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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE PETER M. HALL QC
CHIEF COMMISSIONER

PUBLIC HEARING

OPERATION TOLOSA

Reference: Operation E17/1221

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON WEDNESDAY 1 JUNE, 2022

AT 2.00PM

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

THE COMMISSIONER: Mr Darams.

MR DARAMS: Mr Tsirekas, could I have you look at page 9 of volume 1.2 again? Mr Tsirekas, when I asked you some questions and when the Chief Commissioner asked you some questions as to why you sent this proposed motion to Mr Furlong, one of the answers you gave or you referred to is “for reasons of transparency to provide it to an affected or interested party”. Did I hear you correctly in that respect?---Yes.

If that’s the reason why you provided it to Mr Furlong, why didn’t you provide it to Billbergia? Mr Tsirekas?---Just, please. I think it refers to, that he had, that Councillor Kenzler had spoken to Billbergia somewhere, the applicant, hang on.

I’m just focusing on why you didn’t do that as a matter of transparency. Where you said you provided it to I-Prosperity, why didn’t you also provide it to Billbergia, given that it was obviously about their planning proposal? ---I can’t answer that. I’ve read somewhere here that Kenzler had already spoken to the applicant.

MR LEGGAT: Perhaps if the witness’s attention might be directed to line 5?

THE WITNESS: Yeah, that’s right. “Please note that I have indicated to the applicant that the planning proposal needs to be amended.” So it’s already been done.

MR DARAMS: Sorry?---It had already been done.

No. My question is why didn’t you provide the draft motion to Billbergia? ---There were two draft motions on the night - - -

No, go back, no, no, Mr Tsirekas - - -?---Yes.

- - - I was asking you, just asking you a question about the evidence you gave earlier. You said you provided this to Mr Furlong who you knew at that time was associated with I-Prosperity. You were providing it to him because they were an interested or affected party as a matter of

transparency. That was your evidence before. The question I asked you is why didn't you also as a matter of transparency provide the draft or proposed resolution or motion to Billbergia?---The draft motion had nothing to do with Billbergia. That was prepared by Neil Kenzler. It didn't have an impact on it at all.

THE COMMISSIONER: The motion itself, though, related almost entirely to Billbergia?---Not, the draft motion from Neil Kenzler did. The additional didn't.

10

No, let's not worry about the additional for the moment. We're just talking about the Kenzler motion, right?---Ah hmm.

Which was - - ?---And that was - - -

Which was described as an amended motion or application.---Correct.

I think that's what you're being asked about. If you're going to send it to, if you're concerned about transparency and due process enough to send it to
20 I-Prosperity via Mr Furlong why wouldn't your concern about transparency and due process also run in favour of Billbergia who certainly are affected by what Mr Kenzler was proposing in the multiple pages of his motion?
---No real reason, Commissioner.

Well, you seem to have been more focused on I-Prosperity's interests but no consideration being given to Billbergia. That's the way it appears. There may be an explanation for that but that's the way it seems, doesn't it?---I wanted the proper process to occur and that was on the floor of the council where off the floor amendments could be viewed by the applicant because
30 they did have speakers on the night and therefore proper debate would have occurred through the motion that was put off the floor.

But wouldn't you in the interest of transparency be concerned to ascertain whether Billbergia was fully on notice that they too had been given a copy of the notice of motion at the earliest possible stage?---Well, I did, Commissioner, at the meeting.

No, no, no. We're talking about as at 9.27 on 31 May, 2016. That's the time and date when you were advising Mr Furlong.---Yep, and sorry,
40 Commissioner, could I have a reference to when David Furlong responded to me?

Well, firstly the two steps is, the first one is on the screen now. So you want to know when?---Well, I didn't have the draft motion then.

No. Perhaps Counsel can assist you on that.

MR DARAMS: Mr Tsirekas, you have the draft motion from Mr Kenzler on 30 May, 2016. You forwarded Mr Furlong - - -?---Yes.

10 - - - on 31 May at 9.00am, 9.27am.---Yes.

You said you did that for transparency.---Yes.

The question was why didn't you at the same time send it to Billbergia?
---Because if you read Councillor Kenzler's email, "Please note that I have indicated to the applicant the planning proposal needs to be amended."

THE COMMISSIONER: Yeah, it does.

20 MR DARAMS: But that's not, that's not sending the motion.

THE COMMISSIONER: That's all it says.---That's right.

Yeah, but an indication is not the same as having the actual motion, is it?
---You'll have to ask Kenzler, Councillor Kenzler.

No. Why wouldn't you ask the question, "Well, look, transparency and due process requires affected people to be on notice to what's about to happen. That's why I'm going to send it off to Mr Furlong." You would also say in
30 the same breath, "And Billbergia, not sure if they've had a copy of the notice of motion either but I'm going to make sure they get one. I'm not going to just send it to one, I'll send it to both of them." Explain - - -?---My understanding was that they understood what was happening and that they'd already been informed.

Yeah, but I still can't understand why wouldn't you, if you're taking this precaution to alert IPG, I-Prosperty, equally, say, "I'd better make sure Billbergia is on notice before this meeting takes place." Tell your secretary to send a copy to him and a copy to him. Why wouldn't you do that?---My
40 understanding, Commissioner, is that they were informed by Councillor Kenzler.

But why wouldn't you ensure that they have the motion? It's all one thing to say Mr Kenzler is going to move an amended motion tomorrow. The person who is interested would say yeah, well, tell me what is he doing. ---I'm quite - - -

10 And where is, I want to seek exactly what his draft is. I mean logically, these matters are not straightforward, they're complex matters and if Mr Kenzler's putting forward, as you could see, was a long amended motion, he goes right back into the history, setting it all out, putting forward various issues and arguments and all that sort of thing, the first thing you would have thought, I would have thought, if you were concerned about transparency, would be those involved in this should have a copy of this document which has just been sent to me.---My understanding was that they had been informed by the person who drafted the motion. So they had already been made aware.

