joined to the cylinder is a fairly simple type of connection to make, doesn't require any special tools, doesn't require any jointing equipment or whatever, it's designed to be attached and fit to the bottle by a simple mechanical process, that should not make any difference.
- Q. So I've just thought of one other I'm sorry, the picture that shows two bottles sitting on the verandah, and just leave the verandah out of the discussion at the moment. If two bottles were chained on a hard stand without a metal cover and signed off, which would be acceptable, the person who installed the metal cover can be someone quite different to a gasfitter?
- A. Yes, they could be provided they didn't restrict the ventilation.
- Q. Whether they did or whether they didn't, you couldn't hold the gasfitter liable for that?
- A. No they couldn't.

MR PARKER: 68 Greenwood Street, any questions? (No questions from the Board). Westport Holiday Park? (No questions from the Board). 6 Malvern Avenue? (No questions from the Board) and 5 Powick? (No questions from the Board).

MR BICKERS: I've got a general question though.

MR PARKER: Yes, general questions?

MR BICKERS.

- Q. Mr Hammond, again your assistance would be appreciated, Mr Gordon has an exhibit PG 004/2, it's a certificate. I noted the number of the certificate is 299755 and that is one of the batch that was ordered in Mr Gee's name on the 15th of November and I understand Mr Gee left the employ of Allgas around about the end of November or beginning of
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- December, so this has been signed off - I mean it's interesting first of all there's a date on the 30th of the 11th under Mr Gee but it's crossed out. Subsequently signed off some time 26th of April, so my question is, and I just need to understand if a book of certificates is issued in the name of one gasfitter, is another gasfitter able to use that book of certificates or should they go with the gasfitter whose name they were issued in?
- A. I think it is highly desirable that when a certificate is purchased by a gasfitter that there is a sort of track that will follow that through so it should be the certifier who purchases the certificate actually certifies the installation. It is perhaps significant to note that Mr Gee didn't buy any certificates while he was with Allgas until that book in November, and yet he signed some 95 certificates, so it was a practice in the company for Mr Darnley to buy certificates and Mr Gee to certify them and apparently for Mr Gee to buy certificates and Mr Darnley to certify them.
- Q. So it's not illegal but it's not what you'd call desirable practice?
- A. Well, I'm always worried by the statement that lies near the top of the certificate "It says this certificate is not transferable".
- Q. Yes.
- A. And I'm not terribly sure what that phrase means in terms of these certificates.
- Q. Well, I guess that's where I was coming from?
- A. It is a practice that goes on in many companies. The manager of a company may well buy the books of certificates and the certifications are carried out by people who work for them, by the certifier, so it's not an unusual practice in my view.

QUESTIONS ARISING BY MR GORDON - nil.

QUESTIONS ARISING BY MR LAURENSEN

- Q. One question on this topic of whether or not work on bottles and enclosures falls within the jurisdiction of the Board. Do you have the Gas Regulations with you Mr Hammond?
- A. I do, yes.
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- Q. Now, just looking at regulation 24 (2) (b) - 24A (2) (b) the certificate must contain "B) a statement that the appliances and fittings worked on are safe"?
- A. Yes.
- Q. Now, if we go to the Gas Act for a definition of fittings I'm just going to ask you then whether or not some of these statements fall within the definition of fittings, so do you have the Gas Act with you?
- A. I don't.
- Q. The Gas Act section 2, 1992 defines fittings as meaning everything used or designed or intended for use in or in connection with the supply, distribution, compression for use of gas. Have you got a copy there?
- A. Yep.
- Q. Have a look at that to yourself in terms of that definition?
- A. Yes.
- Q. And I'll just ask you whether or not in your view you've got any comment to make in terms of first of all whether or not gas bottles would or would not fall within that definition?
- A. I don't believe they would do in terms of the Act not applying to section 3.

MR CORKILL QC: Section 2?

WITNESS: 3, subclause 2 and G is "containers used or is going to be used for storage of gas", so in my view that is excluding the container from being gasfitting.

QUESTIONS ARISING CONTINUED BY MR LAURENSEN

- Q. I'm not asking about the definition of gasfitting, I'm just asking you to look at the definition of fittings there, leaving aside any other statutory interpretation of the Act, just look at the definition of fittings and whether or not in your view bottles would fall within that definition of fittings?
- A. In my view it does not - the bottles do not fall within that definition of fittings.
- Q. Why is that?
-

- A. Because of the application of the Act and because if you go to the PG and D Act where there's a definition of gasfitting, gasfitting does not include cylinders.
- Q. Just once against though I'm not asking you for a definition - okay that's your view?

MR CORKILL QC: It's going to be a legal issue in the end.

MR LAURENSEN: It is and that's why I was just asking, I wasn't asking Mr Hammond to comment on the statutory interpretation, just to look at the wording of that and whether or not it could be said to be something that was used in connection with, but if you'd prefer not to that's fine.

MR CORKILL QC: I'm just making the point you might want to cover it in your submission.

MR LAURENSEN: I accept the comments Mr Hammond is making they are legal issues.

MR PARKER: Can we just be reminded, subject to confirm the instruction given on that response do you have anything more? I wouldn't mind asking another question.

RE-EXAMINATION CONTINUED BY MR LAURENSEN

- Q. Just looking at the wording of fittings do you have anything else to say about that, if that's your answer that's fine?
- A. No I've nothing more to add. That's my view.

MR PARKER

- Q. So your opinion. And you said earlier I think that you would sweep it up in the fact that if a gasfitter undertakes such work and given their experience they would have a duty of care to ensure they do the work appropriately?
- A. Yes.
-

- Q. So my link to do that is what are they doing work appropriately in accordance with?
- A. In theory in accordance with the HAZNO regulations.
- Q. And that being the case, is it fair to assume that a gasfitter, if it's not gasfitting would know about the HAZNO regulations?
- A. The guidance on that matter has been pulled into the installation code for that very reason, there is - it is not information that you would necessarily expect a gasfitter to be familiar with in any detail and so the critical part of it is recorded in the standard to give the guidance on what they should be claiming to achieve.
- Q. Which standards is that NSZ?
- A. NSZ 5261:2003.
- Q. And the 2003 standards came into law when?
- A. Not until September 2004.
- Q. So, would it be unfair to assume that work done prior to it being law and not being gasfitting and in your view not covered in this Act, you could say that a gasfitter might argue that it isn't gasfitting?
- A. I think a gasfitter can strongly argue that it's not gasfitting, because the definition of gasfitting does not includes the cylinder.

MR SIMMISS: Mr Laurensen, would distribution system not alter your interpretation of things in the Gas Act, straight above? I just wonder if you're interpreting fittings as being the distribution system A.2 which talks about container? It might change your interpretation of fittings.

MR LAURENSEN: Perhaps - rather than ask, put it to Mr Hammond, he might have a view on that.

WITNESS: Can you put that again?

MR SIMMISS

- Q. Sorry Mr Hammond, on page must be 9 at the top, distribution system, it starts A) all fittings whether above or below ground" and it gets to 2 and it
-

says "the outlet of a container in which gas for distribution is stored in to perform a supply at the place at which the gas is supplied to the consumer or gas refueling" I just wonder if that covers gas bottles?

- A. Well, that's particularly defining a distribution system and is not therefore excluding or including it in regards to a gas installation, it's just defining the boundary of the distribution system.

MR PARKER

- Q. Does gasfitting extend to the point to include distribution systems?
- A. In the natural gas side of the business and the LPG side of the business where gas is reticulated it does, yes, but if gas is in a bottle in cylinders stored on site it does not.

MR BICKERS

- Q. I guess Mr Chairman could I just clarify the nature of my question now, given Mr Hammond has drawn attention to section 3.2 G of the Gas Act which says "Nothing in this Act applies to any container used, designed or intended to be used for the storage of gas" so if the Act doesn't apply dot regulations apply? Because the regulations is the subservient to the Act?
- A. No they do not apply.
- Q. They do not apply. So I have - I'll await with interest the argument on jurisdiction.

MR PARKER: On bottles?

MR BICKERS: On the bottles and the connections to the bottles.

MR PARKER: Any more questions there? We've had a bit of a too and fro so Mr Gordon might in fact -

MR CORKILL QC: Are there any final questions you are being asked Mr Gordon in light of that discussion?

MR GORDON: No I'm fine thank you sir.

QUESTIONS ARISING BY MR LAURENSEN

Q. In terms of the charge, does work on a bottle, gas bottles in your view have any impact at all on a question of whether or not something is contrary to the integrity of the gasfitting trade?

A. Very definitely.

Q. Why is that?

A. Because the gasfitter when installing the bottles, protecting and completing his installation - completed their installation is in my view, as I said earlier, the professional who should know what the regulation requirements are, the consumer will not know and other people may not know, but he is the person that is doing that frequently as part of his trade and therefore he is the personal who should be ensuring that compliance is achieved.

MR PARKER: I think that's the conclusion for you Mr Hammond. I would think we could fairly say it's been a bit of a time so thank you very much for your attendance and you're free to go.

MR LAURENSEN CALLS**ROSS KINGSLEY FRENCH (Affirmed) (via teleconference)****EXAMINATION BY MR LAURENSEN**

Q. Is your full name Ross Kingsley French?

A. That's right.

Q. Mr French did you initially sign a statement in relation to this matter dated 17th of December 2010?

A. 17th.

Q. Just before Christmas?

A. That's right, that's right, yep, to David do you mean?

Q. It's David Laurenson speaking now.

A. Oh yes, that's right, yep.

Q. And then as a result of some other information you found and conversations, you wanted to amend that statement?

A. That's right.

Q. And you signed another statement dated the 29th of April 2011?

A. That's right.

Q. Do you have a copy of that with you?

A. I do, yep.

Q. Could you read that please?

A. Section 1, "I live at 5 Powick Street Westport where I have owned and lived at this property with my wife since 1995".

Section 2, "It is a two storey house. Some time in late 1990", it was actually 2001, "we had a Rinnai Infinity 32 instantaneous gas hot water heater, it was the first Rinnai Infinity that we fitted, installed to supply hot water there where it is now. The gas bottle for the first Rinnai Infinity was fitted on ground level.

The first Rinnai Infinity and the gas bottle was fitted by Paul Emery. An electric hot water heater supplied the grounds floor hot water".

Section 3, "During 2004 we had alterations done to the house. As part of the alterations we arranged for a Rinnai Infinity 24 instantaneous gas hot

water heater, the second Rinnai Infinity, to be installed on the external ground floor wall to supply hot water to the ground level of the house"

Section 4, "I engaged Paul Gee to install the second Rinnai Infinity. He was the only gasfitter I engaged to do any work during the alterations. As well we installed the second Rinnai Infinity and two 45 kg LPG cylinders, the new LPG cylinders, Mr Gee also installed pipework connecting the first Rinnai Infinity to the new LPG cylinders that he connected the to second Rinnai Infinity to".

Section 4, "The second Rinnai Infinity was installed on an external wall on the side of the house near a new timber deck that was added as part of the alterations. The deck had not been built at the time Mr Gee installed the second Rinnai Infinity and the new LPG cylinders. However, by the time the alterations had been completed, the new LPG cylinders had been placed directly on to the new timber deck by someone".

Section 5, "The new deck was always part of the alterations and as such was shown on the plans for the alterations. I discussed with Mr Gee where the second Rinnai Infinity and the new LPG cylinders should be located and we agreed they should go where he ultimately installed them. Mr Gee would have known that the new LPG cylinders would be located on the new deck as I showed him the plans for the alterations and I remember discussing the new deck with him, although I cannot remember what was said during that discussion. I have recently recalled after speaking with Allan Walker from Craddock's Energy Centre that something was said about cylinders should sit on something solid, but at the time the deck was built this must have been overlooked. We have now put a solid concrete foundation base for the bottles to sit on..

At the time Mr Gee connected the new LPG cylinders to the first and second Rinnai Infinities, the new LPG cylinders were placed on wooded blocks located on the ground below where the new deck was built for a

short period of time to enable the first and second Rinnai Infinitys to provide hot water to the house from the time they were connected by Mr Gee. This meant we did not have to wait until the deck was built before we got hot water. The ground under the new deck is approximately two feet below the level of the deck. This meant that the flexible hoses now connected to the new LPG cylinders which have not been changed since the alterations were completed, would not have been long enough to reach the new LPG cylinders if they were located on the ground. The wooden blocks were therefore used to raise the new LPG cylinders to the approximate level at which the deck was to be built.

I understand an audit of the gas installation at our property was carried out on 2 September 2009. We were not at home when that audit was carried out. To my knowledge, prior to that audit, no other gasfitter had worked on the second Rinnai Infinity or the new LPG cylinders since they were installed by Mr Gee as part of the alterations during 2004. I have seen the photographs of the new LPG cylinders, bundle 108 and 109, which I understand were taken during that audit, and those photographs show where the new LPG cylinders have been located on the new deck since the 2004 alterations. One of the photographs also shows the flexible hoses connected to the new LPG cylinders. As far as I am aware, those flexible hoses have never been changed since the new LPG cylinders have been located on the deck".

