

1                   5                   IN THE DISTRICT COURT  
0                   5  
1                   7                   ADMINISTRATIVE AND DISCIPLINARY DIVISION  
0                   7  
1                   9                   GUARDIANSHIP AND ADMINISTRATION ACT  
0                   9  
1                   11                  ADELAIDE  
0                   11  
1                   13                  BEFORE HIS HONOUR JUDGE SMITH  
1                   14                  ASSESSORS           DR C. BRANSON MS RIVETT  
1                   17                  NO.488/2004  
1                   17                  ASSESSORS  
1                   19                  RE                   PHILIP STEVE STILIANOS - APPELLANT  
1                   21                  PROTECTED PERSON                   ERINI STILIANO  
1                   27                  TRANSCRIPT OF PROCEEDINGS  
1                   27                  PROTECTED PERSON  
1                   29                  MONDAY, 15 NOVEMBER 2004 AT 10.20 A.M.  
1                   29                  PROTECTED PERSON  
1                   33                  MS J. CORKHILL FOR PROTECTED PERSON  
1                   34                  MS L. MCPHARLIN FOR PUBLIC TRUSTEE  
1                   35                  MRS ANNA AND MR STAN ITSINIS IN PERSON  
1                   36                  MR GARY STILIANO IN PERSON  
1                   37                  MR PHILIP STILIANOS IN PERSON  
1                   38                  MS IRENE STILIANO IN PERSON  
2                   1                   HIS HONOUR       Who is prosecuting the appeal? This  
is your appeal against the orders made by the guardianship board?  
2                   4                   MR P. STILIANOS                   Yes.  
2                   5                   HIS HONOUR       Are you ready to tell me why we should  
interfere with the orders that have been made by the board?  
2                   8                   MR P. STILIANOS                   It's in my submission, I  
don't know if that has been previously read.

2 10 HIS HONOUR I've read most of the papers that are before the board. You want us to interfere with what the board have decided, don't you?

2 13 MR P. STILIANOS Well, the board's decision is based on information which is now obsolete and it was based on information which was incorrect advice they received from the Public Trustee, or whoever, as indicated in the statement of reasons, which I only got Friday night. It's a very incorrect premise it opens up.

2 19 HIS HONOUR You want to draw attention to those matters?

2 21 MR P. STILIANOS I do.

2 22 HIS HONOUR So you can take it we have all got the reasons, so if you are going to go to a place in the reasons you should tell us where you are.

2 25 MR P. STILIANOS On p.6 in the material before the board.

2 26 HIS HONOUR We have only got one set of reasons.

2 27 MR P. STILIANOS In the fourth paragraph which sets the scene for everything else. In the fourth paragraph, the long one, p.6 says: 'The applicant is allegedly the sole beneficiary of the protected person's will.' That's incorrect. There is three beneficiaries.

2 33 HIS HONOUR You are the major beneficiary, are you?

2 34 MR P. STILIANOS I'm the beneficiary of the Rhodes estate, the alleged beneficiary of the sole estate; the Rhodes estate.

2 37 MR ITSINIS That's wrong. It doesn't state anything like that as far as we know.

3 1 HIS HONOUR What we are going to do is we are going to each have a say separately. So you make a note of the things that you say are wrong and then I'll hear from you. We will let everybody speak in relative silence, except I might interrupt.

3 6 HIS HONOUR

4 1 MR P. STILIANOS These properties, according to Mr and Mrs Itsinis, were intended to be distributed to all the children of the protected person by her husband. That will be incorrect too because one of the beneficiaries, my brother George, was deliberately excluded and Stan put in place by my father - allegedly. We have the proof in the form of emails. On to the next sentence -

4 9 HIS HONOUR So what was the point you were making there: these properties were intended to be distributed. Is that what you are challenging there, is it? What was the point you just made?

4 13 MR STILIANOS That one of the children was excluded and Stan, a non-blood relative, was put in his place illegally. That's the point I'm making. I don't know where this information came from. He apparently died, tried for arrangements to be put in place leaving his estate to his wife.

That is grossly incorrect. It wasn't his estate. Never his estate. I would like to know where that bit of information came from. Is the Guardianship Board representative here? This is their statement.

4 23 HIS HONOUR No, the Guardianship Board is the subject of your appeal. So they don't come here and argue to your allegations.

4 26 MR P. STILIANOS Where did they get the information that it was his estate?

4 28 HIS HONOUR Does this matter?

4 29 MR P. STILIANOS It does because it would have been prejudiced.

4 31 HIS HONOUR Why does it matter if -

4 32 MR P. STILIANOS If they received this information before the hearing, we were not informed of that. They would have had a preconceived view. It matters because they go on to say that the administrator has acknowledged that there may well be a challenge to the protected person's Will on her death. That would be the case if it was his estate, I would agree. I wouldn't even be here challenging it.

5 2 HIS HONOUR Do you agree there is likely to be a challenge to the Will on the deceased?

5 4 MR P. STILIANOS If it was my father's estate, they would all be entitled to it. I wouldn't agree with my mother distributing what my father had intended for all of us. That wasn't his estate. Never was. It's crucial and the public trustee and the Guardianship Board appeared at the hearing with this knowledge. I was unaware of it.

5 11 HIS HONOUR Have you got a copy of the administration order in front of you, the order made by the Guardianship Board on 26 August?

5 14 MR P. STILIANOS Somewhere.

5 15 HIS HONOUR That is what you are challenging, isn't it? You're saying that order is incorrect.

5 17 MR P. STILIANOS It's incorrect. If the board did not have preconceived ideas, okay, they may have gone along with my recommendations.

5 20 HIS HONOUR You want to be the administrator of the estate of the protected person, your mother, don't you?

5 22 MR P. STILIANOS Not necessarily. It's a voluntary position.

5 24 HIS HONOUR What is it you challenge about the order?

5 26 MR P. STILIANOS The main thing is that Philip Limberis was rejected, in Greece, to manage to be the main liaison point. We don't have a liaison point. It needs somebody over there and there is no reason why he should be rejected, apart from prejudice, based on them believing that the estate was my father's, which it wasn't. All through the transcript it is rejection after rejection with no reasons. It's prejudicial rejection.

There is nothing in there that does anything for Erini. She, too, is seen as a bad woman doing this to her husband.

5                    37                    HIS HONOUR        No-one is seen as a bad person in this. What the point is that the Guardianship Board were at pains to be careful about was having an administrator who was truly independent given the state, if you like, of disquiet in the family over the Will. Don't you think that is a good idea? The people with a conflict of interest, that the orders be made such that what's done with the estate can be done by people who are truly independent?

6                    8                    MR P. STILIANOS                    Yes, I was the applicant, okay.

6                    9                    HIS HONOUR        You have got a conflict of interest though, haven't you?

6                    11                    MR P. STILIANOS                    I don't have a conflict of interest because I'm protecting Erini.

6                    13                    HIS HONOUR        You have got a major conflict of interest, haven't you? You are a major beneficiary under the Will, aren't you?

6                    16                    MR P. STILIANOS                    That is my mother's decision.

6                    17                    HIS HONOUR        But that's the fact, isn't it?

6                    18                    MR G. STILIANO                    Can I ask why that is a conflict of interest? It may seem obvious but -

6                    20                    HIS HONOUR        The administrator, by definition, is a person who acts without fear or favour or without any interest in his or her own welfare. If you have a vested interest, if you have a major interest in the estate, the appearance is that you might have difficulty acting in the best interests of the wider estate. It may be that you are the fairest person on earth and you won't let that affect you but it is the appearance, isn't it?