20 What's your understanding built on?---"Please note that I have indicated to the applicant, the planning proposal needs to be amended" and he goes through - - -

Well, it doesn't say anything about - - -?---No, it does, Commissioner,

It doesn't say anything about what it is that the amendment will say or relate to.---No, Commissioner, it does. It mentions additional reduction, it mentions addressing public transport interchange and 15 storey affordable housing.

30 Yes. But why not give Billbergia the nuts and bolts of what he's going to put up before formal session at council?---Because I, I wasn't driving this, Commissioner. I, I was not putting in the amended motion.

You may not have been the driver, but you had become, on your evidence, the self-appointed person to ensure transparency on this matter and there has to be an explanation as to why you wouldn't be even-handed about this. And so everyone is affected if you think anybody should be provided with a copy of the notice of motion, send it to them all, not just I-Prosperity. ---Commissioner, my understanding was that there had been discussions from Councillor Kenzler. Reference is made there to Billbergia, therefore I was only indicating to other interested parties, this is what has been drafted so they're aware so their, they had a better understanding of what was going

40

to be debated because it different to the resolution of the paper of the council.

I dare say what you put in the letter, in the email I should say, to Mr Furlong, you had derived that from a reading of the amended notice of motion, is that right?---Sorry, Commissioner?

10 When you say what you've said here, "Please note that I have indicated to the applicant the planning proposal needs to be amended, additional reduction" and so on "to get to a position I previously indicated", all of that, I take it, you drew from the notice of the motion itself. Is that right?---That, that's not my email.

No, but this is your email to Mr Furlong. Sorry, it's Mr Kenzler's email. ---Mr Kenzler's email.

You sending it on.---Yeah.

20 So what Mr Kenzler's letter is doing is paraphrasing, in effect, what he is going to seek in the formal motion, amended motion.---What he was going to be putting up that night.

Yeah. So why not send a copy to both parties, Billbergia on the one hand, I-Prosperity on the other?---My understanding was that they were aware. I didn't draft the motion.

What's your understanding based on?---From this email, Commissioner.

30 Yeah, but this email a synopsis of what's in the - - -?---That was my understanding.

Yes, all right.

MR DARAMS: It might be suggested to you, Mr Tsirekas, that the reason you didn't sent it to Billbergia, that is the proposed motion, is that you weren't actually interested in transparency at all and what you were more interested in at this stage, by forwarding this to Mr Furlong, was the interests of I-Prosperity only. What would you say about that?---No, no.

40 If you were interested in transparency, why didn't you forward the amended resolution that was provided Mr Furlong to you? Why didn't you then

provide that to Billbergia?---Again, this was a drafted motion, can I just please explain?

No, no. I just want, no, I don't want you to give a speech 'cause that's what you've been doing, with greatest respect to you - - -?---Apologies.

- - - you've been giving speeches. If you were interested in transparency and you've given some explanation as to why you didn't send Mr Kenzler's draft resolution or motion to Billbergia. I understand why you say that. But
10 then Mr Furlong makes amendments to it. Why don't you at that stage go, well, as a matter of transparency, I'll forward it on to Billbergia? Why didn't you do it then?---It was to be debated on the floor.

But why didn't you send it to Billbergia before it gets debated on the floor as a matter of transparency so they can see, well, here's what's been suggested in relation to our planning proposal and some other interested party has made or suggested amendments to the motion. Why didn't you forward it to them then?---'Cause I, I wasn't driving the motion.

20 But you were driving this transparency position?---Yes, yes.

So my question is based upon issues of transparency 'cause I want to suggest to you if you were - - -?---Yes.

- - - honestly and truly interested in matters of transparency, then at least at that stage, that is, after Mr Furlong had proposed amendments to this motion, you would have provided it to Billbergia at that time?---There was no real reason. And, again, it was to be debated on the floor of the council as normal practice would have been. If there was going to be any changes,
30 then the applicants were there to also be part of the, well, discussion on the night. There is no real reason.

Mr Tsirekas, I want to go back to just clarify a couple of points of your evidence before moving on to something different this afternoon. Could the witness be shown volume 6.7, page 180? Mr Tsirekas, this is an exchange, sorry, a copy of a WeChat exchange between Ms Li and Mr Chidiac, so that gives you some context of what I'm showing you now. I just want to draw your attention to the date of this exchange. So if I could ask that you be shown the message the third from the bottom, if we can just zoom in on that.
40 So this is a message from Ms Li to Mr Chidiac, and you can take that from me that this is what it is, on 14 December, 2015. Ms Li says to Mr Chidiac,

“Joseph, could you ask Angelo to pay tonight or no ticket?” Then the next message down is a response from Mr Chidiac where he says, “Send me an invoice on SMS.” Then he also says, “I can’t open on WeChat.” So just noting those dates, if I can ask you to be shown the next page, as well? Go up the top of the page. Further exchanges between Ms Li and Mr Chidiac on 14 December. The second one says, “Okay. Angelo at a function. Once he’s out, I will ask him to pay ASAP.” Ms Li responds, “Yes. Okay. Thank you.” Then if we go down the page a little bit, message, again, Ms Li on 14 December. “Don’t forget to ask Angelo to buy ticket.” Mr Chidiac says, “He told me he will sort it out tonight.” Ms Li says, “Okay.” And Mr Chidiac says, “Got paid today.” So again all of this is on 14 December, 2015. Could I then ask that the witness be shown volume 6.08, page 278? Mr Tsirekas, this is another exchange between Ms Li and Mr Chidiac but on a different platform, again occurring on 14 December, 2015. If I can draw your attention to the first message at the top of the page? See, this is a message from, and take it from me, that’s what it is, from Ms Li to Mr Chidiac. You can see there’s an attachment to this email, sorry, this text message but you can’t read it. I’ll take you to the attachment in a moment. Could the witness then be shown page 302? Mr Tsirekas, I drew your attention to this invoice before, earlier today, but this is the invoice that has been sent by Ms Li to Mr Chidiac on 14 December, 2015. Do you see that?--Yes.

Could I ask that we go back to page 281? I draw your attention to the message on the bottom of the page. It’s a message from Mr Chidiac to Mr Li on 21 December, 2015 and you can see here there’s another attachment to this. Do you see that?---Yes.

