

Statement to Royal Commission  
Raffaele Marcellino 24 January 2016

Background

1. I was employed in a part time position from February 2003 as Principal of AIM. My duties focussed on faculty leadership, curriculum and learning and teaching. My letter of engagement was a brief letter stating title, pay and general responsibilities for faculty, learning and teaching. I had no knowledge nor responsibility for budgets, nor had knowledge of permanent staff salaries. The finances of AIM were managed by Dr Peter Calvo and the AIM accountant.
2. Victor Makarov was an employee of the institute when I joined AIM. Prior to joining AIM I did not know Victor Makarov nor other members of AIM management nor faculty with the exception of Dr Peter Calvo. I had met Dr Calvo at a meeting of the music peak body National Council for Tertiary Music Schools and had some phone conversations with him when completing survey research for a study of Australian music institutions for the Australian Music Centre.
3. In 2004 AIM was a privately owned company controlled by the Calvo family. Dr Calvo was the director and his wife Athalie Hodge was the Head of Administration. There were few fulltime employees and almost all faculty were either employed on sessional or part time basis.
4. Victor Makarov had an international reputation as a piano teacher with a sizeable number of AIM and private piano students. He was assisted in his teaching by his wife, his daughter [REDACTED] and five young men ([CAB], [CAC], [BZW], [BZX] and [BZY]) who had all accompanied him from the Ukraine to Australia. All five men and [REDACTED] were students at AIM having either completed or completing degree studies. All were employed as teachers in the Young Music Program and as teaching assistants to Victor Makarov.

Allegations of child sexual abuse in relation to Victor Makarov

5. I became aware of the allegation made by [CAA] from Dr Calvo at 1pm on 5 February 2004. Dr Calvo said words to the effect of 'Victor told me that [CAA] and his parents confronted him with a charge of sexual abuse'. It is my recollection that Dr Calvo said; 'the allegation is that the abuse took place at Victor's home and [CAA], accompanied by his parents, had confronted Victor in his home'. Peter and I discussed the seriousness of the allegation and that we needed to investigate by meeting separately with both Makarov and [CAA] and his parents.
6. At about 230pm I made phone contact with Makarov who confirmed this disclosure and denied any wrongdoing. At 3pm I phoned [CAD] and left a voice message. [CAD] returned my call at 325pm. I asked to meet with [CAA] and his parents regarding [CAA] allegation against Makarov. [CAD] was not able to confirm a time for an interview and agreed to speak on the following Monday, 9 February.
7. On 9 February I spoke with [CAA] who advised that he would not attend any meetings at AIM but did confirm the accusation against Makarov saying words to the effect of 'the situation is serious'. After speaking with [CAD] I called Makarov and advised that he was to have no further contact with neither [CAA] nor his family and I was seeking advice from the Ombudsman's office. Makarov agreed to not make contact with the [CAD] family.
8. I became aware of the allegations made by [BZW] and [BZX] on 23 February 2004 at approximately 1pm during a meeting with AIM legal counsel Terry McNally, Peter Calvo and Ian Brooks, Academic Registrar of AIM. During this meeting, I was advised that [BZW] and [BZX] had been granted an AVO for their protection and was also advised of the conditions. I did not see the AVO myself.

9. On 21 February, [BZY] advised me that he had sought an AVO against Makarov.
10. I became aware of the allegation regarding [BZZ], a Young Music Program student on 25 May 2004 through police requests for enrolment records. I did not know [BZZ] and have never met him