CROSS-EXAMINATION BY MR GORDON

Q. Yes hi Mr French can you hear me okay?

A. Yep.

Q. Now, I just want to - the Board members are just about to receive some copies of your plans.

A. Oh yeah.

Q. This is the original house and they're also going to receive a copy of your - a photo of your house taken from the street off Google maps?

A. Oh yeah.

- Q. So I'll just wait for them to receive a copy each. Now Mr French, I just wonder if you can explain to us where the original Infinity was situated before you started your alterations?
- A. It was situated in the same place where it is from my memory. The bottles were straight down below, maybe along a wee bit.
- Q. So you're saying that the Infinity 32 has always been upstairs?
- A. It's always been upstairs, yeah, yeah, yeah there was a mistake on the first - I think it was the first issue - the first issue of the - let's have a look here, I've got it here, it never had a size on the certificate, and there was quite a confusion there, something didn't tie up. On the first one was a 32. We initially purchased a 24 then it got upgraded to a 32.
- Q. Okay -
- A. With the upstairs one fitted by the Greymouth - Paul Emery I think.
- Q. Okay, so did he - did he upgrade it to the 32 as well did he?
- A. No we never actually fitted a 24, it was - we were invoiced a 24 then the next day we were invoiced for a 32, without the 24, so it was a 32 that went up there.
- Q. Okay well I've got an invoice sitting in front of me saying that you paid for an Infinity 24?
- A. That's right.
- Q. In July 2001?
- A. Yep.
- Q. And then you were credited for that 24 in September, October - October sorry 2001, and an Infinity 32 was installed?
- A. That's right, yep, but nothing - the first one wasn't installed.
- Q. It wasn't installed?
- A. No. We only fitted one up there.
- Q. Okay -
- A. To my knowledge, I mean I can't remember it being changed and we certainly - certainly didn't get any - we only purchased the one unit, we didn't do any trade in or anything like that.
- Q. Okay because then again you've purchased another Infinity 24 on the 14th of the 1st 2005?
-

- A. That's right, yep.
- Q. And that's for the - that's the new installation is it?
- A. Yeah, yeah is it 2005 or 2004?
- Q. It's 2005 on the invoice?
- A. Okay, okay, yep.

MR CORKILL QC: Is that page 4 of the bunch of invoices?

MR GORDON: Yes.

CROSS-EXAMINATION CONTINUED BY MR GORDON

- Q. So what were the alterations you had done on the house? We're looking at your original plans, so could you start from the northern end of the house please?
- A. The northern end, okay there was - well as you can see on the plans there was - we put a verandah right round on the northern side and the eastern side and there was the lounge was fitted, added on, and the - yeah that's all we did on the northern side, recladded the whole house.
- Q. And what did you do at the southern end?
- A. Southern end - well it would be easier to explain on the western - on the western end - western side which is the straight side, we added those two wings on which come to the left-hand side was the lounge, right-hand side was two bedrooms, two bedrooms and a laundry and in between those two additions to the entrance.
- Q. Okay now the one on the southern end, that's where the gas bottles were located is that correct?
- A. That bedroom's always been there.
- Q. Yes, yep. Was the cladding taken off that wall for gas pipework to be put in?
- A. Yep.
- Q. And the new Infinity 24 --
- A. Yeah.
-

Q. -- is mounted on to the side of that - the new portion of the building is that correct?

A. The new portion of the building, yeah.

Q. Yes?

A. Yep, to the left-hand side of the door.

Q. Now, when was this project started?

A. Well, I did see on - on the gasfitting certificate I've got here, for some reason it's got 21st of October 2004, so what I can't work out the - the purchase of that unit date was 21st of October 2004.

Q. When did you - so that's when you started your building operation?

A. No, no, we would have started. I'd have to go back - I'd have to do some research on that.

Q. Well, can you tell us me when you finished?

A. We - we mostly did it during the summer, so I would have thought we were finished roundabout March, April, May, July, somewhere around May, July.

Q. Of which year?

A. I'm pretty sure - you know, I'll just go back into these drawings when they were done up - just trying to find a date on the drawing. I'd have to get back to you on that, I didn't know I was going to be asked that question so I can't answer it, I'd have to do some research.

Q. Now, do you have a copy of the gas certificate in front of you do you?

A. Yep.

Q. Now, you will see on that gas certificate that it's got a serial number which Mr Gee has put on there?

A. The 319000, yep?

Q. Yep that's the certificate number, yes. Now down further down you will see where it's got the description of gasfitting to which the certificate applies?

A. That's right, yeah.

Q. And you will see that that applies to Rinnai Infinity 32?

A. Yep.

Q. And a serial number down there?

- A. Yeah.
- Q. But the impression I get from you, you've just stated now that that Infinity was already in place, the Infinity 32 was already in place on the first floor?
- A. No, up top.
- Q. Up top?
- A. Yep.
- Q. And you've also stated that the Infinity 24 is on a new part of the alterations?
- A. That's right, that's what he would have fitted, yeah, so there was a confusion on that side.
- Q. Well, there's no confusion with serial numbers, the serial numbers are on the units?
- A. So what does that serial number stated, does it state or 32 or 24?
- Q. That states it's for 32?
- A. Yeah well I'm pretty sure it's the 24 that was fitted downstairs, so - and he never touched anything upstairs.
- Q. Now, we've installed - you are saying that Mr Gee installed the pipework - or the new bottles, whereabouts was the pipework run for those new bottles, in the new part of the building or the old?
- A. They would have run on the new part and gone up to, connected to the old part I guess.
- Q. Have you ever been without hot water at all?
- A. During that time?
- Q. Yes.
- A. Would have only been a short period of time if it was. Not for the month, no.
- Q. Okay, you stated that you engaged Mr Gee to do all of the gasfitting work during the alterations?
- A. Mmm.
- Q. Isn't it true that that was all organised through Mr Walker?
- A. Well, he - we bought the unit through him and I'm pretty sure - I'm trying to work out how I got hold of him but I'm pretty sure it was through Cradock's
-

- that put me on to Mr Gee because we were struggling to get anyone on the coast to be able to fit a unit at that time.
- Q. Who did all the plumbing work?
- A. The water work, the plumbing? I normally engage Allan Island - yeah I'm pretty sure it would be Allan Island, I'd have to dig out the invoices on that.
- Q. Were you on site when Mr Gee was doing work?
- A. Very briefly.
- Q. So can you just run through what you actually engaged Mr Gee to do as far as that top Infinity was concerned?
- A. Well, I guess it was just to rig up the gas - supply the gas to the unit up there.
- Q. Is it possible that another gasfitter did any work on the site?
- A. Well, not aware - I'm not aware of anyone doing anything on the site at that time. No.
- Q. I have no further questions thank you very much for your time.
- A. Okay.

RE-EXAMINATION BY MR LAURENSEN

- Q. Mr French you said that you saw Mr Gee briefly on site, can you remember what he was doing at that stage?
- A. He was running the - running the pipes at that stage, the gas pipes.
- Q. From where to where, do you know?
- A. Yeah from the new part up to the - in through the roof to the - I would imagine it would be going to connect up to the old part.
- Q. Can you remember what was there at that time in terms of Infinitys - obviously the old one was there, can you remember if there was any other one there at that stage?
- A. Not at that stage.
- Q. Well, you can't remember or it wasn't there?
- A. No, no I can't remember.

MR CORKILL QC: Just before we go any further, Mr Gordon has Mr French formally identified these four invoices?

MR GORDON: No.

MR CORKILL QC: So were you intending to introduce these and as it were formally prove them?

MR GORDON: Mr Gee was going to produce them in his evidence.

MR CORKILL QC: What, saying that he had obtained them from whoever produced them?

MR GORDON: Yes.

MR CORKILL QC: Has Mr French been given copies of them?

MR GORDON: Not that I'm aware of. You have to remember we were only told about this change in statements Friday last week.

MR CORKILL QC: That's all right, I'm just trying to understand how this works. So Mr French hasn't got a copy of these invoices as we speak?

MR GORDON: No, I doubt it.

MR CORKILL QC: So that explains his comment about the date of 14 January 2005, you are deriving that date aren't you from that document?

MR GORDON: Yes.

MR CORKILL QC: I think that's probably a matter to be tidied up when Mr Gee comes along.

The Chair's just raising with me whether the handwriting we see on the second of those pages Mr Gordon, is that your handwriting or is that someone else's hands writing?

MR GORDON: No, that come through when it was faxed through to us.

MR HARDIE

Q. Just one, Graham Hardie here Mr French, I just want to clarify have you ever been invoiced by anyone other than Mr Gee for gasfitting work during your alterations?

MR PARKER

Q. Mr French are you there, the question was from Mr Hardie whether you have ever been invoiced by anyone else for gasfitting work?

A. At that time?

MR HARDIE

Q. At that time during your alterations?

A. I would have to - I'm not aware of that. I'd have to - I'd have to look that up, because I'm not aware of it. As I say this is five years ago it's a very minor part of the alteration, very minor part.

MR PARKER: We have nothing more Mr French so thank you for your time.

(Witness excused)

ADJOURNED [2.14 PM]

RESUMED [2.25 PM]

MR CORKILL QC: Mr Chair I understand you wanted to recall Mr Hammond for a question that a Board member had?

MR PARKER: Yes.

ANTHONY EDWIN HAMMOND (on former oath)

MR PARKER

- Q. Sorry I forgot to raise this earlier, it's about chains, appliances, whatever they are, being chained to the structure. First of all is it your experience that chains come with the appliances?
- A. No they do not come with the appliance.
- Q. If they do not come with the appliances what is the procedure by which you acquire the chains?
- A. A gasfitter during the course of the installation is expected to provide the chain. The reason the chains don't come with the appliances is that a chain has several purposes, one of which of course is earthquake stability for the appliance and that earthquake stability is a particular New Zealand requirement and so a lot of imported appliances in particular don't come with chains for that particular purpose. The other purpose is one which applies to all appliances, whether they come from overseas or in New Zealand, regarding the non-stressing of the pipework connected to the appliance.
- Q. So the same chain is used to cover off two situations or are there separate chains?
- A. It can basically cover off three situations. One is to provide stability for the appliance when it's in its correct operating position, so when a cooker is back against the wall the chain should be hooked so that the chain is providing some stability to the appliance, it can't tip over or come forward, that is generally unhooked and then the chain provides the purpose of not allowing the appliance to come too far forward to stretch the hose. So
-

- that's the second purpose. When I say three, I think there's two purposes sorry, the earthquake stability and the stressing of the hoses, two purposes, not three sorry.
- Q. So the chain will always be shorter than the hose?
- A. The chain should be 90 percent shorter - no more than 90 percent of the length of the hose.
- Q. Is there a specification for the chain?
- A. I don't believe it is specified in the regulations - no - standards I mean.
- Q. On appliances is the point where the chain connected, is there a designated place on appliances or is it left to the gasfitter to use an area, say a screw, or to they have to drill a hole in the appliance to attach the chain?
- A. It is generally left to the installer to decide where to fix the chain. The important thing in fixing the chain is to have it at a height that prevents toppling of the appliance either sideways or forwards. I have to say that some of the higher quality better appliances that are coming on the market today do in fact have connections specifically for the chain to be attached to. But the general run of appliances don't.
- Q. The strength of the chain or the value of it I suppose is about as good as how it's attached at the other end, which is to the property?
- A. Yes it's vital that it's permanently attached to the wall.
- Q. Is there any direction anywhere in the standards of how that should be connected to the property?
- A. No.
- Q. So that's left up to the practitioner to decide?
- A. Yes.
- Q. Would it be fair to have suggested you would expect that to be screwed into a stud?
- A. Yes, you would expect it to be in some substantial part of the building, not straight into a wall board, for example.
- Q. My last question, can you test that, does someone just pull it out and make sure the chain doesn't come out the wall, I mean -
-

- A. The gasfitter would be advised to check on that when he completed the installation, prior to certification, it's one of those matters that would generally be checked by certification. I have to say sometimes in the case of cookers rather than a chain they have a - what's called a stability foot which slides into the back of the appliance and that needs again to be screwed firmly to a stud and then when the appliance is pushed fully back into position there is a peg which goes in the base of the appliance and anchors the appliance to the wall.
- Q. In the installations where chains are being discussed in all of these sites what are they, is it a chain or the latter?
- A. Most of these that we've been discussing here don't have a chain.
- Q. They don't have a chain, so it would be a chain not this other little -
- A. Sorry, all of these appliances that needed to be restrained did not have stability foots, they had these chains.
- Q. Would I be fair to expect that if a chain had to be purchased there would be some evidence that they would be purchased for the installation?
- A. Yes, it's got to be purchased from somewhere.