Could I ask the witness then be shown page 304? This is the image that was sent by Mr Chidiac to Ms Li in that text message I’ve just shown you, Mr Tsirekas.---Yes.

Now, can you note some of the details in here? So noting the date of the transaction, 15 December, 2015.---Yes.

Note the amount, \$3,300.---Yes.

See the account, Longway Travel?---Yes.

This appears to be a receipt of a transaction from your account to the account of Longway Travel. That’s what it appears to be?---Yes.

If we go to volume 5A, page 481. I'll draw your attention to the entry on 15 December, 2015. Do you recall I took you to this before?---Yes, yes.

Now, the evidence you've given today, earlier, was that this \$3,300 payment or transaction related to the Dongtai travel. That's what you said before, wasn't it?---Yes.

10 You then said Mr Chidiac paid your airfare for the January 2016 trip, that's right?---That's what was my understanding, yes.

Well, that was your evidence earlier today.---Yes.

You gave that evidence even after I showed this record to you, that is the bank record.---Yes.

You said under oath today that you repaid Mr Chidiac this airfare for the January 2016 trip later in 2016, that's right?---Yes.

20 See, the records that we have, Mr Tsirekas, suggest in fact you paid your airline ticket for the January 2016 trip and I just want to clarify whether or not that's the case.---As I explained this morning, there was a trip the previous month which I paid later on, under my recollection, and it was around the same amount for the trip that we took to Dongtai and that's I'm a bit confused with.

Well, just let's go back to your evidence about repaying Mr Chidiac for flights in January 2016. I take you're not certain now whether or not you ever did repay him anything.---No, I, I did.

30 You did.---Can I please explain? He did ask for repayment for a Chinese trip and there were two Chinese trips in that year. So I did and I, my understanding, it, it was for the July, the January trip but it appears that you've shown me here that I've gotten confused with the November, January and the August trips.

Now, Mr Tsirekas, I want to ask you about something different, and for that purpose can I ask that you be shown volume 4A, page 33. Mr Tsirekas, this is the statement for a bank account of a company called Machonic Pty Ltd.

40 Do you see that?---Yes.

Machonic is a company that Mr Colacicco was formerly the director of.
Did you understand that?---Yes.

Just I want to ask you about some of the transactions in this bank account or
in this bank statement, sorry. So if you can focus on the 14 January cash
deposit of \$1,250.---Yes.

10 Did you give that cash \$1,250 to Mr Colacicco to deposit in this bank
account?---After again reflecting on what's been said I was, I was giving in
a period of time cash to Frank Colacicco to bank for me.

Did you - - -?---And that would have been – yes.

So the answer is yes?---Yes.

The 22 January deposit of \$2,500, did you give that to Frank Colacicco to
bank into this account?---Yes.

20 The 30 January cash deposit of \$2,000, did you give that to Frank Colacicco
to deposit into the bank account?---Yes.

The 10 February cash deposit of \$2,000, did you give that to Frank
Colacicco to deposit in the bank account?---Can't remember the dates but I
was giving him cash amounts.

Is the answer to my question yes?---Yes.

30 2 March, the cash deposit of \$3,500, did you give that to Frank Colacicco to
deposit into the bank account?---Again can't remember dates but, yes, did
give him an amount.

So you gave Frank Colacicco \$11,250 between 14 January and 2 March,
2015. That's correct?---Yes, I would have.

Could the witness be shown page 39. I draw your attention to the entry on
13 April, cash deposit of \$5,000. Did you give that to Frank Colacicco to
deposit into the bank account.---Again I don't remember the dates but I did
give him that amount.

40 We've received some evidence that in relation to the deposit on 29 April,
10,000 of that was cash that you had given to Mr Frank Colacicco to deposit

into this account. Is that correct?---I can't recall the date but that amount sounds correct to me. About 10,000, yes.

What about the entry on 1 June for \$5,000, did you give that \$5,000 to Mr Colacicco to bank into this bank account?---Again I can't remember the dates but, yes, I was, yes, that's my cash.

THE COMMISSIONER: So how were these deposits made, 13 April was 5,000, 1 June 2,000. These are all cash deposits it appears. Is that right?
10 ---Yes.

MR DARAMS: So in the period between 13 April and 1 June, 2015, you gave Mr Colacicco \$20,000 in cash to deposit into this bank account?---Yes.

Can I ask that we go to page 46? The entry on 1 October – sorry. I withdraw that. The entry on 16 December. See that?---Yes.

\$10,000 cash deposit. Did you give that \$10,000 to Mr Colacicco to bank into his bank account?---Can't remember the date but, yes, around that
20 period, yeah. Very hard for me to remember.

So all-up from this account, at least, you gave Mr Colacicco at least \$41,250 in cash in 2015 to bank into this bank account?---Again, the amount I can't confirm but I was giving him the cash and it seems that period, yes. Yes.

Well, just take it from me, all the ones you've accepted you have deposited, sorry, given to Mr Colacicco to deposit add up to \$41,250 - - -?---Yes.

- - - over the space of a year.---Yes.
30

Could I ask that the witness be shown page 843 of the transcript of his compulsory examination on 24 March, 2022. Chief Commissioner, you have already varied the declaration on this.

THE COMMISSIONER: Yes.

MR DARAMS: 843. Mr Tsirekas, you recall I asked you some questions about these transactions on 24 March, 2022?---Was that the first day or the second of - - -
40

THE COMMISSIONER: The first.

MR DARAMS: The first day.---First day. Okay. Yes.

So you can see from the first line, I ask that you be shown volume 4A, page 33. Do you see that?---Yes.

That was the bank records I've just taken you to now?---Yes.

10 Now, I want to just skip over some of the questions on that page, to go down to about line 35. Do you see I put this question to you, "So I just want to ask you then, just if I could draw your attention to 14 January?" You go, "Mmm." "It says there 'cash deposit 1,250'". You went, "Mmm." Then I said, "Can I ask you this question? Did you give that money to Mr Colacicco to deposit in this bank account?" See that?---Yes.

And you said "No"?---At that stage, I did say "no".

