



QUEENSLAND POLICE SERVICE
STATEMENT OF WITNESS



Statement No.:	One	Date:	22.10.2003
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Statement of:

Name of witness:	Brian Donald FOTHERINGHAM	Date of birth:	5.6.1962	Age:	41
Occupation:	Dive Instructor				

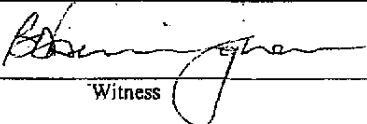
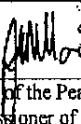
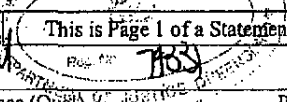
Police officer taking statement:

Name of police officer:	Ian TAYLOR	Rank:	PCSC	Reg. No.:	9622
Region/Command/Division:	NORTHERN	Station:	TOWNSVILLE JAB		

Statement commenced at the JAB office, Townsville 22/10/2003 @ 20:34 hrs.

I Brian FOTHERINGHAM State,

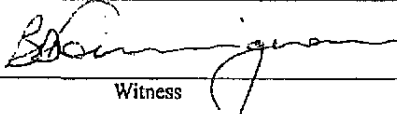
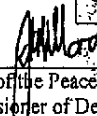

1. I reside in Townsville at unit 1 / 2 McKinley St, North Ward. My mobile is 0405082820.
2. I have been a qualified diving instructor for the last 2 years. My certification is through PADI.
3. I have worked with the Spoilsport dive vessel since January 2003.
4. I recall the 21st of October 2003.
5. At about 8:00pm last night all the guests were welcomed on board. I met the girl that passed away 'Tina'. I remember her as her name was listed as Lisa on the manifest.
6. Half the passengers get their gear while the other half are taken upstairs to complete their paperwork with the trip director. They then swap over.

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CONTINUED STATEMENT OF: Brian Donald FOTHERINGHAM

7. By this stage the vessel had left to fuel up. From there we departed to the Yongala Dive site.
8. At about 8:45pm or so there were the standard introductions.
9. The staff are introduced and released with the exception of new staff for Briefings by the captain, and a house keeping briefing given by the trip director.
10. I recall events of the 22nd of October 2003.
11. I woke up at about 6:00am. I checked all the dive tanks and made sure they were full.
12. All the gear for preparation of the site was prepared for the diving of the day.
13. I went over to the dive site with Lou. I'm not sure of her last name. She was my dive buddy. Simon our dive master was driving our tender. There are fixed ascent and descent lines at the bow and stern of the dive site to which we attached our own lines to the surface.
14. The Spoilsport at that stage was anchored about 300 metres from the dive wreck.
15. After the lines were set the Spoilsport was moored from one of the fixed mooring points leaving us 70 metres from the stern ascent/descent line from the Yongala. The bow ascent/descent line which we were dropping passengers on due to the current, was some 80 metres in front of the Spoilsports bow.
16. Just before 8:00am I got back to the boat and had breakfast. The briefings for the rental computer's and nitrox were taking place at

		
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about 8:10am. The general dive briefings were underway when I returned to the dive deck of the boat.

17. I helped the first lot of divers into tender. I volunteered as the look out for the dive period as no one had been allocated at that stage out of myself, Dave LEMSING and Lou.

18. I went up to the sundeck and commenced my lookout duties.

19. Occasionally I would communicate with Craig who was driving the tender.




20. There was current this morning and I would say it was strong when I set up the ascent and descent lines at about 7:00am.

21. Visibility was in the region of no more than 10 metres. At about 12:30pm or so there was less current.

22. We had two tenders but were only using one of the tenders for the passenger's as the other one was otherwise committed. We had divers that didn't appear to have the right weights so that had to be fixed and other divers appeared to have difficulty with the current. Delivery of divers to the entry point was drawn out as a result.

23. At about that stage I noticed that another dive vessel Jazz 2 was taking up a mooring ahead of Spoilsport so that it was very close to the Yongala bow ascent/descent line.