QUESTIONS ARISING BY MR GORDON - nil.

QUESTIONS ARISING BY MR LAURENSEN

- Q. Do you have the 1996 version?
- A. I do there, if I can just get it.
- Q. You were just asked questions about whether or not there's anything in the standards, was there in terms of requirements for chains, is there anything in Part 2?
- A. There are requirements about the length of the chain.
- Q. What are they?
- A. That it should be less than 90 percent of the length of the hose.
- Q. Which one is that? I see that there's something in relation to cookers on page1.
- A. On page 71 as Appendix F clause 1.2.9, item D "A restraining chain or wire shall be attached to the wall and the cooker within 50 millimetres of
-

the flexible hose attachment point to restrain the appliance movement to 80 percent of the hose length", that 80 has subsequently been changed to 90.

Q. And if you look at page 45, this is part 2 of course, but you see there, 208.2.12, does that have any relevance, it's talking about hose assemblies?

A. Yes, that states "an appliance designed to move on castors, rollers or wheels shall be connected to the gas pipework using a hose assembly where the appliance weighs more than 20 kilograms and is fitted with castors, rollers or wheels or is designed to slide out for use or servicing, the movement of the appliance shall be positively limited by means other than the flexible connection such as a safety chain so that there is no strain on its hose assembly when the appliance is moved". All of the appliances we're talking about here would be greater than 20 kilograms.

(Witness excused)

MR CORKILL QC: We just need to clarify do you have any other witnesses?

MR LAURENSEN: Not here no, there's just Mr Neal.

MR CORKILL QC: So those are the witnesses for the investigator except for Mr Neal tomorrow morning?

MR LAURENSEN: Well unless Mr Suisted should turn up, yes.

MR CORKILL QC: Mr Gordon are you in a position where you can present your opening submission?

MR GORDON: Yes.

"Mr Gee faces charges as detailed by the Investigator relating to gasfitting he is alleged to have carried out at seven properties in the Tasman Bay area and in Westport between May 2002 to June 2006.

Mr Gee denies the allegations and feels aggrieved by the situation. Mr Gee has been asking the Board to look into issues surrounding his gas certificates since 2004, namely the altering of gas certificates by his previous employer. He'd been warning the Board that someone would get hurt and his fears have come to fruiting and he is now facing charges.

This is a very sad case where there are no winners. Mr Gee has been put into a situation where he has extinguished his funds by trying to prove his innocence to a system that wanted a result and who told the media two people had been charged as a result of the explosion. He's has been left where his reputation is in tatters, his business is failing and he will have to move out of the Nelson - or from Nelson to another town to be able to provide for his family.

His whole life has changed due to a system that has failed and the New Zealand public.

Mr Gee is a victim of, procedures and poor enforcement. The ironic thing is Mr Gee's case vindicates the Board's move to electronic gas certificates and is a prime example of the manner in which the paper based gas certificates have been fraudulently used.

We know the Investigator in this case helped to create the very system that he now enforces and is obviously protective of it and will do what is required to validate it.

You will notice the witnesses are appearing for the Investigator in no logical sequence and the onus is now on you to remember all the evidence and the relevant points for each location.

The Charges. Mr Laurenson has already mentioned the burden of proving the charges is on the investigator and there is no onus on Mr Gee to prove anything, but we will show the manner in which the investigation has been conducted and prepared for this hearing has been one of obtaining a result rather than one of obtaining the truth which has moved the burden on to Mr Gee to prove his innocence.

Alternative charges have been laid, such is the poor quality of the primary charges, so the Investigator has required a backstop to ensure a result.

Mr Laurenson has detailed to you that the standard of proof is that of the balance of probabilities and that is that the event is more likely to have occurred. It is quite a task in this case as the situations vary but we would ask you to put yourselves into Mr Gee's shoes and walk as he has walked through this process.

We would ask you to look at honesty, trust and the fact that these charges have occurred over a period when the Board has been developing procedures to do with self certification. That period being over 2002 to 2004:

Law. Mr Laurenson has already outlined the law so we won't cover that again, but Mr Gee would like to voice his distaste at a child molestation case being used as part of Mr Laurenson's opening address to highlight case law. Mr Gee's wife read the statement and was beside herself with anguish. Mr Gee feels a more appropriate case law could have been found and feels his wife should be apologised to.

We would like to draw your attention to two sections of the Plumbers Gasfitters and Drainlayers Act 1976 which are very relevant. Section 41, Complaints against registered persons or tradespersons. (4A), before considering any complaint in accordance with the succeeding provisions of this Part of this Act, the Board may, if it thinks fit, refer the complaint to an investigator. Section 43, Procedure. A complaint shall be prosecuted at the hearing by the investigator who was appointed by the Board under section 41 (4A) of this Act to examine the complaint or, if no investigator was appointed for that purpose, by an investigator appointed by the Board, and for that purpose he may be represented at the hearing by counsel or otherwise.

Now we note Investigator has been tasked to investigate under section 42 (A) and that's fine.

Under section 43 (8) the investigator is required to prosecute the complaint at the hearing and for that purpose he may be represented at the hearing by counsel. We fail to see the mandate under the Act for the counsel to investigate instead of the investigator. The Act says 'may be represented at the hearing', not 'may investigate or assist as detailed by the Investigator'.

The particulars. We submit that the role of the counsel to represent the Investigator and his findings at the hearing have been extended to that of the counsel actually investigating and collecting evidence which has not previously been collected by the Investigator. This was not refining the evidence for the hearing but the actual interviewing and collection of the evidence.

The manner in which witnesses have been interviewed regarding the majority of this case has lent to a situation where their interviews are covered by legal privilege thus denying Mr Gee access to any notes pertaining to the interviews.

As we saw yesterday, the statements are not written in the witnesses' own words and has already caused one witness to change his statement on the stand. There is the possibility witnesses have been pressured and words have been put into their mouths.

This has left a very one-sided situation where Mr Gee only has access to the information being used to prosecute and not to any other information that may have arisen in the course of the interviews.

For Mr Gee to obtain that information for his defence he would have had to conduct a parallel investigation in a period of two weeks after the submission of the case by the Investigator, which was the time limit imposed on Mr Gee by the discipline panel.

This problem is extended further by statements being changed and statements still being produced by the Investigator up to one working day out from the hearing.

The Investigator has not investigated, he has collated.

Mr Gee will show that the Investigator has made recommendations to lay charges on the 12th of August 2010 without investigating and without having sufficient evidence when doing so.

Five months after the laying of the charges the Investigator and counsel were still collecting evidence. Had Mr Gee not opposed the charges last year the charges would have been heard based on the Investigator as submitted by the Investigator at the time. A substantial amount of evidence you heard yesterday and will hear over the next days has been obtained in the last three months.

The Investigator has taken every opportunity to counter Mr Gee's actions and is a fair indication the investigation hasn't been conducted in a thorough near in the first instance.

The Milton Street Fish and Chip Shop. Mr Gee returned from two years overseas and was employed by Allgas under the direction of Mr John Darnley a Craftsman Gasfitter who is known to the Investigator through a previous investigation and the fact the Investigator conducted the verbal exam for him to obtain his certifying status. This was Mr Gee's first job on returning to New Zealand and prior to this had submitted two gas certificates more than two years previous.

Mr Gee installed pipework to current legislation at the fish and chip shop and has submitted a gas certificate for that pipework to the effect using the administrative procedures in place at Allgas.

There has been all sorts of conjecture about where the pipework was on the walls and Mr Gee will give evidence of how he left the pipework. There has been a lot of guesswork in the investigation rather than fact.

After signing by Mr Gee the gas certificate has been altered by someone at Allgas to include the installation of two deep fryers. This appears to

have been of no consequence to the Investigator during the investigation and has not been investigated. Mr Darnley, his wife, daughter and staff have not been spoken to about this issue.

The job sheet for the location shows two different examples of handwriting regarding test pressures and appliance types. The Investigator has made no mention about certificates being altered and has taken a stance right from the start that Mr Gee signed the certificates and is guilty. Any mitigating circumstances have been put to one side as being non-consequential.

The explosion has occurred and the investigation has commenced. Due to the poor nature of the investigation Mr Gee has been forced to defend work that he has not done.

The audits. As the Investigator was unable to prove anyone's involvement in the explosion he targeted Mr Gee and conducted seven inspections and based on his opinion that he had concerns. Mr Gee came up with plausible answers to the concerns to the extent that no charges have been laid for any of them.

The Investigator was not satisfied and continued with his pursuit of Mr Gee and has requested the Board to conduct audits of 10 percent of gas certificates issued by Mr Gee over a four year period. Six of those installations are now the subject of charges.

73 Main Road, Havelock. Mr Gee installed a deep fryer at the location with appropriate restraint and pipe security and submitted a gas certificate using the administrative procedures in place at Allgas at that time.

The Investigator has alleged that this is not the case and has had to issue a section 45 notice to a witness to the possible events.

The witness has not been interviewed by the Investigator but by counsel and as such the details around the interview are legally privileged.

Since that work was done and the certificate signed the fryer has been moved by persons unknown and an additional gas appliance fitted where the fryer had previously been.

It would appear that none of the work by Mr Gee now exists and no-one knows for sure how the job was initially installed.

Mr Hammond has given evidence today but hasn't produced notes about what Mr Suisted has said.

68 Greenwood Street, Motueka. The Investigator alleges Mr Gee installed a gas cooker at this location.

This is yet another case where Mr Gee is forced to defend work which is not his and that he did not sign for. Had the investigation been conducted thoroughly this charge wouldn't have been laid.

Mr Gee did work at this location and installed a water heater which he dual tested and submitted a gas certificate.

Some time after Mr Gee's work was completed another person from Allgas returned to the site and installed a gas cooker.

It would appear the cooker was installed prior to any kitchen benches.

The Investigator alleges the cooker was below bench level, had no restraints and that the bayonet was installed in a wall. None of this work was Mr Gee's.

The Investigator further alleges in the alternate that Mr Gee signed the gas certificates for the cooker installation without being satisfied on reasonable grounds that the installation was safe, but yet again, has not investigated the allegation of the certificate being altered.

Mr Gee signed the certificate for the installation of the water heater only using the administrative procedures in place at Allgas at that time. Persons unknown at Allgas altered the certificate to include the cooker installation.

No witness statement was recorded by the Investigator but a witness has been interviewed by counsel and as such the details around the interview are legally privileged.

8 Ball Unit, Pah Street, Motueka High School. The Investigator alleges Mr Gee installed a metal enclosure covering the LPG cylinders at this location and the installation is unsafe due to a high level of ventilation - due to sorry, no high level ventilation to allow safe dispersal of any gas that might leak from the cylinders.

This is yet another case where Mr Gee is forced to defend work which is not his and that he did not sign for.

Mr Gee did work at this location and installed a heater which he duly tested and submitted as gas certificate using the administrative procedures in place at Allgas at that time.

Some time after Mr Gee's work was completed another person from Allgas returned to the site and installed the metal enclosure.

The Investigator further alleges in the alternate that Mr Gee signed the gas certificate for the enclosure installation without ensuring that the metal enclosure that he knew or ought to have known the LPG cylinders would

be located within had sufficient ventilation to allow the safe dispersal of any gas discharge in that metal enclosure.

As you saw yesterday, gasfitting legislation is a minefield of legislation and particularly with the change in standards and regulations it is a very tough area for gasfitters to keep track of, particularly when there was no training available to trades people until continued professional development was introduced in 2004.

The Investigator also alleges that if someone else did install that metal case, that Mr Gee should have known that a metal enclosure would be fitted as protection against damage by vehicles and/or pranksters and there should have ensured that it had adequate ventilation.

Mr Gee installed the heater and the gas bottle station including restraint chains for the bottles. The bottles were installed in a safe location away from vehicles and legal access by pranksters.

Yet again the Investigator has attempted to counter Mr Gee's explanation by getting a witness, two days out from the hearing, to state there was no fence at the end of the building by the gas bottles. Photographs indicate different. This site has been substantially altered and has included the extension of the carpark area.

The witness who was not interviewed by the Investigator has made a statement which was recorded by counsel, and notes of which are of legal privilege.

A witness has been issued with a section 45 notice to attend to give evidence the nature of which is unknown to Mr Gee.

37 Dommatt Street, Westport, the Westport Holiday Park. Mr Gee installed a water heater at this location which he duly tested and submitted a gas certificate.

Mr Gee installed the water heater under a window with reduced clearances based on the information he had available at the time which included a document supplied to him by his previous employer, Mr Darnley of Allgas. He was satisfied what he was doing met the requirements of NSZ 5261.

As an added precaution at this site he arranged for the window above to be screwed shut.

