

E12/2107/0821PUB04399
16/05/2014

CREDO/SPICER
pp 04399-4471

PUBLIC
HEARING

COPYRIGHT

INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE MEGAN LATHAM

PUBLIC HEARING

OPERATION CREDO AND SPICER

Reference: Operation E12/2107/0821

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON FRIDAY 16 MAY, 2014

AT 9.59AM

Any person who publishes any part of this transcript in any way and to any person contrary to a Commission direction against publication commits an offence against section 112(2) of the Independent Commission Against Corruption Act 1988.

This transcript has been prepared in accordance with conventions used in the Supreme Court.

THE COMMISSIONER: Yes, Mr Watson.

MR WATSON: Commissioner, during the course of Karen McNamara's evidence she gave evidence that she had received a cheque which was improperly made out and on that basis it was not accepted by her or the campaign team for Mr Webber in the seat of Wyong and the solicitor acting for Ms McNamara has sent us a copy of the letter and asked us to tender it. I do so now. It's a letter on the letterhead of Darren Webber but under the hand of Karen McNamara and addressed to the person who was the potential donor.

THE COMMISSIONER: Yes. Exhibit S83.

#EXHIBIT S83 - LETTER FROM KAREN McNAMARA (ON BEHALF OF DARREN WEBBER'S OFFICE) TO JOHN SELWOOD CONCERNING A DONATION DATED 20 JANUARY 2011 (PRODUCED BY KAREN McNAMARA)

20

MR WATSON: Commissioner, overnight I had a look at the materials contained in that group of documents which have been marked for identification. Just excuse me while I do this. Look I apologise for this, when I showed them to Mr Koelma on that morning I had literally only seen them for five minutes before showing them to Mr Koelma, their importance had not previously been recognised. Now it's particularly Mr Henskens who's affected by this, what I was going to say is I won't tender those documents now because I'll make a better arrangement about them but the original source documents I will tell everyone but especially Mr Henskens are available for examination. I've got them here in two envelope bags and they can only be examined in the presence of Commission staff for obvious reasons, there's chain of custody issues, there are two; one is a blue manila folder and its contents, that was found as I've explained in a pile of documents just adjacent to Mr Hartcher's desk, the second is a loose group of a few documents, they were found in the same pile.

Now we do have a video tape of where those documents were discovered and retrieved and at some stage I'll tender that just to prove where they came from but they're here and they'll be able to be examined by those who are interested after speaking to the staff.

THE COMMISSIONER: Yes. Is Mr Spence here?

MR CONDITSIS: Mr Spence is here and for the record Conditisis, Commissioner I appear for Mr Spence. He's been advised with respect of section 38 and seeks a declaration and will take an oath.

THE COMMISSIONER: Thank you. Come forward, Mr Spence, if you wouldn't mind just taking a seat. Mr Spence, just let me confirm with you that the order that I can make under section 38 protects you from the use of your answers in civil or criminal proceedings against you but does not protect you in relation to answers that you might give that are found to be false or misleading. You understand that?

MR SPENCE: Yes, I do, Commissioner.

10 THE COMMISSIONER: Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by this witness and all documents and things produced by this witness during the course of the witness's evidence at this public inquiry are to be regarded as having been given or produced on objection and accordingly there is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

20 **PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY THIS WITNESS AND ALL DOCUMENTS AND THINGS PRODUCED BY THIS WITNESS DURING THE COURSE OF THE WITNESS'S EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND ACCORDINGLY THERE IS NO NEED FOR THE WITNESS TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.**

30 THE COMMISSIONER: Could we have Mr Spence sworn please.

<CHRISTOPHER EDWARD FRANCIS SPENCE, sworn [10.03am]

MR WATSON: Are you Christopher Edward Francis Spence?---Yes, I am.

Now after school you spent a period painting houses, working in retail and also working in security?---That's correct.

10 In 1999 you went to work for David Oldfield and he was an MLC here in Sydney?---Yes, that's correct.

And you worked at that time for Mr Oldfield just for a bit over a year, is that right before you returned to Canberra?---I think close to a year and a half.

You'll have to speak into the microphone?---Sorry. I think close to a year and a half.

20 Now you've had also been a Member of the political One Nation?---Yes, I have.

And you've been President of the One Nation ACT Branch?---Yes, I have.

After leaving Mr Oldfield's employment you went back to Canberra where you did some work as a prison guard and then as a security guard? ---Corrective Services in the ACT and surveillance at ACT Casino.

And then in 2003 you returned to work for Mr Oldfield who was still an MLC?---Yes, I did.

30 And you remained there until 2007?---Yes, I did.

In about 2006 did you join the Liberal Party?---2005 I think it was.

And which branch did you join?---Ah, at that time it was called the Shelly Beach Branch.

And where's Shelly Beach?---On the Central Coast.

40 And from 2007 when you – what happened was, Mr Oldfield retired. Is that right?---Yes, he did.

From the time he retired you were doing some volunteer work for the Liberal Party. Is that right?---Ah, yes.

And then that ended up turning into paid work in the Electorate Office of Chris Hartcher?---Ah, no, I don't put it that way. It wasn't volunteer work for the Liberal Party that ended up putting me into Chris Hartcher's office, no.

All right. Well, you did end up working- - -?---I did end up working for Chris Hartcher, yes.

And then in late 2009 while you were still working for Mr Hartcher you were pre-selected as the candidate for the State seat of The Entrance?
---I was endorsed by the Liberal Party to be their candidate, yes.

And- - -

10

THE COMMISSIONER: Mr Spence, you're going to have to speak up?
---Sorry.

I can't hear you?---I was endorsed by the Liberal Party to be their candidate, yes.

MR WATSON: And you left Mr Hartcher's office at some stage. When was that?---Ah, in May 2010.

20

And you, when you left did you go to another job?---Ah, I was self-employed, yes.

And self-employed as what?---A Government relations consultant.

And for whom did you do that work?---Eightbyfive.

And who else?---No one else.

Where did you advertise your business?---I didn't.

30

Did you place your business in the Yellow Pages?---No, I didn't.

Did you have a Website advertising your business as a political consultant?
---No, I didn't.

Well, did you have any means of communicating to the world that you were now a self-employed political consultant?---No, other than ah, word of mouth, no.

40

Sorry?

THE COMMISSIONER: I beg your pardon?

THE WITNESS: Other than word of mouth, no.

THE COMMISSIONER: Word of mouth.

MR WATSON: Right.

THE COMMISSIONER: Did the business have a name?---Ah, I was just trading as myself.

MR WATSON: But you say that, do you – well, sorry, I'll withdraw that. Did you acquire for example an Australian Business Number for the business?---Ah, yes, I did, but I think I already had that prior.

10 That was already your Australian Business Number from before that. Is that so?---Yes, it was.

And so there was no registration of a business name?---No.

And you never had any other customers except for Eightbyfive?---At that time, no.

Did you ever have during that period, that's from May 2010 until elected into Parliament, did you have any other source of income?---No.

20 And did you consult any accountant or like person to assist you with setting up the business?---No.

And did you have a business plan?---Ah, no.

Did you have business cards?---No.

Did you have letterhead?---No.

30 Did you have a budget?---Other than my own personal expense, no.

Mr Spence, that sounds like a pretty crummy business arrangement, doesn't it?---I don't think so, no.

Right. The first payment we can find which might be associated with Eightbyfive was made on 4 May, 2010. Does that accord with your recollection?---Yes, that's correct.

40 And so you said you left Mr Hartcher in May 2010. I presume this first payment was made immediately after you left?---No, it wasn't.

Was it made before you left?---Yes, it was.

How did it come about that you were being paid as a freelance political consultant while in full-time employ of the New South Wales Parliament? ---Because at the time Mr Koelma approached me to work for him it was my intention to resign immediately but that didn't happen.

When did you leave work for Mr Hartcher?---I think it was approximately the week of about 23 or 24 May.

Well, is this right. You were being paid as a freelance political consultant at the same time you were a full-time employee of the New South Wales Parliament?---That's correct.

You can't do that, can you?---Well, you can.

10 Well, you can just like you can drive around drunk?---Well, no, I - - -

You can, but it would be wrong?---I would suggest that that's illegal. I suggest that what I did wasn't illegal.

Right. Okay. So could the witness be shown Exhibit S13. Would you open this, and I hope I've got the right volume, but page 3665?---Sorry, did you say 3365?

20 3665?---Sorry. Yes.

This is an invoice that was issued by you, is that right?---Yes, it is.

To Eightbyfive?---Yes, it is.

You'll see that it's dated 5 May, 2010?---That's correct.

You'll see that its invoice number 0-0-6-4-4?---That's correct.

30 To whom were the first 6043 invoices issued?---Ah, there wouldn't have been.

Well, what do you mean by that?---Well, this was the first invoice that I issued to Mr Koelma.

Why is not invoice 0-0-0-0-1?---I don't know, I don't have an explanation for that.

40 Well, there must be, somebody had to type that in. Did you type it in?---Oh, presumably, well, yes, I would have typed it in but I don't know how, how I came to that, that, number.

Well, it's ridiculous isn't it?---Well, I have no explanation for it.

Well, I've got an explanation, I want you to try it on and see if it fits? ---Sure.

It looks as though somebody is trying to pretend that this is a genuine business which had issued other invoices before this invoice?---No.

That's how I would have read this had I looked at?---No.

What do you think about that?---That's not correct.

Well, then explain to us why you started with your first invoice numbered 644?---I've just told you I don't have an explanation for that, Mr, Mr Watson.

10 All right. Well - - -

THE COMMISSIONER: Does that mean that you just made the number up?---Commissioner, I don't know how that number is there, I mean, whether the - I don't know.

MR WATSON: Well, I'll tell you one way it can get there is you can sit at a computer and you can press 0-0-6-4-4, that's how it could there?---That's true.

20 That's how it got there?---Perhaps.

Well, how else could it get there? Not magic?---I have no explanation for it, Mr Watson.

All right. Let's have a look at it. Let's see the services which you describe. "Review and advise." What documents or things did you review?---Ah, I reviewed a number of, of things over the, the 10 month period.

30 Sorry, no, this is 5 May, 2010. You're still working for Mr Hartcher. What were you reviewing when you issued this invoice?---No, that doesn't, that doesn't suggest a statement of fact that I've done, that is what my - - -

Sorry, what, what did you say?--- - - - retainer was to do.

MR CONDITSIS: Your Honour - - -

MR WATSON: Oh, sorry, I shouldn't have interrupted. All right.

40 THE COMMISSIONER: Go on.

MR WATSON: Description, review. Are you saying that that is not a statement of fact?---It's the retainer, that is what I was retained to do.

Right. Okay. Then public relations. What training do you have in the field of public relations?---I would thought I had a, had quite a reasonable um, experience at public relations.

No, I didn't ask you that?---I'd worked for, for a number of years.

I didn't ask you that. Listen to the question. What training did you have in public relations?---Up to probably nearly 10 years working in, in politics at that stage.

I see. So does that should we take it mean you had no formal training in public relations?---No, no academic qualifications, no.

10 All right. And who were you providing a public relations service to?
---Mr Koelma.

Did he need public relations, what, for his business?---That's what my retainer was.

Well, sorry, I mean you either did these things or you didn't. Did you provide review and advice on public relations?---Over the 10 month period there were instances that we, I discussed public relations matters with Mr Koelma, yes.

20 All right. For whom?---Ah, Gazcorp was one of them.

Who else?---I don't recall any others.

What do you mean by that, that - do you mean that your recollection is diminished or there weren't any others?---Oh, I don't, I don't recall having discussions about any other business entity that required public relations conversations between me and Mr Koelma, no.

30 Now tell me this, why couldn't Mr Koelma who himself claims skills in the area, why could Mr Koelma not provide these public relations services?
---Well, I think Mr Koelma said in his evidence yesterday that he, he required my services on the basis - - -

No, you tell - no, don't worry about his evidence.

MR CONDITSIS: Well, I object to that, he's asked an open question, he should wait for the answer and then go from there.

40 MR WATSON: Yes, all right, okay, I'll let you finish. Had you finished?
---He said in his evidence yesterday that he didn't have an understanding of the background to, to Liverpool and the Orange Grove process and, and that entailed public relations advice particularly in relation to that matter.

All right. And then there's a reference to political and media engagement strategy?---Yes, that's correct.

For whom did you provide that review and advice?---To Mr Koelma.

Did he need political advice did he?---Well, clearly he put me on a retainer so he was asking for that advice, yes.

And was it on behalf of any particular client?---Ah, the only client that I remember doing any political media engagement strategy advice was Gazcorp.

Well, were there any others?---He had other clients, yes.

10 No, I'm asking about you, were there any other customers for whom you provided political and media engagement strategies?---No, I only, I only worked for Eightbyfive.

THE COMMISSIONER: No, no, no, no. I think you're missing the point? ---Sorry.

20 The question is that these tasks for which you are invoicing were things that you undertook for Mr Koelma in relation to Gazcorp and only in relation to Gazcorp, that's what's being put to you?---Well, Commissioner, I was put on a retainer to give Tim advice across these matters.

Well, we know that but a short time ago you said that as far as you were aware the only clients with respect to whom this advice was provided was Gazcorp?---That would probably be correct, yes.

MR WATSON: Can you just tell me this, if you were providing public relations advice in respect of Gazcorp what was it?---Ah, in relation to, to the development and in relation to ah - - -

30 No, no, you have misunderstood me, I'm not talking about in relation, we know what it's in relation to, it's - what was the advice?---Um, I had a conversation with Tim Koelma in, in late 2010 in relation to whether or not Gazcorp should be meeting with Brad Hazzard. I differed with, with Tim's opinion on that and thought that ah, that the Part 3A process was going to lead to, to possibly um, as was said by the Government at the time that it would be a local decision that would probably be made by council and I didn't feel it necessary that the meeting with Brad Hazzard would actually further their cause.

40 All right. And what else?---Ah, look, we, we had a number of conversations with him in relation to the history um, I had a number of conversations with him um, in relation to how the Part 3A process may affect um, their business um - - -

Advice, what advice did you give?

MR CONDITSIS: Well, I object to that, he's answering the question.

THE COMMISSIONER: He had a number of conversations he said.

MR CONDITSIS: Yes, I appreciate his wording but it was responsive and the witness is, in my respectful submission saying - - -

THE COMMISSIONER: No, do not say it.

10 THE COMMISSIONER: He's saying - just take a seat, Mr Conditis. He's saying that it was in relation to these subjects and I think we have to drill down a bit further.

Mr Spence, what Counsel Assisting wants to know is what advice did you provide about those matters, ie, Part 3A?---Ah, as I just said, Commissioner, the Part 3A process was a, was a complex one, it was in part confusing at the time. Um, at the time um, those matters could be addressed by a Minister directly.

