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IN THE SUPREME COURT OF TONGA
ELECTORAL JURISDICTION
NUKU'ALOFA REGISTRY

CV 71/2021

IN THE MATTER OF: THE ELECTORAL ACT ("the Act")

BETWEEN:

Siaosi Vailahi Pohiva

Petitioner

- and -

Tevita Fatafehi Puloka

Respondent

JUDGEMENT

BEFORE: THE HONOURABLE COOPER J
Counsel: Mr.D. Corbett for the Petitioner
Mrs. P. Tupou KC for the Respondent
Date of Trial: 19 April - 21 April 2022
Date of Submissions: 5 May 2022
Date of Judgement: 6 May 2022

1. On 2nd September 2021 His Majesty the King issued Writs of election to hold elections of the Representatives of the Nobles and of the People of the Legislative Assembly on 18th November 2021. Tevita Fatafehi Puloka (Mr. Puloka) won election as the People's Representative for Tongatapu 1 Electoral District.
2. The petitioner, Siaosi Vailahi Pohiva (Mr. Pohiva) had stood as a candidate for the same seat.
3. This is an election petition under section 25 of the Electoral Act 1989 (the Act) challenging Mr. Puloka's election. It alleges that he committed three acts of bribery, in

breach of section 21 (1) (a) of the Act, thus the petitioner seeks to have his election declared void under section 32 of the Act.

Siaosi Pohiva

4. He was the People's Representative for Tongatapu 1 from 2019 until the last election. He comes from a political family. He is the eldest son of the former Prime Minister; he described himself as a fighter for democracy in Tonga and the Pacific.
5. His affidavit was at page 23 of the petitioner's Court Book. He lives in Hala'ovave, one of the 10 towns making up Kolomotu'a. The respondent lives in 'Isileli, also in Kolomotu'a.
6. The affidavit and annexes were amended by him in his evidence, in that he asked to omit any references save those relating to the three allegations of bribery relating to: (i) Toti Viau, (ii) Uili 'Ahokava, and, what I describe as (iii) the soap allegation.
7. The material in the annexes that went beyond those allegations he likewise requested be omitted.
8. His affidavit of 22nd April 2022 has at annex A, the screenshot of a Facebook page. He stated this was the Facebook page of Miss Heimuli Veronica. On it she had posted a comment taken from Miss Joan Puloka Rigamoto's Facebook page.
9. In cross-examination he explained that he was not a first-hand witness to any of the events that form the allegations of bribery in the petition.
10. In annex A of 22nd April 2022 affidavit, the comment from Miss Heimuli Veronica was "Malo e 'ofa mo e tokoni"¹
11. The print out of that same Facebook page of Miss Joan Puloka Rigamoto had separately been prepared with an English translation. It became Exhibit (R) 1.
12. He had tried to contact Miss Heimuli, but she is in Japan.
13. The petition was nonetheless based on primary evidence.

¹ "Thank you for the love and assistance."

Meleane Fainga'a

14. She is the Principal of Hala'ovave Government Primary school. She attended court in response to a witness summons.
15. Tevita Puloka had attended her school with hand sanitiser and masks. She could not be sure of the exact date, but it was in early November 2021. She was there with her staff and students.
16. Of those pupils, the majority of their parents came from the district Tongatapu I as did her staff.
17. The sanitiser and masks were received by herself and the teaching staff. They were for use in the classes and by the teachers. Tevita Puloka told them "These are for you to use to wash your hands."
18. They took photographs of the donation.
19. He told us he sends his love and gratitude. She understood he was a candidate at the time.
20. Cross-examined she added further detail; Mr. Puloka had come during the lunch break on the day in question. She did not have a clear recollection if by that time it was clear that Tonga was about to go into a lockdown as a consequence of Covid 19.
21. The photographing of the event had been taken at the time and she was not brought back to stage it. Being Principal, she would normally receive every guest who came to her school.
22. These donations were brought to her and her teachers, everyone witnessed that. It was solely for the children and staff; the parents did not benefit from them.
23. She did not recall any mention that the donation was made in conjunction with Aussie Trade. His words to her were that they were given to her for washing their hands and for the use of teachers and the pupils.
24. The election was never mentioned.
25. She agreed that she was grateful and they were needed at that time.

Sosaia Faletau

26. He is from Kolomotu'a, works for the government as a Manager of Central Support Services. He is also the Chairman of Kolomotu'a Council and the Village Committee.
27. He described the Council's role as supporting development. Money that came to the district would be channelled through the Council, their role being to determine how it should be spent best for the 10 villages of Kolomotu'a.
28. He recalled that in November 2021 they had been asked if they would accept a donation from Aussie Trade, from a Mr. Paea Moala who is from Kolomotu'a. It consisted of soap. A Government lockdown was imminent and soap and masks had been given to schools and Community Police.
29. He was shown a photograph. It was himself receiving that donation from Aussie Trade and Mr. Puloka on 1st November 2021. It was taken at Ma'ufanga. He had been asked to attend as the representative of Kolomotu'a Council. The photograph also shows the bottles of soap on the back of a truck.
30. He had not gone anywhere with that truck, nor personally benefited from the donation.

Losipeli Funaki

31. He is from Longolongo and the Town Officer of Kolomotu'a. He is registered to vote in Tongatapu 1.
32. He recalled the distribution of some goods on or about the 1st week of November. The candidate, Mr. Puloka, had come with some handwashing, liquid soap. He told him they were donations from Paea Moala and from Small Industries. They were then supposed to hand those out to the villages.
33. He transferred them to 1.25 litre bottles and those were distributed to Community Police in Longolongo, Hala'ovave, Sopa, Tongatacapa and 'Isileli.
34. He named the Community Police officers in 'Isileli who had received them, including one 'Eliesa Viau.

35. He was told they were Puloka donations from Paea Moala. He was quite certain that Paea Moala's name was mentioned.
36. In turn when he handed these out, he stated that they were Mr. Puloka's donations from Paea Moala.
37. He accepted that he is a supporter of Mr. Puloka.
38. Cross-examined, he recalled that it was to Eliesa Viau at 'Isileli the soap was given to. It was a donation, given by Mr. Puloka; but he stated it had come from Mr. Paea Moala and Eliesa were told this too. Those were the facts of the donation as explained by Mr. Puloka, consequently that was the manner in which the donations were then made.
39. Mr. Puloka had not told him what to say in court, nor was he part of his campaign team.