20 That was a lie?---No, it wasn't a lie. When you showed me that statement, I could not recall the name and I couldn't recall the amount, so - - -

Sorry. Stop, stop. Mr Tsirekas, I asked you very clearly, I took you to the record, I asked you about the cash deposit, I asked you a very clear question, "Did you give that money to Mr Colacicco to deposit in this bank account?" You said, "No." I want to suggest to you that when I asked you that question, the answer you gave, well, you might not like the word "lie" but it was untruthful?---Sorry? When you asked me the question about Machonic, I had no recollection of that name.

30 THE COMMISSIONER: You weren't even asked about Machonic in that question. You were asked about one deposit in accordance with your bank records. Would you please stay with the question?---Sorry, Commissioner. But it does refer to Machonic.

You were taken to the last question on the page and it says did you, after referring to the cash deposit of 1,250, do you see that?---Yes.

The next line, "Can I ask you this question?"---Yes.

40 And you can read that for yourself, and the answer, your answer which is "No." It was being put to you that was an untruthful answer.---Sorry, Commissioner, in context - - -

No, please, Mr – I don't know how many time I can tell you. Mr Leggat, I'm afraid you're going to have to take your client to one side. I have tried my best.

MR LEGGAT: Yes.

10 THE COMMISSIONER: And it's just slowing the procedures down. I understand that lay people sometimes have difficulty adjusting to the questioning formant, they want to preface what they want to say by an explanation of some kind. You're there, as perhaps I haven't explained sufficiently, to protect his interests and to ask him anything by way of clarification on matters that arise in the examination of Counsel Assisting. I would have thought Mr Tsirekas would have understood that but he seems to be playing advocate himself. He's already got a well-regarded, if I may say so without causing embarrassment, Senior Counsel to do that work. But it is really slowing down the whole process, it really is a problem, I'm afraid. I've done my best. You'll see in some of the transcript of the compulsory examination the same sort of lectures I've been giving and
20 you'll find them there. I don't know whether it's deliberate or whether it's just a difficulty that the witness seems to be having and not understanding, not hearing me. I don't know what the problem is, but it just keeps repeating. It's a serious concern to the efficiency of this Commission's process that a person acts in this way. Mr Leggat, I think we'll press on a little while longer but if it just keeps going then I'm going to adjourn and try and work out what we do with the rest of the evidence.

MR LEGGAT: May it please the Commission.

30 THE COMMISSIONER: Mr Tsirekas, you've heard what I've said. It's a real concern the Commission has about you and your evidence, I'm afraid. I've tried to give you a heads-up more than once. When I say a heads-up, in the nature of a warning, as it were, that witnesses can create the wrong impression. They may not mean to, but if they don't act in a disciplined way and answer questions it may be construed as prevarication. It may be construed as obfuscation. I've tried to give you the benefit of telling you that rather than just sitting here quietly and not saying anything and let you go and, you know, on in that way. We shall see where we go from this point onwards. I'm taking your attention to the bottom of 843. Do you see
40 that there?---Yes, Commissioner

The question was put, the answer was "No." Counsel asked you some questions, I'm sure he's probably got another question or two about that.

MR DARAMS: So that answer was untruthful, that's right?---No.

It was untruthful and it was deliberately untruthful and you knew it was untruthful, correct?---No.

10 Could I ask that the witness be shown the next page? I then ask you about the transaction on 22 January. I asked you "Did you give that amount of money to Mr Colacicco to deposit in his bank account?" Do you see your answer, you said, "No"?---Yes, I can see that answer.

That answer was untruthful?---No.

It was deliberately untruthful, Mr Tsirekas?---No.

You decided to give me that false answer, didn't you, Mr Tsirekas?---No.

20 Then I asked you about the 30 January transaction. I asked you clearly "Did you give this amount of cash to Mr Colacicco to deposit in his bank account on your behalf?" You said "I can't recall any of this." I want to suggest to you that that answer was untruthful.---Sorry, what line was that?

The 30 January, the \$2,000, the third line or fourth line.---Oh, sorry. Yeah.

The answer you gave was "I can't recall." What I'm suggesting to you is that that answer was untruthful.---No.

30 It was deliberately untruthful.---No.

Could I ask you to have a look at line 30.

THE COMMISSIONER: Just before you get to there. Yes, you proceed.

MR DARAMS: So then the Commissioner says, "Well, do you remember?" "No." Then he says, and you cut the Commissioner off but the Commissioner's question, "Well, do you remember giving amounts of cash to Mr Colacicco to bank into an account on your behalf?" You see you said,
40 "No."---Yes, I can see that.

That answer was untruthful.---No.

It was deliberately untruthful.---No.

Then you were asked a question, “Do you say that did not happen to your knowledge?” Your answer is, “Well, can’t, I can’t, cannot recall this at all.” I want to suggest to you that that answer was untruthful.---No.

Was deliberately untruthful.---No.

10

Could I ask, so then the Commissioner says to you, “So you’re positively saying,” you cut in, “you did not do such a thing or are you saying it might have but I can’t recall?” You said, “Well, I can’t, cannot.” Go over the page. The Chief Commissioner asked you, “Well, what are you saying?” Then you say, “Oh, yeah, I cannot recall doing this.” Again I want to suggest that that answer was untruthful.---No.

Deliberately untruthful. What do you say?---No.

20 Then the Commissioner asked you again, “Does that leave open the possibility that you might have?” You say, “Look, I can’t recall, Commissioner.” Again I want to suggest that that evidence was untruthful. ---Where are your reading this from, sorry?

From about line 3 on the top of the page.---Sorry.

“Does that leave open the possibility”?---I can read that, yes.

30 Your answer, “Look, I can’t recall, Commissioner.” I want to suggest to you that that answer was untruthful and it was deliberately untruthful.---No.

I then put this proposition to you in line 10 that “I just want to explore this with you but this was a, this is a process where you would be going to Mr Colacicco with amounts of cash that he would then deposit into a bank account on your behalf. I want to suggest to you that would be something memorable.” You said, “Yes.” And I question that and say, “It would have been?” And you said, “Yeah.” “So when you say you don’t recall, doesn’t that suggest you do recall and that you didn’t do this because, this because you would remember if you had done this?” And you say, “Yes, I would remember.”---Yes, I can read that.