The Investigator alleges Mr Gee installed the Rinnai Infinity with insufficient clearance between the flue of the Infinity and an openable window to minimise the risk of harm to persons inside the building.

The Investigator further alleges in the alternate that Mr Gee signed the gas certificate for the Rinnai installation without being satisfied on reasonable grounds that the installation was safe.

No witness statement was recorded by the Investigator and no notes have been received but a witness was interviewed by counsel and as such the details around the interview are legally privileged.

The witnesses sequence of events were not in line with what the counsel want and as such they did not call her as a witness questioning the credibility and accuracy of what she had to say. Mr Gee was not given access to any notes regarding the interviews as this was deemed legally privileged.

The witness was spoken to by Mr Gee but she was fed up with the badgering she has received from the Investigator and counsel. Due to her

demeanour Mr Gee did not wish to push the issue of giving evidence. So did however provide a letter to Mr Gee outlining her sequence of events.

5 Malvern Avenue. Mr Gee installed two Bosch water heaters and a heater at this location which he duly tested and submitted a gas certificate.

Mr Gee installed one Bosh water heater under a water with reduced clearances based on the information he had available to him at the time which included a document supplied to him by his previous employer, Mr Darnley of Allgas. He was satisfied what he was doing met the requirements of NSZ 5261.

The Investigator alleges Mr Gee installed the Rinnai Infinity with insufficient clearance between the flue of the Infinity and an openable window to minimise the risk of harm to persons inside the building.

The Investigator further alleges in the alternate that Mr Gee signed the gas certificate for the Rinnai installation without being satisfied on reasonable grounds that the installation was safe.

A witness statement was recorded by counsel and as such the details around the interview are legally privileged.

5 Powick Street, Westport. The Investigator alleges Mr Gee installed two 45 kg LPG bottles on a wooden decking when they should have been installed on a base of non-combustible material.

The Investigator further alleges in the alternate that Mr Gee signed the gas certificate for the LPG installation without being satisfied on reasonable grounds that the installation was safe because he did not ensure the LPG bottles were located or would have been located on a base of non-combustible material.

This is yet another case where Mr Gee is forced to defend work which is not his and that he did not sign for.

This property was the subject of extensive alterations. A witness for the Investigator has now submitted two versions of events of this case, as has the Investigator.

The witness made two different statements to counsel, the notes of which are legally privileged.

Mr Gee has no doubt about the scope of the work he did. Mr Gee attended the site and installed a new gas feed to the relocated Infinity 32. The heater - the water heater sorry, had already been installed on the wall upstairs and had been plumbed in. He connected the gas to it and tested the installation.

He issued a gas certificate to that affect outlining that a vent was required to be covered by the gas bottles.

He does not recall meeting with the property owner as his work was organised through Allan Walker, a local businessman.

It is alleged by Mr Gee that other tradesmen have been involved in the project and there are gas certificates for this location that have not been issued.

Our witnesses will be Mr Gee who will be giving evidence himself and the Deputy Registrar Mr Kern Uren who was acting Registrar throughout a lot of the enforcement process.

MR PARKER: I think Mr Gordon it's nearly 3 and we were stopping at 3 for afternoon tea. So we'll start at 10 past 3.

ADJOURNED [2.53 PM]

RESUMED [3.10 PM]

MR GORDON CALLS

KERN UREN (Affirmed)

MR CORKILL QC: You've probably seen the process in terms of the witnesses that have been called, identify his full name, occupation and so on and over to you where you go after that.

EXAMINATION BY MR GORDON

Q. Can you please state your full name and occupation?

A. My name is Raymond Kern Uren and my occupation is Deputy Registrar of the Plumbers, Gasfitters and Drainlayers Board.

Q. And how long have you held that position?

A. Four months I think it is.

Q. And before that what was your position?

A. I was Acting Registrar prior to that. My actual contract position was licensing manager.

Q. So when you were Acting Registrar over what period of time was that?

A. From September the 7th 2009 through to November I think - I think that's right.

Q. Now, is it true that you've had extensive dealings with Mr Gee regarding his belief gas certificates under his name have been altered?

A. Not personally, not extensive, I've had the odd engagement with Mr Gee.

Q. How many engagements do you think you've had with him?

A. Directly with Mr Gee I've spoken to him face-to-face once and I may have spoken to him once on the telephone that I can recall.

Q. What about emails, letters and such like coming through to your position?

A. Certainly a lot of emails. Mr Gee is in the habit of sending lots of emails out. Not necessarily to do with the case either.

Q. Now, this was over what period of time would you say?

- A. Well, directly from September 2009, prior to that it would have been the previous Registrar.
- Q. Now, in the time that you've had dealings with Mr Gee had he warned that something was possibly going to go wrong and someone would get hurt if something wasn't done about the checking up on some of these certificates?
- A. Before my time.
- Q. Before your time was it?
- A. (Nods).
- Q. Now, the altering of the gas certificates is quite a big issue. Is altering a gas certificate an offence?
- A. I believe so, yes.
- Q. Do you know what it's an offence under?
- A. Well, I'd gather that it would be under the Gas Regulations and it would be the former Gas Regulations bearing in mind we've got new Gas Regulations in place now.
- Q. And you don't know what section or anything?
- A. No.
- Q. Now, you've got extensive experience in your role as acting Registrar, do you think it's common practice for office staff to complete certificates, gas certificates for tradesmen?
- A. Is it common practice? No it's not.
- Q. It's not?
- A. No.
- Q. But it is a practice that is occurring isn't it, or was occurring?
- A. Are we talking about hard copy or electronic?
- Q. Hard copy?
- A. In hard copy I'd imagine that it could be done, yes.
- Q. But isn't this one of the reasons why the - one of the reasons was that the fraudulent use of certificates, hard copies of certificates isn't that one of the reasons why you went to the computerised certificates?
- A. It's one of the reasons, yes.
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- Q. One of the reasons. As far as an element of trust between employer and employee with regard to certificates do you think an element of trust would be in place between a certifying gasfitter as an employer and a certifying gasfitter as an employee?
- A. I think it's fairly subjective trust is something that a person would have to make their own mind up, I don't think I can provide any information on that, I think it's a subjective question.
- Q. Now, Mr Gee and Mr Darnley were both implicated in the explosion, did you have any to do with going back checking their files at all?
- A. Yes, I did.
- Q. Now, as far as Mr Gee is concerned did you notice if he'd appeared before the Board before?
- A. Sorry>.
- Q. Did you notice if Mr Gee had appeared before the Board before, was that on his file?
- A. I can't recall.
- Q. What about Mr Darnley?
- A. I can't recall.
- Q. When you were checking the files of Mr Darnley did you notice if he'd had previous encounters with the Board?
- A. Ah yes, Mr Darnley has a fairly extensive file.
- Q. And do you know if there was anything on there about gas certificates being altered or created by Mr Darnley?
- A. It's been a while since I've looked at the file, I can't say categorically so I'd need to have a look at it again.
- Q. You are a wee bit hesitant there, do you think there was something in there regarding -
- A. I'm just saying I can't recall.
- Q. You can't recall?
- A. Yeah.
- Q. Now, Mr Gee's been trying for a number of years to get action on his complaint about altering of gas certificates. Is it true that as time went on Mr Gee become very frustrated with the lack of action by the Board?
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- A. Again, I mean my engagement with Mr Gee has only been since September. I hadn't had a lot to do with Mr Gee prior to that and I guess probably the only thing I can rely on is correspondence.
- Q. And what did the correspondence sort of indicate to you?
- A. Oh there was a letter in there and it was to I believe Colleen Singleton at the time raising concerns about gas certificates - it was post his employment I believe with Mr Darnley's company Allgas and I believe it was investigated.
- Q. Now, you've put out a letter to Mr Gee that you'd be taking no further action and that you believed he was being vexatious, is that correct?
- A. I think so, yes.
- Q. What action did you take - had you taken to investigate his complaints?
- A. The action in generally it's done in a process using our complaints process and what we would do is actually review what action had been taken by the - our predecessor and we determined on that basis that there was sufficient evidence to close the case, we didn't think there was any reason to review it any further.
- Q. Now, with regard to the explosion at Milton Street I understand your predecessor Mr Routhan received the initial complaint?
- A. Yes.
- Q. How far were things progressed when you took over in the role as Acting Registrar?
- A. September - well not very far. I guess because it was all wrapped up, we had at that time three substantial issues on the boil at the time, one being in Auckland, New Plymouth and Nelson, so I guess it culminates at the time that I took over.
- Q. Had you heard about the incident before you took over?
- A. Oh who hadn't? It had been in the media.
- Q. So in your capacity as the - as Acting Registrar you are fully aware of the process that has been followed right throughout the whole case with Mr Gee?
- A. I would say so, yes.
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Q. Now, can you just tell me the process for how an Investigator is selected, because I understand you've got a number of investigators? How is an Investigator selected for a particular case?

A. Generally, the first up is that they have capacity. I mean, bearing in mind an Investigator - we have a number of investigators, access to and generally it's based on the expertise they have to offer on a specific case. Obviously at the time, if it's to do with gasfitting then it's an Investigator who has the qualifications to be able to do that investigation.

Q. Now, were you involved at all with the selection of people for the gas audits?

A. When you say the gas audits you are talking about Casey's New Zealand or -

Q. Yes the ones that were organised through Casey's New Zealand?

A. Well, no the contract was written and prepared by the previous Registrar. My only involvement was in the initial drafting of the contract to make sure it was just up-to-date, simply put, mmm.

Q. So who actually selects the locations that are being audited?

A. You mean under the former regime? Under Casey Services?

Q. Yes.

A. The locations for auditing were - or simply put the audit that was undertaken was both a competency audit as well as site audit, so it had the two components within it. Simply what happened was the Board early on used to fire through - based on the request from Casey's who they were going to audit, would fire through the gas certificates and they would randomly select from those gas certificates, the site. In latter times we've actually provided the full database.

Q. Now the Board has recently claimed success regarding the implementation of the computer based gas certificates, this is based on what come out in the info brief, just a couple of weeks ago?

A. Yep.

Q. So would it be fair to say there were definitely issues with the paper base certificate and the fraudulent use of them?

A. Yes.

Q. Now, recently we attended an industry forum regarding the competencies and from memory we had substantial discussions on the training that people that people would require at a certifying level for completing certification, gas certificates and such like?

A. Yes.

Q. And sort of the general consensus was that everyone was quite adamant that that was an area of training that had to be - competency that had to be put in place would you agree with that?

A. Yes.

Q. So - and it's good that that issue is being addressed, but up until that stage and particularly round the 2002 type period there was very little going on in the way of training for tradesmen as far as the administrative side of things go, would you agree with that?

A. Can I just clarify that, are you talking about ongoing professional development or -

Q. Both, the initial qualification-type training that they would get and also the continued professional development?

A. Okay let's deal with the initial training. The initial training to become a certifying gasfitter has two components to it, one is that they do the certifying paper A which is 9194. Now that is a combination of compliance, law, taxation, health and safety, so it's a heavy emphasis on that as opposed to the technical paper, certifying technical paper which is just simply gasfitting. So I'm not sure you could actually say that there's not enough training for the initial training, some may actually argue there's too much emphasis on that, or certain aspects of that to do with non-technical gasfitting. As far as ongoing training, well a competence based licence for gasfitters has been in place since 2004, so it's largely voluntary in the sense that they determine what courses that they wish to do. There are minimum points requirement for them to get - to be able to uplift their licence in the following year.

Q. Now when a tradesman leaves their apprenticeship would it be fair to say that they rely on their boss or other tradesmen to pick up information they need to sort of progress in the industry?