'Eliesa Viau

40. He is from 'Isileli. He identified his brief of evidence, his signature and gave evidence that it was a true statement by him.
41. He stated the soap had been handed out, but all that was said was that it was a gift from Mr. Puloka. It was delivered to the Community Police base he was in charge of at the time.
42. There are several Community Police bases in 'Isileli. He has 3 people manning it. He is the leader of that base.
43. He stated that he used the soap as did his family.
44. In cross-examination he admitted that he is the husband of Toti Viau, that she is a strong supporter of Mr. Pohiva, the petitioner.
45. He insisted that upon the soap being donated there was no mention of anyone other than Mr. Puloka.
46. He explained that when he had been contacted about this trial, he wrote his own notes. That in turn was typed up. He believed it had been done perfectly accurately. Accordingly, he had signed that document.

47. He said that Mr. Pohiva had contacted him, asked him if he knew anything about a soap delivery. He had told him he did.
48. He had asked Mr. Pohiva to help him write the affidavit.
49. That was done the day prior to this hearing. He admitted that his level of education was such, he needed help composing the document.
50. He then repeated his evidence that the soap was donated with no mention of Paea Moala. It had been given to him by Losipeli Funaki.
51. He insisted his evidence was true and noted that he was under oath.

Toti Tu'ipulotu Viau

52. She is from 'Isileli in Kolomotu'a, a house wife and Town Secretary for 'Isileli.
53. Her affidavit is at page 14 of the petitioner's court book. She identified it, her signature therein and confirmed the contents true and correct.
54. She noted that since she had made this claim on behalf of the petitioner, her mother, Vika had disowned her in December 2021. Up until then, their relationship had been good.
55. She stated that she had seen \$100 given to her mother, Vika Keke Tu'ipulotu.
56. She explained there were two instances of Mr. Puloka giving her mother a gift of cash, each \$100. One was Christmas 2020. But the occasion she was concerned with was the 2nd week of September 2021.
57. Mr. Puloka had visited her mother. The two had tea together. He had then left her an envelope within it was a card and \$100. She stated that as he had left, he had told Vika not to forget that he was running for parliament and had left, but not before leaving the envelope with money for her.
58. Toti had then gone to her mother. Vika had a sad face and asked her daughter why he, Mr. Puloka, would come to her and try to buy her vote like that?

59. Toti knew there and then that was not right and it was not lawful. She explained that even though she is not a lawyer, she knew that.
60. Up until that time she had been working to register members of the village who had not yet registered, this constituted part of her duties.
61. On being cross-examined she agreed she knew Mr. Puloka and his family. He was there and a support at the time of her father's funeral.
62. The funeral was actually on Mr. Puloka's land.
63. She stated that she could not recall if Mr. Puloka paid any part of her school fees. She felt sure her mother would not remember such a thing had he.
64. A couple of weeks before the election Mr. Puloka had stopped by her house, asking for her support. To her surprise he mentioned he had assisted in paying her fees, she said. She had never heard of such a thing before.
65. She had never heard of this from either of her parents.
66. She repeated that she believed her mother would not remember this.
67. She had grown up with Mr. Puloka as a next door neighbour. She conceded there was a time when there was a row between herself and her mother. Mr. Puloka interceded and made peace between them.
68. She said it was a long time ago when that had happened. After some thought, she worked out she was 24 years old then. It was in 2005. Her father was still alive at that time.
69. She agreed she knew Mr. Puloka's daughter Joan. Initially she stated she had not asked Joan ever for money. Her brothers had.
70. Then she said "I asked her and I will pay her back."
71. She was shown a family tree produced by the respondent, which became exhibit (R) 2. She accepted that her father and Mr. Puloka were related. They were 3rd cousins.

72. She conceded her family and his were close. She disagreed that the flow of assistance from his home to theirs was frequent.
73. She said they would help one another, like the funeral of her father.
74. If there were feasts, she would also help prepare food.
75. She said she did not know when she had left her family home. She agreed it was when she married. She remembered immediately when asked that it was 1995.
76. She agreed she had a brother Footi Tu'ipulotu. She agreed that Mr. Puloka had employed him. She said that was to help out her mother.
77. She conceded that he had been like a father figure to `Atunaisa Tu'ipulotu. She said she did not know about the ploughing service he had provided to `Atunaisa.
78. Yes, she knew his wife Annette Puloka, called Kiti. She agreed she had asked her for work. First, she said she did not remember asking Kiti for \$300 pa'anga to work for her.
79. She had not asked for \$300 pa'anga for any garden work. She said it was \$200.
80. The reason she had not finished was because it was a rainy day and she became sick.
81. Then she explained there was a mis-communication between her and Kiti.
82. She stated that she had a different interpretation to what was being suggested when she was asked about her motives, when she accepted being paid, but never finishing the work.
83. She was asked if she had ever asked Kiti to adopt her daughter. She said she could not recall this.
84. She had been with the committee of `Isileli village for a year now. Her affidavit at paragraph 6 was an expression of what she felt was supporting the right cause.
85. In her time as leader in the community she had not come across any wrongdoing.
86. Mr. Pohiva had not given her the job, she was elected.

87. She stated that she was sure this act by Mr. Pohiva was wrong.
88. She was asked if she opposed his giving her mother the money as alleged. She said she had.
89. She explained that when she had seen this happen, she went to Hala'ovave and submitted a statement. She does not like to see things like this happen. She did that in September 2021.
90. When cross-examined more closely, she agreed that it was not until December 2021 she had made her statement.
91. She explained that she had waited from September to December as she searched for the truth, as she put it. She denied she did it out of hatred.
92. She was then shown the card, exhibit (R) 3. It was a Christmas Card sent by Mr. Puloka featuring a photograph of himself with seasonal decorations and messages.
93. A point was made that the registration of candidates ended at 1500 hrs 28th September and so any card of a political nature was unlikely to have been sent in early September as she alleged.
94. In any event, she stuck to her claim that there was a card given with the money in September 2021. It featured a photograph much like that in exhibit (R) 3, but with a political slogan and not the Christmas message.
95. The wording was "Tevita Puloka, Parliamentary candidate for Tongatapu 1."
96. She had opened the envelope that Mr. Puloka had left her mother in the 2nd week of September 2021, as she wanted to know what was inside.
97. She had seen the card from Christmas 2020, but this one in September had different wording.
98. The giving of the Christmas card in December 2020 she had seen from just a few metres away.