20 MR WATSON: Sorry, we heard that one, I want others. What were the other pieces of advice that you gave?---On how they should - well, the possibility of, of what it is that Gazcorp could do in relation to, to ah, a public campaign in relation to um - - -

30 But what was your advice, what did you tell them they should do?---Ah, look, one of the things that I, I thought ah, that could be done was that, you know, back during the 2004 period I think ah, I believe Gazcorp collected signatures of about 17,000 in a petition to have Orange Grove re-opened when it was in the process of the Save Orange Grove Bill. I thought that they should go down that path again um, and start some sort of community campaign to ah, to create awareness of the, of the issue.

All right. Well else, what other advice did you give? Don't you realise I want to know what the advice was?---I can't recall further specifics at this time, Mr Watson.

No, but I do want you to try because we've got to work out why you were being paid nearly \$10,000 a month, month in, month out because at the moment you've given us two examples which really couldn't be more than 20 minutes of conversation?---Well, I disagree.

40 Well, okay, how long would it take two human beings to have a discussion as to whether or not Gazcorp should approach Brad Hazzard, five minutes, 10 minutes?---No, I think the conversation was longer than that and I think, Mr, Mr Watson, this was, this was a complex - - -

No, just answer my question, no speechmaking.

MR CONDITSIS: I object, objection.

THE COMMISSIONER: Just, just let him finish that particular answer. Yes, Mr Spence, go on?---This was a complex issue, it wasn't something that is just dealt with in a five-minute conversation. There's a lot of to-ing and fro-ing in, in, in um, in relation to that, and second to that it is a situation where, you know, there were, there were differing opinions as to, as to how it, how it could progress. So I mean I don't, I don't support your view that this is just a five-minute conversation and it's done with.

10 MR WATSON: All right. Well, then how long would it take two adult experts to discuss the issue of whether or not Gazcorp should collect signatures on a petition?---I don't know, Mr Watson.

Days, weeks, months?---I don't know. Within- - -

Five minutes?---Within a week.

All right. Well, just in terms of these invoices, is the invoice that we see at page 3665 of Exhibit 13 a copy of the actual invoice given to Mr Koelma? ---No, it's not.

20

Well, could you- - -?---Oh, it's a- - -

- - -produce for us a copy of the actual invoices issued to Mr Koelma?---Ah, the only ones that I could give you would be February and March 2011.

All right. So where would the others be?---Ah, I don't have them.

Why not?---Ah, my computer was ah, my hard drive on my computer was destroyed in ah, late January 2011.

30

And so you – these invoices here, they're not genuine invoices from the time. Is that right?---No, these are, these are copies of what I believe to be the invoices at the time, yes.

Well, when you say that you believe them to be copies, for example is the date correct?---I believe it to be, yes.

40

How did you know the invoices was issued on 5 May, 2010, did you have a record of that?---Because the invoices are issued on the same day each month.

All right. So you just reconstructed that from your knowledge of the way in which you were doing things?---That's correct.

And so these invoices, except for the two you nominated, are reconstructions?---Yes, they are.

Why were they then created?---Ah, for accounting purposes.

What do you mean by that?---I had a meeting with my accountant in early, in ah, late April 2011 and, and needed to provide him with the amounts that ah, that I'd been paid.

Could the witness be shown Exhibit S12, and keep that page open if you wouldn't mind, Mr Spence.

10 THE COMMISSIONER: Mr Spence, when did you say the hard drive on your computer was destroyed?---I think it was approximately 25 January, 2011.

Approximately 25 January, 2011?---Yeah, I, I- - -

Can you tell me how it was destroyed?---Sorry, the hard drive just failed, it, it – I took it to a computer place to try and get it fixed and it was, it was irreparable.

20 Well, when you took it to be fixed did you ask them to retrieve the information that was on the hard drive?---I was told that it would be close to about \$1,000 and that there was no guarantees that, that any material particularly relevant that I wanted could be retrieved and, and I found it cost prohibitive. Sorry, what page, Mr Watson?

MR WATSON: Page 3448?---This ends at 3447, Mr Watson.

30 Rightio. Well, it's then in the start of page – it's a – return that. I'll get you to give that one back. This is where my volumes don't match up with, yes. It's the first page of volume 13. So keep your thumb in page 3665?---Yes.

And then look at the first page of that?---Yep.

UNIDENTIFIED SPEAKER: What was the page again, Mr Watson?

MR WATSON: 3448.

UNIDENTIFIED SPEAKER: Thank you.

40 MR WATSON: And you'll see there that we've been able to track some records of yours and match them against records of Eightbyfive. You would have seen these documents come up in evidence several times?---Yes.

We can prove, and the documents are in just behind this document itself, that Eightbyfive withdrew \$6,000 in cash on 4 May, 2010, and we can prove that you, Mr Spence, deposited \$5,000 in cash into your account on 4 May, 2010?---Yes.

Did that money come from Eightbyfive, the money that you deposited?

---Yes, it did.

Why?---Ah, I think Tim was paying me for the first invoice.

But that's not the size of the first invoice, is it?---No, it was, it was part-payment for whatever reason, he didn't have the full amount and, and only made partial payment.

10 It was being issued before the first invoice even came into existence according to you. Sorry, the money was paid before the first invoice was even issued?---Well, the amount had already been agreed upon at that time and Mr Koelma knew it was coming the next day.

So this is while you were working full-time for Chris Hartcher, he's paying you \$5,000 at least for work which you couldn't do. Is that it?---Oh, I dispute it's work that I couldn't do.

Well, sorry, weren't you working full-time for Mr Hartcher?---Yes, I was.

20 And you remained in that employ for nearly all of May?---For, for the two and a half weeks, yes.

All right. So how much did you get, did you get the whole 6,000 or just \$5,000?---Oh, look, I wouldn't, I wouldn't dispute that I probably got the whole 6,000 and only banked five.

30 And then we can see on 17 May, Mr Koelma has given you another three and a half thousand dollars in cash?---Well, that would be the balance of the invoice, yes.

Well, tell me this. Why is the payment being made in cash?---Ah, look, I think Mr Koelma offered to, to pay it that way at the time but I insisted on further payments being made by electronic transfer.

You insisted on that, did you?---I did.

You must have been heartbroken on 5 July when he seems to have give you \$1,000 in cash?---That's not from Mr Koelma, Mr Watson.

40 Who did that come from?---Darren Webber.

Darren Webber gave you \$1,000 in cash?---That he did.

Was he subcontracted to you?---He was repaying a debt.

All right. Did you declare that money in your tax return?

MR CONDITSIS: So which money?

MR WATSON: The cash payment?---Ah- - -

MR CONDITSIS: Well, which cash payment, is that all the cash payments, is it the \$1,000, which, what is- - -

MR WATSON: All right. Mr Spence, you were paid cash of \$9,500 during May 2010?---Yes, that's correct.

10 Did you declare that in your tax return?---To my knowledge, yes.

Are you sure of that?---I, I would believe so.

Well, have a look at page 3667?---Yes.

Do you see there that you charged GST?---That's correct.

Did you remit that GST to the Commonwealth Government?---No, I didn't.

20 Did you collect that GST from Mr Koelma or Eightbyfive?---Yes, I did.

What did you do with that money, did you refund it to Mr Koelma or Eightbyfive?---No. My arrangement with Mr Koelma was for- - -

No, stop for a second, question by question. Did you refund it to Mr Koelma or Eightbyfive?---I wasn't required to, no.

You charged and collected GST?---Yes, I did.

30 And we can see if we look at page 3668 you did it again?---Yes.

And if we go through the other invoices you did it again and again and again. Did you remit any of the GST that you collected to the Commonwealth Government?---No, I didn't.

Did you take advice from an accountant as to the consequences of that?
---Ah, not at the time, no.

40 Did, did – you do know that it is an offence to charge and collect GST and not remit it to the Commonwealth?---Well, I don't believe so.

Oh, I see. Well, I mean- - -

MR CONDITSIS: Well, no, I object, Commissioner.

MR WATSON: No, I'm going to take, I'm going to - - -

THE COMMISSIONER: All right. Never mind. Look, we can move on. Whether or not he understood it was an offence in terms of circumstances that applied at the time- - -

MR CONDITSIS: Well- - -

THE COMMISSIONER: You can explore it, Mr Conditisis.

10 MR CONDITSIS: Can I just say this. The proposition of law put by my friend, I should have objected to the question, is not correct.

THE COMMISSIONER: Well, it may not be, so you can come back to that.

MR CONDITSIS: All right.

THE COMMISSIONER: Yes, Mr Watson.

20 MR WATSON: Well, I'm pretty confident it is, but anyway. Mr Spence, of these invoices that we have between pages 3665 through to 3675, how many of them are genuine original invoices as opposed to later reconstructed invoices?---Um, my belief is that ah, February and March were, were originals.

What I want to suggest to you is that – well, I suppose I'll just put it in the broad. They were just something you cooked up to try and justify payments from Eightbyfive, weren't they?---No, Mr Watson.

All right.

30 Mr Spence, the position was that you'd been a very long term good friend of the Gazals, isn't that right?---I was, I was a friend of the Gazals, yes.

And you become close to them during the course of the Orange Grove inquiry conducted in the New South Wales Parliament?---I came to know them through that, yes.

You came to be very close to them didn't you?---Yeah, I don't dispute I'm friends with them.

40 And you at the time were working for Mr Oldfield?---Yes.

Mr Oldfield was one of the members of the committee examining the allegations?---Yes, he was.

You were worked in conjunction with the Gazals and their legal team on the presentation of their allegations, correct?---In respect to the Parliament inquiry?

Yes?---Yes.

Now I understand that there's a process, wasn't Mr Oldfield suppose to be independent of the people making the allegations?---Sure.

But that wasn't the case was it? In fact you, Mr Spence, worked closely with the Gazals and their legal team in that inquiry and during that inquiry didn't you?---Well that inquiry was about finding out whether or not - - -

10 Just answer the question yes or no?---Well, Mr Watson, that inquiry was about finding out whether or not - - -

Answer the question yes or no.

MR CONDITSIS: Objection, your Honour. Some questions are just not yes or no - - -

20 THE COMMISSIONER: No, I'm sorry, he can answer the question and then if he wants to give an explanation but he's not answering the question.

MR CONDITSIS: As the Commission pleases.

THE COMMISSIONER: Put the question again.

MR WATSON: During the course of that inquiry you were working in close conjunction with the Gazals and their legal team weren't you?---I worked in close conjunction with the Gazals, actually I don't remember working with their legal team at all.

30 What did you see as being your role when working in close conjunction with the Gazals?---To find information about what had happened.

And did you work in close conjunction with Mr Lowy or anybody from the Westfield group?---Well I don't know Mr Lowy and, and certainly - - -

Just answer my question yes or no?---No, I didn't.

40 Why not? Wouldn't you need to do that to give balance to the approach? ---Well they wouldn't speak to us.

You see it was the fact that you very heavily supported the Gazals in the serious allegations that they'd made against Mr Carr and Mr Lowy, correct?---Well certainly there was allegations there that I thought could be substantiated, yes.

You very heavily supported the Gazal position that there'd been corruption on the part of the Premier Mr Carr and Mr Lowy from Westfield. That's

right isn't it?---As evidence was presented to the inquiry I thought it became apparent that, that certainly may have been unfairly treated.

THE COMMISSIONER: Mr Spence, I think, I think once again it's slightly missing the point. What's been put to you is that before this inquiry even started you were heavily involved in assisting the Gazals to prepare their case for the inquiry, that's what's being suggested to you?---I don't think that's the case, Commissioner.

10 MR WATSON: During the whole of the inquiry you were in constant contact with the Gazals acquiring from them information which tendered to support their allegations of corruption, correct?---That's correct.

And tell me at the end of it which way did Mr Oldfield vote?---Sorry, vote?

Mr Oldfield participated, there was a division in the committee as to whether or not the allegations made by the Gazals were made good, wasn't there?---I, I don't recall a vote.

20 Well there was take it from me. Which position did Mr Oldfield take, was it one which is favourable to the Gazals?---I think he took a position that there was something that should be further investigated.

Was it a position which was favourable to the Gazals?---I wouldn't say that's favourable to the Gazals, I mean if they've been unfairly treated the position was that that possibly there should be further investigation.

30 Have a look at Exhibit S4 if you would for me. Open it up at page 953. I want to touch on these things as quickly as possible but you'll see from here this is 2008 when you were working the office of Chris Hartcher that you were attending on the Gazals harbour cruise?---Yes.

That's on board yacht Octavia is it?---Yes, it is.

And you were actually their connection the person who built the bond between Chris Hartcher and the Gazals weren't you?---No, that's not correct.

40 All right. Have a look at page 954. This is Nabil Gazal organised harbour lunch cruise from the Royal Motor Yacht Club, do you see all of that? ---Yes, I do.

And the people are going are going to be yourself, do you see that?---Yes, I do.

Chris Hartcher?---Yes, I see all the names.

Michael Gallacher?---Yes.

Anthony Roberts?---Yes.

Greg Smith?---Yes.

David Clarke?---Yes.

Nat Smith, that's Greg Smith's son?---Yes, that is.

10 Are all those people associated with the Right Wing Faction of the Liberal Party?---If you put it that way, yes.

Well there's no other way to put it they are aren't they?---Yes.

How, how was that crew put together for the cruise?---I don't know.

Have a look at page 960.

20 THE COMMISSIONER: This is the 21 November 2008, is that right?---I think it was, Commissioner, yes.

And can you just tell me when was that in relation to the inquiry into Orange Grove?---The Orange Grove inquiry was in, the Parliamentary inquiry I believe was 2004 I think it was.

Thank you.

30 MR WATSON: And I haven't gone back through the whole history you've maintained a constant friendship with the Gazals over the years hadn't you? ---No, I didn't.

All right. Have a look at page 960. You're going to represent Chris Hartcher at the opening of Orange Grove or the re-opening of Orange Grove. See that?---Yes, I did.

Have a look at page 963, you appear to be going to the Gazal family home at Vacluse?---No, I think that all that suggests is that's their home address whether I went there or not I don't know.

40 Have you ever been there?---I have.

Right. How many times?---Oh I can probably count them on one hand.

All right well do so, how many times?---I don't know, four or five times.

All right. And then have a look at page 973, you're off to lunch with everybody at the - - -?---Dinner.

- - - Spice Temple?---Dinner.

Dinner, of course. And who, who paid?---I don't remember.

Well did you pay your own way?---Oh often I might, yes.

No, I'm talking about this time?---I don't know.

10 Would it be the case that the Gazals would be paying?---I can't confirm or deny that.

Have a look at page 977, more quality yacht time, do you see that?---I do. Nearly a year later.

All right. Well what's your point?---Oh I'm just saying it's not a regular thing.

20 Are you disappointed by that, you were being left out?---No, I'm just making the point, Mr Watson.

Well have a look who's going, Chris Hartcher for one, Mike Gallacher, you, David Clarke, is that right?---That, that would appear so.