40

Yes. Could I then ask – I want to go forward a few pages in the questioning. Go to page 847. I draw to your attention.

THE COMMISSIONER: Sorry, what page are you on?

MR DARAMS: 847.

10 THE COMMISSIONER: Well, just before you get to that. Page 346, the third question that was put, “Well, the Chief Commissioner asked you this and perhaps I’ll ask it now to see whether this is the issue, but are you therefore saying it’s possible that you went to Mr Colacicco with”, don’t know what that word should be, it says “round amounts of cash and gave it to him to put into a bank account on your behalf?” Your answer, “You know, I cannot recall.”

MR DARAMS: That answer was untruthful and deliberately untruthful. ---No.

20 THE COMMISSIONER: Then the next question, “What circumstance would you be going to Mr Colacicco and giving him amounts of cash, round amounts on different occasions to give to him to put into a bank account on your behalf? In what circumstances would that happen?” Your answer, “I don’t know. What, what do you mean by ‘what circumstance’?” Your answer “I don’t know,” is that a truthful or untruthful answer?---I answered it there as I understood it. So answered that to my best of recollection, Commissioner.

I don’t think you’ve answered my question here.---When? Then or now?

30 I’ll put it again. When you answered to that question, “I don’t know,” was that a truthful or an untruthful response?---It was a truthful response at that stage, yes.

40 You say truthful? All right. The next question commences, “Well, I’m just trying to explore your answers with you ‘cause it’s, with respect, it seems to be slightly inconsistent because I’d understood that you would say, ‘If I had done that, given Mr Colacicco amounts of cash to put into a bank account, I would remember that,’ that’s one set of answers you’ve given, and then you say, ‘I don’t recall,’ which seems to permit the possibility that you did do this, you’ve forgotten about doing it.” And you responded, “Yeah. Well, I just don’t recall this and I probably have to look back and see if I’ve got any

records. I just don't recall this." Was that a truthful or untruthful answer?
---A truthful answer there.

It's truthful, you say?---Yes.

MR DARAMS: Truthful answer then?---Yes.

THE COMMISSIONER: And then in the second-last question on the page
846, "And why would you need a record to assist you?" "Yeah. Look, I
10 cannot recall this at all. I, this is, I don't even recognise the company."
Was that answer truthful or untruthful?---It's, it's truthful.

The next question, "Well, what about the, not sure if I asked you about this,
but what about the transaction on 10 February, another \$2,000?" Your
answer, "Well, yeah, I cannot recall it." Was that a truthful or untruthful
answer?---Truthful back then, yes.

Yes. Yes, Mr Darams.

20 MR DARAMS: Then if we go over the page, 847. Then question at the top
of the page, "Well, do you say that, we've got those transactions. Do you
say that this money is your money?" You said, "I don't even recall the
account." Was that a truthful answer?---Yes.

I want to suggest to you it wasn't truthful and it was deliberately untruthful.
---No.

No. Then if I can skip over the next question. Then question at line 11,
"Did you ask him" – being a reference to Mr Colacicco – "to, in the
30 vernacular, hide some money on your behalf?" You said, "Hive money?" I
clarified, "Hide, hide money on your behalf?" I then said, "You're shaking
your head." Then you said, "Not that I can recall." I want to suggest to you
that that answer was untruthful an deliberately untruthful. What do you
say?---No.

THE COMMISSIONER: Sorry, what's your response? Was it truthful?
---No.

It was not truthful?---Sorry.

40

Truthful or untruthful?---I'm – back then it was truthful, yes. Yes.

MR DARAMS: Could the witness be – can I go forward now to page 849 of the transcript. I draw your attention to line 7. There were some other questions between there and then, but back to this account. I said to you, “Well, I’d like to go back to these, just to get your evidence about these transactions if I may? So perhaps if we could back to page 33? So 2 March, cash deposit, 3,500. Did you give that money to Mr Colacicco to put into the bank account on your behalf?” You said, “Again, I, I, I cannot, cannot remember. Again, I cannot remember or recall doing that.” I want
10 to suggest to you that that answer was untruthful and it was deliberately untruthful.---No.

THE COMMISSIONER: You say that was a truthful answer? Is that right?---When I was asked that question back then, yes, that was a truthful answer.

MR DARAMS: Then if you go down to about line 15, “And if the witness could be shown page 39? The entry on 13 April.” I then ask you the question, “I’ll ask you the same question. I suspect you’re probably going
20 to give me the same answer that you don’t have any memory or recollection of giving Mr Colacicco \$5,000 on or about that date to put into a bank account on your behalf?” And you said, “No.” Was that evidence truthful? ---It was truthful then.

And “Again, can I ask you that, I assume you’ll give the same answer, that you can’t think of any reason why you would have done it on that day?” And the answer was “No.” Was that evidence truthful?---It was truth, truthful back then, yes.

30 Then line 30, “Likewise in relation to the deposit on 1 June, 5,000, Mr Tsirekas?” “Yes, I don’t, I can’t - - -” Were you going to say you can’t recall doing that?---At line 30, yes.

Can I ask the witness be shown page 850, then, of the transcript? Then I asked you this question at about line 12, “So if I would understand your evidence, in relation to each one of these cash deposits you can’t think of any reason why you would be giving Mr Colacicco cash amounts to put into a bank account on your behalf. That’s correct?” You said “Correct.” You couldn’t think of any reason.---To do with that statement, yes, because I
40 never saw a statement and I don’t understand Machonic.

No, no, sorry. The question, perhaps I'll do it again. So the question I said was "So if I would understand your evidence," being the evidence you gave on that occasion, "in relation to each one of these cash deposits you can't think of any reason why you would be giving Mr Colacicco cash amounts to put into a bank account on your behalf. That's correct?" You said "Correct."---Yes. At, at that point of time when questioned, that was the answer I gave.