Uili 'Ahokava

99. He identified his affidavit and signature. He had gone through the Tongan version, checked its accuracy and stated the contents were true and correct.
100. He was cross-examined on behalf of the respondent. He was shown the family tree, exhibit (R) 2. But he stated he was not sure how accurate that was, nor clear how he and the respondent were related.
101. He was asked about the Talimatua Kava club house. He recalled the trusses being put in for the construction of the new club house. He stated the trusses were installed before he went to Mr. Puloka's house. The trusses went up in August. He went to Mr. Puloka's house in October.
102. It had been the 1st or 2nd week of October he went to Mr. Puloka's home. The first time he had gone there, he was not in the habit of visiting him there.
103. They had talked just inside his house; on the veranda. He accepted he was drunk on this occasion, but stated not greatly so.
104. Sometime between 1st and 2nd week of October he was asked to record a program as part of Mr. Puloka's campaign. He added that he now recalled it to be 9th October.
105. He was asked questions about how he had suddenly recalled that date? He denied it was as a consequence of having read Miss Melemanu Bloomfield's affidavit.
106. He said he recalled going first to Mr. Puloka's house then to Miss Bloomfield's.
107. As for the precise date he said that he did not tell his lawyer of it, but thought he could wait to give that information on oath.
108. He explained that he had gone to Miss Bloomfield's house on 11th October, this being a date that he had recalled for a long time.
109. He said that Miss Bloomfield had contacted him. He did not want to go because he is not a political person. She contacted him over 20 times.

110. He then decided not to go to see Miss Bloomfield and he went to Mr. Puloka's house instead. Mr. Puloka asked why he was there. He then went home to think it over. A day passed and he went to see Miss Bloomfield.
111. When he got to the respondent's home Vutulongo (Mr. Puloka's son Matani Puloka) was already there.
112. Mr. 'Ahokava spoke to Mr. Puloka. Vutulongo was not part of the conversation. He said that Mr. Puloka was cursing some of the members of Talimatua club who reside overseas. They discussed the club.
113. He denied asking for a loan. He did not recall saying that Vutulongo ought to be punished for the teasing he had been doing at the kava club.
114. Mr. Puloka had given him \$100 and Vutulongo had separately given him \$100.
115. He stated that he could not recall if the money had been given when he had asked for drinking money.
116. He stated he was not aware if each knew the other had given him money at the time.
117. Mr. Puloka questioned why he was at his house when he was meant to be doing the interview that day. He said he did not reply to that and they talked about the Talimatua club.
118. That was all the respondent said about the interview.
119. He said that the chronology was he was at Mr. Puloka's house on 9th October, then to Miss Bloomfield for the interview on 11th October. The Talimatua club house's construction started much earlier, and there was a pause in that. It was halted half way through in August.
120. He and Mr. Puloka discussed the construction because it was halted, but that was it.
121. He insisted it was not in August that he had visited Mr. Puloka at his home. The trusses were put in on 14th August he agreed with that, but he stuck by 9th October as when he had visited the respondent at his home.

122. He stated that nothing had been told to him when he was given the money on that date. He had seen Vutulongo that night, but had not said anything to him, only asked to see Mr. Puloka.
123. He agreed there was a time he had been drinking kava with Sioeli Faupula, Telesa Tahaafe and 'Unaloto Tanguu when he had told them about being given this money. He denied he had asked for money, but said it had been handed to him.
124. He stated that he had informed Mr. Pohiva's campaign at the time the money was given to him by Mr. Puloka.
125. Asked further about construction of the Talimatua club house, he rejected the suggestion that he had visited Mr. Puloka before 14th August. But agreed he had helped with preparation of a pola.
126. He eventually agreed that he went to Mr. Puloka's home before 14th August and said there was a further occasion on 9th October.
127. When asked why it was that before he had earlier given evidence he had only been there once, he explained that he was drunk the first time he went there.
128. He insisted that it was 9th October and had \$100 given to him by both Mr. Puloka and his son on that occasion.
129. He stated that he had mentioned this in his speech on 18th November; his being given the money, but that was only because he was drunk.
130. Turning back to the interview with Miss Bloomfield, he said she had tried to get in touch with him many times for him to participate in the interview. She never came to his residence.
131. He thought that she had then later tried to contact him because he must have upset her.
132. He then stated that his speech on 18th November was when he was drunk.
133. He said that all he firmly recalled was that day Mr. Puloka gave him money. Albeit he was drunk then; but not so drunk.
134. He explained that after he was given the money he went to buy more alcoholic drinks.

135. He stated that he only recalled speeches at Sopu and Hala'ovave and said he did involve himself but not so seriously and only joined the programs to talk and discuss matters.
136. After one such speech he was approached by Miss Bloomfield who wanted to know if he had mentioned her name. He stated that he had not.
137. The second time she had asked him, he admitted he had. He said he had mentioned her in the context of giving an interview. He accepted he had lied to Miss Bloomfield, but said it was because he thought he may have said something disrespectful of her.
138. In re-examination he recapped some topics he had already mentioned without any new evidence being adduced. He explained that in his interview with Miss Bloomfield he had spoken of how both candidates had the same potential, that Mr Puloka had strong hands and financially was capable.
139. He stated that he could not recall what he had said at the start of the interview.
140. He claimed the interview was never broadcasted because of the lack of support expressed by him to Mr. Puloka.
141. The \$100 given to him by Mr. Puloka was, in his mind, so as to make him vote for him.

Close of petitioner's case

Respondent's case

Tevita Puloka

142. He is the People's representative for Tongatapu 1. He identified his affidavit 11th April and signature.
143. He referred to annex 1 therein at pages 3-12. Exhibit (R) 6. The top image is that of Lord Lasike, his driver and Mr. Puloka. It was taken at Lakepa where Lord Lasike lives.
144. Lord Lasike had received the soap and was aware it was a donation from Paea Moala and that he, Mr. Puloka was distributing this to front liners; the Community Police for Fatai and Lakepa.

