



IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

Court Reference: COR 2017 3739

FINDING INTO DEATH WITHOUT INQUEST

Form 38 Rule 60(2)

Section 67 of the Coroners Act 2008

*(Amended pursuant to section 76 of the Coroners Act 2008)**

Findings of:	CORONER DARREN J BRACKEN
Deceased:	GAMcM
Date of birth:	11 DECEMBER 1971
Date of death:	31 JULY 2017
Cause of death:	HANGING
Place of death:	FOREST HILL, VICTORIA 3131

*Refer to Schedule of Correction of Errors at page 17

TABLE OF CONTENTS

Background	1
The Coronial Investigation	4
Matters in relation to which a finding must, if possible, be made	6
- Identity of the deceased, pursuant to section 67(1)(a) of the Act	
- Cause of death, pursuant to section 67(1)(b) of the Act	
- Circumstances in which the death occurred, pursuant to section 67(1)(c) of the Act	
Comments pursuant to section 67(3) of the Act	7
Recommendations	14
Findings and conclusion	15

HIS HONOUR:

BACKGROUND

1. Mr GAMcM was 45 years old when he was found hanged at his home on 31 July 2017. Immediately prior to his death, Mr GAMcM lived alone having separated from his wife, CMcM, in November 2015. The separation was amicable, and they had regular contact. Ms and Mr GAMcM shared two sons, JaMcM and JoMcM, with whom Mr GAMcM had regular contact.
2. At the time of his death, Mr GAMcM was employed in a senior position with a large company (“**the Company**”). A statement obtained from a colleague, detailed that Mr GAMcM’s role was to provide support to both the revenue management department and the sales and marketing division.
3. On 13 October 2014, Mr GAMcM consulted general practitioner, Dr Pramita Banerjee of Waverley General Practice, in relation to mouth ulcers and his distress over his mother’s then recent terminal medical diagnosis, subsequent rapid deterioration and her imminent death.¹ During this consultation, Mr GAMcM also told Dr Banerjee of his unresolved grief over the death of his father some 23 years earlier. Dr Banerjee noted that she believed Mr GAMcM to be coping well in difficult circumstances but nonetheless, gave him the name of several psychologists whom he could consult and prescribed “*sleeping tablets*”.²
4. Documentation from the Company evidences Mr GAMcM having received various support measures at work throughout September 2014, including psychological counselling. Mr GAMcM had also disclosed to others at the Company that he suffered depression shortly after and as a result of his mother’s death and that it returned to varying degrees every winter.
5. On 16 March 2015, Mr GAMcM again consulted on Dr Banerjee whose notes record:

“He reported that he was struggling with low energy, disturbed sleep. He told me that he was tired in the morning and was finding it difficult to get out of bed even at 10 o’clock in the morning. He was feeling irritable at work and was feeling jealous towards his wife. His appetite was reduced. He did not like the way he felt- he was being very irritable he said.

[...]

¹ Mr GAMcM’s mother appears to have died towards the end of 2014/early 2015

² Temazepam

After some discussion GAMcM and I decided to start treating his depression with a medication called Zoloft.”

6. At a consultation with Dr Banerjee on 13 April 2015, Mr GAMcM reported feeling much better. He detailed sleeping better and feeling calmer and said that he was “*not too emotional at work...*”. He continued to take Zoloft.
7. In February of 2016, Mr GAMcM was again afforded psychological counselling through the Company.
8. At a consultation with Dr Banerjee on 30 May 2017, Mr GAMcM presented with low mood. He told Dr Banerjee of having separated from his wife and of having stopped taking Zoloft approximately 12 months prior. He stipulated that he preferred to stay off the Zoloft and Dr Banerjee noted that, “*He told me that sometimes when things go wrong it feels like the end of the world.*” He reported having low self-esteem, avoiding confrontations, and experiencing negative thoughts every day. Mr GAMcM told Dr Banerjee that he was feeling worried about the future, his finances and reported feeling lonely. He said that his sleep was disturbed but was reluctant to again take antidepressants. Dr Banerjee referred him to psychologist, Judith Poll.
9. Mr GAMcM consulted Ms Poll four times between 1 June 2017 and 19 July 2017. Upon his initial assessment, Mr GAMcM scored in the severe range on the depression and stress subscales, and in the mild range for anxiety³. It was noted that this scoring was not unusual for initial counselling appointments. Mr GAMcM told Ms Poll that he had no suicidal or self-harming thoughts but rather, was experiencing “*more anxious and regretful thoughts upon waking in the mornings about the ending of his marriage 18 months prior.*”. Further Mr GAMcM stated aims for counselling were:

“... to be more assertive in his relationships with family and colleagues, to improve mood, to increase exercise, and to plan a career transition out of his current job.