10 THE COMMISSIONER: I think we know that, that's what's written on the page.---Yes, that's right.

MR DARAMS: But the evidence, I wanted to suggest to you, is that the answers you gave in relation to those transactions on 24 March, 2022 were untruthful, and I'm suggesting that they were deliberately untruthful by you.---I, I think this matter was raised again with - - -

20 No, just I'm putting a proposition to you that the answers that you gave on 24 March, 2022 that I've drawn your attention to and suggested to you which were untruthful, I'm suggesting that they were deliberately untruthful on your part.---Not deliberately untruthful, no.

They were untruthful?---They were not deliberately untruthful.

Now, could I ask the witness be shown page 1203 of the transcript of his compulsory examination on 7 April, 2022?

THE COMMISSIONER: Just pardon me a moment. Page again?

30 MR DARAMS: 1203.

THE COMMISSIONER: Yes.

MR DARAMS: So, Mr Tsirekas, this was the - - -

THE COMMISSIONER: Just pause there for a moment. Yes, now what pages – I gather you want to have the section 112 order varied in respect of pages, what 1202 through to, is that right?

40 MR DARAMS: Chief Commissioner, I believe yesterday you varied the section 112 direction, but out of abundant caution, if we were to vary it again to make sure it's clear?

THE COMMISSIONER: Yes. Right. Well, perhaps I'll do it in stages. In respect of the direction given by me on 7 April, 2022, in the compulsory examination on that date of the witness Mr Tsirekas, in light of the evidence that I consider it is necessary in the public interest to vary the direction to enable Counsel Assisting to examine the witness. I accordingly vary the direction given to permit Counsel to utilise from the transcript of 7 April, 2022, pages 1201 through to page 1206.

10

VARIATION OF SUPPRESSION ORDER: IN RESPECT OF THE DIRECTION GIVEN BY ME ON 7 APRIL, 2022, IN THE COMPULSORY EXAMINATION ON THAT DATE OF THE WITNESS MR TSIREKAS, IN LIGHT OF THE EVIDENCE THAT I CONSIDER IT IS NECESSARY IN THE PUBLIC INTEREST TO VARY THE DIRECTION TO ENABLE COUNSEL ASSISTING TO EXAMINE THE WITNESS. I ACCORDINGLY VARY THE DIRECTION GIVEN TO PERMIT COUNSEL TO UTILISE FROM THE TRANSCRIPT OF 7 APRIL, 2022, PAGES 1201 THROUGH TO PAGE 1206.

20

THE COMMISSIONER: Is that sufficient?

MR DARAMS: That'll be sufficient. So can we go to this page, 1203, and Mr Tsirekas, I draw your attention to about line 6. This is the question where I introduce, I say, "Now, I want to move to a slightly different matter. On the last occasion you were here in the compulsory examination I took you to the bank account for a company called Machonic. Do you recall that?" You said - - -?---Yes.

30

- - - "Yes." "We went through, if you might recall, a number of transactions in that bank account where amounts of money were deposited into the bank account. Do you recall that?" And you said, "Yes." The question I then asked you, "You accepted or acknowledged when you were here on the last occasion that moneys that were put into that bank account were then used to pay part of the deposit on your Ashfield unit that you had purchased. That's right?" And you said, "Yes." Then skip over a few questions. And then, okay, I said, "Right. You also said on the last occasion you didn't know where Mr Colacicco was getting the funds from. Do you remember saying that?" You said, "I think I, I said I couldn't recollect." I then go, "Right. Okay. Well, can you perhaps with the passage of time and thinking about

40

this since the last occasion, can you recollect now where Mr Colacicco was getting those funds from?" Then you say, "In answering it back there when you showed me it was, I couldn't, couldn't recollect and that's what the answer I gave you. So what, when I was answering, I thought that, you know, I was being, you know, not telling you the, the, the, the truth behind the thing by answering that way. So on, on reflection and, it's fair to say that I was, wasn't, wasn't being truthful." Now, that evidence that you gave on 7 April, 2022, where you admitted and conceded you weren't being truthful on 24 March, now that's the truth, wasn't it?---Put that again?

10

This evidence - - -?---Yes.

- - - that I've just read out to you - - -?---Yes.

- - - that you gave to us on 7 April, 2022, about the evidence you gave on 24 March - - -?---Yes, yes.

- - - is the truth, that is, you were being untruthful on 24 March, 2022?---No. It was to the best of my ability to answer those questions that I could.

20

You didn't, Mr Tsirekas, on 7 April, 2022, caveat your answer about whether you had been untruthful, in fact, you volunteered the fact that you had been untruthful with us on 24 March, 2022. I'm just suggesting to you that, in fact, when you in the vernacular put your hand up and accepted you had been untruthful when you were here on 7 April, 2022, that that was an occasion where you were actually being truthful. Do you agree with me? ---On this occasion here?

When you admitted that you had been untruthful on 24 March - - -

30

THE COMMISSIONER: You were being truthful then.

MR DARAMS: - - - you were being truthful then.

THE COMMISSIONER: You were being truthful about having been untruthful in the past is what's being - - -?---Right.

- - - put to you on 24 March?---No. I was being, I was answering the question to the best of my ability.

40

Mr Tsirekas, can I just make sure we understand each other. You know on both occasions, you were called to give evidence in the compulsory examination, and I'm referring now to 23 March of this year - - -?---Yes.

- - - and 7 April of this year. You had an oath administered to you before you started giving evidence on both occasions.---Mmm.

The oath taken by you was that you would give truthful answers to this Commission.---Yes.

10

Do you remember that?---Yes.

And you understood what that oath meant?---Yes.

It meant what it said, that you would give truthful evidence on both occasions.---Yes.

And you understand that the oath you took this morning still requires you to give truthful evidence.---Yes, Commissioner.

20

And you understand one of the important aspects of telling the truth is so that the Commission can get to the facts of the investigation?---Yes, Commissioner.

And you appreciate by a witness giving untruthful evidence, that's not only not helping the Commission, it is misleading the Commission. You understand that too?---Yes, Commissioner.