145. The bottom image of that same exhibit showed photographs of his son, Vutulongo, distributing soap to both armed forces and in another image, police.
146. In exhibit (R) 1, he identified himself and Saia Faletau. He had contacted Saia because of the position he held in the council.
147. He noted that when the soap was distributed, for example to Mr. Faletau, that was 1st November 2021. It was before the outbreak of Covid in Tonga. Because of his work running a construction company he had gained knowledge of the proper Covid protocols adopted worldwide.
148. These he had adopted within his own company and was how he maintained a safe working environment.
149. 29th October 2021 was the day Covid was first detected in Tonga.
150. Mr. Paea Moala was a friend from school days. He has a company that manufactures chemicals used for sanitising and hygiene.
151. The two of them had already discussed making such products available in Tonga in the event of Covid spreading to the Kingdom.
152. When the outbreak was detected, he contacted Mr. Moala. The sanitiser had not yet been shipped to Tonga. They had already tried to find some at Small Industries, but the Ministry for Health had bought up the whole stock. What he did get was the tokoni from Paea Moala.
153. He was the conduit for all Mr. Moala's donation to be effectively distributed to front liners.
154. Then, on 1st November when the lockdown was finally announced, there was real urgency to this. He told Paea Moala that he could sort it out on his behalf.
155. Schools like GMS Longolongo, Kolomotu'a and Hala'ovave, all in Tongatapu I were provided with soap and masks.
156. Likewise, the army, police and Lord Lasike; the Town Officer, Mr. Faletau too.

157. He did not know how many teachers or pupils would benefit or which way they or the pupil's parents would vote.
158. The Facebook post that is captured in exhibit (R) 1 was the post that his daughter Joan had made of the donation to Saia Faletau.
159. Turning to the allegation in relation to Uili Ahokava. He was clear; there had been no visit from 'Uili on 9th October, it had been in August last, when the trusses were just about to be installed in the club house. It was a conversation that lasted some 1 or 2 minutes.
160. Exhibit (R) 2, the family tree was accurate.
161. The Christmas card, exhibit (R) 3 was an example of what he had been doing for about 10 years. He would send cards and money. Sometimes just money. This card is dated from 2020. Widows and old folk were frequent recipients.
162. He knows Vika Tu'ipulotu and she had been given such a card.
163. Annex 1 to the 11th April affidavit (exhibit (R) 6).; Tongan post on Facebook translates as: "Delivery of soap to front liners, to the defence forces and police completed by Matani Puloka.

Thank you to those who have offered their utmost support. To the Ministry of Health for protecting our people from the Covid virus. Thank you for your work."

164. Hospitals already had sanitisers. Front liners such as the army, police and schools needed this. Especially the schools as the school children had not been vaccinated.
165. There were not enough bottles to decant and divide up the sanitiser. They took what they could and did what they could in that regard, taking from Paea Moala's company.
166. Cross-examined he noted that Paea Moala was the owner of Aussie Trade. That company is located here in Tonga. Mr. Moala is a friend; he lives overseas.
167. They had been schoolmates first, since 1982 in Tupou High school. He is not a relative. Mr. Moala is from Vava'u, if there is a connection by birth he is unaware what it is. First the soap went to Hala'ovave to be distributed, that was 1st November.

168. Exhibit (R) 3, the card had his photograph on because it was from him. It was that card which had been given to Vika in December 2020. His election campaign had not started then. His relationship with her was as if they were family; there was no limit to their conversation or humour.
169. In years before, photographs on the Christmas cards included those of his grandchildren. He did not have with him a copy of his 2021 card.
170. Exhibit (R) 1 that was himself and Chairman of Tongatapu 1 Council. They were at Puloka construction area after the load of liquid soap had been picked up. The post was created by his daughter Joan. He was unsure if that was a Facebook post or not. He could not say if it had been copied from another Facebook page.
171. Exhibit (R) 6 had been uploaded onto his Facebook page.
172. The distribution of the soap and sanitiser was delivered urgently. He would have handed it over to Mr. Pohiva to distribute if the Head of the Council had asked that of him. He was asked, so explained that Mr. Moala was someone he had a business relationship with. He produced heavy duty floor cleaning products and hygiene products and so that was where their business relationship lay.
173. This was not done to benefit his campaign.
174. He knew Heimuli Veronica from Tonga, a youth leader from the village Tongataeapa.
175. The process of sharing tagged posts on Facebook was then explained to the court.
176. He was asked again about Uili 'Ahokava and why he did not accept that date in October when the \$100 was given to him? He explained because it did not happen then.
177. His daughter had helped with unofficial advice for his campaign. He did not actually have an official position of media adviser on his campaign.
178. She helped him with his Facebook posts.
179. But it was not only his daughter, there were many people who made comments and posts about him; for example, lots of family and friends.

180. In respect of Vika, the card and money was given in December 2020, not September 2021. He did not even visit her in September. When he visited her and gave her the card in December 2020, it was not even clear that he would run for the election. That was only confirmed in April or May 2021 after he had discussed it with his wife and family. It was not possible for him to ask for her support in December 2020, as he simply did not know whether he would be running then. After all it was Christmas, not a time to discuss such matters in parliament.

181. Giving out Christmas cards was not connected with the election.

Vika Tu'ipulotu

182. Her affidavit, her signature therein. Of her paragraph 10 she wanted to amend that as there was a card with the cash, that year at Christmas.

183. Shown exhibit (R) 3, the card, she identified it as being the card in question.

184. Cross-examined she said simply that was not a lie. He always supports widows and she supported him.

185. She recalled the occasion. She was out the front of her 'api and preparing for Christmas in the shade. It was not a lie, there had been no other card and not one with different words. There was no force from him, as was suggested to her.

186. The only card was in 2020.

Annetta Puloka

187. She identified her affidavit and signature and explained that in paragraph 10, when Vika had come last Christmas upset and apologised for Toti's behaviour to Mr. Puloka, Toti herself was not present.

188. There was no cross-examination at all.

Veisia Vaipulu

189. Her affidavit stood as her evidence in chief.

190. Cross-examined she stated that she had not received a card in 2021, but rather it had arrived as a Christmas present on Christmas day. The year before, there had been a card before Christmas.

Matani Puloka

191. His affidavit and signature were identified. He went on to explain that on 1st November his sister had asked him to deliver the soap to police at Longolongo and the army base in town; which he had done.
192. Exhibit (R) 6 at bottom of page were photographs of those deliveries. That day he had been rushing around organising the teams of workers at the company. His sister called at about midday and then he made those deliveries to the army and police. There had to be a police officer waiting to collect and 1500 hrs was the time arranged.
193. Each time, I told them the same message, this was from Aussie Trade and Paea Moala.
194. Cross-examined on the incident with Uili and the date of the money being given to him, he explained could place it with some accuracy. It had been a Saturday, the end of July, beginning of August.
195. He knew it was a Saturday because he had been to rugby. It was around the time of the quarter finals; hence he knew it must be at the end July or beginning of August, but could not say which of those two.