6                    29                    MR G. STILIANO                    The point I want to make is that he would obviously act in the best interest of the estate because he's the major beneficiary.

6                    32                    MR P. STILIANOS                    That's right, that's logical.

6                    33                    HIS HONOUR        It would be seen that it would have the appearance, wouldn't it, that he might be inclined to see how the estate is managed in his own interest to ensure his own benefit.

6                    37                    MR G. STILIANO                    It might be seen as that but none of the siblings will agree with that. Is there any evidence that that would be so -

7                    2                    HIS HONOUR        There is no unanimity at the table here about you being the guardian, is there?

7                    4                    MR G. STILIANO                    It's in his interest to optimise the estate and it is in the interests of anyone who wishes to challenge it later for him to optimise the estate.

7 7 MR P. STILIANOS There is nothing I can  
gain from the estate; it is land.

7 9 HIS HONOUR I don't want to enter into a debate  
with you about it. You have an obvious conflict of interest. I think the  
Guardianship Board were correct about that and, therefore, it is important that  
the person in charge of the estate, the administrator, be truly independent so  
nobody gets the impression that anyone is acting in their interest rather than  
the wider interest of the estate.

7 17 MR P. STILIANOS That's a minor  
consideration, that is not my major consideration, as to who the administrator  
is. It is truly a voluntary position. The main thing is that we have somebody  
in Greece representing us, Philip Limberis, what is their problem with that?

7 22 MR P. STILIANOS

8 1 MR ITSINIS It is -

8 2 MR P. STILIANOS I don't see any -

8 3 HIS HONOUR Is that because Mr Limberis is a  
contact of yours, is he? Is that why you object?

8 5 MR ITSINIS Not only that.

8 6 HIS HONOUR But the Public Trustee is going to  
confer with Mr Limberis about squatters being on the land, etc.

8 9 MR P. STILIANOS We've established that  
there are no squatters because we've located a leasing document. That is  
obsolete now, the whole thing on squatters. There's a leasing document, which  
Stan had retained without disclosing it to anybody and it took a lot of effort  
from the Public Trustee and myself to procure that leasing document. My efforts  
produced quite a substantial benefit for Erini, the protected person. She's now  
several hundred thousand dollars in front.

8 19 MR ITSINIS What's that?

8 20 MR P. STILIANOS Where's the conflict of  
interest there?

8 21 MR ITSINIS I didn't hear the number, the last  
number he said. What did you say about I'm in front, or what?

8 24 HIS HONOUR Several thousand dollars, did you say?

8 25 MR ITSINIS Seven thousand dollars.

8 26 MS CORKHILL 'Several'.

8 27 MR P. STILIANOS Yes, \$240,000.

8 28 MR ITSINIS \$240,000?

8 29 MS CORKHILL 'Several', not 'seven', 'several'.

8 30 MR ITSINIS Why were you owe 90,000 to the bank  
then?

8 32 HIS HONOUR Leave it to Mr Stilianos. What's the point? What's the point you make there?

8 34 MR P. STILIANOS That the Public Trustee had virtually given it away. They didn't want to know about the Rhodes land. They're the administrators. What are they doing that's truly independent and saying 'Forget about the Rhodes land'? And here, me, acting in my mother's interest, as a nonadministrator, but I'm able to secure her wealth and maintain it, whereas the ones who are against all this have no interest in her. They want to just strip her of all assets and leave her with nothing in Rhodes.

9 6 HIS HONOUR What's the point you make about Public Trustee and Mr Limberis? What is it?

9 8 MR P. STILIANOS Philip Limberis will maintain the assets of Erini Stiliano, prevent them from being stripped by the people here who had planned to strip her of all her Rhodes assets.

9 12 HIS HONOUR We're talking about the Public Trustee here, are we? Because the Public Trustee is the only person with power to do this, isn't that right? So what's the Public Trustee done wrong in your opinion?

9 16 MR P. STILIANOS They weren't able to secure the properties. They weren't.

9 18 HIS HONOUR What do you mean by 'secure'?

9 19 MR P. STILIANOS I had applied to be administrator.

9 20 HIS HONOUR What do you mean by 'secure'?

9 21 MR P. STILIANOS By a leasing document to make sure that there are properties there and that there are no squatters that could make claims on them. We have eliminated all that. The properties are now secure for Erini Stiliano, but Stan, Anna and, I think, Gary had wanted all that to be distributed before I applied to the Guardianship Board for the administrator to take over Mum's estate. Even when they took over, they could not find any way of knowing what she had in Greece and we had to employ solicitors and they couldn't find anything from the solicitor in Rhodes, who was my mother's solicitor and my father's solicitor. He would not disclose any information. It was all kept secret. Stan gave out nothing. We didn't know if she had anything. So, surely, by my finally obtaining this leasing document, where here am I seen to be not acting in the interest of my mother? There would have been nothing otherwise. But I'm not sure if you understand any of this.

10 2 HIS HONOUR You are not sure that I understand any of this?

10 4 MR P. STILIANOS Yes, what I'm trying to convey to you.

10 5 HIS HONOUR What I'm interested in is, what is the order of the six orders made by the Guardianship Board that you say has miscarried and why?

10 8 MR P. STILIANOS The investigation is done. I didn't want any more investigations because they'd already been done. We'd done the title searches. We know now that they belong to Erini, what belongs to her and the concern was that there weren't squatters there. The

Guardianship Board had made a decision to accept Stan's word that there was some sort of an arrangement, but he never once produced the leasing document, which has been in court since 1999, which secures those properties against squatters. So, it was a whole waste of time for those three years of investigations trying to find out if there were any squatters there. So, those investigations are done. We've got the leasing document. There's no need for investigations any more. What we do need is someone over there to manage the properties. We've got 20 or so properties over there. We need a contact over there and Philip Limberis is trusted by all. I've made the point in my recent submission about his high morals. That Stan and Anna have other motives, in that it's in their interests not to have Philip Limberis acting on Erini's behalf. It's in their financial interests not to do that. So I've recommended that he be appointed to be our official contact point, liaison point, to give us an idea what the market values are and perhaps optimise the prices by combining pieces of land and managing the leasing. He knows the lessee and he's on good terms with the lessee and their relatives.

10                    36                    HIS HONOUR            These are matters you can talk to the Public Trustee about, Mr Stilianos, can't you?

10                    38                    MR P. STILIANOS                    Yes.

11                    1                    HIS HONOUR            Because the Public Trustee is seized with the duty of caring for the estate.

11                    3                    MR P. STILIANOS                    Exactly, that's why the Guardianship Board has made a decision. It's in the transcript that they don't want Philip Limberis involved.

11                    6                    MR P. STILIANOS

12                    1                    HIS HONOUR            They've vaguely suggested that there might be some conflict of interest there because he's associated with some hotel development. Wasn't that the case?

12                    5                    MR P. STILIANOS                    That's right.

12                    6                    HIS HONOUR            But they didn't set anything in concrete in that respect. They've just mentioned it. They haven't dealt with it and they haven't preempted the Public Trustee from liaising with Mr Limberis, have they?

12                    11                    MR P. STILIANOS                    I don't know, I'll have to have another look at the transcript. To me it looks as though he's been -

12                    14                    HIS HONOUR            On the final page some of the family consider that Philip Limberis has a conflict of interest. So there is not unanimity amongst the family about that, is there? That he's the best man for the job.

12                    19                    MR P. STILIANOS                    So what would be the Public Trustee's position?