30 Now, Mr Tsirekas, your evidence on two occasions, 24 March, I'll call that occasion 1, and your evidence you gave on 7 April on the same matters, we'll call that the second occasion, were inconsistent in that on the second occasion you admitted, on oath, that the evidence you had given in relation to these funds that were banked had been, that you were being untruthful on that occasion. That's what you said on 7 April in the transcript that's now on the screen.---Yes, Commissioner.

And when you say you were being untruthful, as recorded at page 1203, you meant what you said, correct?---Correct, Commissioner.

40 Right. So the evidence you've been taken through, question-by-question from 24 March, in which it was put to you about each of the deposits, you

were taken through one after the other, all of them you indicated you had no knowledge about those deposits.---Yes, Commissioner.

You said you had no recollection. You had no knowledge at all about these deposits or where Mr Colacicco had got his funds from to put into the bank on those occasions when he made deposits. Do you remember giving that evidence?---I do.

10 Yes. And all of that evidence was untruthful, wasn't it, because you knew where Mr Colacicco was getting those cash amounts from which were deposited into the account.---No, Commissioner.

You do now know, don't you?---Yes.

Who did he get the cash deposits from?---From myself.

Yeah. Of all people in the world, the one who was giving him the cash deposits to put into the bank account, we've been through them one after the other, was you, wasn't it?---Yes, Commissioner.

20

Why didn't you tell the Commission that on 24 March of this year on the compulsory examination?---Clearly I wasn't, I didn't understand the company structure that was there and I couldn't remember the name and I didn't want to lie to the Commission about certain things that I couldn't recall or remember. So in effect I was trying to give the best answer I could on that occasion, but after the first compulsory hearing, I had time to reflect and understand a bit more, because I never did receive statements, and I couldn't recall that far back.

30 MR DARAMS: Mr Tsirekas, but on 24 March you were asked questions about, more broadly, about you giving cash to Mr Colacicco, correct? you remember those questions?---Yeah, yes, I do.

You said you couldn't recall ever doing that. Don't worry about Machonic. Just focus on the fact that you were actually asked a question about handing cash to Mr Colacicco.---Yes.

40 You never forgot and you did know on 24 March that you had done that, Mr Tsirekas.---No, because I couldn't recall the amounts or the dates, and I didn't want to answer something that I couldn't recall or give an answer to.

THE COMMISSIONER: Mr Tsirekas, really and truly, you were asked not about one or two deposits. You were taken through every one of them, a whole string of them, through the months of January, February, March, April. Every one of them you denied any knowledge of, of even having a go, didn't you?---At that stage I did, Commissioner.

And that was, each occasion was a separate lie, wasn't it? Because you did know. You knew who deposited them, namely yourself.---Yep.

10 And you knew that it had gone into the Machonic account or the account that Mr Colacicco had in his name or a name. Correct?---No, Commissioner.

You knew when you gave evidence on 24 March the person who gave the money to Mr Colacicco at the bank was you. You knew that on 24 March when you gave evidence, didn't you?---Not on those dates or anything like that, Commissioner. And I didn't want to - - -

20 No, no, the fact, the fact of handing the cash in the amounts that we've been through - - -?---After that date, yes.

- - - was known by you to have been given by you, firstly. Yes?---Yes, Commissioner.

And given by you to Mr Colacicco.---Yes, Commissioner.

And given to Mr Colacicco to the bank.---Yes, Commissioner.

30 You knew all of those facts. So that however many transactions there are, and you've been taken through all of them, there's quite a number of them, you were giving untruthful evidence to this Commission about each and every one of them, weren't you?---No, Commissioner.

See, even in answering my questions now, I'm searching for the truth. ---Yep.

40 And you're running the risk, as it seems to me, with respect, of telling more lies on top of what could be seen to be other lies, and you're not helping yourself right now in answering my questions.---I'm - - -

So - - -?---Sorry, Commissioner.

Mr Tsirekas, in the position you've now placed yourself in, this Commission now wants your full cooperation.---Yes, Commissioner.

So that it is not misled in the public interest in determining this investigation and the facts concerning them.---Yes, Commissioner.

And if you keep trying to, as it were, deny the obvious, this is not helping you one little bit, I can assure you.---Thank you, Commissioner.

10

It's certainly not helping the Commission, I should add. But you are not doing yourself any good at all by refusing to face up now to the facts as we now know them to be. You understand what I'm saying?---Yes, Commissioner.

So that in respect of all of the deposits, you've been asked today, we've been through all of them, each one of them, involving these cash deposits into the bank account, we now know the person who gave the money on each occasion to Mr Colacicco was yourself. We now know that you gave it to him so it could be banked into the account that he was operating. We know that now because you've confirmed that this afternoon.---Yeah, Commissioner.

20

Even if it wasn't apparent from your evidence from 7 April. Indeed, it was apparent from 7 April. That all being now ascertained, that is to say those facts, you were the one making the cash deposits, means that the evidence you gave about those cash deposits on 24 March was completely false, wasn't it?---No, Commissioner. I answered them to my best of remembering when they were put to me but on reflection I answered them on the second occasion where I tried to explain it.

30

MR DARAMS: Mr Tsirekas, the evidence you've given now is a lie as well.---No.

Mr Tsirekas, the reason you didn't tell us the truth on 24 March, 2022 was you were embarrassed and ashamed to tell us you were trying to hide money from your ex-wife.---Yes, that's right.

40

That's the reason you didn't tell us the truth on 24 March, Mr Tsirekas, not because you didn't know about the transactions, but you were embarrassed

that you would have to tell us why you were having this money put in the bank account, Mr Tsirekas, that's the reason.---It was part of the reason.

No, it's the reason you lied to the Commission on 24 March.---No, no.

Not because you didn't know about these transaction, but you were embarrassed and ashamed that you were hiding money from your wife, your ex-wife, and you didn't want to tell us, the Commission, that. That's why you lied to us.---No, no.