Telesa Tahaafe

196. He is a retired police officer.
197. Cross-examined he stated he knew it was the end of July or beginning of August the incident with Uili as it was a Saturday, during the rugby competition and before the semi-finals or finals, so could place it then, as in his paragraph 3.

'Unaloto Tangulu

198. He stated there was a kava party when Uili was present and that was 1st or 2nd week of August. It was a Saturday and at that time they were collecting money in the evenings.

199. He remembered it was August because he had just received a loan at the time, used partly by him for the lili. All he could say was that it was in August, but not as late as September.

Joan Puloka

200. Her affidavit and signature identified and she noted annexes 1 to 6 therein.
201. The video clips were adduced by way of agreement between the parties (exhibits (R) 4 and (R) 5).
202. Exhibit (R) 1 this was a post on Mr. Puloka's own Facebook page the intention was mostly to thank Aussie Trade.
203. At that time the respondent had two Facebook pages. The post had been created on hers and then posted on his. It was there for friends and family to see and also Paea Moala. This was his personal page and not his campaign page. The latter was deleted. This was because 24 hours before the election the rules required it to be turned off. To do so Miss Puloka would have had to go in and separately delete each contact. The easiest course was just to delete that whole page. So that was done.
204. In cross-examination she explained any apparent slight differences in the screenshots and images between the respondent's exhibits and those the petitioner had provided in his supplemental affidavit.
205. She explained her role during the campaign and that she had tried her best to advise on electoral law. She would not allow anything detrimental to his campaign on his Facebook page, his was about positivity. She had warned him because there were harsh comments being made and so she would warn her family of this and remove any harmful posts.
206. She accepted that the post by Veronica did not acknowledge or thank Aussie Trade. She had shared Joan's post that had thanked her father.
207. Turning to Uili, she thought that he had been to the house in June or July. Mr. Puloka did not know of an interview before 11th October, nor that the interview would be with Miss Bloomfield. That all happened on 11th October.

208. There was a time after 11th October that there started to be, what was described as, the problematic treatment of Mr. Puloka's supporters.
209. She decided that rather than risk Uili being bullied they would not broadcast the interview. She felt responsible for that score, not least as she saw him as both family and a friend of her father's.
210. She knew the contents of the interview; that Uili had wished both candidates luck. She recalled a comment that he made wishing Mr. Puloka got in his taxi so he could see how bad the roads were. She saw nothing detrimental in that.
211. There had not been a comment about his having financial resources that was embarrassing to the campaign.
212. She denied that Uili was at their house on the 9th October, she would have heard about that. Uili was simply not correct about the dates.

Melemanu Bloomfield

213. Her affidavit with signature on.
214. Cross-examined, she stated that Uili had not said anything detrimental to Mr. Puloka in the interview with her. She still had a copy of it.
215. Uili had said that both men were good. He did not say that Mr. Puloka had the financial resources.
216. He had basically talked about his wife, Mr. Puloka, religion and the election. He had stated both were good candidates.
217. She explained there had been subsequent disquiet between herself and Uili for bandying around her name in a speech and then his having pretended he had not.

Close respondent's case

Close evidence in trial

Submissions

218. Both parties filed written submissions on 4th May 2022. Supplemental oral submissions were then made at the hearing on 5th May 2022.
219. On behalf of the petitioner the submissions are, inter alia, that Toti was consistent in her evidence that her mother had been bribed by the respondent himself.
220. That Toti's mother Vika changed her evidence in relation to the card that was given in December 2020; that tended to undermine her credibility.
221. That there is a telling difference in what was said to have been printed on the Christmas cards by way of seasonal greeting, the suggestion that tended to undermine the credibility of the respondent's witnesses in respect of his denials there had been cards in September 2021.
222. In relation to Uili 'Ahokava, he was consistent in his claims.
223. In his speech of 28th October 2021 he referred to having already made his interview with Miss Bloomfield. That tended to support his claim as to chronology.
224. Uili was consistent about the date of 9th October 2021 being when he visited the respondent at his home and rejected the suggestion it had been earlier.
225. On behalf of the petitioner the evidence from the respondent's witnesses as to the date of Uili's visit was concocted amongst themselves and they had colluded. That when looking at their evidence overall it was "deliberately vague to confuse the court."
226. In respect of both these first two allegations on behalf of the petitioner it is argued that the alleged acts of bribery both fell within 3 months of the election and therefore the burden is upon the respondent to prove the giving of the money on both occasions was not done to influence the vote.
227. It stands to reason that it must have been for that purpose.

228. In relation to the final allegation on behalf of the petitioner it is argued that this must have taken place within 3 months of the election as that is what the petitioner's own evidence amounts to.
229. The Facebook posts, by advertising this event and then disseminating it meant it can be inferred this was done to make capital of the gifts; there was a motive beyond simple charity.
230. It was clear to Miss Fainga'a, the principal of the school in Hala'ovave that Mr. Puloka, a candidate for the election, was behind it.
231. The point is made, quoting authority, that the closer to an election that a gift is made, the stronger is the inference it was made to influence the vote.
232. There is an inference to be drawn that that the soap was from Mr. Moala, but there is evidence that suggests it was said to be only from Mr. Puloka when given out on one or more occasions.
233. When analysing all the circumstances of the giving of the soap it becomes clear that it could only have been done with an underhand intent and must amount to bribery.
234. On behalf of the respondent the history of his donations and gifts to the community must be first considered as the context for this gift.
235. Vika was a close friend and neighbour and like family is a point not to be ignored.
236. The breakdown of her relationship with her daughter Toti was because she, Toti, has chosen to concoct a version of events.
237. Vika was forced to apologise to Mr. Puloka.
238. Uili 'Ahokava, often drunk, unreliable in that way alone, was incapable of being believed when he had used the dates of 9th and 11th October in the respondent's own documents to fill in crucial details and effectively embellish his evidence.
239. The soap was a charitable gift.
240. The timing and the recipients are of particular importance in understanding that.

Law

241. Each of the three allegations before me is one of bribery.

242. Section 21 (1) Electoral Act provides:

Every person commits the offence of bribery who, directly or indirectly, by himself or by any other person on his behalf—

(a) gives any money or valuable gift to or for any elector, or to or for any other person on behalf of any elector or to or for any other person, in order to induce any elector to vote or refrain from voting;

243. Section 21 (2) provides:

In this section, a reference to giving money or valuable gift includes a reference to giving, lending, agreeing to give or lend, offering, promising or promising to procure or try to procure, any money or valuable gift.