#### Actions taken by AIM in response to the allegations

11. Following the initial disclosure, I made contact with the Ombudsman's office on 10 February 2004 and spoke with [REDACTED]. [REDACTED] advised that she was unsure if the Ombudsman's office had jurisdiction and would advise. On 11 February [REDACTED] advised that the Ombudsman's office did have jurisdiction and the allegation must be notified to the police. At 4pm, I called the police and spoke with Vivian Crawford, Child Protection Enforcement Agency, NSW Police and then called the DoCS phone line at 406pm and registered a report, reference no: I-QBXEL. A follow-up call was conducted on 12 February 2004, 1020am, we discussed the allegations by [CAA] and actions taken in response up to that time. AIM continued to provide information to the Ombudsman to assist with their investigation.
12. On 13 February at 10am, I spoke with Linda Nilsson (JIRT). Ms Nilsson advised that a police investigation will occur and a DoCS investigation was underway. She expressed concern regarding Makarov's continuation of teaching. She advised that she would discuss the case with a Police Team Leader. At 1132am I received a call from Det. Sgt. Lynn Marshall at my home. Det. Sgt. Marshall advised of the necessity to maintain confidentiality, that police will keep AIM informed of the investigation progress and the [CAA] allegations against Makarov.
13. A decision to allow Makarov to continue to teach was made on 13 February 2004. When I arrived at work that afternoon, I advised Dr Calvo of the phone calls with Ms Nilsson and Det Sgt. Marshall, in particular their urging to suspend Makarov. It was Dr Calvo's view that AIM did not have grounds to suspend Makarov and considered the action would be prejudicial to Makarov. Dr Calvo directed that Makarov was not be suspended. If suspended Dr Calvo was certain there would be a legal action by Makarov against the institute. Dr Calvo wished to have AIM's legal counsel represent AIM's position to the Ombudsman's Office and advised that he would instruct AIM legal counsel Terry McNally to do so.
14. On the 16 February 2004, we convened a meeting with Dr Calvo, Ian Brooks and myself to discuss measure that would ensure Makarov's teaching on campus was safe. It was decided at this meeting that Makarov was to have constant supervision of a staff member whilst on campus.
15. Makarov was advised of this decision during a meeting with Dr Calvo and me on the same day. Makarov suggested having his teaching assistants, [BZY] and [CAC], attend all lessons to observe conduct as well as having parents present during lessons. At this stage I was unaware of the allegations by [BZY]. On the 17 Feb 2004 I met with [BZY] and [CAC] to instruct them on process of diarising observations. On the 21 February [BZY] advised that he had lodged an AVO against Makarov and accordingly I advised that he was no longer to attend lessons with Makarov. On 22 Feb, I directed [CAC] not to act as observer at Makarov lessons.
16. On 23 February 2004 during a meeting with Terry McNally, Dr Calvo, Ian Brooks and I, we discussed the teaching of AIM students at institute premises and at Makarov's house and which individuals had sought an AVO against Makarov. This group then met with Makarov and his legal counsel Luke Adamson to discuss Makarov's teaching and the AVOs. Dr Calvo directed Makarov to teach AIM students only on the AIM campus under supervision by AIM staff. Dr Calvo stated that AIM would organise the supervision and advise all parents of Makarov's students of the

charges facing Makarov and the supervision arrangements. Staff supervising Makarov were advised of the charges in writing and the AVO conditions in place against Makarov and process for making records and process for lodging records. Records were to be lodged with the Head of Administration.

17. On 8 June, [REDACTED], an AIM student disclosed that she had been attending Makarov's home to have lessons. Dr Calvo and I met with Makarov in Dr Calvo's office regarding [REDACTED]'s lessons. Makarov advised that [REDACTED] and two other students were attending lessons as private students not AIM students. We disagreed with Makarov's interpretation and instructed him not to teach these students at his home. Makarov acquiesced.
18. In October 2004, we became aware that a number of parents had withdrawn their children from AIM's Young Music Program so Makarov could teach them as private students. These parents were aware of the charges against Makarov having received written notice and told by AIM YMP Coordinator Joy Lee. I spoke by phone to Makarov who confirmed that students were attending his home for lessons and claimed that AIM was making an illegal demand on him to cease teaching students. I advised the Ombudsman's Office of students attending Makarov's home on 11 October 2004. In November some parents of the former students advised AIM they were challenging the Ombudsman's Office with regard to Makarov's restriction on teaching.
19. On 7 July 2004 I was advised that Makarov had requested leave from AIM through his legal counsel. Dr Calvo granted the leave request. Over August to September 2004 AIM provided information to the Ombudsman's Office for their investigation. Makarov did not return to AIM campus again.
20. In December 2004 Makarov was convicted, remanded and sentenced in January 2005. Senior AIM staff were advised of the conviction in December 2004. I was advised by the police that an appeal was being sought and that Makarov had sacked his legal counsel. Makarov was formally terminated as an employee of AIM 1 June 2005.

#### Knowledge and understanding of the policies, procedures and practices of Aim in 2004

21. In February 2004 AIM was unprepared for handling child abuse situations and was certainly unprepared for the seriousness and gravity of the allegations against Victor Makarov. It had inadequate contractual arrangements, insufficient process and procedures and little understanding of how to address reporting of child abuse.
22. On 28 May 2004, Anthony Trudhope, Barrister was engaged to assist with the internal investigation. He conducted interviews and it is my recollection that he provided a report to Dr Calvo.

#### Current policies, practices and procedures

23. Over the course of 2004 AIM developed, with the assistance of the NSW Ombudsman's Office, a best practice policy and procedure for managing child abuse and staff conduct and provided training to all staff. AIM adopted the policy as a condition of employment for all staff to complete a working with children check regardless of position prior to commencing employment with the Institute. All current staff underwent a working with children check. This process returned no results of prohibited individuals employed by AIM. As a result of these revisions AIM employment contracts hence had provision of suspension for staff facing allegations of misconduct or actions that brings the reputation of the Institute into disrepute.
24. AIM policy included reporting any incident or suspected case of child abuse to AIM management immediately and AIM management would notify the police and the Department of Family and

Community Services (as it is now known) immediately upon this report. It is now my understanding that a matter of this nature must be referred to the police and department of youth and community affairs.

25. This statement is based on my recollection and the notes provided to me (AIMU.0001.001.0006). These are summary notes written by me over the course of 2004. Those notes are part of a larger file that was kept on the matter and is in the possession of AIM. I believe that this file contains all original emails, correspondence and internal advices. I am of the view that the larger file would further assist in my recollection of events. Despite a number of requests, to date I have not been provided with those records.

*Raffaele Marcellino*

28 January 2016