Who's DW?---I would assume that's Darren Webber.

Right. Have a look at page 981, lunch with Mr Hartcher and the, at least one of the Gazals at Platinum?---Yes.

30 Have a look at page 1000?---Yes.
More contact between you and the Gazals. Do you see that?---I don't think that suggests that at all.

MR WATSON: Really? "See CES." Who would that be?---That would be me.

Right?---That's not my diary note.

40 Okay. Page 1024, telephone calls between you and the Gazals?---Yes.

Page 1047?---Yes.

Telephone contact between you and the Gazals?---Yes.

That's, that's actually at a time when you've got the contract with Eightbyfive, is it?---That's correct.

Was that contract with Eightbyfive ever in writing?---No.

Why not?---I didn't feel it necessary.

Why not?---I trusted Mr Koelma, I don't, I didn't feel that it was necessary.

What were the payment terms?---That he would pay me the, the, the prescribed amount.

10 But how soon after you rendered an invoice?---Well, as soon as possible.

Have a look at page 1123?---Yes.

More contact between you and the Gazals?---I believe that was a tribute to, to Nabil Gazal Senior after his funeral.

All right. Then 1124?---Yes.

20 I'm just wondering why the Gazals were paying a lot of money to Mr Koelma to provide them with advice when if we look at page 1124 there was so much contact between you and them?---Well, I, I believe – oh, yeah, I see the contact and I believe that that was in relation to the fact that Tim had asked me to speak to them.

All right. So this is you providing with the advice?---Oh- - -

You say you provided advice to the Gazals directly, did you, is that what you're saying?---He'd asked, he'd ask me to speak to them.

30 No, just answer the question. Are you saying that when Koelma contracted you he got you to speak to Nicholas and Nabil Gazal directly?---I believe, at this particular time I believe so.

The answer's got to be yes or no.

MR CONDITSIS: Well, no, it doesn't have to be yes or no, with respect, Commissioner, because we're talking about a 10-month contract period.

40 THE COMMISSIONER: Well, he said yes, he said yes, at this particular time.

MR CONDITSIS: Well- - -

MR WATSON: Okay. Well, now, so what was that on?---Ah, I believe that was on the issue of whether or not they should meet with Brad Hazzard.

So you weren't telling that to Mr Koelma, you were telling that to the Gazals themselves. Is that what you're saying?---I believe Mr Koelma was away at this time and had asked me to speak to them about that issue.

Don't you see it seems a little bit odd, you know the Gazals so well that this circuitous arrangement via Eightbyfive seems odd?---I don't the arrangement with Eightbyfive was odd.

Well, no, I'm talking about the fact that you're in regular contact with them, why, why would they do it through Eightbyfive?---I wouldn't say that I'm in regular contact with them, Mr Watson. You've shown me a couple of document through the period of 2010 where I saw them, one was Nabil
10 Gazal Senior's funeral, one was a tribute um, and the other was a, was a, was a personal catch-up.

No, but have a look at page 1124, 1124 – there was no impediment to you speaking to them, was there?---Course not, no.

Have a look at page 1182. More telephone contact directly with the Gazals?
---Yes, that's correct.

Page 1200- - -
20

MR CONDITSIS: Could the record just show that's June 2011, Commissioner?

MR WATSON: The record is there open in front of us.

MR CONDITSIS: Well, I understand that but there a lot of people reporting on this, it's June 2011.

THE COMMISSIONER: Yes. All right.
30

MR WATSON: All right.

THE WITNESS: Sorry, twelve hundred and what?

MR WATSON: Page 1200. And there's more contact. There was no problems in your making contact with them, was there?---Oh, so far you've shown me two days in 2011.

Okay, that's going to be your answer is it, Mr Spence, that – should we take
40 it to mean that you're saying no, you've only shown me two days of contact?

MR CONDITSIS: Objection.

THE COMMISSIONER: Well, no, just a minute. Mr Conditis, Counsel Assisting did say he was trying to move through this as quickly as possible. Underlying all of these questions, whether it's two days or five or 20, underlying these questions is a proposition that's been put to the witness

that on the basis of these records he had absolutely no problem speaking to the Gazals directly over that period of time.

MR CONDITSIS: I don't cavil with that.

THE COMMISSIONER: That's, that's it.

10 MR CONDITSIS: The objection is, the objection, the objection is the witness has already answered there was no impediment. He said that about five questions ago.

THE COMMISSIONER: Well, and the- - -

MR CONDITSIS: Mr Watson's gone back – he's already got the answer he wants and he- - -

THE COMMISSIONER: And then he sought to qualify it.

20 MR CONDITSIS: Well- - -

THE COMMISSIONER: So let's, so let's just, you know, get real here.

MR CONDITSIS: Well- - -

THE COMMISSIONER: Mr Spence, at the end of the day you had no problem picking up a phone and speaking to the Gazals directly whenever you wanted to. Is that right or wrong?---That would be the case.

30 Right.

MR WATSON: What's Platinum?---Sorry?

Is that a restaurant?---No, there's a Platinum Building at Fountain Plaza, Erina.

Where were you having lunch at Platinum?---Ah, I don't know the, I can't remember the name of the café there but there's a café there.

40 All right?---I believe that was because Nabil Senior was seeing a doctor at Fountain Plaza.

Have a look at page 1052?---Yep.

You can see that that's a text message and it's coming from your mobile phone to Tim Koelma's mobile phone. Is that right?---Yes, it is.

Now, you see this arrangement that Mr Koelma had with the Gazals was a substitute for an arrangement which had been proposed where you would

leave Mr Hartcher's employment and go to work and provide these services directly to the Gazals. Is that right?---No, that's not correct.

That's not correct. You do know that's what Mr Koelma told us it was?
---I heard that, yes.

But you disagree with him?---I do.

10 All right. So did you for example have a particular association with the money that you would receive from Eightbyfive month in, month out, that it was somehow tied to payments from the Gazals?---After this text message, yes.

What do you mean, after this text message?---At this point in time my bank account was in the negative and I was trying to ascertain whether or not Mr Koelma would have, have funds available to make sure he paid me on time. It was after that- - -

You must have misunderstood me.

20

MR CONDITSIS: Well, objection.

MR WATSON: I'm attributing this- - -

MR CONDITSIS: The witness was being directly responsive - - -

THE COMMISSIONER: Well, hang on a minute. We've got the answer. We've got an answer. Let's go back.

30 MR CONDITSIS: It wasn't a complete answer, Commissioner, in my respect.

THE COMMISSIONER: Was there something else you needed to say, Mr Spence? You were asking if he had money because your bank account was in debit. Is that right?---That's correct.

You needed to be paid on time?---That's correct.

Right. Go on, Mr Watson.

40

MR WATSON: My question was about this. There was a particular association that the money that Mr Koelma was receiving from the Gazals, most of that, nearly all of that was going to you, wasn't it?---The association from this, from this text message was that Mr Koelma explained to me- - -

THE COMMISSIONER: No, no, no, no, no. I have to stop you, Mr Spence. And you see this is one of the problems. You would appreciate that you want to be out of here as quickly as possible- - -?---I do.

- - -and we want to move on and if you don't answer the question directly then Counsel Assisting has to keep asking you?---Sorry. Could Counsel Assisting put that question again?

So, so let's focus.

MR WATSON: There was an arrangement, wasn't there, that nearly all of the money received by Koelma from the Gazals was going to go to you.
10 Correct?---The only arrangement I had with Mr Koelma was that he would pay me what I invoiced him. I'm not aware of what Mr Koelma was paid, pad by Gazcorp.

Well, I just want you to know this is the proposition that I'm putting to you. The money which was being paid by the Gazals was in essence set aside for you, Mr Spence. Do you accept that or do you reject it?---I reject it.

All right. Let's have a look at page 1052?---Yep.

20 You're asking Mr Koelma whether he has dollars in the bank?---That's correct.

Have a look at page 1072?---Yep.

"Can you see if my friends have been helpful?" Friends in that context means the Gazals, doesn't it?---It means a client of Tim's, yes, that's correct.

30 No, you must have misunderstood me. "My friends" means the Gazals, doesn't it?

THE COMMISSIONER: In that SMS?---In that, in that SMS it does, yes, it does.

MR WATSON: All right. Well, what were you doing chasing up Mr Koelma to see whether your friends had been helpful?---Because Mr Koelma referred to his clients as friends. After the previous SMS that you showed me where I asked him if he had any dollars in the bank, Mr Koelma explained to me that to pay me he relied on the payment from, from the
40 Gazcorp company which means at this point in time I understand that for me to be paid, he has to be paid, so I was asking him in his terminology, "Have my friends been helpful?"

Yeah. Well, so you accept from that first text message, from that time you were of the understanding that the money that would pay you was coming from the money paid to Koelma by the Gazals, correct?---Yes.

Have a look at page 1073. You'll see that there are a number of texts but I want to focus on the one which is number 2519?---Yes.

Again, quote, "Have my guys shown some love," unquote. Their - the reference to "my guys" is a reference to the Gazals, correct?---Yes, that's correct.

And "love" is money?---That's correct.

10 And what you're doing is awaiting paying by the Gazals because it was only upon payment by the Gazals that you could get money, correct?---Ah, well, the only way I could get money is if Tim paid me and Tim was relying on them paying him to pay me so - - -

All right. Well, I'll ask my question again and see whether we can get a simple yes out of you. You knew that for you to be paid you were dependent upon the Gazals paying Koelma, correct?---Correct.

20 And then you'll see in the final email on the page Mr Koelma is responding by telling you that there is no love yet, that he will transfer when it arrives, do you see that?---I do.

So that is a direct reference to money being paid in by the Gazals which would then be transferred to you, correct?---Correct.

Have a look at page 1074. You'd accept by this stage you knew full well that the money which was being paid by the Gazals was in fact the money which was paying your retainer?---Yes.

30 So that we can see from the email you're in fact directing Koelma to chase up his debts, do you see that?---Yes.

What right did you have to tell Koelma how to run his independent business, Eightbyfive?---Well, Mr Koelma is, is paying me and for me to be paid he needs to be paid so I'm, I'm cashing up to, to make sure that he's paid on time.

40 Well, you could say to Koelma, look damn it, I just want my money, I don't care where you get it from, you can rob a bank, you could say that couldn't you?---I could.

Because you claim you had a contract with him?---I did.

And you claim you were providing him with valuable services?---I was.

While you were in Vietnam?---I'm entitled to a holiday, Mr Watson.

Is that right? Self-employed people normally don't get paid during their holidays.

MR CONDITSIS: Well, I object.

MR WATSON: Well, that's been my experience over a long time I must say.

10 MR CONDITSIS: Well, look I thought we wanted to move through this quickly, really that question does, does invite an objection, it's objectionable, I object.

MR WATSON: I press it.

THE COMMISSIONER: It was, it was perhaps framed more in the nature of a comment, Mr Watson.

MR CONDITSIS: It was.

20 THE COMMISSIONER: But perhaps you can progress another way.

MR SUTHERLAND: And can I say, Commissioner, when the NRL clubs retain barristers during the season they get the monthly retainer whether they're in Chambers or on holiday.

THE COMMISSIONER: Well, I wouldn't know that, Mr Sutherland, they don't retain women but anyway, let's go.

30 MR SUTHERLAND: In the lead up to women in league round.

THE COMMISSIONER: It's a statement of fact, anyway go on.

MR WATSON: Anyway, so, so - and he's giving you an update on what the Gazals were up to, even where they are at the time, do you see that?
---I do.

Have a look at page 1076. You're following up on it all?---Yeah.

40 Have a look at page 1079?---Yeah.

He reports, "Friends came through."?---Yeah.

And if you need to look at it or Mr Conditsis needs to look at it page 1080 is the payment, the Gazals paid up therefore you get paid, do you see that?
---Yes, I do.

You see, isn't this the case, that you had an arrangement under which your campaign activities were going to be paid for by the Gazals, your old friends?---I disagree.

Disagree, all right. Well, let's just open up and just while we think about these things so that we've got a refresher, let's have a look at Exhibit S13 again?---Do I need to keep this one?

No. Open it up at page 3665, 3665?---Yes.

10

Now just having a look at this so that we can assess whether or not this is a genuine business or not, again I point out to you the funny number of the invoice, do you see that?---I do.

And then you're describing an entitlement to be paid for public relations, is that right?---Yeah, yeah.

And you didn't supply any public relations during that month?---Oh, I don't recall.

20

So it's a false description of the services that you provided during that month?---No, it's the retainer agreement.

It's a false description of the services that you provided during that money? ---I disagree, I disagree with your proposition.

Did you provide public relation services during that month?---I, I don't know.

30 You don't know. So you may have. Is that what you're saying?---Oh, look, Mr Watson, we, we - - -

Tell us about the public relation - - -?---I thought we, I thought we covered this.

MR CONDITSIS: Could the witness interrupt the commentary - - -

THE COMMISSIONER: Yes, all right, just - yes, all right.

40 MR CONDITSIS: - - - of Mr Watson with an answer to the question?

THE COMMISSIONER: Yes, all right, just pausing there if you wouldn't mind. Mr Spence, what, what's operating on my mind is that in that invoice there's a description which simply reads "Review and advise public relations political and media engagement strategy."?---Yes.

And you've said before that this was all in the context of a retainer whereby you were paid on a monthly basis?---That's correct.

I suppose what's operating on my mind is why you describe services at all in that invoice, why isn't it a, for example, reference to, pursuant to retainer invoice for month of May as per agreement? That's, that's what I think is at the genesis of Counsel Assisting's question?---Look, Commissioner, that's, that's the way that I, I pieced together that that's what Mr Koelma was paying me on a retainer for, he was paying me to review and advice. Now that was whether or not he actually had something for me to review and revise or not, I mean, that's, that's the terms of a retainer, he was retaining me to give him that advice as required. I don't see this as being a reflection of what I did each month. I mean, there could have been a period where, where for certain weeks in a month I didn't actually be contacted by Mr Koelma, I mean my invoice was, was then going to reflect, you know, did stuff all, pay me any.

Well - - -?---This, this is the, this is the terms of that's what he asked me to do on a monthly basis and that's, that's what I put on the invoice.

Whether or not you provided those services?---That's right.

Can I just ask you this though, insofar as that's a reconstructed invoice do you know that the original invoice was in those terms also?---I believe it to be because I, I never changed the wording of that throughout the term.

Yes, Mr Watson.

MR WATSON: Did you just say that there could go weeks without you providing any services at all?---At, at times, I mean obviously I was in Vietnam for, for three weeks.

Well, why, why was Mr Koelma paying you for this?---It was the terms of a retainer, I'm sure you understand what a retainer is.