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- A. Oh I guess it's like anything, you know, if there's other people around you that are more experienced, yes, there is a reliance to - but reliance is also on you to ask the question.
- Q. Yes.
- A. Yeah.
- Q. Now, back in when the continuing professional development was introduced obviously they'd identified that there were problems. Do you know what the problems were that sort of brought about the continuing professional development?
- A. Certainly one of the drivers was we had a death, in Emily Johnson, so there was a - there was some very very powerful drivers behind that, but also Energy Safety had done a survey of gasfitters and out of the outcome of that survey was that the widely held view was that gasfitters needed to step up as far as competence, so there was a move to see that introduced into I believe it was August, August 2009 that amendment for competence based licensing for gasfitters.
- Q. Do you remember - I seem to remember reading somewhere that there was only a certain percentage of people had passed their initial audits around 2002, 2003 type periods, do you remember what sort of percentage that was by any chance?
- A. I think it was about only 30 percent.
- Q. So only 30 percent of the people had -
- A. That were initially audited, like the first audits, when that was introduced were passing those audits.
- Q. So it would be fair to say that that was part of the reason why they introduced the CPD to lift that up, because that's a pretty low sort of pass mark isn't it?
- A. Yes, yes it would be a driver I'm sure.
- Q. Now, have there been any mandatory courses, courses that every gasfitter must attend as a result of all of these audits?
- A. No.
- Q. There's been nothing?
- A. Not that I'm aware of.
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- Q. Not since the inception of it there's been nothing at all?
- A. (Shakes head).
- Q. Now, the new computer based system that's been introduced that should stop the practice of other people completing gas certificates and adding on to gas certificates, shouldn't it?
- A. No it won't entirely. At the end of the day every certifying gasfitter is given a unique identifier which is a password that only they hold. I guess at the end of the day it's like any system, it's open to abuse, so if they were unwise and passed that password on to somebody else that person could gain access to the database and utilise it.
- Q. Now, under the new system trades people are being trained on what the requirements are and they are also being told to retain copies of their certificates and in a lot of cases also being encouraged to take photographs of their work, would that be correct?
- A. Mmhmm.
- Q. Do you know what the case was previously?
- A. No, I don't.
- Q. Now, if a person come back to New Zealand, we're talking under the old system here, if a person come back to New Zealand after a period of two years and started working for a company, obviously he hasn't been here when things have changed, he would be reliant on say the next certifying type person for instruction and guidance?
- A. I can imagine that would be appropriate.
- Q. Do we have any sort of courses in place for anyone that's returning from overseas, a refresher, upgrader of any kind?
- A. No we don't. Albeit that there are a significant number of courses available to them, but it's what they determine they wish to do.
- Q. What they choose to do?
- A. (Nods).
- Q. Now, just getting back to the audits, can you remember how many audits were done in the Nelson region?
- A. 50.
- Q. 50?
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- A. Yeah, thereabouts.
- Q. So out of that 50, we know that 24 - was this inclusive of Mr Darnley's and Mr Gee's?
- A. This was gasfitting in general in Nelson.
- Q. So it's 50 gasfitting in general?
- A. (Nods).
- Q. So as far as those audits went nearly 50 percent of the audits were on Mr Gee?
- A. I'd have to look at the figures, I'm not sure what the figures are.
- Q. Okay well he had 24 audits done on him?
- A. Okay.
- Q. You don't know how many were done on Mr Darnley by any chance?
- A. No not off the top of my head.
- Q. Do you know how many gasfitters were down in this region that were selected?
- A. Not off the top of my head, no.
- Q. When these audits are selected is there any sort of - the special audits I'm talking about, is there any sort of discussion takes place? Have you been involved in that process?
- A. Yes I have.
- Q. Were you involved in the process for this one for the special audits?
- A. Yes I was. And when you asked me whether there is discussion, clearly whatever has been picked up for instance if through, you know doesn't matter whether it's a complaint process or even from some audits that we've done previously, there may be some aspects that we want to focus on, for instance in an area, not in this location we picked up that there was some significant issues to do with takeaways, and so we wanted to focus on takeaways, and so instructions to the auditors were to focus on those sorts of installations and some particular aspects to do with it, because some of the risks - some of the things we picked up with intelligence.
- Q. Do you know how they selected the ones for Mr Gee's particular case, the special audits?
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- A. I'm just trying to recall. No I can't remember specifically. But no doubt that if it was - because there were basically there were two triggers to the audits in this area one was obviously from the Department of Labour originally making - raising concerns and wanting us to do a wide sweep of the area which encompassed all gasfitters in the area and then of course carry out audits depending on what we picked up from that as well.
- Q. Now -
- A. I think there was a suggestion too sorry, that you know that we needed to focus on certain aspects, certain installations in the area. One of them was a driver was I believe at the time was the use of pexal pipe in this area. There was some concerns raised about its widespread use, in particular in exposed places on buildings.
- Q. Now, back in February Mr Gee received two letters sent out from the Board, both under your signature?

MR CORKILL QC: Which year?

MR GORDON: February of this year.

EXAMINATION CONTINUED BY MR GORDON

- Q. Now what I'm just - I'm just wanting to look at practices here. Now back in February two letters regarding gas certificates were sent out under your signature to Mr Gee and when he questioned the timing of the letters he received a response that the certification administrator using a standard letter had sent them out using your electronic signature and that you wouldn't personally have known that the letters were being sent out to Mr Gee?
- A. (Nods).
- Q. Now, these were letters requesting additional information for gas certificates if you don't remember. Is that correct?
- A. Yeah well my signature's on the letters, do you want me to refer to the letter at all?
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- Q. No not really, but is that a common practice that the administration staff will do something and it will go out under your signature block?
- A. Absolutely because they are - that's just a standard procedure within the office. So for all those standard things, I would be spending a month of Sundays signing letters, yeah.
- Q. Now, you sent out six letters during the course of the investigation and these six letters pertained to audits that had been done on locations for Mr Gee and they were basically a summary of those audits, do you remember those letters?
- A. Yes, I do recall them.
- Q. Now, in the bundle in front of you, right near the back under PG 027?
- A. Sorry, the numbering system is not the same?
- Q. It's the very last page in the bundle.
- A. Yep.
- Q. So is that the letter that was sent out?
- A. Yes.
- Q. Now, there's only one location, I didn't attach all six letters. Now what was the process for this letter, did you sign each letter individually or was that under the similar process of what you just described where administrative staff signed them?
- A. I'm not too sure whether that is an electronic signature, it's hard to tell because of the quality of the copy.
- Q. We'll just move on from that.
- A. Yeah, sorry.
- Q. Now, it was ascertained later on that there was actually a considerable amount of false information in that letter wasn't there?
- A. I think what - well I'm not sure what false information you are alluding to?
- Q. Well how about that certificates unlawfully sold or issued by practitioners in areas like Northland, Waikato and the like?
- A. That's correct.
- Q. So a lot of this letter sort of implied that Mr Gee was involved in that scheme and that the people's certificate number was one of those involved in that scheme, and all that information was wrong wasn't it?
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- A. That's correct.
- Q. So what was the actual purpose of sending out those letters?
- A. These letters were basically, as I said, it culminated at a time when we were dealing with a nation wide issue really, Auckland, New Plymouth and of course here in Nelson. And so the same standard letter was basically used to notify home owners of areas where there was some remedial work likely to be needed.
- Q. Now, we've heard evidence today from the Investigator that the special audits that were conducted were in fact part of the investigation. Do you not think that they should have received a bit more attention as far as the letters went out, that were sent out?
- A. I think I made it very clear it's unfortunate that this letter was sent out. But at the time we were dealing with some significant issues; over 500 audits were carried out nation wide so I think we had a lot on our plate at the time, it's obviously unfortunate this letter was sent.
- Q. Now as far as the letters going out they've actually had quite an impact on Mr Gee. Don't you find it quite ironic that what Mr Gee's been complaining about you know, that people adding things to his certificates and all this administrative type thing, that he now finds himself sort of on the end of the same sort administrative error where letters have been sent out with his signature when he wasn't fully aware of the letter?
- A. Clearly the letter is to somebody in Motueka, irrespective of what it says at the bottom of the letter and the letter addresses non-compliance at the site which was audited. So irrespective of that it still drives home to the home owner that they've got issues that may need remedial work for that property. So irrespective of the fact of what you are trying to drive home to me Waikato and Bay of Plenty, it is still addressed to a home owner here in Motueka.
- Q. What I'm getting out there is that Mr Gee is sort of - you've signed something that's gone out which you've been unaware of what the actual contents were and who it was going to, its under your signature but yet we find that Mr Gee is being prosecuted now for the same sort of actions with regard to the gas certificates, what would you say to that?
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- A. Well, I have said that there's a mistake within the content of the letter about Waikato and Bay of Plenty, it is still addressing the fundamental that there is a problem with their site. So whilst I apologise for the mistake, at the end of the day it is still addressing a real concern which is it is a non-compliant site.
- Q. Now, I understand quite some time ago that Mr Gee's lawyer, when he had a lawyer, actually asked to see the Board's copies of the certificates but he was refused and it was only after this explosion occurred that he was given access to the certificates. When I say "refused" he was told that he could purchase each certificate at a cost of \$25 each?
- A. Correct. That was the policy at the time.
- Q. So do you not think it was a wee bit unfair where you've got a person that's alleging abuse of a system and then want to charge him \$25 for a certificate which he theoretically owns because he has purchased them and you are just the keepers of the certificates so to speak, so it's a bit tough charging people for something they already own isn't it?
- A. Yes, I do. But I think also observing the Gas Regulations at the time Mr Gee was obligated to have his own certificates and be able to produce those. And I guess the question has to be why the lawyer couldn't go to Mr Gee and ask for the certificates.
- Q. And if Mr Gee didn't have those certificates, let's say if they were lost or damaged or if he hadn't collected them what would be the case then?
- A. Mr Gee could have approached the Board I'm sure. I'm not sure whether he did.
- Q. He did, he was told \$25 a certificate, so I think at that time it was a total of \$2,800 or something?
- A. (Nods).
- Q. Now, wouldn't it have been easier to work together on this issue with Mr Gee to get to the bottom of such serious allegations, as we do deem the falsifying certificates is a serious allegation, you've already said you believe it's an offence, do you not think it would be good to actually work with him to try and get this result before an explosion actually occurred, because that's what he was alleging that someone would get hurt?
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- A. Well as I said earlier, I wasn't directly involved in it, it was the previous Registrar.
- Q. And what about when you took over?
- A. Well, by then the explosion had occurred.
- Q. Do you recall when and how the Board become aware that there was a problem with information being added after signing to gas certificates?
- A. When the Board became aware?
- Q. Yes, it was mentioned in the OAG report?
- A. Well, I would imagine it would be as a result of the incident to do with Auckland and New Plymouth and here no doubt.
- Q. Were those incidents before or after the explosion, do you recall?
- A. No, I don't. The dates are actually all over the place. They're different - quite different as well in the characteristics exhibited in the different areas.
- Q. But nonetheless it was an issue that was raised by Mr Gee and was also picked up in the OAG report that certificates were being altered, but yet the Board chose not to -
- A. No I don't think the suggestion was certificates were being altered. The suggestion in the OAG report is they were open to abuse, fraudulent abuse in that they were a tradable commodity. So in other words there were some - there was evidence of a certifying gasfitter happily passing out hard copy gas certificates already pre-signed.
- Q. Do you think - this is purely your opinion, do you think if Mr Gee's concerns had of been addressed back in 2004, 2005, or 2006 with regard to the certificates being altered, do you think that the situations that have arisen, particularly with the explosion may have been avoided?
- A. No, I don't. But as I said earlier, that had been investigated basically two registrars ago, so that's my understanding. So - but in my opinion, is no I don't think it would have necessarily changed the order of events.
- Q. Now, I understand that you also asked Mr Hammond or Mr Hammond was asked to look at the issue of the certificates being altered as part of his investigation?
- A. (Nods).
- Q. Was that you or was that the previous Registrar?
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- A. I'm trying to recall, I think it might have been me, yeah.
- Q. And do you know if that actually took place?
- A. I believe so, yes.
- Q. Now, as far as regular maintenance of the equipment goes, who do you think is responsible for the regular maintenance of gasfitting?
- A. The property owner.
- Q. So if the property's not maintained, at what stage do you think the gasfitter's responsibilities should stop if something does occur, as it did in this case?
- A. I think at the end of the day, I mean the legislation is written in such a way it basically transfers the responsibility from the gasfitter at the time of the install, after it's installed the ongoing maintenance of the installation itself then remains the responsibility of the home owner and so that's basically how the legislation is written.
- Q. So if Mr Gee was found guilty say, for example, in this case, what sort of message do you think that would send out to the public about the regular maintenance of gas equipment and such like, if it all fell back on the gasfitter six, seven years?
- A. I can't comment, I don't know -
- Q. You have no opinion on it?
- A. Not really.
- Q. Now, you had a number of - you've already stated you had a number of contacts with Mr Gee and on one occasion you telephoned him, do you remember what the nature of that telephone call was?
- A. No I don't recall. I do recall the meeting with Master Plumbers when we had a meeting with Mr Gee and him wanting to talk about the case and basically saying I can't talk about the case. And that was about the extent of the conversation.
- Q. So you don't recall anything about that phone call whatsoever?
- A. Not specifics, no.
- Q. You'd normally communicate by email?
- A. Various ways, I mean it's a busy office.
- Q. I mean with Mr Gee?
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- A. Not really. I mean most of the emails that we've had from Mr Gee had been widely circulated emails including - Mr Gee is well known for putting stuff out in the public arena. I don't actually comment on those because they tend to be non-specific.
- Q. Now, Mr Gee has been charged with improper and incompetent conduct. Has Mr Gee been issued with a competency based licence for the last six or seven years, annually?
- A. Yes, he has.
- Q. So he must have attended the competency based licensing courses to gets issued with a licence?
- A. Yes.
- Q. Now, how can he be - the Board now be accusing of him of being incompetent when he has been deemed to be competent by the Board as such?
- A. I can't comment on that.
- Q. Can't comment. Now I put it to you that sort of this -
- A. Can I make it clear that I am not the Board, I am the Deputy Registrar, so I can't comment on behalf of the Board.
- Q. But you are the person with most of the institutional knowledge?
- A. Institutional knowledge, yes.
- Q. Now, we were actually looking at a number of gas certificates from the Board's website this morning and there's a substantial amount of information that was missing off them and I understand the Board has been going through upgrading gas certificates and such like, is there a large number of gas certificates which are incomplete on the -
- A. On the database?
- Q. On the database.
- A. Yes there are. It's largely because the - how - basically how it was managed prior to the assimilation of the old database, the old database was a Fox Pro database, it only had a limited number of detail that could be entered into it, so when you integrate that into the new database not all of the stuff matches, so it can't be transferred into the new database, so wait and see with those historical gas certificates, there's basically the
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address, who the gasfitter was, one or two of them might have appliances, sometimes they don't even have the appliances on them, but the back stop to that is the hard copies are still held and we can retrieve those from archives.