244. Section 21 (3):

For the purposes of this section, any money or valuable gift given or offered or agreed to be given (in the absence of good consideration) to any person (except a person named in section 24(3)) within 3 months of any election by or on behalf of a candidate, shall be deemed to have been given or offered or agreed to be given for the purpose of influencing the vote, unless the contrary be proved.

245. The point about the phrase “valuable gift” is to refer to any valuable consideration. Halsbury’s Statute volume 15, paragraph 685.

Burden and balance

246. *Fusitu’a v Ta’ofi & ‘Aho* [1996] Tonga LR 102, 104 – 105 is authority that the burden is upon the petitioner to prove what he alleges and it is on the balance of probabilities.

247. Paulsen LCJ in *Latu v Lavulavu* 90/2014, (29); noted that the cogency of the evidence should be of a high standard, given what is at stake. That did not mean the standard of proof in any way fluctuated.

248. There is an exception to the burden as set out in section 21 (3). That is where a candidate or another on his behalf, has given money or a valuable gift (any valuable consideration) within three months of the election. That shall be deemed to have been given to influence the vote unless the contrary is proved.

249. There are exceptions to this, set out at section 24 (3), but they do not apply in this case.

250. The result is as set out in *Fasi v Pohiva* [1990] Tonga LR 79:

"It is for the respondent to prove that a gift made within 3 months of the election was innocent, any other gift is presumed innocent until the petitioner proves otherwise."

251. Where section 21 (3) applies the standard of proof is the ordinary civil standard, it being on the balance of probabilities; *Fusitu'a v Ta'ofi & 'Aho*, at page 105; *ibid*.

252. As Lord Chief Justice Whitten QC pointed out in *Sika v Fasi* CV 78/2021, paragraph 67 et seq, the first element of the offence under section 21 is the giving, the second limb is the mental element.

253. LCJ Whitten QC in *Sika v Fasi*, para 67, *Ibid*, stated this:

On its proper interpretation, the second limb requires actual or inferred knowledge and assent on the part of the Respondent to the money or gift being given by that other person on his behalf. Otherwise, if a supporter gave money or a gift to a voter without any knowledge or authorization by the candidate (or even contrary to the candidate's express instruction not to do so), a candidate could be found guilty of bribery. That, in my view, is not a result Parliament may be presumed to have intended.

254. He continued in this way:

The posited interpretation of the requisite mental element for an offence of bribery in s 21 is supported by the text of other subsections therein, which speak of acts such as procuring, engaging, promising, advancing, paying and knowingly paying. By definition (and expressly in the case of the last from ss (f)), such acts can only be performed directly with knowledge or intention, or indirectly, with assent.

255. Lord Chief Justice Whitten QC analysed this and distilled it, quoting thus: “clearly requires a subjective and not objective consideration of the actions and mental state of the alleged offender.”

Consideration

Allegation one

256. That, Mr. Pohiva bribed the mother of Toti Tu’ipulotu Viau, Vika Tu’ipulotu, with a gift of \$100 in September 2021. The timing is significant as it is said to be within 3 months of the election and if the gift is proved to have been then, the onus is on the respondent to prove it was not given to influence the vote.

257. The initial petition that was filed 17th December 2021 referred to an affidavit that Toti Tu’ipulotu had sworn 3rd December 2021.

258. There is no such affidavit.

259. It set out the allegation but did not particularise a date.

260. It also set out that Vika was influenced by the gift so she then asked her daughter Toti to vote for the respondent. That was not part of the evidence before me.

261. In the evidence before me the claim was that Vika was upset by the gift and asked Toti why the respondent had sought to buy her vote.

262. In fact, Toti’s affidavit was not filed until 26th January 2022. The respondent’s first affidavit having been filed 6th January 2022.

263. The date of September was only claimed after the first filing by the respondent of his affidavit, despite what the petitioner had set out on 17th December 2021.

264. The cross-examination of Toti was significant. Having heard her answers, I am of the clear view that she was not a reliable witness and was motivated against Mr. Puloka.

265. I say that for these reasons:

266. She questioned about the support Mr. Puloka had provided for her family on her father's death; she agreed he had allowed his land to be used for the funeral. She then rejected outright he had offered to pay for her schooling.
267. In other words, she accepted he was a support and had done much for her and her family but would give no credence to other suggestions of kindness.
268. From this I judged she had an agenda to follow and it was not based on the obvious good deeds and generosity she acknowledged he had shown her.
269. Her answers showed an erratic grasp of how to report facts.
270. She could not recall when she had left her parents' home. But immediately agreed it had been when she got married and that was 1995.
271. Why she did not immediately answer with reference to her marriage or that date was, to my mind, inexplicable.
272. On being questioned about the gardening work that she had asked Kiti to be paid for, first she was evasive about that fact. Then when a suggestion was made that she had not finished the job yet kept full payment, she dismissed that as a "misunderstanding" with Kiti.
273. She had also suggested that rain stopped the work being done and then she was ill.
274. There could be no misunderstanding if that was the reason.
275. I also noted that as she gave those answers her voice became increasingly quiet. She apparently did not want to be heard. She looked evasive by casting her eyes down and not meeting anyone else's as she gave her replies.
276. When asked if she had approached Kiti to ask her to adopt her daughter she said she could not recall.
277. Once again her voice became very quiet.
278. If one takes the questions asked, the answers given and how they were given, the clear impression is that she was, putting it neutrally, being unreliable.

279. I did not believe she could not remember whether or not she had asked Kiti to adopt her daughter.
280. Further, why if she knew that the giving of money was wrong and, as she put it, an unlawful act, had she not gone to the police right there and then in September 2021?
281. Why had she not taken and retained the card, allegedly given to her mother in September 2021, at that time?
282. When asked about whether she reported it as soon as it happened, first she said she did, to the Pohiva campaign team in September, but then immediately said not, that it was first told to them in December.
283. I also note that as she stated that, again her voice dropped to little more than a whisper.
284. She conceded that after making these allegations, her mother had disowned her in December 2021.
285. Briefly turning to the evidence of the respondent. I am absolutely clear, that given Miss Tuti Tu'ipulotu Viau was the only witness of this alleged bribery and certain she has been both untruthful in her evidence and was actually motivated against the respondent for her own reasons, whatever those were, the petitioner has not proved his case under the head of claim.
286. I note that the respondent called Mrs Vika Tu'ipulotu as a witness, Toti's mother. Her evidence was clear, given cogently and in a believable manner. She struck me as honest and giving evidence in the hope it would assist the court.
287. She simply rejected what her daughter Toti had said, seemingly more in sorrow than in anger.
288. Her evidence was precise and I do not consider her correcting the details of the card in fact being present with the cash, at paragraph 10, to be significant. The card was not said to be the feature of the gift that was the alleged bribe.
289. If anything it suggested that there had not been a putting together of heads on part of the respondent in preparing his case.