[...]

As Mr GAMcM noted his sense of isolation at times, we planned and he enacted some reconnecting actions with his sister in New Zealand and planned more with New Zealand friends.”

³ DASS screening tool.

10. On 19 July 2017, Mr GAMcM emailed Ms Poll and reported that he had just been told he was to be ‘performance managed’ at work. *“He acknowledged that this news had been distressing for him, and therefore he was wondering if he should commence antidepressants.”* Mr GAMcM recognised in this email that he had not been *“smashing it out of the park”* but that he was nonetheless, surprised.
11. In a statement obtained by the coroner’s investigator (CI) Mr GAMcM’s friend, JW, detailed a conversation he had with Mr GAMcM just prior to his death during which Mr GAMcM told him of having felt *“blindsided”* on 19 July 2017, when he was told he was to be ‘performance managed’. In addition to being told about performance management, Mr GAMcM told JW that he was also told that due to his poor performance, he was not going to receive a ‘bonus’ and that if his performance did not improve, *“it could lead to separation”*.
12. On 21 July 2017, Mr GAMcM consulted Dr Banerjee in a very distressed state. He told her of his distress at being ‘performance managed’ at work. *“He was concerned that he would lose his job at the end of this process and felt that it was putting him under extreme pressure.”* Mr GAMcM detailed that his motivation at work had been low for a long time.
13. Dr Banerjee persuaded Mr GAMcM to recommence Zoloft because as she noted:

“that the symptoms of his depression had worsened significantly in response to the increased stress at work...was very optimistic that his mood would be a lot better soon and that he would be able to better manage the stresses in his workplace.”

THE CORONIAL INVESTIGATION

Coroners Act 2008

14. Mr GAMcM’s death was a *“reportable death”* pursuant to section 4 of the *Coroners Act 2008* (Vic) (**the Act**) because his death occurred in Victoria, was unexpected and not from natural causes.⁴
15. The Act requires a coroner to investigate reportable deaths such as Mr GAMcM’s and, if possible, to find:
 - (a) The identity of the deceased;
 - (b) The cause of death; and

⁴ *Coroners Act 2008* (Vic) s 4.

- (c) The circumstances in which death occurred.⁵
16. For coronial purposes, “*circumstances in which death occurred*”,⁶ refers to the context and background to the death including the surrounding circumstances. Rather than being a consideration of all circumstances which might form part of a narrative culminating in the death relevant circumstances are limited to those which are sufficiently proximate to be considered relevant to the death.
17. The Coroner’s role is to establish facts, rather than to attribute or apportion blame for the death.⁷ It is not the Coroner’s role to determine criminal or civil liability,⁸ nor to determine disciplinary matters.
18. One of the broader purposes of coronial investigations is to contribute to a reduction in the number of preventable deaths, both through comments made in findings and by making recommendations.
19. Coroners are also empowered to:
- (a) Report to the Attorney-General on a death;⁹
 - (b) Comment on any matter connected with the death investigated, including matters of public health or safety and the administration of justice;¹⁰ and
 - (c) Make recommendations to any Minister or public statutory authority on any matter connected with the death, including public health or safety or the administration of justice.¹¹

Standard of Proof

20. Coronial findings must be underpinned by proof of relevant facts on the balance of probabilities, giving effect to the principles explained by the Chief Justice in *Briginshaw v Briginshaw*.¹² The strength of evidence necessary to so prove facts varies according to the nature of the facts

⁵ *Coroners Act 2008* (Vic) preamble and s 67.

⁶ *Coroners Act 2008* (Vic) s 67(1)(c).

⁷ *Keown v Khan* [1999] 1 VR 69.

⁸ *Coroners Act 2008* (Vic) s 69 (1).

⁹ *Coroners Act 2008* (Vic) s 72(1).

¹⁰ *Coroners Act 2008* (Vic) s 67(3).

¹¹ *Coroners Act 2008* (Vic) s 72(2).