24. Sometime later I saw a diver bursting out of the water so far that he managed to get on one of the orange marker bouy's. I think he was about 80 metres or so away from Spoilsport and was about 10 to 15 metres from the stern of Jazz 2.

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25. He said something strange like "Emergency". There was distinct panic in his voice.

26. Craig was in the Tender between the 2 dive vessel's. I could see his attention was drawn to him.

27. Initially I thought it was a Jazz 2 diver because he directed his attention to Jazz 2 being a much closer vessel.

28. The wind was blowing directly toward me so I could hear most of what was said. The current was holding the two vessels in such a way that I was able to see directly into the stern area of Jazz 2 to see what was going on.

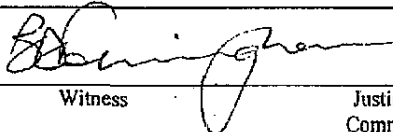


29. I heard 'Gabe', Tina's dive buddy yell out "She's gone to the bottom, shes' plummeted down"

30. Someone of the crew of Jazz 2 said something like "We need a rescue diver". It appeared to me that it was directed to Craig in the Spoilspport tender.

31. Craig relayed the message via radio to the Spoilspport to myself and the dive deck.

32. I assumed that the dive deck would hear the message and confirmed it via radio. We got two divers ready. That was Uzi BARNAI and Dave LEMSING.

33. While that was happening I moved to the back of the sun deck to see how ready 'they' were. They were about to leave Spoilspport in the second tender and so I returned to the look out position and relayed their status to Craig who was now positioned off the stern of Jazz 2 to pick up Gabe.

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CONTINUED STATEMENT OF: Brian Donald FOTHERINGHAM

34. I noticed that the time was 10:49am.

35. While the divers were on the way midway between the Spoilspport and Jazz 2 I noticed 2 divers near the stern of Jazz 2 in very close proximity to each other.

36. It became obvious to me it was the victim and someone who had brought the victim to the surface. I later found out it was Wade who brought the victim to the surface.

37. There appeared to be some difficulty getting the victim onto Jazz 2 probably as she was still in her dive gear.

38. I saw Uzi take his dive gear off, jump in the water, swim over to the back of Jazz 2 and help get her out of the water.

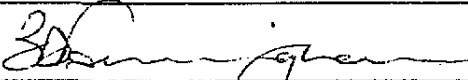

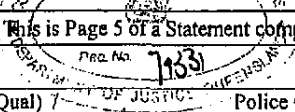
39. Almost immediately there were calls for a helicopter to assist.

40. The skipper 'Gavin' had also joined on the radio. I advised him that a helicopter had been requested as a matter of urgency.

41. I was still carrying out my lookout duties, as there were still divers in the water.

42. From where I was I could see resuscitation taking place on the back of Jazz 2. I could see that more than one person had taken the role up of administering CPR during the course of the attempted resuscitation period.

43. I suggested to Gavin to check the passenger documentation if there were any doctors on board.

		
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44. There was still a lot of radio communication.

45. A passenger came up to me and said "Do you know you've got an ER doctor on board."

46. I got that passenger to advise Gavin of this fact.

47. Sometime shortly after a tender took a passenger over to the Jazz 2. I later determined that he was the doctor previously referred to.

48. I got a radio call for an extra oxygen bottle and a toilet bag from the doctor's cabin.

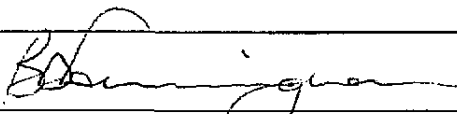
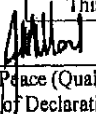
49. I obtained the items and delivered them to a tender, which was waiting to take them over to Jazz 2.

50. At some stage I got a call on the radio call that the doctor also wanted to put in an intravenous drip into the victim and wanted some Epinephrin (?). He wanted anything and everything we had in terms of medicines.