Oh, I've got a rough idea. But you see I really want to know if this is a genuine business why a small businessman might, like Mr Koelma would be paying you \$9,500 a month, month in, month out, even though there were times, months at a time when, sorry, weeks at a time when he wasn't getting anything for it?---Well, that is the terms of the retainer and Mr Koelma clearly - - -

Yeah, but why would he strike a retainer, we need to know, is there some - - -?---Because he believed I had the experience to, to provide him the service that he was requiring.

What was the experience that you had which was superior to his own? You told us yesterday about how he considered an application for the development of a space port on Christmas Island, I mean, this is high level stuff he'd been doing?---Oh - - -

Where were your services, so much superior to yours that he had to come to you, Mr Spence?---I had a far longer experience in, in, in working within the public arena than Mr Koelma had.

No, you must have misunderstood me, where were your skills?

MR CONDITSIS: Objection.

10 MR WATSON: I didn't ask you about your experience, where were your skills?

MR CONDITSIS: Objection.

MR WATSON: Really.

THE COMMISSIONER: Yes, all right, the objection's noted, go on, Mr Watson.

20 Mr Spence, it's a question of what, what superior skills you possess to those of Mr Koelma?---Commissioner, my understanding is that Mr Koelma knew that I had worked within the political arena for a period of about 10 years and, and understood that I had a good knowledge of, of politics, I had a good knowledge of, of ah, Government relations, public relations ah, and he put me on a retainer to provide those services to him.

30 And in relation to the particular retainer and what you were doing it would have to be the case would it not that in so far as the Gazals wanted some progress on the Orange Grove development that that was really where your skill base was having regard to your earlier involvement in the inquiry?
---That would be correct.

MR WATSON: Would you have known more about Orange Grove than the Gazals?---I wouldn't, I wouldn't think so, I mean possibly in some areas.

I mean just thinking about it now the thing that you said that you had to bring Koelma up to speed on was the history of the dispute, the Gazals would know that backwards wouldn't they?---Oh I would suggest they would.

40 Yeah. So there is actually nothing that you could tell Mr Koelma that the Gazals themselves couldn't tell Mr Koelma, correct?---Oh I disagree with that.

All right. Well look – I do want to cut it short we got a busy day, I just want to put to you that the whole thing is actually just a shabby joke?---I disagree with that.

Just a sham and that you've done this to justify payments to enable you to run your campaign?---I disagree with that.

As part of campaigning is door knocking important?---Oh it is, yeah.

And were you advised that it was important?---I was.

Were you advised by Chris Hartcher that the key to good campaigning involved door knocking, door knocking and door knocking?---Oh yeah.

10

And we've been provided by your lawyer with a document which sets out a pretty hefty time table of door knocking all around the seat of The Entrance, is that right?---I think that document shows a weekly schedule for weekend work, yes.

And so being free of the employment in Mr Hartcher's office left you free to campaign didn't it?---Well no, I had requirements to Tim and once those requirements were met my free time was my free time.

20

And so there could be weeks at a time as you said when Tim didn't require your services, is that right?---Yes, that's true.

So you were earning \$9,500 per month, is that right?---On a retainer, yes.

And you during that time were campaigning heavily in the seat of The Entrance, correct?---I wouldn't say campaigning heavily, no.

30

Oh really what, you're just sitting at home watching TV were you?---No, Mr Watson.

Very casually campaigning?---I was balancing between my responsibilities to Mr Koelma and Eightbyfive and balancing my responsibilities to, to campaign.

Well the thing is that you were out campaigning in The Entrance, is that right?---From time to time absolutely.

And you won that seat didn't you?---I did.

40

Using time that had become available to you because you'd been freed of the employment of Mr Hartcher's office, correct?---No, using time when available.

Yes, when available. But you were free because you've been free of employment in Mr Hartcher's office, correct?---I disagree with that.

With money which you knew was being forwarded through to you from developers, correct?---After a certain time.

Your activities at that time were being funded as you understood wholly and solely by payments by Gazcorp, isn't that right?---At a time after I took the retainer agreement.

And then was Gazcorp at that time a developer?---They were.

10 And the thing is that you knew throughout that campaign that your only source of income came from developers, correct?---No, my source of income came from Eightbyfive.

Oh I see. So - - -

THE COMMISSIONER: Well just a minute, Mr Spence. I thought a moment ago you agreed that it, it, that you had been receiving funds through Eightbyfive that had only come from Gazcorp and they were developers?---I knew that Eightbyfive was reliant on his client to pay him to pay me. I do not accept the proposition that I accepted money straight from the Gazals.

20 Well no, but the point is you knew where it was coming from and it was a regular monthly payment?---Not at the time that I started the retainer, Commissioner.

Well - - -?---I did, I did learn at that time. As I said I admitted earlier in evidence after the text message that I sent in June asking any dollars in the bank Mr Koelma explained to me that he as reliant on the, the money that came from his clients payment.

30 Well we all understand that but, but from the beginning of the retainer you understood, I thought you acknowledged earlier in your evidence you understood that you would be working for Eightbyfive wholly and solely on the Gazcorp account?---I don't believe I've said that today, Commissioner, I - - -

All right. Well - - -

MR WATSON: Well the transcript will speak for itself and - - -

40 THE COMMISSIONER: All right, all right.

MR WATSON: But I don't want you to shy away I want you to know the proposition I'm putting you it's this, you campaigned knowing you were using money from developers to fund your activities, correct?---I campaigned knowing that I was being paid by Eightbyfive.

Sorry, you knew from a point in time that that money paid by Eightbyfive was being paid by developers, correct?---In a round about way, yes.

Yeah, all right. Well whether it's in a round about way or a direct way you knew that while you were campaigning your only income source was from developers, correct?---I don't, I don't accept that that's the way that you're putting it. I was paid by Eightbyfive on a retainer.

THE COMMISSIONER: Well does it boil down to this that because the money was going from Gazcorp to Eightbyfive and then to you, you didn't regard it as coming from developers?---I didn't set up an arrangement with, with - - -

10

No, that wasn't the question?---Yes, Commissioner, I understand what - - -

You're talking about, you're talking about money going from Gazcorp to Eightbyfive to you?---Yes.

Well if Eightbyfive is merely the intermediary to which that money comes it follows does it not that it's coming from developers.

MR CONDITSIS: Commissioner, I object to the way with respect the
20 Commissioner's put that. That's unfair, it's unfair to put it in that way in my respectful submission.

THE COMMISSIONER: Well I don't know it seems pretty straight forward to me.

MR CONDITSIS: Well – Commissioner - - -

THE COMMISSIONER: It's like money coming from a developer into a
30 bank account and then going out again it's still coming from the same source.

MR CONDITSIS: Commissioner - - -

THE COMMISSIONER: All right. Well, all right - - -

MR CONDITSIS: - - - looking, looking at that point in a vacuum - - -

THE COMMISSIONER: Mr Conditis, I withdraw it, I'll withdraw it. Go
40 on.

MR WATSON: And you were trying to win the seat weren't you?---I was.

And that's why you were campaigning to win it, is that right?---Absolutely.

And tell me this did you have a Labor opponent?---I did.

Who was that?---David Mehan.

And did he run second?---He did.

By how much?---I can't recall the exact, the exactly figures.

And do you think that your door knocking may have had some role in your success?---It may have, yes.

10 Door knocking which you've become free to do because you'd been free from employment by Mr Hartcher, correct?---Most of the door knocking I did was on weekends.

Just answer the question. Whether it's on weekends or not you've been freed from your 9 to 5 five day a week job, correct?---That's correct.

In fact you were getting paid more, much more through the retainer weren't you?---I was.

20 I think twice as much as you were earning from Mr Hartcher, is that right? ---I'm not sure of the exact figure, I wouldn't say twice.

Close to it?---Under, under twice, yes.

Well you were getting \$5,000 a month from Mr Hartcher or from the Parliament and \$9,500 from Mr Koelma weren't you?---I was.

And so you would accept the proposition that time which became available to you to campaign actually contributed to your success in the seat of The Entrance would you?---No, I don't accept that proposition.

30 All right. Well I want to tender some documents, Commissioner, one of them is that some excerpts from the compulsory examination of Mr Spence, the Gazals could be affected by this so they should get a copy, there's three copies there but I'll tender that. I tender it. It's dated 27 June 2013 and I'll need the lifting of a suppression order.

40 THE COMMISSIONER: Yes, yes. Section 112 order made in relation to the transcript of the 27 June 2013 and 20 February 2014 from pages 104 to 121 and 942 to 967 respectively is lifted to the extent set out in the transcript which is now Exhibit S84.

**THE SECTION 112 ORDER MADE IN RELATION TO THE
TRANSCRIPT OF 27 JUNE 2013 AND 20 FEBRUARY 2014 FROM
PAGES 104 TO 121 AND 942 TO 967 RESPECTIVELY IS LIFTED
TO THE EXTENT SET OUT IN THE TRANSCRIPT**

**#EXHIBIT S84 - EXTRACTS FROM COMPULSORY
EXAMINATION CONDUCTED WITH CHRISTOPHER SPENCE
DATED 27 JUNE 2013 (PAGES 104-105, 108-110, 116 AND 121)**

MR WATSON: And I'll tender pages 109 and 110 of the compulsory examination of Mr Spence on 27 June 2013. There's some duplication in it but it seems to be appropriate in light of cross-examination advanced earlier.

10 THE COMMISSIONER: Pages 109, 110 Exhibit S85, thank you.

**#EXHIBIT S85 - EXTRACTS FROM COMPULSORY
EXAMINATION CONDUCTED WITH CHRISTOPHER SPENCE
DATED 27 JUNE 2013 (PAGES 109 AND 110)**

MR WATSON: The actual performance in terms of fundraising in The Entrance wasn't great was it?---I think we raised about \$28,000 in The Entrance.
20

All right. So we've got records which suggests that over \$100,000 was spent on your campaign, is that right?---it would probably be correct.

Where did the difference come from?---I would have suggested it was probably more.

Where, where did the difference come from?---Ah, I think it came from the, the Terrigal SEC or from, from the um, the head office itself.
30

All right. Well, what do you mean it came from the Terrigal SEC, did not Wyong have its own SEC?---Wyong did, yes.

Sorry, The Entrance?---Yes, The Entrance had its own SEC, yes.

Well, why was the Terrigal SEC making a contribution to The Entrance SEC?---Because the Terrigal SEC was my donor Conference.

All right. So how much did you get from the Terrigal SEC?---Oh, I'm not sure of an exact figure.
40

No, I'm not asking you for an exact figure, but was it \$5,00, \$50,000? ---Ah, I would suggest, yeah, probably close to maybe 60 or 70 I would have thought.

60 or \$70,000. Is that right?---I think, I think so.

And where did that money come from?---Joint fundraisers and other fundraisers that the Terrigal Conference was doing.

10 Could you be a bit more specific? What sort of joint fundraisers could raise that kind of money?---There was a joint ah, fundraiser on the Central Coast between all four seats in relation to a dinner at the Cowrie with, with ah, Barry O'Farrell, there was also a function at ah, Mingara that we partnered with, with Dymocks I think it was for the John Howard book launch um, and I think there was a couple of other fundraisers that Chris Hartcher attended in Sydney that funds were attributed back to the Central Coast.

But the sums raised by the John Howard book launch were trivial, weren't they?---I can't remember the exact, exact figure.

Well, I'm just wondering, you've nominated the evening with Mr O'Farrell at the Cowrie, the book launch by Mr Howard and what else?---I think there was a couple of functions that Chris Hartcher attended in, in Sydney that funds were attributed to the Central Coast.

20 What were they?---I, I don't know.

Did you go?---No.

You don't even know what they were?---No.

So sitting there, they may have happened and they may not have happened? ---I believe, I believe that they did.

30 Why do you believe they did?---I think at some point in time I think I was told that Chris was attending a function down in Sydney.

Well, sorry, Chris might have been attending the cricket down in Sydney. How does that end up being money- - -?---No, it was, it was in the context of the thing.

- - -in your campaign account?---Well, I think it was in the context of he was going down to Sydney for a function for the Millennium Forum for, for funds to be transferred back to the Central Coast.

40 What, the Millennium Forum organised a function for the Central Coast? ---I, I believe so, I- - -

And is there do you think any good reason why in doing so the Millennium Forum would have forgotten to invite their candidate for The Entrance? ---I don't think that, that they had any, any need for me to be there.

Well, why was Mr Hartcher going?---Because I think he was invited by, by Mr Nicolaou.

All right. So why was Mr Nicolaou inviting him and not you? It just seems odd, that's all, if you've got a - - -?---Well, no, no, I think that's a common - - -

- - -fundraiser for the Central Coast, not inviting- - -?---No.

10 - - -the candidates?---It was commonplace that, that Shadow Ministers had to raise certain funds. Each donor Conference had to also raise funds for, for the Conference in which they were, they were assisting. Mr Hartcher was the donor Conference to, to The Entrance and he was also assisting the, the ah, the Conference of Wyong, so it was, it was not out of place for him to go to fundraisers in Sydney to raise money not only for his contribution to, to head office but also for his contribution to the Central Coast.

Well, you see, can you tell us now what was raised though the Dymocks function?---I think I answered before, I don't, I don't remember the exact amount.

20 Well, was it \$5,000 or \$500?---Ah, I'm not sure of the exact amount.

No, well let's, is it more than \$10,000 or less than \$10,000?---I don't know what the total amount was, I think that it may have been in, in the realm of maybe 15,000 or so. I'm not sure.

You don't know, it might have been much less?---It may have been, I don't, don't know.

30 May have been less than \$1,500. Is that right?---I wouldn't have thought so.

All right. Well, how much was raised at the Cowrie?---Ah, I think that was around about \$5,000 each.

Right. So that's \$5,000 for each of the seats on the Central Coast?
---I believe so, I think we were asked to bring 10 people each at around about \$500 a head.

40 All right. So where's the rest of the money come from? We've got a record that on The Entrance the total expenditure on the campaign was \$135,000. Does that sound right?---That's, yeah, yeah, yeah.

Well, I don't want to leave you in the dark. \$135,014. Does that sound right?---That does sound about right, yeah.

Of which \$27,880- - -?---So what- - -

- - -was raised in the seat of The Entrance itself?---Sorry, could you – I interrupted you, could you repeat that? What period of time, that, that expenditure?

During the campaign?---But is that 1, 1 January to, to 25 March?

Well, I'm sorry, you've caught me there, I can't put the exact dates on it, but these are accounts which we've been able to recover which suggest that the total expenditure in The Entrance was \$135,014?---That could possibly be –
10 look, I'm guessing in some ways but, but an educated guess would suggest that that's probably January 1 to, to 25 March during the expenditure cap.

What difference does that make?

MR CONDITSIS: Well, can the witness- - -

THE WITNESS: Because there was, there was a period of time, from 1 January to 25 March there was an expenditure cap of \$150,000 per
20 electorate. I would suggest that the \$135,000 was probably during that period of time and it would sound accurate then that most of that money was paid for by Secretariat in Sydney.