Result

290. Whilst I have considered the case under this head of claim widely and noted deviations in the pleadings at an early stage or the impressive evidence called by the respondent in his defence, the simple fact is that the sole witness to this allegation was so unreliable that I cannot attach any credence to her evidence. I am quite sure there was no giving of \$100 at all in September 2021. The last gift being at Christmas 2020 and that was a charitable donation; this allegation and so this head of claim must therefore fail.

Allegation two

291. Tevita Puloka bribed Uili ‘Ahokava with \$100 in October 2021.
292. The evidence comes from the single witness, Mr. ‘Ahokava. The petition lodged 17th December 2021 stated that this happened one night during the campaign period. That Mr. ‘Ahokava had completed an affidavit concerning this 14th December.
293. In fact, his affidavit is dated 26th January 2022.
294. His account is rather different to what appears in the original petition which was stated to have been founded on an affidavit.
295. It pleaded that Mr. ‘Ahokava had gone to the respondent’s home, but stated not when precisely, and that the respondent was “embittered” about Mr. ‘Ahokava not taking part in a media event with Miss Bloomfield then he handed Mr. ‘Ahokava \$100 and told him “sternly” to take it.
296. By the time Mr. ‘Ahokava gave evidence, there was no claim of the respondent being “embittered”. And the circumstances of the giving had changed.
297. Mr. ‘Ahokava in his evidence had gone on to say that the visit to Mr. Puloka’s home was on one occasion alone. That it was 9th October 2021 and that it had been then followed by the trip to Miss Bloomfield’s for the interview on 11th October.
298. He had denied that he got those dates from reading Miss Bloomfield’s affidavit but that he preferred to wait until court and then give his evidence of the dates.
299. This last answer was risible.

300. He had obviously read Miss Bloomfield's affidavit or someone had told him what to say regarding the dates.
301. There was no possible reason why he would not have given the dates before. Nor why he suddenly recalled them later. I reject as untrue what he said about deliberately waiting until coming to court to give the dates.
302. That he first stated that he had only been to the respondent's home once and stated that clearly, making the point that he was not in the habit of going there, but took up his evidence after an overnight adjournment on 27th April 2022 and then later conceded he had been there in August, before 14th in fact, further undermined his credibility.
303. The only event that he did not accept he was drunk at was the interview with Miss Bloomfield.
304. I note that the evidence called by the respondent was clear, cogent and measured and believable.
305. Mr. Puloka, his son Matani (Vutulongo), Mr. Tahaafe.
306. The latter two gave specific reasons why they knew the date that 'Uili attended, it being around the quarter finals of the rugby.
307. It is admitted on the part of the respondent that there was \$100 given to Mr. 'Ahokava.
308. I find that that did not take place in the early part of October, as alleged, but at the end of July or beginning of August.
309. The petitioner's sole witness on that point, Mr. 'Ahokava, so plainly took the date from what he had either read later or been told and then lied on his oath as to how he knew the October date, so I have no doubt he has failed to prove on the balance of probabilities the gift was given in October 2021.
310. It follows that section 21(3) does not apply, falling outside the 3-month period being a gift no later than the last Saturday of July or 1st Saturday of August.
311. The only evidence that it was given to influence the vote came from Mr. 'Ahokava.

312. This issue of his credibility is central. In my estimation he has embellished his evidence by adding the dates of 9th and 11th October.
313. He lied about having only gone to Mr. Puloka's house once, in October. Repeatedly he denied he had ever been more than once.
314. It follows that on central issues to do with this allegation he has failed to tell the truth. Indeed, in my clear view, he has deliberately told an untrue account to assist with the allegations in the petition.
315. From the respondent's point of view, it was important that Mr 'Ahokava was shown to have been to Mr. Puloka's house before the 14th August, as that tallied with what he asserted really happened, that is to say he turned up one Saturday and wanted money to buy alcoholic drinks. That this was a time before the trusses at the club house were installed.
316. Further, Mr. 'Ahokava admits when he went on the occasion before 14th August he was drunk
317. When carefully considering this head of claim, it is supported only on Mr. 'Ahokava's word.
318. The claim is that the gift of the \$100 was Mr. Puloka buying his vote. That only comes from Mr. 'Ahokava. His credibility has been fundamentally damaged, by giving untrue evidence as to his recalling the dates 9th and 11th October. He gave untrue evidence how he then recalled those dates. He repeatedly gave inaccurate evidence about attending Mr. Puloka's residence only once. He also lied to Miss Bloomfield about the mentioning of her name in a speech of his, though this point is more tangential, it still goes to his credibility generally
319. In any event, consequently it becomes impossible to accept his word when he states that Mr. Puloka gave him the money to buy his vote and not just as a hand-out to family for some alcoholic drink, likewise his son Matani Puloka doing exactly the same on the same occasion. That is, if it is argued there was also a gift on the candidate's behalf to influence the vote.

320. It is not necessary to go on to consider the evidence of the respondent as the petitioner has simply not even raised a case to the required standard to start with. I find that the petitioner has not proved that the giving of the \$100 was within the three-month period so as to trigger section 21 (3). I am equally sure that given the flawed credibility ‘Uili ‘Ahokava has demonstrated he has, there is no prospect I can accept his word that the money was given with the intention Mr. Puloka was trying to influence his vote.

Result

321. The allegation of bribery by the giving to Mr. Uili ‘Ahokava a gift of \$100 has not been established by the petitioner to the required standard and I find it not proved.

Allegation three

322. This is said to be the giving of the soap, sometimes referred to as hand sanitiser in the evidence, also the gift of face masks.

323. This is all one and the same gift, but made on a number of occasions to different bodies or establishments.

324. I do not agree with the submission that this would fall to be considered an exception under section 24 (3) of the Act. The allegation is bribery, not overspending contrary to section 24.

325. The exceptions listed in section 24 (3) relate to “this section”, not section 21.

326. Thus, the respondent has effectively conceded that the gifts were valuable consideration, that was given by him. It fell within the three-month period, and so the burden is on him to show, on the balance of probabilities, that they were charitable donations.