Q. Which costs a person if it's a tradesman?

A. No it's free.

Q. It's free now is it?

A. (Nods).

CROSS-EXAMINATION BY MR LAURENSEN

Q. Just one question Mr Uren, you were asked about I think it was suggested that you'd sent a letter to Mr Gee saying something to the effect that no further action was going to be taken about this complaint because they were considered vexatious or something like that, can you just explain why did you write that letter or what did you mean by it?

A. Well essentially because of the fact that - I'm recalling stuff here so you'll have to excuse the odd gap, but in the - in the assessment of what Mr Gee had basically alleged and on the balance of the circumstances we found ourselves in, and the fact that it had been investigated, we just didn't think that there was any foundation to take it any further. In fact it related more to his relationship with the fall out with Mr Darnley, and so we thought that's the basis of why we arrived at that.

MR PARKER

Q. The complaint that is on the table being discussed, what's the complaint about?

A. The complaint Mr Chair is to the effect that it was alleged that these gas certificates were - that they were being manipulated by another person.

Q. And is there an outcome to that as far as the Board's office is concerned?

A. We couldn't find a foundation for that.

Q. And you couldn't find foundation for that in regards to Mr Gee's complaint, did you look any further than that?

A. How do you mean?

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- Q. Well I imagine Mr Gee has identified, I can only assume, either areas or gas certificates that he felt needed attention, on the basis he had alerted it and I think there is some evidence that the Minister was written here and there and you've mentioned about large volumes of correspondence, did you cast your eye further afield than Mr Gee's across the Board's database of certificates to suggest whether or not there was a case to answer anywhere else?
- A. No we didn't.
- Q. Can you perhaps on that basis just give us a very brief understanding on what the Board therefore does with gas certificates?
- A. Well are you talking about the previous processes or are you talking about current processes?
- Q. I'm talking about the gas certificates that have currently been provided in evidence, which are the pink copies.
- A. Okay, that's the old system, the old system, the old hard copy system.
- Q. Okay, it's old hard copy system.
- A. Essentially what happened was we would receive the hard copy certificate from a gasfitter and quite simply they were data entered into the Fox Pro database and then filed.
- Q. So if there's any concern about what is accurate and what is written on the master takes precedence?
- A. Corrects.
- Q. Can you then - I don't think Mr Uren has seen this though, you have referenced these? Perhaps you could show them to Mr Uren. (Witness refers). I think my understanding of those certificates are that they are what is now entered into the database?
- A. Correct.
- Q. But are duplicates of what I would call the master pink copy?
- A. Not strictly speaking because as I alluded to before, the old database in which this was entered into had quite different criteria or fields and so the fields don't match up with the current database, so only what could be imported across could be imported. A large content of - well a large amount of detail in the certificate sits with the certificate that's filed.
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- Q. So just for clarity, if I wished to get to understand which of the two documents represents fact it's the copy in here, the pink copy?
- A. Correct .
- Q. Mr Gordon has raised the issue about who, if you like, was qualified in the process and I think for the certifier, when we're talking about part A or part B they were craftsman?
- A. That's correct.
- Q. Would it be expected that the craftsman having passed those A and Bs would understand how a gas certificate is to be completed and the criteria of the gas certificate?
- A. Absolutely, but also can I add that the - all certification books came out with a guide on the front cover which explains expressly what should go in what cells and be recorded. So the instructions are part of the book of certificates that you purchase.

MR HARDIE

- Q. Just going on from the Chair, when receiving a hard copy of the certificate was it a concern for the office if they identified different handwriting within the structure of that certificate? Was there a red flag that would be raised at all?
- A. No, no there wasn't. You've got to remember too that there have been over a period of you know since 1993 the Secretariat, that is the Board officers have been overhauled on a number of occasions entirely, so the systems were different when it first came in in 1993 through until around about 2000 and then changed to effectively just filing the certificates. I believe in 1993 through to 2000 the certificates were reviewed and were sent back. In fact as a gasfitter myself I used to receive the odd certificate that I had made a mistake to. So they most certainly were reviewed, but with the engagement of Casey Services, the contractual arrangement was pretty well left over to Casey Services to do the scrutinising of gas certificates and that was what they were contracted to do amongst the auditing as well.
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MR BICKERS

- Q. Mr Uren, a certificate has a statement on the top that it is not transferable, is there any instruction issued in relation to that matter?
- A. There may have been, but I'm not aware of any at the moment.
- Q. Would it be a matter of concern to the Board's officers if a book of certificates had been issued to one tradesman and certificates were being returned from another tradesman?
- A. The system was such, no it didn't. In fact when I arrived at the Board in 2006 the person who was responsible for the issuing of books was actually the receptionist, so it wasn't something they would have had the ability to cross-reference one to the other. In fact the system wasn't set up in such a way to be able to do that.
- Q. I think the broader question then is the significance of who orders the books, clearly it should be an appropriately licensed person?
- A. (Nods).
- Q. But after that it doesn't really matter, is that -
- A. That's how it was administered, yeah, largely, is that a person had to hold a current licence could purchase the book.
- Q. So there's nothing sacrosanct about a relationship between - in whose name the book was ordered and who signed it?
- A. No not at all, the onus is obviously on the person who is certifying the work.

MR PARKER

- Q. Could you turn to the folio in front again, the last pack of pages, which is in folio 16 and go to PG 004/2, which is I think the only certificate that I can find that's, as I recall, it's got some adjustments to the certificate, this is the one for 8 Point Road Nelson. Just regarding this certificate, and I know it's 26/4/04 so it's before your employment with the Board. Can you tell me was anyone looking at those certificates to be drawn to that certificate that there may have been a problem, did that alert the Board to anything or it didn't?
- A. No I don't believe so.
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QUESTIONS ARISING BY MR GORDON

- Q. I have got one further question. So in reality these certificates really only come to light if there is a problem that has occurred somewhere and if a tradesman come to the Board and said this certificate's been altered, you know, something's happened, this certificate's been altered, does the Board have any processes in place to deal with that? At that point in time.
- A. Well, the matter would be investigated just like exactly what happened basically with Mr Gee. He raised a concern. Those certificates were recalled I believe by the Registrar, they were scrutinised, yeah it would be dealt with in a similar manner at that time, yeah.
- Q. Okay so an Investigator -
- A. It's a different process now obviously but at the time if somebody raised a concern about a certificate it would be recalled and somebody from the Board would scrutinise that.

MR PARKER

- Q. I have got one other question. There has been some discussion whether the gas certificate and gasfitting and so forth covers 45 kg cylinders and I'm not going to suggest what way I think it does or it doesn't, but in your view the way that these certificates are created and are signed off, and accepting that the cylinders are above the regulator, in your view do the cylinders get covered by certifying work? The installation of the cylinders?
- A. The certificate itself - the energy work certificate basically covers off gasfitting and at the time I understood the regulations placed gasfitting at the outlet of the regulator, so the certificate itself with regards to the cylinders wouldn't cover off the cylinders.
- Q. That's in your opinion?
- A. That's my opinion.
- Q. So the cylinders around that must come under some other legislation, what legislation is that?
- A. I'm just trying to remember which one is it would be. Currently it's administered largely by ERMA for anything over a hundred kg, so that
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would be the HAZNO Act, but there was at Dangerous Goods - there was particulars in the Dangerous Goods Act as well which covered off cylinders.

Q. Were those requirements around cylinder size of relevance under those days, in the time of these certificates, when you mentioned above a hundred kg or below a hundred kg?

A. I'm just trying to remember. Look I'm sorry I can't recall.

(Witness excused)

MR CORKILL QC: Mr Chair, I discussed with Mr Gordon and Mr Laurenson earlier the process from here on because there's still one remaining witness for the Investigator who I gather is not available until 9 am tomorrow morning. What I suggested in order to keep the process moving was whether Mr Gordon would be - would consider calling Mr Gee but only for the purposes of reading his brief and asking any other formal questions in terms of producing exhibits and that sorts of thing, but that the cross-examination would not take place until after the final Investigator's witness had given his evidence in case there was information coming out of that that Mr Gee needs to comment on by way of questions from Mr Gordon. So I'm not sure where you got to on that Mr Gordon?

MR GORDON: We would prefer not to give the statement, but I am aware that we are pushed for time. We'd be quite happy for Mr Gee to read his statement today so we can progress things along but yes, we certainly would like the opportunity tomorrow after the final witness to ask further questions. All I'd really ask for today is if he just reads his statement. All of the exhibits we can produce in bulk if you like, but yes, we certainly agree to the statement being read today.

MR CORKILL QC: So that's my recommendation to the Board.

MR PARKER: So we're just reading the statement and nothing more. That's very good of you, thank you.

MR GORDON CALLS

PAUL BRYNLEY GEE (Sworn)

EXAMINATION BY MR GORDON

Q. Is your full name Paul Brynley Gee?

A. Yes.

Q. Could you please give your evidence?

A. From paragraph 1 is it?

Q. From paragraph 1?

A. "My full name is Paul Brynley Gee, I am a shareholder and Director of Gas Solar and Plumbing Services Limited.

I was born in Cardiff, Wales, UK on 29 March 1972.

Over the period 1989 to 1996 I trained as a gas service engineer at British Gas in Cardiff, Wales. I undertook a four year course comprising a three year apprenticeship and then worked one year as an improver, during which I undertook less significant work under supervision.

When I immigrated to New Zealand on 22nd of February 1996 I was required to re-sit all my qualifications for New Zealand certification except the practical craftsman qualification.

I was registered as a licensed gasfitter around April 1996 and a licensed plumber on 25th of August 2005.

I was registered as a certifying gasfitter on the 15th of February 1999 and a certifying plumber on 31st of May 2007.

Since that time I have maintained both licenses and have retained competence status by attending upskilling and participating in the Plumbers Gasfitters and Drainlayers Board gas audit scheme.

I have had no disciplinary issues in that time.

In February 2003 I moved to Nelson and took up a position with a company called Allgas, which at that time was operated by Mr John Darnley.

From memory I had not used my certifying status to issue gas certificates prior to starting with Allgas. I believed I was working for a reputable firm

and was in the employment of an experienced, qualified tradesman, namely Mr Darnley. As time went by I began to believe otherwise.

As my time progressed with Allgas I had great concerns with the processes and procedures that were being used and as a result I came into conflict with management on several occasions. On one occasion I was told by Mr Darnley that if I didn't sign gas certificates I would be fired and he would get someone who would.

My time with Allgas was less than satisfactory and on 6th of November 2003 an incident occurred where I questioned Avis, Mr Darnley's wife, who worked in the office regarding the install of a water heater to a spa, which contravened the manufacturer's instructions which were labelled in large letters on the box. A non-tradesman, David Bergemann, the son-in-law, interjected and put in his 20 cents worth.

The situation became volatile and I took time out in the workshop. I was later very frustrated when I attended the water heater job and found that Mr Darnley had quoted for an illegal install, namely the gas cylinders were beneath a carport with no protection from any vehicles and added to the fact that the califont was to be fitted to a spa in contradiction to the large warning printed on the box, that I had earlier tried to bring to their attention.

I later received a warning from Mr Darnley which was not surprising due to our deteriorating working relationship. Mr Darnley personally gave me the letter on or about the 13th of November 2003. As I read the letter in his presence I was told - as I read the letter in his presence I told him I would be resigning.

I know the claim - I note a claim has been made that I was intoxicated at the time of the altercation as this is under the heading of serious misconduct in my employment contract and is against Shell's own policy, I

am confused as to why this has only just come up now and was not part of my written warning. I totally deny this statement and it is backed up by a statement by Tim Armstrong, provided to the Board who witnessed the whole incident.