MR WATSON: And so the only two fundraisers which could benefit The Entrance which you're able to name were the dinner at the Cowrie with Mr O'Farrell and the joint effort with Dymocks. Correct?---In a joint sense that went to the Terrigal SEC, I attended two fundraisers in Sydney that were only for my SEC.

See, just so you're not left in the dark as to where we're going, I'm putting a
30 proposition to you, Mr Spence, that in fact what was going on was an electoral funding fraud and that you were being funded in your campaign by payments made by the Gazals and funnelled through Eightbyfive. I take it you'll reject that?---I do.

Okay. Now, tell me about this. Perhaps I should show you the evidence. Could the witness be shown Exhibit S8. Would you open up S8 at page 2419. It'll be right toward the back, 2419?---Yep.

Do you know Laurie Alexander?---I do.
40

And she was an Electorate Officer. Is that right?---Yes.

And she worked on your campaign. Is that right?---Ah, she did for a short period, yes.

This is her handwriting depositing four cheques. It's hard to read because they're upside down in the way it's been presented. One is a Westpac

Banking Corporation cheque which we know came from a gentleman named Tim Trumbull?---Yep.

Did you raise money from Tim Trumbull?---No.

You'll see that, just to make it clear, this is money deposited into The Entrance SEC?---Yes, it is.

10 Why was Tim Trumbull giving you money then?---Ah, I'm not sure how, how those cheques came into our possession but they were given to us to bank.

20 What do you mean by that?---My recollection of this um, was that at some stage those cheques were, were given to my office for us to bank in The Entrance SEC. Um, I do recall our office was contacted at some point in time and asked why we hadn't banked these cheques um, to my knowledge they'd been forgotten about. Um, my office was, was ah, was searched um, they were located underneath a pile of paperwork and um, someone in my office then spoke to, to Secretariat that was concerned that the cheques um, the actual date on the cheques was prior to the State Election or 26 March and they sought advice from head office as to whether in fact we could actually still bank them or not, whether they were prohibited donors or over the cap. Um, the advice from Secretariat was that the date we bank the cheque is the date that the donation is then accepted, or something like that, and then they were banked.

Well, where did they come from?---Ah, I, I know now through, this inquiry but I didn't know at the time.

30 What, you had cheques and you didn't even know where they came from? ---Well, I knew that they'd been given to us um, I think by Chris Hartcher's office.

Well, do you know now who provided you with the cheques?---I still don't know who actually gave these cheques to my office, I don't know, but I'm aware of- - -

Well, you don't know who Tim Trumbull is?---No, I don't.

40 And there's also a cheque from Heather Mustaca. Who is Heather Mustaca? ---I don't know.

And there's cheques from Melusa Pty Limited?---There are.

Who or what is Melusa Pty Limited?---Ah, I think I know that now but I didn't know at the time.

Well, who do you think it is now?---I think that's something to do with ah, with Nick Scali and his wife I think.

All right. So who provided you with the advice about how these cheques could be dealt with?---The advice wasn't provided to me, it was provided to someone in my office.

Did you find out from whom the advice had come?---Ah, no, I haven't been able to ascertain that.

10

Well, so you can't shed any more light upon this \$6,490 deposit than to say that they were cheques in your office?---That'd be correct, and the advice that my office was given was that they weren't prohibited donors, they weren't um, they weren't over any caps.

Well, who gave that advice?---Somebody in head office gave that to someone in my office.

THE COMMISSIONER: Head office of the Liberal Party?---Yes.

20

MR WATSON: Someone in head office, who was that?---As I said I, I don't know who, who they spoke to.

And who was it who told you that they'd spoken to head office?---Ah, someone in my office.

And who was that person in your office?---Oh, I don't know.

30

Were there reams and dozens of people working there?---No, at the time I only had ah, two, two fulltime staff and one part-time staff.

Well, who was it likely to be who would be dealing with these sorts of financial matters?---My guess would have been probably Aaron Henry is the one that probably chased this up.

How did the cheques come into your office?---I, I don't know, I, I assumed that they were given to someone in my office either before the election, well, it couldn't have been before the election, um, probably shortly after the election.

40

Well, what do you mean it couldn't have been before the election?---Well, I don't remember seeing them or, or, or I didn't have any contact with Chris's office in that way just in, in the days immediately before the election that I can recall. Um, Bob Ward was ah, was, was handling these matters up until the election date so the fact that it has, has, his name's not on it so I don't know who they were given to um, they were certainly misplaced in my office for, for a period of time.

So these are cheques - well, sorry, do you know Nick Scali?---No, I don't.

Heather Mustaca?---No, I don't.

Tim Trumbull?---No, I don't.

So they're cheques that came into your office and you can't explain how they got into your office?---I believe they came from, from Chris Hartcher's office.

10

And what makes you believe that?---Only from, well, only from the evidence that, that's been given here.

Well, at the time you were banking them you just thought they were cheques in your office, you didn't know the people who - - -?---No, that's not - - -

20

- - - had drawn the cheque and you didn't know where they came from or how they got into your office, is that it?---Someone contacted our office and asked why we had been given some cheques, well, sorry, someone contacted my office and said look, we have been given some cheques to bank and that at this point in time they hadn't been asked and we were being asked we hadn't and that's when some, some inquiries were made. Now whoever contacted my office I would assume is, is, is whoever gave us the cheques.

Well, who was that person?---I don't know, Mr Watson, they didn't speak to me.

30

Well, didn't you ask to try and find out?---I resume, I assume my staff chased this up. I mean, this, I can only recall that this is some of the information that my staff discussed with me and, and that these people were not prohibited donors, that they weren't over any caps, that we were quite within our right to bank them because the cheques were made out to the Liberal Party which we were entitled to bank um, and, and, and that's what happened and they were, they were receipted and as far as I'm aware in, in the evidence that you've, you've got in here on, on some page um, they were then declared by the head office, by the Liberal Party to the Election Funding Authority.

40

And do you know John Caputo?---No, I don't, I know of him but I don't know him.

Did you ever talk to Karen McNamara about how much money had been raised in the Central Coast seats?---Yes, I did.

What did you tell her?---In relation to her speech, is that what you're - - -

No, what did you tell her?---That we had raised nearly, nearly or just over \$300,000 for The Entrance and Wyong combined.

So you were the one who was the source of the information which went into her pre-selection speech, is - - -?---I was.

So where did you get that information from that over 300 or about \$300,000 had been raised in those seats?---Ah, it's, it's a detailed answer if, if you want me to go into it?

10

Well, I suppose we better let you have your chance?---Okay. The, the combined seats on the Central Coast were fundraising at that point in time through the Terrigal SEC. As I said earlier we had a Barry O'Farrell function where we raised money for all four of the seats. There was the John Howard dinner, all of that was to contribute to paying what's called our key seats package. The key seats package is, is approximately \$35,000. That once paid enables a, a guarantee from head office that they will spend somewhere in the vicinity of another 90 to \$100,000 so we raised the, the \$35,000 for The Entrance. The \$35,000 was raised for Wyong, that was paid
20 to Secretariat as per the key seats package. The Secretariat then agreed to raise the, the appropriate 90 to \$100,000 that they would spend during the capped period which is approximately \$125,000 in each seat. I had raised over \$28,000 in my seat, Wyong I think had raised about sort of 10 or 11. Um, that pretty much attributes to the 300,000.

So it wasn't actual fundraising in those seats, it was money coming back from the Liberal Party, is that what you say?---It was attributed to the whole thing. We, we paid the key seats package and they - - -

30 Sorry, could you just answer my question, it's important. It wasn't actually money raised in the seats, it was nearly entirely money which came back from the Liberal Party head office?---It was, it was the money contributed between us and head office and then I think Karen in her seat speech said she was part of a team and that is part of the team.

No, I want an answer to my question. Of this \$300,000 a much greater part of it came not through fundraising in the seats but rather back through head office, is that right?---Ah, that would be true, yes.

40 THE COMMISSIONER: I think you said 125,000 in two seats, so that's 250,000 approximately?---Yes, Commissioner. Plus, plus what we raised in The Entrance and - - -

Yes?--- - - - what - yes.

MR WATSON: Thank you. That's, that's all I was going to ask, Commissioner.

THE COMMISSIONER: Thank you. Has anyone any questions of Mr Spence? Yes, Mr Henskens.

MR HENSKENS: Mr Spence, my name is Henskens and I appear for Mr Hartcher. Mr Spence, you were hired by and commenced working for Mr Hartcher in his office, in his electoral office, in December of 2007, is that correct?---I believe so, yes.

10 Right. And the conversation which you had with Mr Hartcher at that time was that you agreed that you would work for him for the full Parliamentary term?---Yes.

And he told you that it was very important that he wanted to have you as an experienced person working in his office to take the load off him as a senior Shadow Cabinet Minister, correct?---That's correct.

20 And you've already given the Commission evidence that you had considerable experience working on the staff of David Oldfield over a number of years and, and had experience working as, as an assistant to a Member of Parliament?---Yes, I had.

Now do you recall in or about May of 2010 informing Mr Hartcher that you had decided to leave his employment?---I think it was late April - - -

Right?--- - - - but yes, around that period of time, yes.

Around about that time. And Mr Hartcher's reaction was not favourable? ---No, it was not.

30 All right. He told you that you were leaving him in the lurch?---It was almost the exact word he said, yes, leaving him in the lurch.

Yes. And he was very unhappy?---He was.

40 And in fact he refused to let you leave his employment unless you could find a replacement of a similar quality to yourself, a similar employee? ---He was, he was personally disappointed in me in the sense that he thought that ah, my actions of going, because at that point in time I hadn't found a replacement and he felt that that was really quite - given that I did have a personal relationship with him he felt that that was quite unfair, yes.

Right. And having expressed that view to him it was agreed that you would only leave if and when you could find a suitable replacement? ---Yes, pretty much.

And that if you couldn't find a suitable replacement you would stay on? ---Ah, yes, I think so.

And the position is that you I believe either at that conversation or shortly thereafter mentioned that Aaron Henry may be someone that could replace you?---I did.

And Mr Hartcher's initial reaction to Aaron Henry was that he considered that Mr Henry was probably not a suitable replacement because he had no prior experience?---There were a number of reasons, yes.

10 And also he doubted whether Mr Henry would come and work for him given that he had a very high paying job at a bank and it was unlikely that he would leave that job for a lower pay?---That was the perception, yes.

Right. In any event you then went and spoke with Mr Henry and Mr Henry expressed the view that he would be interested in the position?---He did. He, he expressed to me that he had a number of concerns one was the salary, one was that he'd given a commitment to Darren Jameson to work not only on his campaign but if he was successful in his campaign work for him um, and the time frame at which was being proposed because I obviously
20 wanted it to happen very quickly um, and he sought time to speak to his wife about the matter before giving an answer.

Right. In any event Mr Hartcher expressed the view to you that if Mr Henry ultimately decided he did want to take the position that he would require you to be available to effectively train Mr Henry so that he had and appropriate electorate officer?---That's correct.

Right. And that's in fact what happened isn't it that you, you, there was a cross over period between you and Mr Henry, is that correct?---I think he spent a lot of time in the office and we spent a lot of time in the office after
30 hours as well.

Yeah. And, and yes, and you from time to time gave some assistance in terms of Mr Henry being able to - - -?---I didn't particularly - - -

- - - perform his duties?---Yes, yes.

Right. And that's the, those are the circumstances in which you came to leave Mr Hartcher's employment in May of 2010?---That's correct.

40 THE COMMISSIONER: Mr Spence, can I just ask you, why were you leaving Mr Hartcher's employment at that time?---Because I'd taken on the work with Mr Koelma.

Well I thought you'd said earlier in answer to a question from Counsel Assisting that it was not, that it was not a proposal that you would leave Hartcher's employment in order to work for the Gazals but in effect that was what occurred?---No, I was leaving Mr Hartcher's employment to work for Eightbyfive.

But you understood that was so that you could - - -?---Not at that time, no.

Oh so you're saying that that realisation came after you had agreed to work for Eightbyfive?---In early June, yes.

Right. Sorry, go on, Mr Henskens.

10 MR HENSKENS: Thank you. Mr Spence, can I just talk to you about a different topic and that's door knocking?---Ah hmm.

Now, and campaigning. Do you recall in or about January 2010 after the endorsement meetings with regard to the Central Coast candidates had concluded - - -?---Yes.

- - - that Mr Hartcher organised a meeting to be attended by yourself, Mr Webber and Mr Holstein to give you his views on campaigning?---I think so, yeah.

20 Right. Now do you recall that Mr Hartcher expressed the view that door knocking during the day time was usually a waste of time?---Pretty much.

And that door knocking should ideally take place on weekends and after hours, that is when people are back from work?---That's correct. He explained that he, he door knocked extensively after I think about 5.30, 6.00pm particularly through Summer when daylight savings was on.

30 Yes. And didn't Mr Hartcher give you advice, the three of you advice that as a forward plan for your campaigning that you should look to commence door knocking after the October long weekend in 2010 on weekends and after hours?---That's, that's correct.

And that he, his advice to you was that you should then from the Australia Day long weekend in 2011 that each of you should take leave or otherwise free yourselves up for full-time campaigning from the Australia Day long weekend in 2011 up until the March 2011 Election?---As much as possible, yes.

40 Right. So that was the advice that he had given you as to campaigning, do you agree with that?---I do.

He also suggested that in this January 2010 meeting that you should start building lists of volunteers, lists of donors and that you should start determining the local issues that each of you would take to your respective electorates?---Correct.

Right. And, and that was the advice that Mr Hartcher gave each of you in about January of 2010?---I believe so, yes.

Thank you, Commissioner.

THE COMMISSIONER: Mr Naylor.

MR NAYLOR: Thank you, Commissioner.

Sir, my name is Naylor, I appear for Mr Koelma?---Yes, Mr Naylor.

10 Just a few questions, sir. Sir, in early 2010 before you in fact became engaged by Eightbyfive you had had discussions obviously with Mr Koelma about the possibility of your engagement?---I had expressed to Mr Koelma I think in about February 2010 that, that I was interested in, in doing sort of political consulting work and he had suggested that you know possible we could have discussions down the track, yes.

And as part of those discussions, sir, Mr Koelma, inquired of you did he not about what your skills were and what you were capable of doing in respect of those matters you've just mentioned?---We had those discussions, yes.

20 There were – I withdraw that, Commissioner. The possibility was discussed was it not of your capacities to do work in relation to Gazcorp?---No.

Well I want to suggest to you that the possibility of working on the Gazcorp matters was discussed during those earlier conversations?---No, I disagree.

THE COMMISSIONER: Are you talking about February 2010, Mr Naylor?

MR NAYLOR: In the few months prior to May 2010, Commissioner.

30 THE COMMISSIONER: Thank you. Sorry, Mr Spence, you don't agree that that's the case?---No, not at all.

MR NAYLOR: All right. You, you were aware, sir, that Eightbyfive had other clients?---Down the track I was not at, not at the time – are you referring to the February discussion or are you referring to later?