51. I got the bulk of those items from our barfridge where they are stored, and got the rest of the items from Gavin in the wheelhouse.

52. I delivered those to a tender as well so they could be taken to the Jazz 2.

53. I stayed on the Spoilspirt. Passengers from Jazz 2 were beginning their ascent. I arranged for Bruce and our second tender to pick them up and bring them back to Spoilspirt. Lookout duties were completed, so I relocated to the dive deck and directed the divers from Jazz 2.

	
Witness	Justice of the Peace (Qual) Commissioner of Declarations

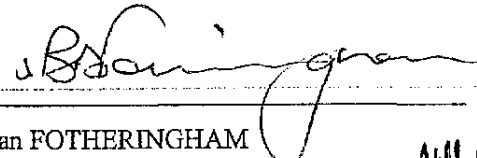
COMMISSIONER FOR DECLARATIONS
This is Page 6 of a Statement comprising 7 Page(s).
REC No. 7331
DEPARTMENT OF JUSTICE QUEENSLAND
Police Officer

CONTINUED STATEMENT OF: Brian Donald FOTHERINGHAM

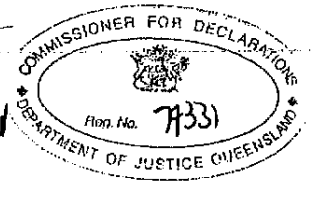
54. At about 12:15pm or so Simon and I were taken by Dave in the second tender to uplift our and Jazz 2's ascent/descent lines and spare air bottles from the dive site. We returned at about 12:45pm.

55. We had lunch and cleaned up the dive deck. Some time later I assisted when the deceased was brought from Jazz 2 to Spoilspport and helped carry her into the cabin.

56. From there we headed back to Townsville.



Brian FOTHERINGHAM



OATHS ACT 1867 (DECLARATION)

If Brian Fotheringham do solemnly and sincerely declare that:

- (1) This written statement by me dated 22/10/2003 and contained in pages numbered 1 to 7 is true to the best of my knowledge and belief; and
- (2) I make this statement knowing that if it were admitted as evidence, I may be liable to prosecution for stating in it anything I know to be false.

and I make this solemn declaration conscientiously believing the same to be true and virtue of the provisions of the Oaths Act 1867

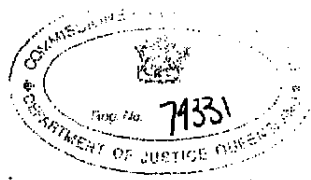
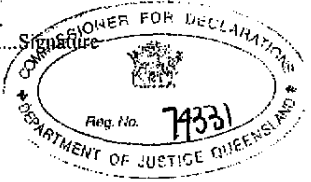
Brian Fotheringham
Signature

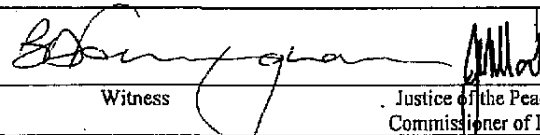
Taken and declared before me at ... Townsville.....

this...22nd....day of ...October.....,2003....

Witness [Signature]

Justice of the Peace / Commissioner of Declarations/Other (Please State)



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Witness	Justice of the Peace (Qual) / Commissioner of Declarations	Police Officer



QUEENSLAND POLICE SERVICE
ADDENDUM STATEMENT OF WITNESS



Statement No.:		Date:	23/11/2004
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Statement of:

Name of witness:	Brian Donald FOTHERINGHAM	Date of birth:	5.6.1962	Age:	42
Occupation:	Dive Instructor				

Police officer taking statement:

Name of police officer:	Gary Colin CAMPBELL	Rank:	Detective Sergeant	Reg. No.:	6690
Region/ Command/ Division:	Northern	Station:	Mundingburra Criminal Investigation Branch		

Brian Donald FOTHERINGHAM states:

I have previously provided a statement to police in relation to the diving death of Tina WATSON. The death occurred on the 22nd day of October 2003. I provided a statement on that night to a police officer.