¹² (1938) 60 CLR 336, 362-363. See *Domaszewicz v State Coroner* (2004) 11 VR 237, *Re State Coroner; ex parte Minister for Health* (2009) 261 ALR 152 [21]; *Anderson v Blashki* [1993] 2 VR 89, 95.

and the circumstances in which they are sought to be proved.¹³ The principles enunciated by the Chief Justice in *Briginshaw* do not create a new standard of proof; there is no such thing as a “*Briginshaw Standard*” or “*Briginshaw Test*” and use of such terms may mislead.¹⁴

21. Facts should not be considered to have been proved on the balance of probabilities by inexact proofs, indefinite testimony, or indirect inferences,¹⁵ rather such proof should be the result of clear, cogent or strict proof in the context of a presumption of innocence.¹⁶ Proof of facts underpinning a finding that would, or may, have an extremely deleterious effect on a party’s character, reputation or employment prospects demands a weight of evidence commensurate with the gravity of the facts sought to be proved and the content of the finding based on those facts.¹⁷

MATTERS IN RELATION TO WHICH A FINDING MUST, IF POSSIBLE, BE MADE

Identity of the Deceased - Section 67(1)(a) of the Act

22. On 31 July 2017, Ms CMcM identified the deceased as her husband Mr GAMcM, born on 11 December 1971.
23. Mr GAMcM’s identity is not in dispute and requires no further investigation.

Cause of death - Section 67(1)(b) of the Act

24. On 1 August 2017, Dr Matthew Lynch, a Forensic Pathologist practising at the Victorian Institute of Forensic Medicine, conducted an external examination upon Mr GAMcM’s body. Dr Lynch provided a written report, dated 2 August 2017, in which he opined that the cause of Mr GAMcM’s death was ‘*Hanging*’. I accept Dr Lynch’s opinion.
25. Dr Lynch commented that there was a ligature mark about the neck and sharp force injuries to both arms which did not appear to be to be associated with major vascular injury.

¹³ *Qantas Airways Limited v Gama* (2008) 167 FCR 537 at [139] per Branson J but bear in mind His Honour was referring to the correct approach to the standard of proof in a civil proceeding in a federal court with reference to section 140 of the *Evidence Act 1995* (Cth); *Neat Holdings Pty Ltd v Karajan Holdings Pty Ltd* (1992) 67 ALJR 170 at pp170-171 per Mason CJ, Brennan, Deane and Gaudron JJ.

¹⁴ *Qantas Airways Ltd v Gama* (2008) 167 FCR 537, [123]-[132].

¹⁵ *Briginshaw v Briginshaw* (1938) 60 CLR 336, at pp. 362-3 per Dixon J.

¹⁶ *Briginshaw v Briginshaw* (1938) 60 CLR 336, at pp. 362-3 per Dixon J.; *Cuming Smith & CO Ltd v Western Farmers Co-operative Ltd* [1979] VR 129, at p. 147; *Neat Holdings Pty Ltd v Karajan Holdings Pty Ltd* (1992) 67 ALJR 170 at pp170-171 per Mason CJ, Brennan, Deane and Gaudron JJ.

¹⁷ *Anderson v Blashki* [1993] 2 VR 89, following *Briginshaw v Briginshaw* (1938) 60 CLR 336, referring to *Barten v Williams* (1978) 20 ACTR 10; *Cuming Smith & Co Ltd v Western Farmers’ Co-operative Ltd* [1979] VR 129; *Mahon v Air New Zealand Ltd* [1984] AC 808 and *Annetts v McCann* (1990) 170 CLR 596.

26. Toxicological analysis of post-mortem samples detected the presence of temazepam and its metabolite oxazepam¹⁸, sertraline¹⁹ and paracetamol²⁰.