Consideration of the law and facts applicable to this allegation

327. The distribution of genuine charitable gifts to voters has always been allowed; Maldon Case (1857) Wolf & D 162 at 163.

328. Not surprisingly, timing is an important issue. It has been said that the imminence of an election is an important factor to be taken into consideration in deciding whether a

particular act of charity amounts to bribery. A charitable design may be unobjectionable so long as no election is in prospect, but if an election becomes imminent the danger of the gift being regarded as bribery is increased. Kingston-Upon-Hull, Central Division, Case (1911) 6 O'M & H 27.

329. Further it has been stated charity at election times ought to be kept in the background by politicians; Wigan Case, Spenser and Prestt v Powell (1881) 4 O'M & H.
330. It has been said that the question of degree is important. An isolated small donation on the occasion of a birth or death may not be bribery, although such gifts on an extensive scale would lead to the inference that they may have been given to influence the voters. Windsor Case, Richardson-Gardner v Eykyn (1869) 19 LT 613, 1 O'M & H 1.
331. The case the petitioner raises is that the gifts were made extensively and very shortly before the election.
332. Facebook was used to publish the facts they had been handed out.
333. In Sika v Fasi, *ibid*, Lord Chief Justice Whitten QC noted this:

*A candidate for election may make a payment or valuable gift for mixed motives. He may, for instance, make a gift for charitable purposes. There is nothing wrong with that. But he may also make a gift to buy votes. That is bribery. There is no requirement that a wrong motive must be the dominant one. It will be sufficient for the purposes of s 21(1)(a) if one significant motive was to influence the vote.*²

334. Tower Hamlet's, St George's Division Case, Benn v Marks (1896) 5 O'M & H 89

Before the court is led to the conclusion that the distribution of charity in any particular case has been used for a dishonest purpose, it must be clearly proved that the motive of the person so using it, is dishonest and corrupt. Whether this is so or not must be a matter of inference to be drawn from the facts of each particular case, and must depend upon many circumstances, involving those of time, place, the persons by whom the charity is distributed, and by whom it is received; whether it has been given in

² Quoting *Latu v Lavulavu* at [28], citing *Director of Public Prosecutions v Luft* [1977] AC 962, 983, *Scott v Martin* (1988) 14 NSWLR 663 at 672 and *Wigmore v Motapo* [2005] CKCA 1 at [37].

*pursuance to an accustomed course, or whether it is novel and unprecedented; whether it is moderate or immoderate in amount, and especially whether the persons to whom it is given are proper recipients.*³

335. In my judgement, if one takes that final criteria first, given the emphasis placed upon it, the answer to this allegation becomes apparent.
336. Tonga faced a new situation. The Covid 19, the coronavirus, was at last detected in the Kingdom at this time we are concerned with. One can say that the gift was close to the election and it was unprecedented, but so was the apparent finding of a case of Covid 19.
337. In the rest of the world, beyond the borders of Tonga, the virus had been raging for approximately two years.
338. Tonga was one of the very few places in the world that still had not had a single case.
339. The virus had mutated from its original strain and at that time the Delta variant was spreading across the globe. It is very contagious, much more so than the variant the preceded it.
340. UNICEF described it as highly contagious and about twice as contagious as the variants that had come before.⁴
341. The advice from UNICEF included vaccinations, social distancing as well as wearing masks and regularly cleaning of hands.
342. Returning to the instant case, these were donations to children and teachers; the children in the main, the unvaccinated population of Tonga.
343. Soldiers and Police also were the recipients.
344. I judge that it is impossible to argue with this description of these groups being front liners; by definition, those that would need to brace themselves most urgently against the imminent spread of the virus, as was believed to be the case.

³ Butterworths Digest, Pub 1982, Vol 20 at 993.

⁴ <https://www.unicef.org/coronavirus/what-you-need-know-about-delta-variant#transmissibility>

345. To put it another way, I am sure that the respondent has proved that they were proper recipients, so tending to demonstrate it was a charitable gift, as, though close to the election, so was the reported emergence of the virus in our community.
346. Arguably an unprecedented gift; but that would be a blinkered approach as it was a reaction to an unprecedented event, albeit one widely expected.
347. There was nothing dishonest or corrupt in the donation of soap and masks. In fact, the reverse, it appears to me that this was nothing short of laudable and a genuine wish to help the people of Tonga.
348. On that last point I consider *Plymouth Case* (1880) 3 O'M & H 107.:
- “It is legitimate for a member of parliament to benefit his constituency and the court will not therefore draw an adverse inference from the fact that he confines his charity to his constituency.”
349. I draw no distinction between a “member of Parliament” and a candidate in this regard; it seems to me it would be a nonsense to do so, given the purpose of running for the seat is to be elected to help and serve those constituents.
350. I have also gone on to consider the decision in *Dorsetshire, Eastern Division, Case* (1910) 6 O'M & H 22 at 42.:
- “If a gift is charitable, it will not become bribery because of the use made of it, even if political capital is made out of the gift.”
351. Also, *Stafford County, Lichfield District, Case* (1895) 5 O'M & H 27:
- “It is not possible by any subsequent act to make that which is legal at the time illegal and criminal.”
352. Whilst I do not think political capital has been made of the gifts in the instant case, it was published on Facebook. That said, there is no evidence before me that was done on the respondent's campaign Facebook page, I accept it was not. It was just reported for family and friends and to thank Mr. Moala.

353. I assume that his family and friends were all likely to vote for him in any event. I do not think it was for political call at all.
354. The petitioner did; but the foregoing is the answer to such a grievance, one in my view that is ill founded.
355. As to his suggestion that Mr. Eliesa Viau used the gift of soap in his home; I receive that with some scepticism given the stance of his wife. In any event, the Dorsetshire case, *ibid*, makes plain that would have been down to him, were that true, and not something to taint the nature of Mr. Puloka's gift.
356. I am thus quite sure that the respondent has proved on the balance of probabilities that the giving of the soap and face masks were charitable gifts.

Result

357. The giving of soap and face masks on and about 1st November 2021 were charitable gifts. That being so, I find these acts were not bribery, thus I find the case for the petitioner has not been proved under this head of claim.
358. Accordingly, I find all three allegations of bribery have failed to be proven.

Costs

359. The petitioner is to pay the costs of, and incidental to, the proceedings, to be taxed in default of an agreement.

NUKU'ALOFA

6 MAY 2022