I have since been contacted by Detective Sergeant CAMPBELL of the Mundingburra Criminal Investigation Branch and requested to attend to the station for further questions.

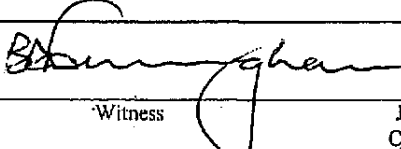
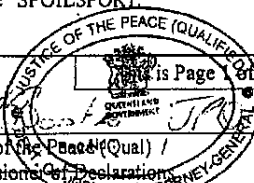
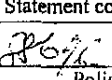
I am able to say that I had been on forwarded some emails in relation to this death. I received those emails from Stephen WELLS. I have not received any other emails or been on forwarded any other emails from any other person in relation to this matter.

After the death of Tina WATSON I had no conversation with the husband. I have not had any communication with the husband since that date.

I was not present as a third person for any conversation or statements made by the husband in relation to the death of his wife.

On the day of the death I did go diving but this was prior to any passengers entering the water. After that my role was as the lookout for safety purposes. I was stationed on the sun deck of the "SPOILSPORT". Prior to the deceased and her husband entering the water I do not recall being present or assisting in their preparation to dive. This includes their weights and their dive computers. I did not attend to the motor vessel Jazz II on that day.

When the husband of the deceased surfaced on the fatal dive he surfaced about 10 to 15 metres off the back left corner of the Jazz II but almost in direct line between "Jazz II" and the "SPOILSPORT."

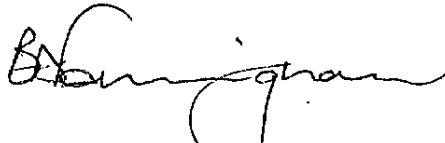
 Witness	 Justice of the Peace (Qual) / Commissioner of Declaration	This is Page 1 of a Statement comprising 2 Page(s).  Police Officer
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CONTINUED STATEMENT OF: Brian Donald FOTHERINGHAM

I would say there would be a space in time of between one to three minutes between the surfacing of the husband on the fatal dive and the surfacing of Wade and the deceased. The husband was still in the water when Wade surfaced with the deceased.

To the best of my knowledge I had no involvement in the physical movement of the deceased's dive equipment on that day after the death. I did assist with the movement of the deceased to a lower cabin on the "Spoilsport" however the bodybag was closed and I did not actually see her.

I attended to the Mundingburra police station on the 22nd day of November 2004 and provided this statement.


Brian Donald FOTHERINGHAM

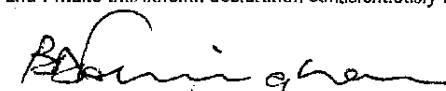
Oaths Act Declaration

OATHS ACT 1867 (DECLARATION)


I, Brian Donald FOTHERINGHAM do solemnly and sincerely declare that:

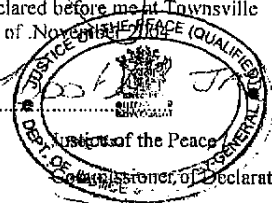
- (1) This written statement by me dated 23/11/2004 and contained in pages numbered 1 to 2 is true to the best of my knowledge and belief; and
- (2) I make this statement knowing that if it were admitted as evidence, I may be liable to prosecution for stating in it anything I know to be false.


and I make this solemn declaration conscientiously believing the same to be true and virtue of the provisions of the Oaths Act 1867


.....Signature

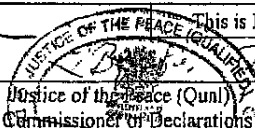
Taken and declared before me at Townsville
This 23rd day of November 2004

Witness .....


Justice of the Peace
Commissioner of Declarations
Other (Please State)

.....

Witness .....


Justice of the Peace (Qual)
Commissioner of Declarations
Other (Please State)

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Police Officer