As a result of the unsafe practices and deteriorating employer employee relationship I tendered my written resignation on 19th November 2003. My resignation letter is dated 19 December which is a mistake as my last day at Allgas was the 2nd of December 2003 which was my week's notice period.

It is worth noting that whilst at Allgas no gas certificates were purchased in my name until I had verbally resigned directly after receiving the written warning on the 13th of November 2003 and then Allgas orders four books in my name on the 14th of November 2003 and paid for them on the 17th of November 2003. This shows the type of devious behaviour that the office staff at Allgas was capable of.

As soon as I became aware that something wasn't right with the certification processes at Allgas I refused to sign quite a large batch of certs, and this was just before I left. Ever since leaving Allgas I have attempted many times to notify the Board, Members of Parliament and industry interest, both formally and informally.

I believe there is evidence of someone at Allgas adding informs to certificates after my signing. There were approximately 89 jobs signed off in my name while I worked at Allgas. The issue of work being added to the certificates after they have been signed is something that I made the Board aware since 2004 but it has fallen on deaf ears.

I attempted to get copies of the certificates from the Board to check but was told by them that I would be charged \$25 per photocopy, for 89 certs, amounting to \$2,225. Due to the cost I did not get the certificates.

On one of the more recent times I was told in a letter by Mr Kern Uren that my bringing up of this to the Board's attention was vexatious.

I was very concerned some of those certificates had been altered and that an incident may occur. My concerns were founded. I did everything in my power to get the Board to look at the issues over a number of years, but they did not.

As a result of the investigation into me I have been supplied with copies of the certificates issued in my name which was about the time that I realised information had been added, up until then I had thought that someone was forging my signature or altering them in some way. I had approached Nick Smith and said that the first two lines were blank on a certificate pertaining to Haven Road. I have stood firm by my stance of added information since seeing these colour copies.

Certificate 286036, exhibit PG 001, the pink master copy has the address number added but it is not on the blue carbon copy.

Certificate 273489, exhibit PG 002, the pink master copy has the appliance quantity column filled out but not on the blue carbon copy. It is of note that the work I deny doing is filled out in two different colour pens.

Certificate 286059, exhibit PG 003, the pink master copy has my license number of date of signing, both different colour ink, but this is not on the blue carbon copy, none of this is in my handwriting.

There are several other certificates and job cards that do not correspond to what work I did, but the ones above are the only ones with definite information that is on the pink master copy but not on the blue carbon copy that I am aware of. The Board seems to have ignored the fact that the certificates have been altered after signing.

Attached as exhibits PG 004/1, PG 004/2 and PG 004/3 are gas certificates showing the manner in which some certificates were altered and submitted without question.

When the explosion occurred at the Milton Street Fish and Chip Shop I voluntarily came forward to the Department of Labour and told them what work I had done and about what I had tried to warn about for years, including my concerns about Allgas and the Board's inaction.

In June 2006 I was taken to pipeout - in June 2006 I was tasked to pipeout for an LPG installation at the Milton Street Takeaways, 136 Milton Street, Nelson.

I installed the pipework from the gas cylinders up to and including the bayonets only. These were installed as per current legislation and work practices. All pipework and wing backs were secured to the wall at the height indicated by the screw holes shown in the Board's photographs, examples of my pipework can be seen in the Board's own photos from the audits, ie, straight, on the level, at 90 degree to the bend and securely fixed.

The job sheet exhibit PG 005, shows pipe size of 25, 20 and 16 mm, a test pressure of 2.75 KPA for five minutes, install bayonets and test, pipe materials used and hours of six which is all in my handwriting - all in my writing. Other entries on the job sheet are not in my writing.

On the same job sheet I have noted there is a second test result in someone else's hands which matches the handwriting that is written in the appliances on the job sheet.

Someone else's handwriting has filled out the commissioning procedures, which would require the fryers to be on site.

The material I used was half a metre of GNB pex gas pipe, 16 times 2.5 mm, 12 metres of the same gas pipe and six metres of the 25 mm gas pipe, one inverted flare tee connector, one times two stage regulator, four times crimp elbow, 26 times 26 mm, one times 26 by 20 mm crimp straight connector, two times 16 mm by half inch crimp wing backs, 40 times 20 mm Bute clips, one times 20 by 16 by 16 mm crimp reducing tee and two times bayonets.

I tested the pipework and the fittings. It was standard practice for me to carry a 9 kg gas bottle to commission pipework and appliances prior to the delivery of the larger 45 kg bottles, but for this install the 9 kg wasn't required as no commissioning of any appliances took place, I conducted a leak test only with air and did not purge.

I did not install the LPG bottles, fryers or any other appliances at 136 Milton Street.

The process for the completion of the gas certificates at Allgas was that the office staff would fill in the gas certificates based on the job sheet which we would sign. This process was in place before I started at Allgas and I was told by my employer, John Darnley, was an acceptable practice.

I recall asking about that certificate and it was John Darnley who pointed out the pipework box being ticked and said this was fine as that is what I had done. I had limited experience with gas certificates, about six weeks. Just - I'd forgotten about the ones in Dunedin. And all my instruction had come from Mr Darnley and I had no reason to doubt him. I have since taken two times CPD courses on legislation.

I signed the gas certificate number 282245, exhibit PG 006 for the work I had completed which was for the pipework only. The gas certificate

shows the test date of the 15th of the 6th 03. This was the approximate time I signed the certificate.

The gas certificate shows two fryers on the description of work. This information was added after I signed the certificate. None of the writing on the certificate is mine except the signature.

In hindsight I made a mistake in trusting my employer and office staff not to make any untrue/false additions or alterations to the certificates after signing. I also trusted them to put in administrative information such as certifier's name, address, registration number and date of signing.

I believed I was working for a reputable firm and relied on employer employee trust.

I have been shown photographs of 136 Milton Street and note the pipework is not the same as when I installed it. The bayonets faced the same way, to the side, not to the floor, when I installed them, and they were secured to the wall.

It appears that the left-hand bayonet has been turned by straightening out the 90 degree bend to accommodate the waste pipe when the pipework was lowered. The pipe leading to the bayonets appears to slope downwards. I fitted the pipework on the level and at 90 degrees to the fittings. Both bayonets faced to the side.

I screwed both wing backs to the wall and the photographs show the screw holes on the wall.

I have checked for other work done at the site and a gas certificate was issued for a pizza oven certificate number 345138, exhibit PG 007. The writing seems similar to that for the additional work on the job sheet for Milton Street.

I have viewed photographs supplied to me by the prosecution and note that the materials used at the gas bottles is different to what I installed and certified. The photograph exhibit PG 008 shows the type of inverted flare tee connector I installed, which has been replaced with two times 3/8 M&F gas valves, two times 3/8 thread inverted flare connectors, one times 3/8 galvanised tee and one times 3/8 galvanised nipple.

I believe the gas cylinder station would have been altered to accommodate for the added energy draw for the pizza oven which would allow both cylinders to operate simultaneously with less restriction of gas flow.

The photographs supplied by the prosecution shows the wing backs have been removed form the wall, the gas cylinder station has been altered and the gas certificate issued for the install of a pizza oven mid stream on the gas line show me nothing is as I installed it. The entire system has been altered in some way.

In July 2003 I was tasked to extend the gas supply and install a fryer at 73 Main Road, Havelock.

I extended the pipe using a 15 mm copper bend, a 20 mm M&F and four metres of copper pipe. The pipe was extended along a wall and the fryer was position approximately one metre from a doorway to the left of the unit. My job sheet drawing, exhibit PG 009, shows the fryer position away from the doorway.

I installed a restraint chain in the appropriate manner to prevent tipping and also the hose leading to the fryer was installed in such a way as to not be susceptible to damage.

I have been shown three photographs of the fryer installation. The fryer is not in the position I installed it and the restraint chain and pipework is not as I installed it. The fryer has been moved.

The second photograph, exhibit PG 011 shows a chain connected to the fryer and a rubber flexible hose. This is not the manner or the location it was installed.

The third photograph, exhibit PG 012 shows a photograph taken from behind the fryer looking down onto the bayonet and chain. This is not the manner or location the fryer was installed.

On 21st 08 2010 I went to 73 Main Road to see if the fryer was in the same position that I had installed it in. I found that the place has been totally gutted and it is presently being refurnished; there is no evidence of my original installation for me to check.

In April 2003 I installed a Bosh 22E water heater at 68 Greenwood Street, Motueka. On or about 1st of May 2003 I signed gas certificate number 278223, exhibit PG 013 to that effect.

I have been shown a photograph of the cooker installation and it is not my work. I believe that the cooker was installed after I installed the water heater and then added to the certificate after I had signed it, as told to Mr Hammond at interview.

I used yellow pex gas pipe for the install on the Bosh 22E and photograph exhibit PG 014 clearly shows the yellow pipe and where someone has installed a tee and run the feed to the stove in white pipe. I have only used white pipe, with the corresponding uni pipe fitting, on one occasion and it was not at Greenwood Street, I remember it with clarity as it was the first time I had seen it, ie plastic pipe and I had to add LPG stickers to identify the pipe, this type of pipe was first shown to me by Mr Darnley.

I did not install a cooker in the kitchen at that property. The information about the cooker installation on the gas certificate has been added after I signed it.

On 3rd of the 8th 10 I visited 68 Greenwood Street to ensure that the appliances were safe. After checking, questioned the customer. I said has anything changed since the cooker was installed? Mr Donnelly replied that the kitchen was fitted after the cooker was installed and because the chain was in the way of the new kitchen, the kitchen fitter removed the chain.

While there I took a photograph of the rear of the cooker, exhibit PG 015 which shows some scuffing consistent with a chain swinging and marking the back plate on the rear of the cooker. The corresponding screw is the only screw that is not sitting flush to the back plate and has an indentation around that said screw which is consistent with chain link biting into the back plate.

During the course of the conversation Mr Donnelly said he remembered a middle age, bald, shaven headed man on the second visit who fitted the cooker and he recalls having hot water, but being unable to cook, and that the cooker was fitted on another day.

In July 2003 I installed a Rinnai RF1004 LPG heater at the 8 Ball Unit, Pah Street, Motueka.

The gas cylinder site was situated and the end of the building in an enclosed area. There was no vehicle access to the area. Photograph exhibit PG 016 shows a view of the site as it was when the job was done. The fence lines and enclosed area where the cylinder station is can be seen at the end of the building.

Photograph exhibit PG 017 shows the site as it is now, which is substantially different and allows vehicle access up to the area of the bottle station. The carpark has been re-sealed and altered since the installation and signing of the certificate. There was no vehicle access to the area of the bottles when the heater installation was done. The tarmac has been altered and re-laid and this happened after the cylinder pad had been laid.

Photo exhibit PG 018 shows where the hot mix had been altered from about 5 metres out from the building to the bottle station.

The bottles were not on site when I did the job. I would carry a small gas cylinder to purge and commission installs. My van was too small to carry the cylinders and any enclosures. I would refuse to carry the cylinders as my hazardous goods driving endorsement for my driver's license had lapsed. My refusal was to the disappointment of Mr Darnley, who asked me several times to carry cylinders in the van regardless.

I set up the bottle station including the chain. I was unaware that an enclosure was to be fitted as no-one mentioned it to me and the site at the time of installation didn't warrant one.

Can I just add there that at the time I thought it was a bowling green, you know, with a bowling green right next to it, the black thing.

I signed a gas certificate number 286049 for the work I did which did not include an enclosure.

If I had known an enclosure was to be fitted no chain would have been installed as the cabinet would provide the seismic protection. Photo exhibits PG 019 and PG 020 show that the chain is fitted to the bottles.

Photo exhibit PG 021 shows the enclosure fitted and that the enclosure had been cut around the pipework indicating it was fitted after the initial install.

Even though I did not know about the enclosure I would have thought items being bought by Allgas would have been compliant.

In January or February 2005 I installed an Infinity 20 LPG water heater at 37 Dommatt Street, Westport, gas certificate number 349722.

While employed at Allgas I questioned on a number of occasions the installation clearances and had refused on a number of occasions to install califonts without the vertical clearance to the openable windows. Mr Darnley supplied me with a document faxed from Rinnai New Zealand, exhibit PG 022. Can I just clarify there, that I was relying on Rinnai's knowledge and not Mr Darnley's there, as was the position from Rinnai, the biggest califont supplier in New Zealand. The document provided installation clearances distances for a Rinnai Infinity Flush Mount kit for use with Infinity 32 and Infinity 26. This was the justification given to me for the clearances.

I kept this document which is dated 20 August 2003 as I thought it was a reference document which was relevant to my work. I believe that up until very recently the document was still on Rinnai's website, so I thought it had jurisdiction. I know the letter is on the Rinnai NZ trade smart website.

Am I allowed to add to my statement?

MR CORKILL QC: Sure.