Circumstances in which the death occurred - Section 67(1)(c) of the Act

27. On 31 July 2017, Ms CMcM sent several text messages and emails to her husband in addition to making several telephone calls to him. She did not receive any response and grew concerned. At approximately 4.00pm, Ms CMcM went to Mr GAMcM's home to check on him. She noticed that his vehicle was parked in the driveway, she knocked on the front door and could hear Mr GAMcM's dog pawing from behind the door; there was no response to her knocking.
28. Ms CMcM walked up the street to get a spare door key held by a neighbour and as she walked past Mr GAMcM's carport she looked through the slats of the fence and saw Mr GAMcM hanged from a rafter in the carport. She immediately called emergency services.
29. Ambulance Victoria arrived a short time later and formally declared Mr GAMcM deceased.
30. Police observed wounds on Mr GAMcM's right arm.
31. Inspecting the house, police found blood on the walls of the hallway leading to the bathroom and blood in and around the bathtub. On the floor of the bathroom lay a serrated knife and an open and bloodied box cutter knife near the shower. Blood was also found throughout the rest of the house and in a shed.
32. Suicide notes and a diary were located in the dining area of the residence.
33. Investigating officers noted that there was no evidence of suspicious circumstances indicating that anyone else had been involved in Mr GAMcM's death and immediately commenced a coronial investigation. The CI provided a brief of evidence to the Court containing statements from the Company's employees, although not from K²¹ or P;²² and from Mr GAMcM's family and friends. The brief also contained Mr GAMcM's medical records, his personal diary entries and 'suicide notes'.
34. The absence of statements from K and P does not assist however I am able to fulfill my statutory obligations in their absence.

¹⁸ Temazepam is a sedative/ hypnotic drug of the benzodiazepine class.

¹⁹ Sertraline is an antidepressant drug for use in some cases of major depression.

²⁰ Paracetamol is an analgesic drug.

²¹ Mr GAMcM's manager.

²² The Company's Human Resources manager.

35. As at the date of his death, Mr GAMcM's position at the Company was Finance Manager - Reporting and Planning, a senior role that came with considerable expectation of high performance and indeed, an ability to assess his own performance under the guidance of management. The material in the Coronial Brief evidences Mr GAMcM's insight into his work performance. On 21 July 2017, Mr GAMcM told Dr Banerjee that his motivation for his work had been low "*for a long time*" (the first time this is mentioned in her records). This low motivation is seemingly confirmed and reflected in the various meeting review notes provided by the Company and their documented reasoning behind the decision to commence 'performance management' for Mr GAMcM. I note that Mr GAMcM had prior performance issues in February 2016 regarding structural changes to his role and notes of a meeting record:

"[...] not a great deal of positive feedback around business partnering support. JK provided feedback on how he behaves in budget meetings, struggles to engage influence and support the commercial team..."

36. Subsequent to this meeting Mr GAMcM's role was changed to 'focus on his strengths'.²³

"The Financial Manager: Planning and Reporting role (FP & R) being allocated to GAMcM is mainly structured around planning and reporting... hence more playing to GAMcM's strengths."

BEHAVIOUR: in forums talking about commercial strategy and business performance, GAMcM discharges his section of responsibility and then switches off. He does not demonstrate motivation to learn about other drivers in the business to increase his ability or value here. Observed by both S and K (they acknowledge he had personal issues, but think this is beyond that),

GAMcM does what he needs to do in the commercial space to discharge his responsibilities but no more. The impact of this is he does not have enough knowledge of the business drivers to provide insight. He provides summaries of events, rather than actual insight which is why people often referred to GK when he was there.

In addition, GK offered to mentor GAMcM and teach him his skill in the commercial space, but GAMcM did not take him up despite acknowledging that he did not have the expertise or ability that GK had. It was a missed opportunity for GAMcM.

[...]

²³ The Company's diarised notes

When the team try to engage with GAMcM on an issue that's commercially challenged, he can't find the time to help [...]
The sense is that under pressure GAMcM gravitates toward mandatory planning and reporting requirements- they are his preference. The main issue is the lack of ability to proactively engage and manage the expectations of these key stakeholders."

37. Emails from 10 and 25 August 2016, refer to Mr GAMcM undertaking the task of drafting a plan to accommodate these changes under the direction of K.
38. I note that several statements from Mr GAMcM's colleagues and friends detail that the abovementioned changes occurred in the setting of workplace conflict. Specifically, that Mr GAMcM did not get along with the new sales director, S "*It was evident among staff that GAMcM and C did not get along.*" Mr GAMcM believed that S had spoken with K about him, resulting in a change to his duties.
39. Mr GAMcM is described by previous colleagues as "*a very soft person*" in contrast to K and S who are said to be 'not overly supportive of staff in the work environment.'
40. That Mr GAMcM and S did not '*...get along...*' is relevant but not in and of itself determinative of anything. Work colleagues do not always get along but nonetheless have to work together; such an expectation is particularly apposite of senior roles.
41. The Company's notes dated 4 April 2017, refer to Mr GAMcM's performance being "*not where it needed to be*", and suggested that he lacked initiative, leadership skills, engagement skills and understanding. The next steps documented include discussing the gaps with Mr GAMcM and the implications of his not effectively dealing with these perceived identified deficiencies.
42. The Company's notes also refer to Mr GAMcM's welfare and how he was coping. Specifically, reference to "*confidence bridge gap*" correlates with medical notes detailing low self-esteem. The notes refer to "*3 mths notice period*", likely a reference to the period of notice intended if a decision was made to dismiss Mr GAMcM from the Company. These notes also refer to "*If not for him - help exit*"²⁴ suggesting, that at least, at that point in time no decision had been made to terminate Mr GAMcM's employment.