Well I'm referring to the period between February and May 2010?---No, I'm not aware of what clients Mr Koelma had at that time, no.

40 Right. Are you aware of - - -?---Or how many.

Are you aware of the fact that they had clients?---I was – sorry, yes, I was - - -

Various clients --- - - - aware of the fact that he had clients whether there was one or more I'm not sure but I was aware that he was working for himself for clients.

You didn't discuss the details of the clients that - - -?---No.

- - - Mr Koelma had?---No.

There, there was never an understanding was there, sir, between you and Mr Koelma at the time that you were engaged that you would work exclusively for Gazcorp?---No, not at all.

10 As things transpired it did in fact occur did it not that most of the matters that you did work on related to the Gazcorp contract?---There were a lot of, a lot of issues that he raised that were in relation to, to the Gazcorp contract perhaps but there was certainly plenty of other discussions that we had in general terms about Government relations that I don't know whether they related to Gazcorp or not.

Yes. No further questions, thank you, Commissioner.

THE COMMISSIONER: Yes, Mr Walsh.

20 MR WALSH: Sir, I'm the lawyer for Marie Ficarra?---Yes, Mr Walsh.

Unfortunately I've got a bit of a croaky voice so I'll - - -?---That's all right.

- - - try and speak up. Sir, how long were working for Eightbyfive for?---I think approximately about 10 months.

30 Right. When you were working for Eightbyfive what premises were you working out of?---Oh I worked – I was in Parliament House on a number of occasions, I was at home um, I was at Erina, a number of places.

Right?---But I didn't have an office if that's what you're asking.

Throughout that period were you present with Mr Koelma on any occasion that you observed that he was talking to a potential donor or potential client?---Sorry, donor or?

Client, I'll say a client. Were you ever with Mr Koelma?---As in was I present with Mr Koelma when he was talking to a client?

40 Yes?---Possibly.

What was your practise if you happened to be talking to a client in respect of recording details about the client?

MR CONDITSIS: Well objection as to relevance of this witness and in relation to my friend's client I mean what – Mr Spence has got nothing to do with Mr Walsh's client on the evidence. So he's, so Mr Spence's practise is - - -

THE COMMISSIONER: All right. Look, I think Mr Walsh might be testing the boundaries of the practice within Eightbyfive insofar as it affects his client, so I'll let him keep going.

Go on, Mr Walsh.

MR WALSH: Thank you. What was the practice about recording details in respect of the client?---Ah, sorry, by me or - - -

10

By you?---Ah, look, my client was, was, was Tim Koelma um, was Eightbyfive, so um, sure from time to time I'd prepare notes for him but I didn't - I don't, I don't record notes for, for his other clients.

Right. When you were employed by Eightbyfive or you had this relationship with them, were you issued with a mobile telephone? ---Not by Eightbyfive, no.

20

No. Did you, did you have a mobile telephone?---I did.

Did you have more than one mobile telephone?---Ah, during, during the campaign, yes, I had, I had a second phone, yes.

Right. Who issued that to you or how did you acquire that phone?---I think it was my, I think it was a prepaid phone that I got that was, that was predominantly used for the campaign. I don't think that it was a crossover to, to, to my work for Eightbyfive.

30

Why would you have a prepaid phone in addition to another mobile telephone?---Because the prepaid phone was used ah, as a contact for me um, in relation to the campaign.

Yeah?---Um, and that was put on some of, some of the material that was presented publicly and I certainly didn't want to give out my, my personal um, mobile number on, on that, so that was, that was what was used and then used by my campaign team right through to the election.

40

Have you given particulars of that mobile telephone or the number of the mobile telephone to ICAC?---Ah, no, I don't believe I was asked, but I'm happy to provide it. I don't know it off, off the top of my head by I could, I could, it's certainly on all my campaign paraphernalia so it's not, it's not- - -

So you're happy to produce the number to ICAC?---Absolutely, if you like, yeah.

Did you ever know a man by the name of Tony Merhi?---No.

Have you heard of that?---Not that I know of.

I see. Leading up to the 2011 campaign were Young Liberals working on the Central Coast in the campaign?---Ah, the Terrigal Young Liberals were quite active on the Central Coast, yes.

I think on one occasion a photo was taken of a number of Liberals outside your campaign office. Do you remember that?---Yeah, it was, I think that was in oh, mid March I think it was.

10 Yeah. And amongst those people was Charles Perrottet. Is that correct?
---That's correct, yes.

Right. Did you have a working relationship with Mr Perrottet?---Oh, I knew, I knew Mr Perrottet through Parliament, yes.

Right?---And through the Party obviously.

How long had you known him for?---Ah, I think I first hmm, maybe loosely two to three years.

20

Right. Did you, did you know whether he had been organising a group of Young Liberals called the Flying Squad to help with the campaign on the Central Coast?---Ah, yes, I was aware that he was organising the Flying Squad, but as far as the work on the Central Coast, I believe he only came to my electorate I think once, maximum twice, but I would, I would guess it was, it was once on that day that you're referring to.

Right. And do you know how the Young Liberals, the Flying Squads, were funded?---No, I don't.

30

Have you ever heard of any arrangement- - -?---Oh, no, sorry, I should qualify that. Um, there were occasions ah, at least one that I'm aware of since been elected um, that there was a drinks night for new Young Liberal members at the Union Club I believe, and Members of Parliament were asked to chip in I think 50 or \$100 or something.

Right. And was cash collected on such an occasion and donated to the Flying Squad?---I don't think it was the Flying Squad as such but, but it was probably the same group of people but it was a new members' night and- - -

40

Right?--- - - I think, yeah, I think it paid the bar tab or something.

All right. So you're aware there was a process or a practice whereby cash might be raised and donated or used by the Young Liberals?---On that occasion, but I'm not sure of a broader sense, no.

All right. In the period leading up to 2011 did you have anything to do with Marie Ficarra?---Ah, yeah, I mean I knew Marie through, through

Parliament and I think she came up as a guest speaker for a dinner one night in my Conference.

Right. Did you have any knowledge whether she had a close working relationship with the Young Liberals or these Flying Squads?---Oh, look, I'm not sure. I'm, I was based on the Central Coast and Marie, Marie's based in Sydney and I don't attend a lot of functions in Sydney so I wouldn't know the extent of the relationship I'm sorry.

10 Thanks, Commissioner.

No one else? Mr Conditsis?

MR CONDITSIS: Commissioner, the transcript of the compulsory hearing has been tendered. There's a number of pages, I haven't had a chance to digest that so I don't – maybe it helps my client, I don't know, I just simply make the point that all I can do is to reserve on that. I, I don't know what's in it.

20 THE COMMISSIONER: Well, if you find something that you need to raise with me you can do that at the appropriate time.

MR CONDITSIS: Thank you, Commissioner. Now, it appears, Mr Spence, that your qualifications or suitability for this consultancy you had with Eightbyfive is in some sort of challenge. In relation to – do you want me to start again? In relation to your work as a Parliamentary advisor in the various positions that you've had, you heard Mr Koelma give some evidence of his experience and you say that would equally if not more apply to you?---Yes, that's correct.

30

And indeed in 2011 you started the process to move a private members' bill whilst the Liberal Party was in Government?---Yes, I did.

And it's very uncommon for a Member, an MP of the Government to move a private members' bill?---That is, that is correct.

That became known as Zoe's Law No. 2?---That's correct.

40 That involved a lot of lobbying – when I say lobbying, amongst Members of Parliament and Cross-Benchers and Opposition?---Yes, that's correct.

And eventually that was passed in 2013?---In the Lower House, yes, 63 to 26.

Now, it was suggested to Mr Koelma yesterday that inter alia the reason that he engaged you was that it would have been a “bad look” for you to work directly for Gazcorp, being a property developer. You remember that line of cross-examination of Mr Koelma?---I heard that yesterday, yes.

You've already told the Commissioner that – sorry, I'll withdraw that. You never had a discussion with Mr Koelma about you working for Gazcorp directly?---No.

Never happened?---Never.

You never actually had a discussion with Gazcorp about you working for them directly?---Not at all.

10

And what if anything can you say about the potential submission that it would have been a “bad look” had you worked for Gazcorp directly as an endorsed candidate?---I mean they're a legitimate business.

20

THE COMMISSIONER: Well, we know that, but you're being asked to comment on whether or not it would have been a bad look for electoral purposes to have worked directly for a property developer whilst campaigning?---Well, I don't think that it's, it's a bad look. I mean you're entitled to employment. Plenty of Members of Parliament worked right up until ah, until the election and worked in a number of ah, of, of employment um, in a number of jobs, so I mean I don't think that it's, it's anything inappropriate at all.

MR CONDITSIS: All right. And in relation, you've given evidence about when you knew Gazcorp was a client of Eightbyfive, you've given evidence about when you knew that Mr Koelma was relying on payment from them to pay you in a cashflow sense?---Yes.

30

What – in the brief, and I'm not going to take you to it, I don't need you to look at the document but there is at page 1122 an email from Nicholas Gazal Junior to Mr Koelma requesting or suggesting a meeting with Mr Hazzard?---Yes, that's correct.

There was a response from Mr Koelma to Mr Gazal to the effect, indeed I'll read it – “I understand Chris S was going to talk to you about this. Are you comfortable with this approach?” And that is at pages 1125 to 1127. You know those emails I'm talking about?---Yes, I do.

40

You've seen them before. When do you say, if you're able to, that so far as you are aware the Gazals would have been aware that you were working for Eightbyfive?---I think it was around that period in November 2010.

So even though you knew that Gazcorp was a client of Eightbyfive earlier you had had no discussions with them about that?---No, I hadn't.

Is there any reason you had no discussion with them about that, given they were, you were on friendly terms with them?---Look, they weren't my client for, for, for starters um, second to that um, that period of time through,

particularly through sort of June ah, through to October um, unfortunately the passing of their father um, most of my discussions with them were in relation to the health of their father um, so I didn't discuss Eightbyfive or work-related matters with them during that time.

And indeed, as I understand it the funeral of Mr Gazal Senior was in October of 2010?---Yes.

10 But in the months of the lead up to that, how would you describe the emotional state of the Gazal son's in relation to what was happening to their father and the various treatments he was receiving?---Look, they were very upset, I mean, the whole family was quite distraught, I think they actually cancelled or cut short their holidays to return home on the basis that he was unwell.

And in relation to the work that you carried out for Eightbyfive, you've referred to attending Parliament during that period of time when you were working for Mr Koelma, correct?---Yes, that's correct.

20 Indeed, in 2010, that is in 2010 post-your commencement of the consultancy with Eightbyfive there were 11 sitting weeks of Parliament?---Yes, there were.

You attended every one of them?---To the best of my knowledge yes.

And sitting weeks are generally for the un-initiated are they Monday to Friday or - - -?---No, Tuesday to Friday at that point in time, it's now Tuesday to Wednesday.

30 And what sort of hours a day would you put in when you went to Parliament?---Look, I would start in the morning around 7.00am and then sometimes, sometimes you'd be finished by 5.00, 6 o'clock, other times you wouldn't finish to 9.30, 10 o'clock at night.

And is it the case that the importance of attending Parliament as a consultant, is not so much being the sitting in the gallery of the floor of the House of Representatives but in talking to various people, staffers within Government, cross-benchers in opposition?---That's correct.

40 Essentially, listening to the whispers in the corridor?---Absolutely.

Would it be enough to just get a copy of Hansard to glean that sort of information?---No, Hansard is only going to tell you exactly what the Government of the day is being debated in Parliament at the time, I mean, if reading Hansard was simply enough to understand what was going on in Parliament and government relations in a broader sense, a), I could have sat at home on the Central Coast and read it but b), journalists themselves station themselves in Parliament House constantly all year round so that

they can nuances behind the scenes, the whispers and the rumours that are going on within that building. If it was adequate to just read Hansard they'd sit in their offices in Surry Hills.

Another part of your function was to stay across all media, all media announcements regarding Government Opposition policy, correct?---Yes.

10 Although, and we've heard some evidence about having Gazcorp having media monitors but is this the position – that with media monitors, the monitors keep a tag on people and individuals.---That's my understanding, yes.

Not across different policy debates?---No.

So, when you agree with me that you will stay across all media, part of your function was to stay across all media announcements regarding Government Opposition policy that's with a view to keeping abreast of the various policy debates going on at any particular time?---Yes, and commentary from others on those matters, yes.

20

And just in relation – I withdraw that. Having regard to those matters I've just taken you to, that is what you did as a consultant for Eightbyfive as well as other matters about which you've given evidence already this morning, is it fair to say that in terms of your endorsement as a candidate, spending that amount of time is actually contrary to the interests of the Liberal, was actually contrary to the interests of the Liberal Party as a candidate?---Yes, the Liberal Party would take the view that there's no votes in Sydney, I should have stayed in my electorate.

30 Now, Mr Watson asked you, or indeed I think you responded in relation to some questions that your hard drive of your computer, to use my terminology had crashed in January 2011, correct?---That's correct.

Indeed, you provide ICAC investigators with the name of the organisation to which you took that hard drive?---Yes I drive.

That was Cut Computers at Long Jetty?---That's correct.

40 You had no prior relationship with Cut Computers at Long Jetty?---No.

You attended the funeral, sorry if I've asked you this, you did attend the funeral of Nabil Gazal Senior?---Yes, I did.

And all the money that was paid to you, paid out of your personal account or MasterCard's almost entirety of it was spent on personal expenditure?---That's correct.

I think there was may be no more than a few hundred dollars which ended up being spent on the campaign which wasn't refunded?---That's correct.

Now, to your understanding, was The Entrance SEC entitled to bank any cheque that was made out to any of these entities, Liberal Party of Australia, Liberal Party of New South Wales, Liberal Party of The Entrance SEC?---
Yes.

And it did so?---It did.

10

You, and I think Mr Watson referred to this, you have a schedule between the period of October and December in relation to the campaign activities drawn up by your and your campaign team for The Entrance seat, correct?--
-That's correct.

20

Commissioner, all these documents have been provided to my friend or his lawyers, his assistants. Perhaps if I just refer to them all and tender them in a bundle if that's convenient. Indeed, is it fair to say that the work that you did for Eightbyfive – sorry I withdraw that. I think Hollie Hughes gave evidence and referred to the fact that there was some criticism of your KPIs, key performance indicators in relation to the lead up to the 2011 Election.
---Yes, there was.

You were dragged into a meeting in Sydney, including amongst others in attendance were Bill Heffernan, Mark Neeham and your campaign manager Bob Ward.---Yes.

That was in about October 2010?---Yes it was.

30

And you were called that meeting by Natasha Maclaren-Jones who was the State President of the Liberal Party at the time?---Yes, that's correct.