12                    21                    HIS HONOUR            The Public Trustee has got to investigate the matter and be satisfied that whoever is their contact in Rhodes is truly independent and will act in the best interests of the estate. That's been left to the Public Trustee. That option hasn't been closed off by the Guardianship Board, has it?

12                    27                    MR P. STILIANOS                    It looks as though it has been.

12                    28                    HIS HONOUR            There's just a bit of a warning  
sounded there that other members of the family won't be overly happy with it  
and, therefore, maybe it's not such a good idea, but that's all that the board  
have said.

12                    32                    MR P. STILIANOS                    That to me is a  
rejection.

12                    33                    HIS HONOUR            But that's all that the board have  
said.

12                    34                    MR P. STILIANOS                    Where does that leave  
me? I'll be fighting. The Public Trustee will say 'I'm sorry, not everybody in  
the family agrees with this'.

12                    37                    HIS HONOUR            The Public Trustee will report and  
make an independent decision about that, bearing in mind all the interests  
expressed by the family.

13                    2                    MR P. STILIANOS                    They'll be using this  
hearing as the basis for what else they can investigate. I think the ones who  
are complaining about Philip Limberis should be probed as to their reasons.

13                    6                    HIS HONOUR            They'll probably tell me in a minute.

13                    7                    MR P. STILIANOS                    To me that looks like an  
outright rejection. It should be decisive. There are a lot of administrators  
in Australia that can do the job, but we don't have any contacts over there in  
Greece to carry this job out.

13                    12                    HIS HONOUR            The Public Trustee has a rich  
experience, Mr Stilianos, of managing estates which involve estates overseas and  
I can tell you Greece as well as other countries.

13                    16                    MR P. STILIANOS                    In three years they  
haven't been able to crack this one because when they manage estates there's no  
trickery. This one has involved a lot of trickery and concealment of documents  
and the solicitor over there, he will not talk to any other solicitors. He's  
got Erini's file. He will not release that to any solicitor.

13                    23                    HIS HONOUR            Tell me, Mr Stilianos, what is the  
order that you say ought to have been made by the Guardianship Board?

13                    26                    MR P. STILIANOS                    I have got my proposals  
there. That Philip Limberis have the specific roles to play so it's in the  
order that I don't have to go and hammer the Public Trustee.

13                    30                    HIS HONOUR            You want, who is it, Philip Limberis?

13                    31                    MR P. STILIANOS                    Yes.

13                    32                    HIS HONOUR            To be the administrator?

13                    33                    MR P. STILIANOS                    No, I put down my  
proposed amendments to the order. Have you got a copy of that?

13                    35                    HIS HONOUR            No. Is that on your notice of appeal?

13                    36                    MR P. STILIANOS                    That was submitted in  
the previous preliminary hearing. I will have to find that.

13 38 HIS HONOUR Have you got a copy of that just so I  
can identify it?

14 2 MR P. STILIANOS I thought you would have  
a copy of that.

14 3 DOCUMENT HANDED TO HIS HONOUR

14 4 HIS HONOUR Yes, I have it.

14 5 MR P. STILIANOS That's the list.

14 6 HIS HONOUR I'm looking at a document dated 12  
November from you, 'Appeal Against Decisions'. That's the document?

14 9 MR P. STILIANOS Is this the order?

14 10 HIS HONOUR Yes.

14 11 MR P. STILIANOS Yes.

14 12 MS CORKHILL Isn't it the 7 October one, Philip?

14 13 MR P. STILIANOS That's the one, yes, 7  
October, 'Proposed Amendments to Administration Order'.

14 15 MS CORKHILL Judge Muecke ordered that at one of  
the preliminary hearings.

14 17 HIS HONOUR I've got one of 12 November.

14 18 MS CORKHILL No, it was -

14 19 HIS HONOUR Earlier than that?

14 20 MS CORKHILL Certainly it was earlier than that and  
from my memory, it was 7 October.

14 22 HIS HONOUR I've got a large document, though, of  
12 November. Have you got that?

14 24 MS CORKHILL Yes, we do.

14 25 MR P. STILIANOS This is the one. I  
thought you had this and had already read it.

14 27 HIS HONOUR It might be here in the papers.

14 28 MR P. STILIANOS I thought you had read  
it and this was the subject of the -

14 30 HIS HONOUR Have you got a copy of that to work  
from while I quickly read it?

14 32 MR P. STILIANOS No.

14 33 MR P. STILIANOS

15 1 HIS HONOUR Ms McPharlin you have a copy of that I  
think?

15 3 MS MCPHARLIN Yes thank you.

15 4 HIS HONOUR This is your only copy is it Mr Stilianos?

15 6 MR P. STILIANOS I didn't bring a copy.

15 7 HIS HONOUR Can I borrow this for a minute?

15 8 MS CORKHILL Yes, your Honour.

15 9 HIS HONOUR We have that; the three of us have read it, so they're the orders, they are the changes you would like to make to the Guardianship Board's order, are they?

15 13 MR P. STILIANOS Just to make it clear that's quite specific that the Public Trustee - otherwise it wouldn't know really over the last three years - keep having to explain to the Public Trustee what it's all about. It was the leasing document, we've got that, now there's a couple of little issues there, I want to make it quite clear through this that when you need to do this sort of thing Philip Limberis can do it voluntarily, okay, he won't charge for his labour. We'll save a lot on legal fees on doing this because the Public Trustee said it was loath to spend any more money on this, okay, that's why I nominated Philip Limberis. You don't have to spend anything to manage the properties and look after minor issues. When it comes to selling any properties, he's the best person to do it.

15 29 HIS HONOUR Why would he do it absolutely for nothing?

15 31 MR P. STILIANOS That's the way we are in the Greek community, we are close, okay. He would do it because he's over there and he knows us very well, we're all family. The whole village, Lahania, just about came out here, migrated out here, there's a lot of - there's a community within Adelaide, people who are from the village, okay, they've even formed there own - there's a lot of us here, okay. We maintain contact. When there's land issues, help required, we call upon our relatives in Greece. A lot of them have died out, okay, now it's the second generation, whatever. Our parents have died, a lot of - there's not many contacts over there who can do this sort of thing for us, without incurring a lot of legal expenses, which the Public Trustee didn't want to incur. Somebody put a recommendation in 'let's drop this whole thing because it's going to cost'. Lesley McPharlin suggested that we not proceed, virtually, because of the - 'Is it worthwhile?'. She said 'We've got nowhere with this, is it worthwhile?'. So, what am I supposed to do in that position, okay? Somebody's got to protect Erini, might as well be the sole beneficiary, the applicant and somebody who cares about it. All right, who cares about Erini.

16 17 MR G. STILIANO Who cares about her estate.

16 18 MR P. STILIANOS Do you want me to read out some emails about what you think of Erini.

16 20 MR G. STILIANO Yes.

16 21 HIS HONOUR Don't do that, it's not relevant to the appeal. This is what you would like changed in the Guardianship Board's order, all right.

16 24 MR P. STILIANOS Yes.

16 25 HIS HONOUR Do you want to say anything more?

16 26 MR P. STILIANOS Only the other issues, I don't know what they're going to come up with.

16 28 HIS HONOUR I'll give you a right to respond to all of that.

16 30 MR P. STILIANOS Can I just add one more thing?

16 31 HIS HONOUR Yes.

16 32 MR P. STILIANOS In the statement of reasons, the Public Trustee have said they have set aside funds for a challenge. What was all that about? That just came out of the blue in the statement of reasons.

16 36 HIS HONOUR Where are you? Take me to it.

16 37 MR P. STILIANOS That same clause I read out this morning on p.6.