²⁴ The Company's diarised notes

43. Employers and employees part company all the time; employees resign, and employers dismiss employees – as much is unremarkable. The manner in which these events occurs and how various parties treat each other is significant.
44. The Company considered that Mr GAMcM was not coping with the pressure of his role and was exploring options including managing his performance, altering the scope of his role and his ongoing employment together with assistance to him to leave the employment of the Company.
45. The Company’s diarised notes, between 3 May 2017 and 31 July 2017, refer to concerns about Mr GAMcM’s performance and his ability to cope with feedback. On 27 July 2017, The Company’s diarised notes refer to Mr GAMcM

“struggling at moment

Big wake-up call

Went to Drs – on anti’s + sleeping tabs”.

46. In notes from 14 June 2017, the writer details that Mr GAMcM was not prepared for the discussion and queries whether Mr GAMcM is being set up to fail. The writer satisfies themselves by detailing,

“-Clear on capability gap

-What is really needed in role

- robust docs of discussions had

-setting him up to fail”

47. Disagreement between Mr GAMcM and K on what these gaps were is not pertinent to my investigation. The nature and discussion surrounding performance gaps are rightly placed within performance management meetings and are outside this court’s legislative scope.
48. I note that Mr GAMcM’s diary details that on the night of 19 July 2017 he spoke with P and informed her that he was seeing his general practitioner that coming Friday because of the process. Specifically, that he was “*gutted*”. No specific reference to depression is detailed but the notes refer to P offering Mr GAMcM access to the Employee Assistance Program. “*She said to tell her anything I needed... door was open*”. Whilst the Company’s notes do not contain any specific reference to Mr GAMcM telling P of his depression, the notes contain no

repudiation of Mr GAMcM having told P of his seeing his doctor because of ‘the process’ and of ‘...on anti’s + sleeping tabs”.

49. Mr GAMcM’s diary notes from 21 July 2017 detail that K “*gave good feedback*”. Mr GAMcM queried whether the feedback was a part of his performance management process; K said that it was. Mr GAMcM’s diary notes make clear that he was very concerned about not being paid his bonus. K told him that he was “*Not sure*” about whether Mr GAMcM would receive his bonus.
50. I note the concerns raised by family and friends, detailing that Mr GAMcM had told them that the performance review process was “*unprofessional, lacked any kind of formal structure and was far from best practice*”. Specifically, that he felt like he was being maligned with a view to cessation of his employment.
51. S outlined the Company’s performance management process as involving:
- (a) *The relevant manager consults with the Company’s Human Resources team for support and guidance;*
 - (b) *The manager, the HR team member and the employee meet to discuss the identified issues surrounding their performance;*
 - (c) *In consultation with the employee, the employee’s manager and the HR team member agree on and implement an action plan (**the Plan**). The Plan:*
 - i. identifies the issues to be addressed;*
 - ii. identifies the support and strategies required by the employee to address and correct those issues and sets timeframe; and*
 - iii. involves regular coaching and review by the manager and the HR team member to track the employee’s progress, including providing additional support to the employee where necessary or sought.*
52. Mr GAMcM’s friend, W, refers in his statement to Mr GAMcM being inappropriately required to create his own “*gap reduction plan*” (**plan**). The detail of any inadequacy in the performance management process to which Mr GAMcM was subject is not a matter for this court. Mr GAMcM held a senior position at the Company. It is not clear to me that Mr GAMcM being given some control over how he was to improve his performance was unreasonable. Internal email chains evidence supervision and support provided to Mr GAMcM.