You were criticised because of your, you weren't doing enough door knocking, notwithstanding your campaign scheduled tendered?---That's correct.

THE COMMISSIONER: I thought the criticism in Ms McNamara's evidence was in relation to fund raising?

40

MR CONDITSIS: It was Hollie Hughes gave some evidence.

THE COMMISSIONER: Hollie Hughes, I'm sorry, yes.

MR CONDITSIS: It was, yes.

THE COMMISSIONER: Yes.

MR CONDITSIS: And do you say that your consultancy with Eightbyfive in fact hindered you in terms of door knocking?---Yes, it did.

And did you ever throughout the term of the consultancy directly approach, email, text, telephone call or otherwise communicate with Gazcorp to the effect, Guys pay some money to Eightbyfive so I can get paid?---Never.

10 In terms of, you've given some evidence about the key seat, Key Seat Package, and I'm not going to take you through that but you, you, you obtained a memorandum from Liberal Party Campaign Headquarters in relation to Key Seat Package and how it works?---Yes, I did.

And that was a document that's dated 23 November 2010.---That's correct.

20 Does The Commissioner want me to show the witness these documents or if – and to your knowledge, in terms of The Entrance having obtained its Key Seat target, it was the first time – sorry I'll withdraw that. You said to Mr Watson that the money raised by The Entrance was declared to Liberal Party Head Office?---That's correct.

And you've obtained the declaration form in relation to those donations raised, correct?---Yes.

At some point in time after the March 2011 election The Entrance closed its SEC bank account?---Yes, it did.

And one of your staffers, Laurie Alexander, wrote to the bank or - - -?---I think she advised head office and the bank but - - -

30 Yes, I beg your pardon, advising head office that it was closing its bank account and that was in February 2012?---That's correct but it wasn't in her capacity as my staff, she was the secretary of the SEC.

Right, thank you. And, just pardon me. Now the last document - I withdraw that. And you also obtained a declaration form in relation to donations post the March 2011 collection, indeed the financial year 1 July, 2011 to 30 June, 2012, correct?---That's correct.

40 The last document I take you to do is your Application for Registration of a Candidate for a State Election?---Yes.

The applications can only be made after an election is called by the Electoral Commission?---After the writs are issued, yes.

After the writs are issued, thank you. And you signed an application for candidacy on 7 March, 2011, is that correct?---That's correct.

And you've obtained a copy of that document?---Yes, I have.

And I should have asked you this, I apologise that I didn't, 2010 was a Federal Election as well that year?---That it was.

Between June and August of 2010 there was a head office directive, that is Liberal Party head office directive, that all State campaigns be suspended, is that right?---Pretty much that time period, yes.

10 Now for the uninitiated does that mean between the period of about June and August 2010 there was no campaigning for you to do?---We weren't to doorknock unless it was for others, we weren't to, to try and get media, we, we would try and basically stay out of the way of the Federal campaign.

They are my questions, Commissioner, I'll just tender these.

MR WATSON: I'll tender them.

20 MR CONDITSIS: Oh, thank you. I beg your pardon, my friend can tender them, I'll just make sure they're in order.

THE COMMISSIONER: While that's being done, Mr Spence, you indicated that in the months before May of 2010 and leading up to your engagement with Eightbyfive you didn't know who the clients of Eightbyfive were?
---That's correct.

You had no discussions at all with Mr Koelma about the clients that Eightbyfive had then on the books?---I don't recall that conversation, no.

30 I'm just wondering how you were able to ascertain that Mr Koelma had any capacity to pay you if you didn't know who the clients were?---No, sorry, Commissioner, are you referring to the conversation that Mr, Mr Naylor raised in, in February about the fact that he - - -

40 No, no, I'm not referring to that at all. You said that you didn't, you said that in the months prior to agreeing to work for Eightbyfive you didn't know who the clients were?---That's correct. The conversation that Mr Koelma had with me at the time when he was offering to put me on, he, he had indicated to me that yes, he had clients would effectively - - -

But did he tell you who the clients were?---Not at that time, no.

But so you agreed to work for Eightbyfive not knowing who the clients were?---Yeah, I, I took him on face value.

And you were leaving permanent employment on the basis that Mr Koelma had the capacity to pay you about \$9,000 a month?---I, I sought an assurance from him as to, as to his capacity to do that and, and certainly the,

the length of time ah, he suggested to me that ah, he was able to do so and would be seeking to look at around about 12 months. Um, I indicated to him that the election was, was coming up and if, if I was elected then I would cease to work for him.

10 I mean, wouldn't, wouldn't it be important to know that Mr Koelma had institutional clients of a sufficient size and worth to actually be able to generate the money that you were going to be paid?---Well, he'd indicated that he'd had a client for, for 12 months already and, and was, and was obviously seeking more clients over that period.

I know that but the identity of the clients would not you think be important to understanding that Mr Koelma had an appropriate capacity to pay you at that rate?---I trusted him on his advice that, that he had that capacity.

So those documents will be Exhibit S86.

20 **#EXHIBIT S86 - BUNDLE OF DOCUMENTS TENDERED ON BEHALF OF CHRISTOPHER SPENCE'S**

THE COMMISSIONER: Anything arising, Mr Watson?

MR WATSON: Yes, just a couple of things.

30 Mr Spence, could you produce for us even one record, just one crummy, flimsy piece of paper, which records any valuable work done by you for Eightbyfive?---No, Mr Watson.

Not one crummy, flimsy bit of paper, correct?---That would be correct.

Mr Spence, could you provide anything, including a crummy or flimsy piece of paper, anything at all, which could provide objective evidence that you provided any work of value to Eightbyfive?---Other than the fact that I had my own, own expenses in going to Parliament and making sure that I was doing what I was required, I don't have documents, no.

40 I didn't take Mr Spence to this earlier and I perhaps should have, Commissioner, so there may be a question which arises out of it. Tell me if you need to see your invoices, Mr Spence, to answer this question but we've looked at them and the sums which you charge in your invoice do not match the payments which were made to you, do you accept that?---In respect to the first two invoices, no. That's, I mean, that's, correct.

Well, no, all of them. I didn't want to have to take you to them but even the later invoices are for a sum which is slightly different, only a matter of cents?---20 cents, yes.

Yes. Well, can you explain why the payments made by Eightbyfive do not match the invoices you issued to Eightbyfive?---Oh, I have no explanation for why the 20 cents wasn't paid, no.

No, it's not just not that, I mean, the earlier invoices are in quite different sums to the amount which you were paid aren't they?---They are.

10 All right. Well, let's put it this way, of the documents that you've provided to us none of them match the actual sums you were paid by Eightbyfive, correct?---Correct.

Can you explain why?---Well, I've made a mistake in, in, in the first two but as for the 20 cents I have no explanation for that.

20 I'm not sure what you mean by that. How could you make a mistake, was it a typographical error or was it a, a miscommunication between you and Mr Koelma?---No, it certainly wasn't a communication between me and Mr Koelma, Mr Koelma paid me the appropriate amount and, and the, the statements and my bank records show that even in ah, in June 2010 that he'd paid the appropriate amount. For some reason when I was trying to prepare the invoices and wasn't including GST for those two months, because I know that I didn't include it on those invoices, I've - for some reason I'm \$9 or \$9.20 out I think the Commissioner added it up yesterday.

Thank you, Commissioner.

MR CONDITSIS: Just briefly, Commissioner.

30 THE COMMISSIONER: Yes, Mr Conditsis.

MR CONDITSIS: The first invoice, and you've already been taken to it, indeed the first two, May and June, were for \$9,504?---That's correct.

So that was out by approximately, what?---\$9, well, yeah, \$9.20 I think it was.

Right. All right. And you don't, can't now recall why there's that discrepancy?---No.

40 All right. Yes, thank you, Commissioner.

MR WALSH: Commissioner, could I have leave just to ask one further question?

THE COMMISSIONER: Yes, go on, Mr Walsh.

MR WALSH: Mr Spence, I just want you - could I have leave to approach, I've got to show him a photograph (not transcribable). I'll just do it from here for convenience?---Sure.

Could you just have a look at this photograph, sir. Is that a photograph taken around the 5 March 2011 of yourself and the Members of the Young Liberals including Charles Perrottet outside your office?---Yes, it is.

10 All right, thank you. I want to tender that photograph thanks, Commissioner.

MR WATSON: Well I'll tender it.

MR WALSH: Thank you.

THE COMMISSIONER: Exhibit S87.

20 **#EXHIBIT S87 - PHOTOGRAPH OF YOUNG LIBERALS OUTSIDE THE OFFICE OF CHRISTOPHER SPENCE**

THE COMMISSIONER: Yes, thank you. Is that the end of Mr Spence's evidence?

MR WATSON: As far as I'm concerned thank you, Commissioner.

30 THE COMMISSIONER: Yes. Mr Spence, you can step down, you're excused.

THE WITNESS EXCUSED

[12.10pm]

40 MR WATSON: I'll call Nathan Tinkler. Sorry, just before I do that I do want to tender the full record, Mr Conditsis, will want this, a full record of the communications between Mr Spence's mobile phone or the one that we know about and contact with Nabil Gazal Junior and Nicholas Gazal for period 1 January 2009 to 26 March 2011. I'll just - - -

THE COMMISSIONER: You seek to tender those - - -

MR WATSON: Yes.

THE COMMISSIONER: - - - records. Exhibit - - -

MR WATSON: I'll just say there are 150 connections.

THE COMMISSIONER: Exhibit S88.

**#EXHIBIT S88 - FULL RECORD OF TELEPHONE CONTACT
BETWEEN CHRISTOPHER SPENCE AND NICHOLAS AND
NABIL GAZAL FOR THE DATES 1 JANUARY 2009 TO 26 MARCH
2011**

10 MR WATSON: And I call Nathan Tinkler.

MR SPERRY: Commissioner, my name is Sperry, S-p-e-r-r-y.

THE COMMISSIONER: Yes, Mr Sperry.

MR SPERRY: Yes, I appear for Nathan Tinkler.

THE COMMISSIONER: Well, Mr Sperry, you can come up the front if
you wouldn't mind.

20

MR SPERRY: Yes. Commissioner, we had an arrangement with the
Commission that Mr Tinkler would be available from 1.30pm this
afternoon.

MR WATSON: Which Commission was that?

MR SPERRY: We, we had - - -

MR WATSON: Certainly not this one.

30

THE COMMISSIONER: Did you speak to someone, Mr Sperry?

MR SPERRY: Yes, my principal Mr Koops did. In fact I believe it was - -
-

THE COMMISSIONER: You don't know who Mr Koops spoke to on the
Commission staff?

MR SPERRY: Mr McKenzie I believe.

40

MR WATSON: And it wasn't accepted it, it wasn't agreed. Just get him
here, he can't be too far away.

THE COMMISSIONER: Is he very far away, Mr Sperry?

MR SPERRY: I have instructions, Commissioner, that he is close but
whether the Commission - - -

THE COMMISSIONER: I was told he was across the road.

MR SPERRY: Whether the Commission's time would be better served to take in an early adjournment for lunch and guaranteeing that Mr Tinkler will be able to appear first thing after lunch.

MR WATSON: No, no, I'd like to do it as soon as possible, Commissioner. I don't mind if we take a cup of tea.

10 THE COMMISSIONER: All right. Well, Mr Sperry, I think, I think the preferable thing is if you could get in contact with your client immediately and tell him that he's wanted now because every moment is precious. I'll take a, I'll take a short adjournment and then you can let me know when he's, when he's arrived on the premises.

MR SPERRY: Yes, Commissioner.

THE COMMISSIONER: Thank you.

20

SHORT ADJOURNMENT

[12.13pm]

THE COMMISSIONER: Yes. Mr Tinkler, if you wouldn't mind coming forward and just taking a seat over here, thank you.

MR TINKLER: I apologise for the delay in getting here, Commissioner - - -

30 THE COMMISSIONER: No, that's all right. It wasn't, it wasn't, it was only a few minutes. Now have you explained section 38 to Mr Tinkler?

MR KOOPS: Yes, I have, Commissioner.

40 THE COMMISSIONER: Thank you, Mr Koops. Mr Tinkler, I just need to confirm with you that you understand that the order that I can make under section 38 of the Act protects you from the use of your answers in any civil or criminal proceedings that might be brought against you but it does not protect you against the use of your answers in a prosecution for an offence relating to giving false or misleading evidence before the Commission. Do you see that?

MR TINKLER: Yes, I do.

THE COMMISSIONER: Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by this witness and all documents and things produced by this witness during the course of the witness's evidence at this public inquiry are to be regarded as having been given or produced on objection and accordingly there is no

need for the witness to make objection in respect of any particular answer given or document or thing produced.

10 **PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY THIS WITNESS AND ALL DOCUMENTS AND THINGS PRODUCED BY THIS WITNESS DURING THE COURSE OF THE WITNESS'S EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND ACCORDINGLY THERE IS NO NEED FOR THE WITNESS TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.**

THE COMMISSIONER: Do you wish to be sworn or affirmed, Mr Tinkler?

20 MR TINKLER: Sworn.

THE COMMISSIONER: Yes, could we have the witness sworn, please.

MR WATSON: Are you Nathan Tinkler?---Yes, I am.

Could the witness be shown Exhibit S10?---Can I have a glass too please for the water?

10 Yes, of course?---Don't drink out of something like that until after 5 o'clock. Oh great, thank you.

Would you open Exhibit S10 at page 2962 it's actually two pages from the end?---Yeah.

You'll see that this is an email chain and the first email is at the second half of the page when Mr Palmer is writing to you, Mr Tinkler, and picking up a story through Media Monitors which was a positive story on the coal loader. Do you see that?---I can see that.

20 All right. Well I want to ask you about your response and you'll see that the top of the page is your response to Mr Palmer and you'll see that you start with these words, "This is just to pacify me because I donated to the Nats." Do you see that?---Yes.

And then you went onto say that it was to pacify you because by the looks of it the "Nats had done fuck all about it." Do you see that?---Yes.

30 And then it goes on there's a reference to Willy and the Government. Is Willy Darren Williams?---Yes, that would be, yeah.

"Darren Williams and the Government are trying to tell me it's moving forward but I don't see it and the whole thing is being held up in a bureaucracy." Do you see that?---That's right.

And if we look below that's almost certain to be a reference to the coal loader?---Yeah, we are talking about the coal loader there, yes.

40 And then you go onto say that, "We had a bunch of deadbeats before", I presume that's the Labor Party?---That's right.

"And a bunch of pricks now", I presume that's the Coalition?---(No Audible Reply)

Isn't that right?---Agree.

Okay. You'll have to speak into the microphone you're softly spoken, Mr Tinkler. Now what I want to go to is the message that you sent where it says, "I donated to the Nats"?---yes.

That's a donation to the National Party isn't it?---That's right.

Were you a prohibited donor?---No.

What did you donate to the Nationals?---Um, I think it was 45,000.