17 1 HIS HONOUR 'The administrator has acknowledged there may well be a challenge to the protected person's will.'

17 4 MR P. STILIANOS They quote p.2 of advice from the Crown Solicitor; I would like to see that p.2. What information are they acting on?

17 7 HIS HONOUR Did you get a look at that letter in the course of the hearing, the letter from the Crown Solicitor.

17 10 MR P. STILIANOS No, didn't appear. That letter from the Crown Solicitor, advising - I don't know what advice it gave. Who instigated that? That's serious stuff and the Public Trustee came into the hearing with that in mind that there were funds set aside for a challenge, so why would I be considered as administrator? The Public Trustee and the Guardianship Board had already decided there were going to be funds set aside for a challenge. Why would you bother giving me a chance to be administrator if that's what they had already? Okay. Had the mindset that this thing was worthy of being challenged and funds should be allocated for a challenge. How did they come to the conclusion there should be a challenge?

17 24 MR P. STILIANOS

18 1 HIS HONOUR No, the board is simply drawing attention to the fact that the administrator has acknowledged there may well be a challenge.

18 4 MR P. STILIANOS Based on what?

18 5 HIS HONOUR Probably the vibes from the family.

18 6 MR P. STILIANOS Probably that they thought that the estate belonged to my father then that would -

18 8 HIS HONOUR They're talking about the challenge under the testator's family, the legislation that entitles -

18                    21                    MR P. STILIANOS                    The information is incomplete then we get on to the issue of the fact that Anna has already got 50% of it and there's no mention of it anywhere and they do not know that. This is why Erini made her will the way she did, because Anna, had already got a massive portion of it, you see.

18                    17                    HIS HONOUR                    All the administrator is doing there is just flagging the fact there might be a challenge to the will on the death of the protected person.

18                    20                    MR P. STILIANOS                    Yes, what allocate funds is that normal for an administrator to do?

18                    22                    HIS HONOUR                    I'm not certain whether there's any rules about that, but there's likely to be a challenge and the administrator is bearing that in mind. I think I had better hear from other people who want to be heard on this appeal. You can have a right of reply.

18                    27                    MR P. STILIANOS                    My point on that is that Public Trustee and the Guardianship Board came into that hearing with preconceived ideas of a challenge that there was a viable challenge based on not knowing - because of that, they've then formed - throughout the hearing they just completely rejected me. I was completely rejected. I felt there was prejudice, that's my objection.

18                    35                    HIS HONOUR                    The Public Trustee might have only been conveying to the board that having spoken to the wider family the Public Trustee had a conviction that the will would be subject to challenge.

19                    1                    MR P. STILIANOS                    Yes, but they came into the hearing believing, okay, that it was challengeable.

19                    3                    HIS HONOUR                    Where is that?

19                    4                    MR P. STILIANOS                    Where they say they've allocated funds for a challenge. I am applying to be administrator and they've gone and allocated funds for a challenge. There's no way I could be an administrator if I was ever going to be subject - have funds be allocated to challenge my status as sole beneficiary, that is a conflict, a serious conflict where they know that I can't be administrator, if they formed the opinion through advice they had obtained - wrong advice, okay, false advice, that I believed that I could possibly -

19                    14                    HIS HONOUR                    It's not up to the administrator to challenge the estate, the administrator indeed should remain at all times independent. Your family are the people who will mount the challenge, if there is to be one.

19                    19                    MR P. STILIANOS                    Why is the administrator allocating funds? Why do they get involved?

19                    21                    HIS HONOUR                    The administrator necessarily is involved.

19                    23                    MR P. STILIANOS                    They're not independent. They are working with somebody. They should not be allocating funds based on information they receive from one side of the family.

19                    27                    HIS HONOUR                    The administrator will be represented on any challenge, play a minimal role but nonetheless - because the

administrator is in charge of the estate - has to provide information to the court, if there be a challenge. So the administrator has a role to play. It's a neutral, independent role in the event of any challenge.

19                    34                    MR P. STILIANOS                    Am I being given any  
credence - do I have any credibility?

19                    36                    HIS HONOUR                    In this hearing here?

19                    37                    MR P. STILIANOS                    Yes.

19                    38                    HIS HONOUR                    Of course you do.

20                    1                    MR P. STILIANOS                    I'm putting forward my  
views, right, okay, that the Public Trustee acted on some information it  
received from one half of the family, okay without consulting the other half.  
That is a conflict. They came into the meeting with half the facts in their  
mind and they were biassed in there outlook, then they say it was my father's  
estate. The Public Trustee believed it was my father's estate. How would they  
think that? How can they view me? I would be viewed as a cad, okay.

20                    11                    HIS HONOUR                    We've got to get on with the relevant  
portion of this appeal.

20                    13                    MR P. STILIANOS                    I'm very serious about  
this.

20                    14                    HIS HONOUR                    I've got that point, I've tried to  
explain to you, that if some of the family are not happy with your mother's  
will, they have a legislative right to challenge it. Public Trustee is merely  
conveying to the board that that might well happen, therefore Public Trustee is  
the administrator.

20                    20                    MR P. STILIANOS                    But they're getting -

20                    21                    HIS HONOUR                    Just a minute. The Public Trustee as  
the administrator will have a role to play in the hearing, that's all that that  
sentence -

20                    24                    MR P. STILIANOS                    I would like.

20                    25                    HIS HONOUR                    That's all that sentence conveys to  
me. Doesn't mean that you're a cad or anything like that. It's just -

20                    28                    MR P. STILIANOS                    If that was my father's  
estate, okay, and I'm jumping in -

20                    30                    HIS HONOUR                    Do we have to keep talking? It's not  
your father's estate, it's your mother's estate, isn't it?

20                    33                    MR P. STILIANOS                    The Public Trustee has  
said it's my father's estate.

20                    35                    HIS HONOUR                    The Public Trustee won't be  
maintaining that will you Ms McPharlin?

20                    37                    MS MCPHARLIN                    The Public Trustee hasn't said it's  
his father's estate.

21                    1                    MR P. STILIANOS                    They say here in the  
statement of reasons -

21 3 MS MCPHARLIN The Public Trustee didn't write the statement.

21 5 MR P. STILIANOS Why does the Guardianship Board -

21 6 MR G. STILIANO It's made an error, it's obvious.

21 7 MR P. STILIANOS So what's in p.2 then of the Crown Solicitor's -

21 9 MR G. STILIANO Advice.

21 10 MR P. STILIANOS P.2 I would like to see that just to check as to what they did say.

21 12 MS MCPHARLIN I can read that if that would be of assistance.

21 14 HIS HONOUR Yes, here it is.

21 15 MS MCPHARLIN 'The protected person ... contest over her will.'

21 17 MR P. STILIANOS Can you read that again.

21 18 HIS HONOUR Just show it to him - read it out again.

21 19 MS MCPHARLIN 'The protected person's ... contest over her will.' Obviously in the event she lived on and required those funds for a nursing home, or something like that, they would be made available to her for that purpose.

21 24 HIS HONOUR I've got to hear from some other people Mr Stilianos, you have a right of reply.

21 26 MR P. STILIANOS All right.

21 27 MR ITSINIS Your Honour, I think for what Philip saying he understands - if you allow me to go from day one about these properties, so I can give you a full picture of what exactly goes on in this particular properties and that would help the court to have a clear - exactly how we start 20 years ago and where we are today, because -

21 34 HIS HONOUR This is an appeal against the order of the Guardianship Board. It's not a general discussion about the whole of the background. You see the Guardianship Board have made a series of orders which are the subject of this appeal.