53. The Company's diarised notes from 27 July 2017 detail that Mr GAMcM "*doesn't feel adequate to fill gaps*" and lacks confidence "*to deliver*". There is no mention of termination of employment however notes do detail that support would be provided if Mr GAMcM chose to leave the company;

"-outplacement

- \$- lets talk about it when decided (- looking at 8 months plus bonus)

We would support.

-find another role- we would support.

Would talk to strengths "

52. Mr GAMcM's strengths were detailed as commitment, engagement and discharging, handling routine tasks, in addition to getting "*stuff done*". In her statement Ms CMcM refers to Mr GAMcM calling her after the meeting and telling her that he had specifically been told that his plan would not suffice and he would likely lose his job.

53. Mr GAMcM's diary notes from 27 July 2017 detail "*sick leave*" and that P texted him and asked "*are you ok*" "*I said yes*". Mr GAMcM later told his friend, AS, that "*the business wanted to part ways*". The Company's diarised notes do not stipulate that they wanted to part ways but they do detail "*suggested this time to consider options*", this included transferring to a different role.

54. Mr GAMcM's diary notes for the following day, 28 July 2017, detail that P asked Mr GAMcM "*what was stressing him out*" to which Mr GAMcM responded "*work, BR Project FP*". He details that he made an appointment with "*Dr*" for 10.00am but does not detail having told P or mentioned to her that he was depressed.

55. On 28 July 2017, Mr GAMcM spoke to Ms GAMcM about their finances and the possibility of moving back into the family home. She described him as appearing to be "*frantic and desperate*". Ms CMcM declined the suggestion on the basis that their relationship was over. Mr GAMcM struggled with the separation from his wife.

The Company's Knowledge of Mr GAMcM's Depression

56. According to the Company's diarised notes, Mr GAMcM advised that he was "*struggling*" and that he was being medically treated for depression and that he was taking medication.

57. On 28 July 2017, at approximately 9.31am, Mr GAMcM spoke with LB, a friend, seeking advice about his work situation at the Company. During the conversation, Mr GAMcM detailed that he felt that the Company was “*trying to get rid of him*” and that he had informed human resources that he suffered depression and was offered the Employee Assistance Service.²⁵ LB later states that Mr GAMcM specifically said that he had “*advised the Human Resources Director at that meeting that he was on Anti-Depressants and sleeping tablets. The Human Resources Director told him that they could offer more to help him exit the company.*”
58. On 30 July 2017, Mr GAMcM emailed K detailing his various mental health struggles and medical treatment indicating that he had been suffering from depression since early June. The Company’s diarised notes dated 31 July 2017 also detail that Mr GAMcM had called the writer in the early afternoon the day prior and sent a note. “*Job is really important to him prepared to stay on in a lower role with less rep.*” Several options of accommodating Mr GAMcM are detailed, none of which is termination of employment.
59. JW’s statement details that Mr GAMcM told him that he was advised by a friend LB, a human resources manager in another organisation, that he needed to “*tell them*” about his mental state “*and that they cannot dismiss him, if he is suffering from depression*”. JW’s statement also details Mr GAMcM referring to having “*stuffed up*” in relation to his email to K. Precisely what Mr GAMcM meant by this is not known; speculation would be inappropriate.
60. In addition to some, at least uncertainty – perhaps stress as a result of having sent the email detailing depression to K on 30 July, Mr GAMcM found on 31 July that he could not access his work email and subsequently, came to the conclusion that his employment had been terminated.
61. Mr GAMcM also referenced the 30 July 2017 email to K in his suicide notes,
- “Just realised that the Company screwed me on severance... CP and K knew I was unwell [...] CP was my support person... I told her I was depressed and on medication [...] I sent an email to K from gmail 12.58pm”.*
62. A statement obtained from S (General Manager the Company) details that while discussions regarding “*various options*” had been held between Mr GAMcM, K and P, as far as S was aware, “*no decision to terminate his employment had been made at that time*”.

²⁵ There is no clarification on who Mr GAMcM told. Mr JW’s statement detailed he had a friend in human resources named LB, who he confided in. According to JW, LB had been encouraging Mr GAMcM to disclose his depression to Ms Power.