Did you do that in your own name?---I believe so, yes.

10 All in your own name?---Um, I think so, I couldn't be sure which, which entity it was but yeah, it'd certainly come from me, yes.

And tell me you donated \$45,000 to the Nationals whether in your own name or through other entities and you accepted something in return?---No, I didn't expect anything in return, no.

Well what do you mean? You say there, "I donated to the Nats and they are doing fuck all about it." What does that mean?---It means nothing's happening.

20

What, nothing at all?---Well I just don't think that, um, at the time the representations that were made to me were, were that um, certain I suppose there was certain support for, for um, a feasibility on a coal loader and that was um, I suppose that never materialised.

Well what you're saying isn't you donated to eh Nats and you're disappointed because they weren't doing what you wanted?---I'd never met with anyone from Nats, no.

30 Just answer the question. What you're really saying there is that you had donated to the Nats and you're angry because you were getting what you wanted?---Um, like it was taking longer than I wanted, yes.

Well doing fuck all about it says they're not doing anything about it?
---That's what I just said, yeah.

And you were angry?---Yes.

Because you thought - - -?---I wasn't that angry but, yeah.

40

- - - your donation meant that they should be doing something about it?---I thought it should get a hearing, yes, and that's what I was after I wanted to get a hearing.

And you wanted to get a hearing and you were angry because you donated. Is that right?---I wanted a hearing.

Well I mean this is all predicated upon the donation to the Nats. You donated money because you thought that would get you something, isn't that right?---No, not really no, that's - - -

Well look at it?---People donate to political parties all the time.

That's exactly right, Mr Tinkler?---Yeah.

10 We'll come back to that. But look at the message, "This is just to pacify me because I donated to the Nats and they're doing fuck all about it." What you're saying there is I donated and I wanted something in return, that's what you're saying isn't it?---I wanted a hearing for the coal loader, yes.

And you expected to get that because of the donation?---I think – isn't that what Government does it hears from people who want to do developments, I wasn't asking for an approval, I was asking for permission to make an application.

20 Well you see yesterday I've heard this, yesterday you promised the press that there'd be no crocodile tears from you today?---No.

And that's a reference to Jodi McKay, is that right?---That's right, yeah.

You're saying that her tears were crocodile tears?---Absolutely.

False tears?---Yes.

Untrue?---Yeah, absolutely.

30 And you expected her to tell the truth?---I did.

Well you tell us then the truth why did you think that donating to the Nats should get you something in return?

40 MR KOOPS: Well I object. He's already the question. He's answered about a dozen questions about the basis upon which he made a donation to the Nationals. It's now been put to him why he should get something in return, he explained, in my submission quite satisfactorily what the basis of that donation was.

THE COMMISSIONER: That he wanted support for a feasibility study for the coal loader and nothing in that regard had happened. Is that right, Mr Tinkler?---Yeah, that, that's right.

Right. Thank you.

MR WATSON: You thought that your donation was buying something, didn't you?---No.

Well then why do you say that your complaint is framed in the context of a donation to the Nationals, what did that have to do with your complaint that they were doing fuck all about it?---Well, it was just held up in bureaucracy, nothing was moving forward so- - -

Well, how did that link to your donation?---I don't understand how it linked to my – can't I support the National Party? I'm a National Party supporter. What's- - -

10

THE COMMISSIONER: Mr Tinkler, could it be – can I just suggest this to you, could it be that the donation would, if I could put it in these terms, grease the wheels of the bureaucracy so that the feasibility study would be more likely to have been brought on?---I think ah, I'd hope they may be more, more open to hearing about it, yes.

MR WATSON: And you thought that your donation was the price to be paid to get that hearing?---No, I thought it would be more likely that I got that hearing.

20

Because of the donation?---Yes.

Why?---Well, when you're trying to get a large piece of infrastructure like that put forward, if ah, and um, political parties need financial support I think you're more likely to ah, more likely to ah, be, get a hearing if um, if you're part of that.

Why?---Well, if – it's not much point if they haven't got the money to ah, to ah, run for Government.

30

And so why should a developer get a hearing because they donate to a political party?---I think everybody would be - This is a large piece of infrastructure that was very good for the Government, 10 per cent revenue on everything sold.

So you were donating to the Nationals because it was good for the Government?---I was donating to the Nationals because I'm a supporter of the Nationals and I think this is a, I think this was a good project, yes. I think this was something that Government should support.

40

See, don't you read the email to be this, that your donation to the Nationals was a way of buying their support for your project?---I think it would cost a bit more than ah, \$50,000 to build the coal loader and ensure, ensure an approval. I don't see where that's going to really make any impact on the Government.

Is – could you answer my question. Isn't a proper way of reading your email that you donated to the Nationals as a means of buying their support for your project?---No.

Not at all. Well, then why were you disappointed?---Just because I hadn't been able to ah, get any traction with the, with the coal loader and it was a good piece of infrastructure.

10 The very first thing you raise in that context is your donation, so you must connect the two, Mr Tinkler?---No.

Sorry, well then why did you say about the donation to the Nats and they are doing fuck all about it?---Because it was a waste of money. That's, that's what- - -

It was a waste of money- - -?---Well, that's what I- - -

20 - - -because you didn't get what you wanted. Is that right?---I wanted a hearing.

Well, why was the donation to the Nats a waste of money, Mr Tinkler?---Because I didn't get that hearing.

So you were donating to the Nationals to get a hearing?---That's right.

So you wouldn't have got a hearing without the donation was the way that you saw it. Is that so, Mr Tinkler?---I didn't get, I didn't get a hearing with it.

30 Well, but you saw the price to pay to get a hearing was a donation to a political party?---(No Audible Reply)

Is that right?---(No Audible Reply)

Is that right?---Ah, I guess that was part of ah, part of my thinking, yes.

Well, see, could I just say this. When we talk about crocodile tears, crocodile tears, well, they're fake tears, aren't they?---Yeah, they are.

40 Well, let's not be fake about it, Mr Tinkler. Let's look at that email. Is this a right way of reading it? I donated to the Nationals because I wanted a decision made in my favour?---Jeez, I'm starting to see why this has been going for three weeks. I said to you before, I donated to the Nationals because I am a supporter of the National Part.

Oh, no, no?---The fact that I have a piece of infrastructure that I wanted to talk to the Government about, I took that forward, I didn't get heard, so the, so the donation really made no difference to me.

So you did this just because of your long-term devotion to the National Party, did you?---That's right, yeah.

That would be the "bunch of pricks" to whom you refer in the second sentence?---That's right, yes.

Right. Do you often donate money to a "bunch of pricks"?---I've given more to worse people, yeah.

10

See, isn't this what you're about, Mr Tinkler. I paid the price to get a decision in my favour. That's what it's about, isn't it?---No, I was asking, I was asking to be allowed to go through an assessment process. That's all I wanted. I was raising money for a feasibility study, \$100 million we wanted to raise to do a feasibility study on the port which would have then been the money to go through an assessment process and it seemed little point raising that money if Government weren't willing to at least hear an assessment, and so that's what we were after. Very different to today I want an approval.

20

All right. Well, and the person who was guilty of the crocodile tears, that was Jodi McKay. Is that right?---Yes.

She said no to you, didn't she?---Jodi McKay had- - -

She said no to you, didn't she?--- - - -zero bearing on – I think I discussed the coal port with Jodi McKay once at one meeting that went for like two minutes and she, she said, "I've heard about" - - -

30

Did she say yes to it or no to it?---She said, "I've heard about a, ah, a proposal on the old BIC site for a coal loader, I can't support it." And I said, "That doesn't surprise me, you haven't supported anything." And that was the end of it. There was no discussion. I never took this to her, I never asked for her support, so- - -

She was the person who had the crocodile tears?---Again, yes.

And what you're doing is you're accusing her of lying. Isn't that right, Mr Tinkler?---Agreed.

40

All right. So you – that's what you're saying?---Yes.

All right. We'll see where this ends up. Would you tell me, you must be aware of Mr Williams' correspondence in the volumes, is that right?---Um, I've seen various documents, yes.

Well, would you turn in this same Exhibit S10 to page 2852. You'll see at page 2853 there's the commencement of an email chain where the Nationals are seeking a donation from Darren Williams. Do you see that?---Yes.

And it's been recognised in the body of the email that Mr Williams himself could not make the donation because he was caught by the developer prohibition?---Yes.

10 And you'll see at page 2852 Mr Williams' response to that was to ask Troy Palmer for \$20,000?---Yes.

And that's because the Nationals will be running the ports?---That's what he says in the email, yes.

And that's because the Nationals would be determining whether or not to grant your application for the coal loader. Is that right?---Oh, I don't know whether they'd be determining but they'd be assessing it.

20 But the donation was according to this predicated upon that important issue, is that right?---I don't know if it was predicated upon that but I made donations to that before and I think this is, this is the, is this the donation where I then got notified that I was an illegal donor after this?

We'll come to that I promise but just one thing at a time. Mr Williams doesn't put it in uncertain terms he says that he needs \$20,000 because the Nationals will be running the, the ports, is that right?---That's what it says in the email.

30 Yeah?---Yeah.

Well you know about this 'cause the money the money actually ultimately came from you didn't it?---The, the – this donation perhaps, I think that was part of the National Party donation that I made which then got nullified.

40 When you say nullified?---Well we were ,we were notified that we were a, we were um, considered a banned donor I believe and, and then we, we notified the, notified the Electoral Commission and told them that were a prohibited donor and that was it, they kept the money and said thanks very much.

Well you'll see at page 2872 of Exhibit S10 there's some follow up.

THE COMMISSIONER: Sorry, did you say they kept the money?---I didn't get it back.

MR WATSON: Well I'll come to that, Commissioner.

THE WITNESS: Yes.

MR WATSON: You'll see there the foot of the page is the Nationals seeking support being financial support for the election campaign?---Okay, yes.

And then up the top Darren Williams is telling Troy Palmer that he can help with three lots of \$5, but that's \$5,000 of course, isn't it?---Yes, I'd imagine so.

10 And the boss, I imagine you'd accept that you're the boss?---Sure.

So you were consulted over this?---Well, I have no recollection of this, no, and I don't ah, \$5,000, I wish I approved every \$5,000 that went out but no.

All right. Well, could the witness - - -?---Was this from the Nationals or who was this - - -

Yes, it's from the Nationals?---Okay.

20 Could the witness be shown Exhibit 29. Keep that folder with you in the box, Mr Tinkler, but you can close it up, I'll just take you to this exhibit now. Would you open it up at page 3863?---Yes.

This is another matter involving donations. You'll see on page 3863 at the bottom there's an email from Noel Atkins. Do you know Noel Atkins? ---No, I don't.

Well, it's to Philip Christensen, you do know Mr Christensen?---Yes.

30 And you'll see that over the page at 3864 - - -?---Yes.

- - - it's a \$10,000 donation, an invoice to the Nationals?---Okay.

Do you remember anything about this?---No, I don't.

Go back to page 3863?---Sure.

This is an email in the middle of the page from Mr Christensen to Troy Palmer, you know Troy Palmer?---I do.

40

Mr Christensen is saying or asking Mr Palmer to attend to it, it's a dinner and it's apparently been okayed by you, does that assist you?---Okay. Um, yeah, I certainly didn't organise this dinner and I don't know anything about it so um, yeah, no, that doesn't - - -

Well, when you say that - - -?---This doesn't ring any bells with me.

It doesn't ring any bells?---No.

Close that volume up and I'll get you to look again at Exhibit S10. Do you know Mr and Mrs Todd?---Ah, Tom?

Todd?---Tom Todd?

I don't know, Mr and Mrs Todd?---Yes.

Do you know Mr and Mrs Hannigan?---Yes.

10

Open up Exhibit S10 at page 2943. You'll see here that this, this is just one example of these documents. This is apparently a donation made by Victoria Todd of \$5,000 and it was to the National Party?---Ah hmm.

What do you know about that?---I have no idea about that.

All right. Well, did you know that by this stage legislation had been passed so that no one could donate more than \$5,000?---No, I didn't.

20

Well, assume that's correct. We've got evidence that Mr and Mrs Todd and Mr and Mrs Hannigan each donated that limit, \$5,000. Do you know anything about that?---No, I didn't, no.

Did you know anything about Mr and, Mr Todd and Mr Hannigan being prosecuted because they made donations when they were otherwise prohibited from doing so?---No, I didn't.

Nobody's ever told you about that?---No. I knew we had, we had been ah, done that and my solicitor - - -

30

That's a separate issue, I'm asking you about Mr Todd and Mr Hannigan? ---How, how would I know whether they have or not.

Well, you do know Mr Todd don't you?---I knew him, I haven't spoken to them for a, a number of years.

Oh, this was at the time when you were involved with Mr Todd, he was a director of company called Aston Coal 2 Pty Limited wasn't he?---Ah, he would have been, yes.

40

He was a director of a company which controlled the Maules Creek Coalmine, correct?---That's right.

The coal loader at Newcastle was designed to receive and discharge onto ships the coal which had been mined at Maules Creek, correct?---At any coalmine, yes.

Well, just let's stick with it bit by bit, are you agreeing with me?---I'm agreeing that it's a coal loader and it's there to, to load coal, yes.

And one of the reasons you wanted the coal loader was so that it could discharge the coal which had mined from the Maules Creek Mine, correct? ---Yes.

And Mr Todd was a director of the company which owned the coal in the soil at Maules Creek wasn't he?---Yes.

10

And so is Mr Hannigan?---That's right.

They made the \$5,000 donations at your request didn't they?---No.

And that was a scheme so that to beat the limits on donations you got four persons each to donate to the National Party - - -?---I did, I did, did I?

- - - that's Mr Todd, Mrs Todd - - -?---That's ridiculous.

20

- - - Mr Hannigan and Mrs Hannigan, you got them - - -?---That's ridiculous.

That's ridiculous is it?---That's ridiculous, yeah. You think I, I, I was after raising money for the, the National Party? Really?

Yes?---Do you know who the chairman of Aston Resources was? The former Deputy Prime Minister of Australia and the Leader of the National Party?

30

Yes, well - - -?---Yeah, and you think I was doing that for him?

Well, no, I'm - - -

THE COMMISSIONER: That wasn't - - -

THE WITNESS: Please, because he was the guy soliciting stuff from me.

THE COMMISSIONER: Mr Tinkler, stop, that wasn't what was put. That wasn't what was put. What was simply put was that you requested - - -?

40

---It's ridiculous.

- - - each of them to make a donation so that you could in effect avoid the caps that would otherwise be - - -?---That's absolutely ridiculous.

- - - or the prohibition that would otherwise be on political donations. Anyway you reject that proposition?---That's right.

Mr Watson, is that an appropriate time?

MR WATSON: Yes, thank you.

THE COMMISSIONER: We'll resume at quarter to 2.00. Thank you.

LUNCHEON ADJOURNMENT

[12.46pm]