22 1 MR ITSINIS Yes, but -

22 2 HIS HONOUR Really all the Guardianship Board have done is to make an administration order appointing Public Trustee as the administrator and there are some other ancillary orders. Do you challenge that?

22 6 HIS HONOUR

23 1 MR ITSINIS I don't challenge this.

23 2 HIS HONOUR You don't have any issue with that.

23 3 MR ITSINIS The issue I have again with those things is I don't like this appeal to be an administrator and I don't like Mr Philip in Rhodes, Limberis, for reasons now, but he has accused me here and he won't listen to you, then his father, he took the title from George, it is his brother, and he give it to me. That's why he started on the stuff. I have here document with his father writing, we sold all the properties with a name and the numbers alongside to each one of them and George is here. This is a title. That's what I told you - I have to tell you the story about it so you know. This is the title, 1, 2, 3, which the writing of their father has up George, so it's not correct when he says he took the six from George and give it to me, that's wrong. Why I'm asking is why my father is attorney, you know, because they all make their father back in 1987, they give me the power of attorney to go in Greece and clear out all those properties in there. They even have Mr Salamastagus, that lawyer we talking about, they even have him as a power - I think he said as a power of attorney. They give him here in the Greek consul in July '87, in Melbourne, he went there himself and he signed and the reason Mr Salamastagus, he probably didn't give him any information is because when their father died, I said to them, Mr Salamastagus know them also.

23 30 HIS HONOUR I don't need to go into this.

23 31 MR ITSINIS Yes, but he's accusing me of -

23 32 HIS HONOUR Don't worry about what he's accusing you of. Our concern here, the three of us, is the administration order made by the Guardianship Board. You don't want that interfered with; is that your position?

23 37 MR ITSINIS That's right.

23 38 HIS HONOUR You want Public Trustee -

24 1 MR ITSINIS From day one, we don't want any Public Trustee in to look after the estate of our mother or our father, because Stella was very capable to do it, but Philip was the one insisted, so we said 'All right, if you insist your mother to have someone to look after their interest', fair enough, we going along with that, but we put our wishes to them that one day we might challenge the will and I think we have the right to do it, because my wife work nine years for the father for them to study. She was taken out of the high school, bad luck for them, bad luck for me and good luck for them. We couldn't find the letter their father sent to the Minister of Education then asking him to keep his daughter out of the school so this student can be educate.

24 16 HIS HONOUR You're happy, given the fact -

24 17 MR ITSINIS I'm happy with the Public Trustee, they want to look at it, that's it.

24 19 HIS HONOUR Okay, and what about this man in Rhodes?

24 20 MR ITSINIS No, I don't want him to be there because the man, he has hotels in Greece and he also is a developer. How should I know how he's going to come up with that? I don't trust anybody in this particular tribe back home, and as far as they're squatters he's talking about, I didn't know what they were looking for. I said to them 'I don't know what is the contract', we're talking about this, Mr Limberis sent, but I said to them

'The man who looks after those properties, you wouldn't find any better than him', and I ring him up couple of times and he says to me if some lawyer contact him, then he will give them all the information he has, because we saw those people cultivate those lands in there, it's another problem.

24 34 HIS HONOUR You don't want Philip Limberis -

24 35 MR ITSINIS No, I don't.

24 36 HIS HONOUR - handling the properties back in Rhodes.

24 38 MR ITSINIS No, unless if Mr Philip Stiliano guaranteed through a court order, then these properties which was given to my wife from their mother back in 1993 and she sign it as well, if you give these properties to my wife and if he guarantees 25% out of that property which is the government one, all right, then I say here, yes, this is my writing, I don't know where they found it from, and I say here I write to Mr Salamastagus and telling him if we come to their end, we can pay the land from the government and we put him into all involved which is Philip, Gary, Stella and everybody. It's here very clear with my signature. I never tried to do anything different. I'm 35 years subcontractor in South Australia in the building and I never have any problem and now all of those things it makes me wonder, and I'm glad he remembers we close Greek society. If we were a Greek society then we wouldn't come here today and we're coming here today because he knows very well, because everybody that is in these properties, it's so easy to finalise these things. Everybody, according to this list, has his own properties. What do they have to do? Recognise it and sign it to each other. Then I give it to them, he give it to them and everybody can do whatever he likes, because if you look properly in the titles, the titles, they are not on their mother's name. These titles is still on their grandfather's name, and the reason is because our father, he needs too much money to transfer all of their titles to each one of the son or their children of their family. So that's why he did it this way, but there is a court order in Greece which protect those particular properties which is belongs to Erinis Stiliano.

25 34 HIS HONOUR That may be the subject of litigation coming up. That's your position about the order.

25 36 MR ITSINIS Yes, and the other one is I like him to stop calling those people 'squatters' because Mr Kartsis and Mr Sicopoulos and Mr Sinaroya who looks after those properties, they are not squatters. Without them, there probably not be nothing would be there.

26 4 HIS HONOUR It's not a matter that would concern us.

26 5 MR ITSINIS Yes, but I don't like to call these people 'squatters' because we still have these properties in our hands because of those people. We don't want to call them 'squatters'.

26 9 HIS HONOUR Mr Gary Stiliano, what do you want to tell me about, bearing in mind what I've said about what our focus has to be here.

26 12 MR STILIANO I'll be as brief as possible with each point and some may be relevant.

26 14 HIS HONOUR Don't worry.

26                    15                    MR STILIANO    First of all, the Public Trustee has already had three years, as Philip has said, and having worked in the public service as Philip has, it can become very inefficient with people continually changing their position there. I think Lesley's the probably fifth or sixth person who's taken over this particular file and they have to re-read the files and take up from where it's been left off, and it's very inefficient, and I guess it would also add cost to the estate. Philip would be far more efficient, and he would be focussing entirely on the estate and it wouldn't be changing hands.

26                    28                    MR STILIANO

27                    1                    HIS HONOUR    That would provide difficulties in the family, wouldn't it?

27                    3                    MR STILIANO    I understand that. It's mentioned here that: 'It is arguable that he may make ... of the protected person.' I can't imagine any instance where he could make a decision which would be in his interests and not his mother's. I understand what 'conflict of interest' is, but this is a statement that's been made that he may make a decision which is in his interests and not his mother's, and I can't imagine how he could do that. He says he cares about Erini. Erini's got dementia and she's got no idea what's going on, and it's hard to understand what we're all doing. We can only be talking about money. We can't be talking about her emotional state. She'll be so happy if we look after her estate because she's got no idea what's going on. So if anyone says that they care about her, it's not that at all, it's caring about what's happened with the estate.

27                    22                    HIS HONOUR    So you take issue with the order. You would support Philip as the administrator, would you?

27                    24                    MR STILIANO    Yes, I'm supporting him. I initially opposed it, and when I opposed it he treated me very badly when I was the executor of my father's estate and my brother's estate, and my resentment was expressed in my opposition to him becoming administrator, but I've had time to think about it and I think he'd be a good administrator, I think his investigative powers are good, he'd be totally focussed on the job, and he's got every reason to do a good job of it because he's the sole beneficiary of the estate. Even though I disagree with the fact that he's a sole beneficiary, the fact is that he is a sole beneficiary in the will. This issue of conflict of interest, it's just taken to the extreme to use that as a reason to oppose him being an administrator, because the conflict of interest, there is no conflict of interest. If you really analyse that expression, there is no conflict of interest. He would actually be working in the interest of the estate because he's the major beneficiary, if not the sole beneficiary.

28                    6                    HIS HONOUR    You have to recognise the rights of the other children, don't you?