63. The Company's management, K and P were clearly of the view that Mr GAMcM was not performing his role as he should. They told Mr GAMcM this and implemented 'performance management', considered changing the scope of his work, told him that he would not, or may not, be paid a bonus and considered dismissing him. These events all caused Mr GAMcM considerable distress. There is evidence in the Coronial Brief that Mr GAMcM told the Company's management, at least P that he was depressed and that his depression was being medically treated.
64. There is little doubt that the Company were considering terminating Mr GAMcM's employment; it is not clear, as at the date of Mr GAMcM's death, whether a decision to do so had been made or that Mr GAMcM had been told that such a decision had been made.
65. I reiterate that my comments, which are based on the evidence available to me, do not seek to diminish the stress felt by Mr GAMcM in the period proximate to his death. Certainly, it is evident that his decision to end his life was informed by the ongoing stress at work; 'performance management', being told that he would not, or may not, be paid his bonus and at least the possibility that he would be dismissed. There is little doubt that his underlying depression was aggravated by these events.
66. Proximate to his death Mr GAMcM was under considerable stress.
- (a) He was suffering from depression for which he was being treated.
 - (b) His relationship with his wife had then recently ended, permanently.
 - (c) He was conscious that the Company was not happy with his work performance and that there was, at least some possibility that he may be dismissed.
 - (d) He believed that his access to his company email portended imminent dismissal.
67. It was in the 'fog of this stress' that he decided to, and did, take his own life.

COMMENTS PURSUANT TO SECTION 63(7) OF THE ACT

68. It goes without saying but say it I will if for no other reason than to emphasise its importance. Employers must be acutely aware of the mental health of their employees and particularly any changes caused by events and circumstances of their employment. Such obligations are set out in 'work-place legislation' and indeed at common law. It is not apposite to the findings I am

required to make that I decide whether the Company or any of its employees breached the terms of any such legislation or associated duties.

69. Employers should engage in an ongoing assessment of their staff management processes and procedures and particularly ‘take stock’ when such processes and procedures are involved in injury to, or the death of an employee especially in cases such as Mr GAMcM’s when the employer is aware of the employee having at least experienced workplace stress. Assessments in such a context may be poignantly and significantly informed by that very context and insight gained about how best to have the sometimes inherently difficult discussions employers have to have, with employees. Minimisation of associated stress is especially significant for employees labouring under mental ill-health,

RECOMMENDATIONS PURSUANT TO SECTION 72(2) OF THE ACT

70. With the aim of promoting public health and safety, I recommend that the Company assiduously evaluate their internal processes and procedures for dealing with employees who are considered not to be performing up to expectation and explicitly consider strategies for minimising the inevitable stress caused by such processes and procedures particularly in employees with mental ill-health.

FINDINGS AND CONCLUSION

71. Pursuant to section 73(1A) of the *Coroners Act 2008* (Vic), I order that this Finding be published on the internet.
72. Having investigated the death, without holding an inquest, I make the following findings pursuant to section 67(1) of the *Coroners Act 2008*:
- (a) The identity of the deceased was GAMcM, born 11 December 1971;
 - (b) Mr GAMcM’s death occurred;
 - i. on 31 July 2017 at Forest Hill Victoria 3131;
 - ii. from hanging; and
 - iii. in the circumstances described in paragraphs 27 - 67 above.

I direct that a copy of this finding be provided to the following:

- (a) Ms CMcM, senior next of kin.

- (b) Mrs NJF, sister;
- (c) Ms Nicole Sinosich, WorkSafe Victoria;
- (d) Mr Colin Almond, HWL Ebsworth Lawyers on behalf of the Company;
- (e) Mr Tim Freeman, Tony Hargreaves & Partners Lawyers on behalf of K and P;
and
- (f) Leading Senior Constable Ken Trembath, Coroner’s Investigator, Victoria
Police.

Signature:



DARREN J BRACKEN

CORONER

Dated: 30 July 2021

SCHEDULE OF CORRECTION OF ERRORS

Paragraph 1 which read: *“Ms and Mr GAMcM two sons, Jo and Pa, with whom Mr GAMcM had regular contact”* has been changed to read: *“Ms and Mr GAMcM shared two sons, Ja and Jo, with whom Mr GAMcM had regular contact”*.

Paragraph 59 which read: *W’s statement details that Mr GAMcM told him that he was advised by a friend named Luke in the human resources department that he needed to “tell them” about his mental state “and that they cannot dismiss him, if he is suffering from depression”* has been changed to read: *“W’s statement details that Mr GAMcM told him that he was advised by a friend named W a human resources manager in another organisation, that he needed to “tell them” about his mental state “and that they cannot dismiss him, if he is suffering from depression”*”.