EXAMINATION CONTINUED BY MR GORDON

- A. I have checked - I have had an email from the service department of Rinnai who said they only stopped using the R 14 document two years ago.

As I was installing a unit with a lower mega joule rating than the units detailed in the letter I believed I would be well within the clearances. I raised the califont to clear the adjacent lean to roof, and arranged with the customer to screw shut the window, as she had painters with scaffolding there within a few days. This was an added precaution as it was a bedroom where people would be sleeping.

I installed the Infinity water heater at Dommett Street with the honest belief that the clearances I had allowed were well within the clearances required based on the information I had been given by Mr Darnley and backed up by a reputable firm like Rinnai.

I had asked the Board on previous occasions for technical advice and was told by Colleen Singleton, amongst others, to ask my colleagues within the industry and industry providers, I thought I was following the Board's instructions.

Note 6 of Table 16 of NZS 5261:2003 states some gas appliances may be suitable for closer installation -- refer to the manufacture's instructions.

Appendix F of the New Zealand Standards 5261:2003 Section F6, further guidance on the flue design, refers to overseas standards and states further detailed guidance on the design of all types of flues is provided in AS5601 and this or similar information from overseas standards should be referenced if required. The Australian Standards are referred to throughout the NZS 5261:2003.

The tech note was for a flush box which would put the flue spigot nearer the window than if the appliance was fitted on to the wall, see exhibit PG 023. The heater in question was fitted to the wall and not on the flush box.

Can I just turn to PG 23? Where I drew the dotted line that's not meant to represent the fumes, that's meant to represent the clearance line, so that if it was in the wall, which would be the right-hand diagram, it would put the spigot nearer the window in relation to that line, but if it was mounted on the wall then that line in relation to the window would be further proud of the window, and these have got quite a strong exhaust fan, it shoots it right out, they don't drift up as Mr Hammond said, that line has nothing to do with the fumes as I intend. Where was I?

Based on all those facts I believed that the installation was correct and that I had sufficient information to confirm the safety of the installation. I did not purposely install the unit in an illegal manner.

In light of this, my interpretation of the standards and the fact there are no gases entering the house, I believe that it complies with the compulsory part of the standard, Part 1 and Part 2 of the standard being acceptable solutions which are not compulsory.

I was satisfied on reasonable grounds that the installation was compliant and safe.

In June 2006 I installed a Bosh 25 water heater at 6 Malvern Avenue, Atawhai, bas certificate number 388566.

While employed at Allgas I questioned on a number of occasions the installation clearances and had refused on a number of occasions to install califonts without the vertical clearance to openable windows. Mr Darnley supplied me with a document faxed from Rinnai New Zealand exhibit PG 022. The document provided installation clearances distances

for a Rinnai Infinity Flush Mount kit for use with Infinity 32 and Infinity 26. This was the justification given to me for the clearances.

I kept this document which is dated the 20th of August 2003 as I thought it was a reference document which was relevant to my work. I believe that up until very recently the document was still on the Rinnai website, so I thought it had jurisdiction. I know that the letter is on the Rinnai NZ trade smart website.

As I was installing a unit with a lower mega joule rating than the units detailed in the letter I believed I would be well within the clearances.

I installed the Bosh water heater at Malvern Avenue with the honest belief that the clearances I had allowed were well within the clearances required based on the information I had been given by Mr Darnley and backed up by a reputable firm like Rinnai.

I had asked the Board on previous occasions for technical advice and was told by Colleen Singleton, amongst others, to ask my colleagues within the industry and industry providers, I thought I was following the Board's instructions.

These are repeated do I have to repeat them or -

MR CORKILL QC: They are a repetition of what's on the previous page aren't they?

WITNESS: Yeah.

MR CORKILL QC: I think we can take it as read Mr Chairman. Where do you want to pick it up again?

EXAMINATION CONTINUED BY MR GORDON

A. I think it goes back to the last few points for that one.

I was satisfied on reasonable grounds the installation was compliant and safe.

I understand that this is a Bosch appliance and not a Rinnai appliance; but they are very similar to each other, if not identical in their construction and performance as per tech sheets for each model, only differing in their mega joule rating, with the califont installed being 20 percent smaller in capacity to an Infinity 32 mentioned in the tech note. An Infinity 32 being 250 mega joule and a Bosch 25 being 200 mega joules.

In September 2004 I made an alteration to pipework to an Infinity 32 at 5 Powick Street, Westport. The job is marked as 5 Park Street, Westport on gas certificate 319000; issued 21/10/04, exhibit PG 024. It is marked on this certificate that the job was an alteration.

The gas certificate indicated the alteration was a Rinnai Infinity 32 serial number 01 04000095. I phoned Rinnai and the tech desk told me that the 01 indicates the year of manufacture and the 04 is the month. I believe this was a unit installed in July 2001 under gas certificate 207397 which would correspond with the date of the serial number. I did not do the original installation.

My invoice for the job, exhibit PG 025 under the name Gas Energee, my previous trading name before I re-sat all my plumbing qualifications, shows that I only re-ran the pipe to a califont, ie, from an existing supply to an already installed unit not "units" as I did not do the plumbing or hand the califont. I only re-did the pipework in between.

I had marked the certificate 319000 "vent around cylinders to be sealed", this only applies if the vent is within one metre of either side of the

cylinders and would not be visible where the photos show the cylinders now.

This job was organised through Allan Walker through Craddock's Caltex Westport and payment was made by them Exhibit PG 026.

I do not recall having met Mr French or being shown any drawings by him or anyone else, but it is a long time ago.

I have been shown a photograph of the gas bottle installation. I do not recall this installation and as sub floor vents are not visible, ie below the deck as per photos provided, I believe the cylinders were in another position, ie, the original position. It is hard to tell from a limited photo of a part of a building that I only visited once, for a few hours, six years ago.

I was unaware of there being two times Rinnai califonts, a first and second, until I read Mr French's statement. I refer to the job, on my job car and invoice, as being for the re-running of gas piping only, no plumbing of water pipes or moving of gas cylinders, to a califont, singular, as part of an alteration. Apparently the other califont is an Infinity 20 and not a 32. In fact I have since found out it's a 24. Supplying a bathroom only at the back of the house. I would have thought the auditor would have recognised this differing of capacity and model.

I had no involvement in the positioning of the new or old cylinders, only an alteration of the pipework to a unit, not two units, as per my invoice and job sheet, my paper work doesn't mention the moving of any cylinders or the installation of an extra califont, the certificate only shows one unit, a 32 not a 20. Perhaps the cylinders were moved as part of the install for the extra califont. I believe the cylinders were in their original position when I altered the pipework as I wouldn't install cylinders within a porch area. And I'd just like to add there, I have never ever fitted any cylinders without a hook and chain.

During the course of the investigation the Board sent out letters to six of my customers as the result of audits conducted. The letters were the culmination of the audits and contained defamatory statements and false information which in my opinion have contributed to the downturn in my business and for the last two years put my credibility into question, exhibit PG 027.

Q. Thank you Mr Gee.

MR CORKILL QC: Is that as far as you want to take it?

MR GORDON: Yeah that's as far as we'd like to.

MR CORKILL QC: Mr Chairman I think that's probably as far as the evidence is going to be able to go today.

There's one matter that I have discussed with both representatives which relates to the issue of closing submissions. This is a case involving seven sites and a fair degree of complexity. It's also a case which is obviously extremely important as far as Mr Gee is concerned and my recommendation, having discussed this with both the representatives, is that consideration be given to hearing the evidence, but then setting a fairly tight timetable for closing submissions to be submitted in writing. There's several advantages of all of that. The first is that the parties will not be required, if you like, to make oral submissions immediately after a fairly lengthy cross-examination. It means that the closing submissions can be an opportunity to pull together quite a lot of complex information and it can ensure - the parties can each ensure that the Board is being asked to consider a range of information in the best way possible from the parties' points of view.

I discussed a tentative timetable with those representatives earlier and I think Mr Laurensen where we got to was late Tuesday of next week for

your own submission, which is the 10th of May. So that would be filed and served and Mr Gordon you would receive the Investigator's submission on that day. And that you yourself would file and serve your submissions in reply on 13th, which is the Friday, now first of all I'll just check with both of you that that is still an acceptable way forward?

MR LAURENSEN: Yes.

MR GORDON: Yes that's fine.

MR CORKILL QC: And although the Board might want to just reflect on this, although I think it's probably important to indicate to the parties tonight whether that course is going to be followed because otherwise they're going to have to think about presenting submissions tomorrow. I think it would be better if they knew now.

MR PARKER: Shall we just have a break for five or ten minutes and just adjourn while we consider that? .

ADJOURNED [4.44 PM]

RESUMED [4.45 PM].

MR PARKER: Thank you. So we've considered the recommendations by counsel and what he's discussed with you regarding written submissions. I'll tell you what the Board has agreed to. Yes it would accept the position around written submissions. The timing I think as you agree Mr Laurenson for yourself is end of business on the 10th of May.

MR CORKILL QC: Yes.

MR PARKER: I think tentatively the response from Mr Gordon was that the 13th of May would be sufficient. But the Board would prefer that is in fact end of business on the 16th.

MR GORDON: Away from black Friday, that sounds good.

MR PARKER: I think in all fairness, you get time - we've got to get it to you and you've got to look at it, and there is no reason to pressure it but to have a reasonable time. So end of business on the 16th of March. All right.

MR GORDON: Thank you.

MR CORKILL QC: So we adjourn now to tomorrow morning.

MR PARKER: So that being the case we'll adjourn now to the morning. Now I was going to ask is it worth starting any earlier tomorrow, go for 8.30 I don't know that it helps us much because your witness is not going to be available.

MR LAURENSEN: The probable is has always been Mr Neal has in Melbourne, getting back sort of midnight tonight and the earliest flight he can get on to getting him down here, he arrives in at 8.50 Nelson.

MR PARKER: So we'll go for 9 o'clock start.

MR CORKILL QC: I'm just having a discussion about if something goes wrong with Mr Neal's travel arrangements. I guess we better have telephone communication or you perhaps Ms Phillips with Mr Laurenson and Mr Gordon and perhaps myself and we can sort out what that might or might not mean. But we will keep our fingers cross that the travel arrangements work.

MR PARKER: He's coming in tonight late and then coming over early in the morning?

MR CORKILL QC: Yes.

MR PARKER: So just picking up on that point if something went wrong tomorrow he could well join in by teleconference, if the flight -

MR LAURENSEN: It would be fine with me certainly.

MR GORDON: We were just discussing about if there was a need for Mr Neal or such like for tomorrow.

MR CORKILL QC: At all?

MR GORDON: At all. We're quite happy to start the final questions and the cross-examination first thing in the morning.

MR CORKILL QC: The only snag about that is that I do not want Mr Gee denied the opportunity of talking to you about whatever evidence Mr Neal might give before he's questioned. I mean do you have a view about that Mr Laurenson? I suppose it's possible to question Mr Gee on matters other than Milton, but I don't want - I don't want to interrupt the flow of cross-examination and all that sort of thing.

MR LAURENSEN: No, I agree. I mean whatever Mr Gordon wants I think, I don't think it will save too much, I don't think Mr Neal is going to take long.

MR CORKILL QC: Can I just throw out another idea which may be totally inappropriate but in view of the indication about whether Mr Neal is still needed, I understand you still have some questions of him, my question is this is a plan B, which might allow the Board to start the Board a bit earlier,

deal with Mr Neal through the phone by telecon from Wellington or Auckland or wherever he may be?

MR LAURENSEN: If that's acceptable.

MR CORKILL QC: If it can be set up. Ms Phillips is that doable to do you think?

MS PHILLIPS: What is the timeframe for tomorrow morning?

MR CORKILL QC: 8.30.

MS PHILLIPS: 8.30. We can certainly attempt it.

MR CORKILL QC: I think let's leave it on the basis with you and perhaps people better tentatively think of being here at 8.30 but if it changes then a message will go around round to that effect, that it's actually 9 o'clock, not 8.30.

MR GORDON: That's fine, just as long as he's got a copy of the photos for reference then that would be the only thing we would need.

MR CORKILL QC: Mr Laurenson, does he have a copy of the bundle with him and all the photos?

MR LAURENSEN: He's got a copy of his statement which has all of the photographs that he took which are 1 to 17 I think, he won't have a copy of the other photographs.

MR PARKER: I think what I'm hearing is we perhaps play it safe and see what happens in the morning. If he makes it he makes it, and if he can come by teleconference and that's all right. Teleconference is the second option versus arriving in person. So are we trying to contact him in the meantime to arrange teleconference I think?

MR CORKILL QC: If you can although the fellow is involved in international travel it may all be optimistic so it may be that it's not feasible in which case you better go with the arrangements you have already got.

MR PARKER: 9 o'clock.

MR CORKILLD QC: Indeed.

ADJOURNED [5 PM]