28                    8                    MR STILIANO    Who may ultimately challenge -

28                    9                    HIS HONOUR    Who may challenge the estate.

28                    10                    MR STILIANO    They may have nothing to challenge if it's left to the Public Trustee. If it's left to Philip to do, they'll have plenty to challenge.

28                    13                    HIS HONOUR    Yes, but that cuts across your proposition, doesn't it, that he's the sole beneficiary, therefore how could he not be acting in the best interests of the estate? You are on notice, aren't you, that there may be challenges to the will?

28 18 MR STILIANO Exactly, and if he wants to -

28 19 HIS HONOUR That would provide conflicts of  
interest.

28 21 MR STILIANO If he feels that that challenge is  
going to make his decision to be administrator not worth it then it's up to him,  
but I would still suggest that even though he ultimately feels that there will  
be challenges, I think he would still want to work on the estate. Is that true  
or not? Because there will be challenges.

28 28 MR STILIANOS Yes. As administrator.

28 29 HIS HONOUR We're not having a seminar here.

28 30 MR STILIANOS Just the Guardianship Board has said  
I'd be acting in the interests of myself, rather than Erini, it said that in the  
statement of reasons, and it's impossible to work out even a scenario how that  
could be so or any person could think - how can it be done? She has land there,  
no rent, it's just sitting there, nothing can be done with it. Erini is getting  
absolutely nothing out of it.

28 38 HIS HONOUR I can think of countless examples of  
where you could.

29 2 MR STILIANOS I can't think of a single one.

29 3 HIS HONOUR Say you need some money, you're the  
beneficiary, there's an argument that the land might appreciate from value if  
it's left for a while. I'm not concerned about the fact of it, but your  
personal circumstances are such that you need some money quickly. Your  
interests would be best served if the asset were sold, wouldn't it? But the  
wider interests of the family might be best served for the land to remain unsold  
for a while.

29 12 MR STILIANOS How do I get the money? If it's sold  
it goes to Erini's account.

29 14 MR STILIANO It will go straight to Erini's  
account.

29 15 MR STILIANOS It's in her title. She has title to  
it.

29 16 HIS HONOUR It becomes part of the estate to which  
you're a sole beneficiary. I'm giving you an example of where there could be an  
active conflict of interest.

29 19 MR STILIANOS But it's Erini's, it's always Erini's,  
it's never mine.

29 21 HIS HONOUR True.

29 22 MR STILIANO The Public Trustee role is to sell  
that land. I presume that's what they're trying to do now, to find out what she  
owns and to sell it and that's exactly what Philip would do, and the money would  
go straight to Erini's account and it would stay there and I guess it would be  
locked up there until these challenges are over after she passes away. It's  
mentioned here, in relation to Limberis potentially having a conflict; if that  
is the case, we could come up with an alternative agent. I have the name of an

alternative agent. I'm not sure if Stan and Anna are aware of the name of this person, Bill Bays.

29 34 HIS HONOUR But this is a matter for the administrator, isn't it?

29 36 MR STILIANO As a compromise if Limberis is causing a problem, Limberis is the stumbling block, we could come up with an alternative independent agent that Philip could liaise with.

30 2 MR STILIANOS Who's he?

30 3 MR STILIANO Apparently this Bill Bays is a real estate agent and represents a number of families here in Adelaide.

30 6 HIS HONOUR But you deal with the Public Trustee about that.

30 8 MR STILIANO There's a lot of suspicion and mistrust in the family and that would be part of the reason that they don't want him to do it. The fact is, though, that Anna, the daughter, and myself are the executors of the estate. So if you did do anything shonky, I guess we could trace all that, and we could audit the books and make sure that everything was done rightly. The only suspicion and mistrust, I don't think that's relevant because the fact is that the other two children are executors of the estate. There's been a fair bit of vindictiveness both with my father's estate and my brother's estate and also this estate, to the point that if somebody doesn't get his way they're prepared to see the estate decimated -

30 22 MR ITSINIS Objection, there's not, if it doesn't get to my -

30 24 HIS HONOUR Don't worry about it. Yes, you finish.

30 25 MR ITSINIS What our father and mother -

30 26 MR STILIANO - which concerns me. I think the Public Trustee has run into stumbling blocks because the solicitor that's there that was representing us, a fellow called Salamastrakis that Stan had mentioned, I think he's frustrating inquiries here. I think he could be causing quite a few problems because he's a solicitor and you know what solicitors are like.

30 34 MR STILIANO

31 1 OBJECTION MR ITSINIS OBJECTS.

31 2 MR G. STILIANO As I said, I have retreated from my initial stance. He was a shocking beneficiary, but I think he'd make a good administrator and I think he'd do the job well, far better, far more efficient than the public trustee, with respect. I think he'd get the job done in a short space of time, as opposed to what could run into a decade with the Public Trustee.

31 9 HIS HONOUR The job being the sale of the land?

31 10 MR G. STILIANO Recognising what is the land and, yes.

31 11 MR P. STILIANOS Combining properties, merging them.

31 12 MR G. STILIANO And dealing with the distance involved, not having the same language barrier. There's any number of reasons why he would be better for the job and the Public Trustee wouldn't, and the obvious opposition is the conflict of interest, and I disagree with that because he'd be trying to optimise property, and also personal opposition, emotive opposition, which should not come into play because the people opposing it would actually be the executors at the end of it, when my mother passes away, and could easily check all the books to make sure everything was done correctly.

31 23 MS I. STILIANO I don't know where to start here. I'm the partner of Philip.

31 25 HIS HONOUR The focus has got to be the orders of the board.

31 27 MS I. STILIANO I haven't got that order. The order of reasons, is that it?

31 29 HIS HONOUR The administration order which effectively is that the Public Trustee remain as the administrator of - is it your grandmother's estate?

31 32 MS I. STILIANO I just feel that Lesley McPharlin in her transcript from the Guardianship Board meeting on 26 August, where it says: 'I have put a summary ... sale of the home.' talking about my grandmother: 'I would have thought that it is probably from her point of view' - being my grandmother's point of view - 'enough to take care of her needs, so from her point of view' - being my grandmother's point of view - 'I wonder whether she really does need to sell these properties and call in that money?' That \$70,000 that's in the proceeds from the sale of our home was the half of the estate that my children were supposed to inherit. It is now being sold and the proceeds are in the trust that you mentioned before, which is up for contest. It's going to be used if the will gets contested. My children were to inherit her whole half of the estate, which they've sold, and that would not have been my grandmother's point of view. She would never have sold half of that house and intended for it to be used for will contestants. She had it there for my daughters, for their gift, for their inheritance. Philip Stilianos is not the sole beneficiary, my daughters were too, and now that's been taken away from them because the Public Trustee's point of view was that there was enough money there, but my grandmother's point of view seemed to not be really, really thought about. They didn't really put themselves in the shoes of my grandmother. I'm not trying to put the Public Trustee down at all, they've got a job to do, I realise that, but in s.5 of the Act where it says they put themselves into the shoes of a protected person, if they put themselves in the shoes of that protected person they wouldn't have allowed this house to be sold, so then my children miss out on their inheritance. My children wouldn't care if it was \$50, it's the fact that it was their grandma who wanted them to have it - their great-grandmother, my grandmother, and you sit there talking about them putting their feet in the shoes of the protected person. All this estate, the land in brief, it shouldn't even be there, if in 1987 that land was to be gifted to all of the five children, Erini's five children. If it had been gifted properly all the children would have got their gift. Anna received a big gift, Stella received a big gift, my father didn't receive a gift, George never received a gift. I mean I know what this thing is about, but it's because of what's happened in the past, is why we're sitting here today squabbling over a bit of real estate, which shouldn't have even been there if Erini's intentions were fulfilled in 1987 to this day. If they had been fulfilled properly none of this would be going on right now. No 'I want this land', 'I want this land', 'I want that land'. It's all I'm hearing from them. It's not about the money. My grandmother wrote a will in 1993 to be fair, to benefit on our side from my

father and my father's four daughters, my three sisters, Nicki and Sonia and myself, and to my daughters who are her great-grandchildren, he wanted to be fair on this, my father's and myself's family line, because my grandmother had seen that her other children had been taken care of and would have thought when she did her will that they would be appreciative of it, and thought 'Yes, we've all had our share' and my grandmother did it to be fair for this family line, not for it to cause arguments and squabbling and end up in the hands of the Public Trustee. We wouldn't be here today if everything was done fairly since 1987.

