

**IN THE HIGH COURT OF NEW ZEALAND  
NAPIER REGISTRY**

**CIV-2008-441-145**

**IN THE MATTER** of an Application for Review under the Judicature  
Amendment Act 1972

**BETWEEN** **HAWKE'S BAY REGIONAL COUNCIL, CENTRAL  
HAWKE'S BAY DISTRICT COUNCIL, HASTINGS  
DISTRICT COUNCIL, NAPIER CITY COUNCIL and  
WAIROA DISTRICT COUNCIL** all being local  
authorities duly constituted under the Local  
Government Act 2002

Plaintiffs

**AND** **THE MINISTER OF HEALTH** exercising powers and  
responsibilities pursuant to (inter alia) the New  
Zealand Public Health and Disability Act 2000

Respondent

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**AFFIDAVIT OF JOHN KEITH NEWLAND**

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**WILLIS TOOMEY ROBINSON  
LAWYERS  
NAPIER**

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*Solicitor:* Matthew Lawson



I, **JOHN KEITH NEWLAND** of Havelock North, Company Director swear:

1. I hold the degree of Bachelor of Commerce & Administration in Finance and Economics from Victoria University. I am a member of the New Zealand Institute of Accountants, a member of the New Zealand Institute of Directors and a Fellow of the New Zealand Institute of Management.
2. For the 18 years until 2006 I was the Chief Executive of Farmlands, a farming co-operative operating throughout the North Island. During my time as Chief Executive the turnover of the co-operative increased from \$62million to \$350million and we increased the number of stores from 16 to 32. Co-operative membership increased from 7,000 to 22,000 members.
3. Prior to my time at Farmlands, I held various positions with Lion Nathan and its predecessor companies and ultimately held the position of Manager of the Hawke's Bay Brewery Operations for that company.
4. I now operate my own consultancy company Newland Directions Ltd, providing mentorship, advice and guidance to organisations and businesses. It is in that capacity that I became involved with the Hawke's Bay District Health Board.
5. In September 2007 I was approached by Chris Clark, Chief Executive Officer of the Hawke's Bay District Health Board to review management/board reporting processes. My instructions were to look at ways of increasing the efficiency of management. I recall Chris Clark saying to me that there were 2,500 staff of the HBDHB and if I could create 2,500 more



workdays per year by decreasing the amount of time spent in meetings and writing reports, then he would consider that a great achievement.

6. I set about my task by talking to the management team, both collectively and individually, attending board meetings and attending some of the management meetings. I also spoke individually with Board members of the HBDHB. This process was an essential part of my familiarisation with the organisation to firstly see where it was at and how I could assist by my recommendations.
7. I am aware that the state of the relationship between board and management is one of the reasons given by the Minister for his decision and, in particular, that that relationship has been described as being dysfunctional. From my observations since September 2007 until February 2008, I would not describe the relationship as dysfunctional although the Board was asking some hard questions of management and my role as consultant was an integral part of addressing those questions.
8. With some exceptions, I was appalled with the performance and style of management at the HBDHB. There was no leadership from the Chief Executive and no control being exercised over the management. The result is that even those members of the management team that were competent were incapable of effectively operating and there appeared to be a real disconnect between the members of the management team that wanted to get on with the job and the Chief Executive.
9. There were a number of senior management who appeared to simply be "yes men" for the Chief Executive but who appeared to achieve very little. The Chief Executive appeared to be very



good at liaising with Ministry staff but very poor at actually managing his own management team.

10. I was quite shocked at the first management meeting that I attended. It lasted for four hours and was attended by a large number of people. There was no agenda, and I recall a representative from one of the primary health organisations asked "Why are we here?".
11. There was no purpose or direction to the meeting and the meeting achieved very little or nothing at all.
12. After this meeting I reported to Chris Clark and I emailed my report of my observations and concerns. He told me that he didn't want a written report and that instead of a written report, we would discuss my observations over coffee or lunch. I found this most unusual.

#### **MANAGEMENT RELATIONSHIP WITH THE BOARD**

13. I attended the Board meetings since September 2007. I believe that the Board functioned very well and was attempting to obtain more meaningful information and better performance out of the management team. I was at Board meetings where Board members were critical of the volume of paper but lack of substance to the information that was presented to the Board. I saw making recommendations on this as an important part of my role as it was clear to me that what the Board required was less in terms of volume of reports but more meaningful information.
14. For example, I believe that the Board was being loaded with reports that were essentially meaningless and/or certainly not





refined to the key aspects that the Board required to know. Further, on a number of occasions I observed reports being presented to the Board and 3 people would be present to speak to a report. My observation was that 1 person would have been able to speak to a report and that almost invariably the report should have been far more concise with background information supporting an executive summary.

15. On one occasion I recall a Board member identifying that the information contained in one report did not correspond to the information on the same issue in another report presented to the Board. This was explained by management that they must have been using data from different sources.
16. This appeared to be a source of frustration for the Board who wanted more meaningful but concise information whereas management appeared to be intent on producing more and more volume in an ever increasing management churn.
17. I believe that the management of the HBDHB is over-staffed and that a private sector company would not last very long if it was managed as the Chief Executive managed the Hawke's Bay District Health Board. The response to management issues appeared to be to either employ more management staff or to engage a consultant to fill the gap caused by the ineptitude of management. I came to realise that my engagement as a consultant was no exception. The things that I observed should have been evident to anyone with any management expertise or experience.
18. I believe that my observations were consistent with the growing frustrations with management that were being experienced by the Board. The Board were attempting to make the operation



run more smoothly, more efficiently and more profitably. Part of that process was focusing on management and their ability to properly manage and deliver cost savings required within the health sector.

19. I would not describe the relationship between the Board and management as being dysfunctional but I would say that there were tensions within management as a result of the fact that the Board was scrutinising their performance. From my observations that scrutiny was entirely justified. Management response appeared to be to blame the Board rather than to scrutinise management performance.
20. As part of the Board's role they also had quarterly meetings with clinicians. Two clinicians to whom I spoke told me they appreciated this and considered it ironic that they had more effective communication with Board members than with senior management.
21. I was subsequently approached by Sir John Anderson, the Commissioner appointed by the Minister after the removal of the District Health Board. I was asked if I was interested in being an assistant commissioner for the DHB. Given my observations I was not prepared to be an assistant commissioner with the existing management structure. I conveyed this to Sir John.
22. I am also aware that it has been suggested that the Board did not properly manage the conflicts of interest of Mr Hausmann. Other than when he attended Board meetings I have never met Mr Hausmann before and do not know him. My observations were that the Board was meticulous in requiring declarations of interest on any matter and that at each Board meeting that I attended, the interest register was discussed and updated as



required. Consideration of conflicts of interest was undertaken at each meeting and it is certainly one of the most thorough processes for considering conflicts of interest that I have experienced with any company or organisation with which I have been involved.

**SWORN** at *Hastings* by  
**JOHN KEITH NEWLAND**  
this *17* day of June 2008  
before me:

) *John Newland.*  
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~~**A SOLICITOR OF THE HIGH COURT OF NEW ZEALAND**~~

BETH FRASER  
DEPUTY REGISTRAR  
DISTRICT COURT  
HASTINGS