33                    26                    HIS HONOUR            What do you say about the administration order?

33                    28                    MS I. STILIANO                    With the Public Trustee in place, it is because of the way everyone is carrying on. They are definitely - they should be there, definitely. My father would administer the estate in the best interests of his grandmother, knowing that it would ultimately help all of us, her grandchildren, who she loved, and when Gary said before 'There's no care about Erini', I'm here today for my grandmother, because I care about her. I've never asked anything from her, just loved my grandmother, since we were little. She loved my children, which were her great-grandchildren. With my grandmother, I love her. Whether she had a million trillion dollars or \$10 it doesn't matter to me. It's the fact that she loved us and she wants to give us a gift. It's a gift to help us for once, to not see us struggling and having nothing and missing out, not receiving a gift, not nagging for gifts, not wanting gifts, and it's all just based on their well 'We want this and we want that', they've received quite a bit already. I don't have a problem with that. Stan could be a millionaire, it wouldn't bother me, but to come in and want more and to take away something that my grandmother wanted us to have, wanted us to have since 1993 because she saw how much of her gift was being taken away and it wasn't treated fairly, so she did a will to balance it out, make the bad things that had happened right, and all we want to do is just protect what she wants us to have, and whether it's in 20 years times that we receive it - I hope it's 50 years time, I hope my grandmother lives for 50 more years, it doesn't matter when it comes, it's just it's a gift. Like I said, it doesn't matter if it's \$50 or \$10, and my father would make sure the estate is kept safe and just protected so when the time comes we receive our gift from our grandmother. It's up to us what we do with it. If we want to put it all into charity, we will. It's the point that her intentions were just based on love, not greediness in the family or people wanting this and wanting that. I think Philip Lemberis, if I may say - I haven't met him personally, I've never met him, but what my father says about him, I trust my father 100%. He's not going to get somebody in there who could cause problems, could jeopardise or could or would jeopardise my grandmother's estate. Gary doesn't have a problem with Philip Lemberis at all and Stan, and I know - no disrespect to their opinion at all - they've got a right to their opinion. I just don't understand why they have a problem with Mr Philip Lemberis being involved in helping to protect the estate, to making the estate not lose any money, to be able to locate land pieces properly, so everything is in place.

33                    5                    MS I. STILIANO

36                    1                    HIS HONOUR            He can still help the Public Trustee get on with the proper administration of the justice.

36                    3                    MS STILIANO            Yes, that's what I'm saying. I don't oppose him.

36                    5                    HIS HONOUR            No, but while there is family conflict about this, isn't it better that the Public Trustee remain the administrator and get help from everybody in the family.

36 9 MS STILIANO Yes, the Public Trustee should remain the administrator because there's too much -

36 11 HIS HONOUR Aggravation.

36 12 MS STILIANO I don't know about conflict, but I just think there's different points of view, different views here, too many different views on how it should be. The bottom line is it's Erini who we all - I know I'm 100% thinking about my grandmother. From her point of view, putting herself into her shoes, she would not - she would hate what was happening right now.

36 19 HIS HONOUR I have to hear from Public Trustee. Is there anything else you want to say?

36 21 MS STILIANO No.

36 22 MS MCPHARLIN Public Trustee was appointed in November 2001 and the initial investigations were difficult engaging appropriate agents. The current arrangements, and the arrangements that are in place for this matter which came before the board in August this year, were that a firm of Greek solicitors in Melbourne had been engaged, who, in turn, had engaged solicitors in Greece to investigate the ownership of property by the protected person in Greece and the possible sale. In January of this year, the agents in Greece provided to Public Trustee a table of title searches undertaken in roads to establish which properties belonged to the protected person. Those arrangements are ongoing. Since this appeal was lodged, Mr Philip Stilianos has provided us with a lease document which is in Greek, but it appears that all the properties are subject to a lease until August 2005, which protects them against any claim of adverse possession. Public Trustee has, although slowly, achieved the result of establishing what land is still owned by the protected person, and it appears that is secure at this time. I'm unclear, really, the original appeal appeared to be seeking to have Mr Philip Stilianos substituted as administrator, but then the document, 7 October, appears to want Public Trustee to remain as administrator with a number of directions as to how to go about that task. Public Trustee is prepared to carry on in the role. We've got the arrangements in place to proceed to valuation sale if that's required, although the properties are safe and there are other funds available should the protected person need them for nursing home care or private nursing arrangements in the meantime. With respect to Philip Lemberis, there is nothing before the court or before the Guardianship Board to indicate from Philip Lemberis that he's actually prepared to undertake this role. I had sent him an email - and that's in the transcript - prior to the Guardianship Board hearing and I've not had a response. I note in the 43 page document I received by fax on Friday from Mr Stilianos -

37 26 HIS HONOUR Who is collecting the rent, for instance, on the property under the lease?

37 28 MS MCPHARLIN The lease document in that paragraph is blank. There is no amount of rent payable, no date of the month when it is payable. It appears, possibly, that these people have been installed to protect against adverse possession and there is not any rent coming in, but that's a matter we can investigate now that we have got the lease document.

37 35 HIS HONOUR Your agents in Greece will clarify that, won't they?

37 37 MS MCPHARLIN If Public Trustee carries on in this role, that's the way we would be intending to carry on with that.

38                    2                    MR G STILIANO I think it was a dollar every five years; that was the lease document, just to make sure no squatters.

38                    5                    MS MCPHARLIN It is actually blank. There is a 'fill in the gap', dates and there is nothing there, but investigations would need to continue. So against that background, the current order made on 26 August 2004 appears to cover that situation. The actual orders proposed on the document dated 7 October from Mr Stilianos basically provide for Public Trustee almost to be joint administrator with Mr Lemberis. We are happy to liaise with him, but we don't particularly want to have to be bound to use him particularly for legal advice. He is just not qualified to provide that advice. If it came to a sale of the properties, there is a potential conflict of interest in that I understand his occupation is a property developer/hotel proprietor and he has land holdings in the area, and that might not be appropriate or there might be a perceived conflict of interest even though I have no idea. I'm not one to attack his integrity in any way. Really, in the circumstances, Public Trustee thinks that this appeal should be dismissed.

38                    25                    HIS HONOUR    Ms Corkhill, do you want to be heard?

38                    26                    MS CORKHILL    Only to say that I have seen Mrs Stilianos. She was absolutely unable to give me any instructions at all. She didn't even respond when I spoke to her. I asked her daughter to speak to her in Greek for me and she didn't respond to her daughter. So I didn't think it was necessary to take out an interpreter because there was just absolutely no response at all. She is being cared for. There is enough money in the Public Trustee if she needs private nursing home care and so on. She is being cared for by her daughter Stella at the moment; she's bedridden. There is basically no need for the properties to be sold, in my submission. She is being cared for and they can just stay there. They are secure, we have found they have got leases now, so there's no reason for anything to be done at all until the \$70,000 looks like it has run out.

39                    5                    HIS HONOUR    Mr Philip Stilianos, do you want to reply to any of that, briefly?

39                    7                    MR P. STILIANOS                    Stan was saying how those titles are not in Erini's name.

39                    9                    MR ITSINIS     That's correct.

39                    10                    MR P. STILIANOS                    The Public Trustee has done title searches and they are in Erini's name. She has got clear title.

39                    13                    MR ITSINIS     There is a court order in the title's office which say those numbers, it belongs to Erini Stilianos. Nobody can touch. The ones we have here, is only your grandfather's name, all of the titles we have here. They are the original -

39                    18                    MR P. STILIANOS                    The current title searches are what you look at, not some old piece of paper that's about 60 years old. My mother inherited those properties. Through the system, they are now in her name.

39                    22                    MR ITSINIS     I don't dispute that.

39                    23                    MR P. STILIANOS                    There is no potential for hotel development in Lahania.

39 25 MR ITSINIS How you know that? I did say we would  
build hotel in Lahania, but how you know that?

39 27 MR P. STILIANOS The valuations obtained  
by the Public Trustee is about \$240,000 and Stan maintains they are no more than  
\$80,000.

39 30 MR ITSINIS What's that?

39 31 MR P. STILIANOS You maintain the value  
of the properties is no more than \$80,000.

39 33 MR ITSINIS I never say that.

39 34 MR P. STILIANOS It's in the transcript

39 35 MR ITSINIS I never say that. What I say -

39 36 HIS HONOUR Just a minute please, it has nothing  
to do with this appeal.

39 38 MR P. STILIANOS It's relevant.

40 1 HIS HONOUR How is it relevant?

40 2 MR P. STILIANOS Because he's saying  
Philip Lemberis got a conflict - if he could sell it for \$240,000 and Stan is  
happy with \$80,000, what's the problem?

40 5 HIS HONOUR None of these orders touch on Philip  
Lemberis, do they? Public Trustee is concerned that Philip Lemberis might be a  
property developer. This is not all going to come to a head until August 2005,  
is it?

40 10 HIS HONOUR

41 1 MR P. STILIANOS The question is the  
opposition to Philip Limberis.

41 3 HIS HONOUR You can discuss that with Ms  
McPharlin, can't you? The Public Trustee may in the end be convinced that  
Philip Limberis is the best person to deal with this.

41 7 MR P. STILIANOS That's right. I'm just  
pointing out -

41 8 HIS HONOUR This tribunal is not going to deal  
with that. We are not going to say, for instance, 'Public Trustee must deal  
with this man'.

41 11 MR P. STILIANOS I'm just questioning the  
logic of the opposition when they are content with \$80,000 when we can get  
\$240,000 and the opposition is content with \$80,000.

41 15 HIS HONOUR You do that.

41 16 MR P. STILIANOS That's beyond me.

41 17 HIS HONOUR Your next point?

41 18 MR P. STILIANOS The administration order  
needs to be updated, it looks like the one that was made about three years ago.

41 21 HIS HONOUR In what respect does it needed to be  
updated?

41 23 MR P. STILIANOS That the investigations  
are complete and I was trying to make the decision on the use of Philip Limberis  
quite specific, whereas the transcript it's vague. But at this hearing today  
you've said that the Public Trustee is still able to use Philip Limberis and  
Lesley McPharlin is here -

41 29 HIS HONOUR No, the Public Trustee is the  
administrator. The Public Trustee independently will assess, when the time  
comes, when it's in the interests of the estate, if the properties are to be  
sold, the Public Trustee, with your help, all the family's help make a decision  
about how to sell the land.

41 35 MR P. STILIANOS That's all I'm asking  
for.

41 36 HIS HONOUR All I'm suggesting to you is there has  
been a vague suggestion that Mr Limberis might have a conflict of interest if he  
is developing property in the area. I agree with that. So I'm not saying one  
way or the other that he is the appropriate man. It's not part of the focus of  
this hearing.

42 4 MR P. STILIANOS Since I have to talk to  
the Public Trustee I have to know how they feel about it.

42 6 HIS HONOUR Well, I am not going to suggest  
anything to the Public Trustee one way or the other about that.

42 8 MR P. STILIANOS I'm looking at the  
transcript, I'm responding to what I see in the transcript. That's how I see  
it: that he is opposed, that we will have no contribution. But I myself would  
still be trying to convince the Public Trustee and I think this hearing helps.  
He is not entirely eliminated.

42 14 HIS HONOUR Myself and my colleagues here have  
made no decision about that. It's not part of our focus. So don't take away  
from this hearing any form of endorsement of Philip Limberis.

42 18 MR P. STILIANOS It's neither a 'Yes' nor  
a 'No.' It's just that as though he was never - should not have even appeared  
in the transcript.

42 21 HIS HONOUR If you want my opinion, if this man  
does have property interests near the property the subject the asset of this  
estate he may well have a conflict of interest. But I offer no definite opinion  
about that at all. It's not my function.

42 26 MR P. STILIANOS The Public Trustee has  
obtained valuations and before they can sell property they have to obtain from  
the guardianship board the okay to sell it at whatever price is proposed. It's  
not up to me or Philip Limberis or whoever, it's the Public Trustee guardianship  
board which will determine the selling price at market value. We are not going  
to go let Philip Limberis do what he likes with it.

42 34 HIS HONOUR You don't have to convince me one way  
or the other about Philip Limberis. Anything else?

42 36 MR P. STILIANOS No, that's it.

42 37 MR ITSINIS Can I help? I feel we have a solution here because I know is very hard to deal with a property there and you do need someone responsible. I go along with Mr Gary Stiliano to appoint -

43 3 HIS HONOUR You don't have to raise this with me. You raise this with the administrator.

43 5 MR ITSINIS That's what I mean.

43 6 HIS HONOUR You talk to the administrator about this. This tribunal will not make any sort of order compelling the administrator to deal with any particular person. It's not the focus of this appeal.

43 10 MR ITSINIS No, it would be a good idea if the Public Trustee comes in touch with Bill Bays and it would help them - I'm sure he will help them. He was born in Adelaide, he is a solicitor, he lives very close to that village and he goes more than other people.

43 16 MR P. STILIANOS He lives close to the village.

43 17 MR ITSINIS Yes.

43 18 HIS HONOUR But so does Philip Limberis.

43 19 MR ITSINIS Philip Limberis lives 120 km away. He got a property - he will throw you a bit of bread and get the land from you.

43 22 HIS HONOUR We will retire for a few minutes and consider this matter between ourselves.

43 24 ADJOURNED 11.55 A.M.

43 24 HIS HONOUR

44 1 RESUMING 12.25 P.M.

44 2 HIS HONOUR Ms McPharlin, the administration order made on 26 November 2001; that was a limited administration order, the same as this one (INDICATES)? Not a full order.

44 6 MS MCPHARLIN Yes. Limited to managing the estate of the protected person other than her pension entitlement and the sum of \$2,500, the administrator's role should include to prompt investigation of property held by the protected person in Greece.

44 11 HIS HONOUR That's the 2001 order?

44 12 MS MCPHARLIN Yes, 26 November 2001.

44 13 HIS HONOUR And the review of that really confirmed that in almost the same terms.

44 15 MS MCPHARLIN Yes.

44 16 RULING DELIVERED 12.26 P.M.