10

Could I ask that the witness be shown the transcript at page 1204? Pick up questioning at line 30. So "Each time I asked you on the last occasion you were here, whether that cash came from you and you gave it to Mr Colacicco, you said 'No' on each occasion. Remember that?" "Yes, I did say that." "So all of those answers were lies?" You say, "Well, I was embarrassed and ashamed to say that I was trying to hide money away from my ex-wife." The Chief Commissioner then says "Whether you were embarrassed or not, you accept they were lies?" "Lies." I said "You do accept that?" "Yes." So, I want to suggest to you again, Mr Tsirekas, it's quite clear that the reason you were untruthful on 24 March was not because you didn't recall these transactions, but it was because you were embarrassed and ashamed to tell this Commission the truth, that is you were trying to hide money from your ex-wife. That's why you said you didn't know about these transactions. That's the simple truth, Mr Tsirekas, isn't it?---No.

20

And I want to suggest to you, in all fairness, that the answer you've just given is also untruthful.---No.

30

THE COMMISSIONER: Mr Tsirekas, page 1204 of the compulsory examination transcript on 7 April, 2022, Counsel Assisting put to you, in the second and third question "When I asked you the question on the last occasion in relation to each of those transactions - - -" and you said "Yeah." "- - - you lied about it?" Your answer on your oath was "I was embarrassed, I was ashamed that we were, I was doing it that way to hide the money from my ex-wife." End quote. Do you stand by that evidence you gave that I just read to you or don't you?---No, I do stand by that evidence.

40

Right. So that was the reason then when you were telling these untruths about the cash deposits into the bank account given by you to Mr Colacicco and him banking them, is that right?---No, it's not, Commissioner.

It's not right? I see. Well, now please tell us, what was the reason as to why you gave the untruthful answers on 24 March in the compulsory examination to which reference has been made this afternoon?

---Commissioner, it's in the questions about line 18 where I was asked about if it was a lie and I said, "I have a mental block because I couldn't remember the name or the amount" that were banked.

10 But that's got nothing to do with - - -?---And that's, that's, that's true - - -

That's got nothing to do with the fact that money was banked, cash money, amounts of money, were banked by you into the account. You couldn't have forgotten that. Whether you remembered the amounts or the name, the facts were, weren't they, that you, when you gave this evidence on 7 April, knew that of course you were the one who had actually made the transactions, the cash transactions. Did you not? You're reading the screen and I'm asking you a question.---No, on reflection, on what you've just asked me, Commissioner - - -

20 Did you hear what I just said?---Yes, Commissioner.

You seem to be intently watching the screen, so do you want me to put the question again or do you remember it?---Yes, Commissioner. Please give it to me again.

30 Leaving aside whether you remember what you referred to as the name or the amount, you did know and you had remembered, on 24 March and on 7 April, that it was you who had taken the cash, given it to Colacicco to bank. That right? You've always known that.---No, Commissioner, not on the first occasion, and I'm being honest about it. We're going back seven years ago. I just came out of living from home. I'm just coming out of a separation. I'm depressed and, and concerned about my health and so were others. And this was shown to me for the first time, so I didn't recall it back then.

You didn't recall that you have actually taken the money and given it to Mr Colacicco to bank?---Commissioner, the, the name - - -

40 Are you now saying as truthful evidence - - -?---Yes.

- - - on 24 March you had no recollection of handing the cash for all of the transactions you've been through to Mr Colacicco?---That's right. I couldn't remember the amounts, the dates or - - -

No, no, I didn't ask you about amounts or dates. I said the fact of handing the money over physically, taking hold of it, handing it to Mr Colacicco - - - ?---I couldn't - - -

I haven't finished.---Sorry, Commissioner.

10

On multiple occasions, which you've been through, each and every one of them, do you say today on your oath that you had no recollection of having done that when you gave evidence on 24 March?---That's correct, Commissioner.

I see. All right. Well, then, could you try and explain this one for me? Why then on 7 April did you admit that you had given untruthful evidence about those selfsame matters?---It, it gave me an opportunity to reflect on what was asked of me, and to try to recall those events that happened seven years ago. And with that answer to the questions that I asked, that I was asked at the second hearing date.

20

Could I ask you this? Did you hear Mr Colacicco give evidence in this Commission?---Yes, Commissioner.

Did you hear Mr Colacicco, in answer to some questions that were put to him about these banking transactions, give evidence as to the circumstances in which he received the money from you?---Not word by word but I recall him giving evidence.

30

And that was after 23 April.---Yes, Commissioner.

Do you dispute or do you accept Mr Colacicco's account in relation to receiving cash moneys from you?---I'm not disputing that, no.

In other words, you don't say he was lying or he got it wrong?---No.

He was right, is that right?---From his point of view, and I agreed on it.

No, not from his point of view. From your point of view do you accept what Mr Colacicco said about you delivering cash to him and he would then go and bank it?---Yes.

You accept that was a truthful account by Mr Colacicco?---Yes. Well, yes.

Yeah, right. And do you agree then that you would meet with him behind his office, real estate office, on each of these occasions and delivered to him a parcel or an amount of cash on each occasion for him to bank?

10 ---Yeah, okay - - -

As he said.---Yeah, yeah, can't remember the specifics, but yes, I, I, I'd agree that where - - -

Well, you remember where was, do you accept Mr Colacicco's account that the place where the cash handover occurred on each occasion was at the back of his office premises?---Yes. Yes, Commissioner.

20 Right. So you would drive in with a bundle of cash - - -?---Yes.

- - - sometime, well, we know the amounts, thousands of dollars in cash, in what, how was it packaged, a bag or wrapped up or - - -?---No, it was just, no, no, it was just, well, I can't recall, really, but, I, yeah. Sometimes it was just money that dad gave me in, in, in a bundle.

You had different amounts, didn't you?---Yes.

Sometimes it was 5,000, sometimes it was 10,000?---Yeah. Yes.

30 How would they be physically delivered so that Mr Colacicco could just take it from you and receive it?---Yeah, well - - -

Were they in a container or - - -?---No, no.

Just describe for me, would you?---No, I, just in a bundle.

What were the circumstances?---As far as I can recall, it was just in a, in a bundle.

40 Yeah. Where was - - -?---My father – sorry?

- - - the bundle? Was the bundle in a bag, a case or - - -?---No, no, no. No, I, I, as far as I can recall, I, I just handed the, the cash over after dad and I would, would count it.

So you would drive in in your car on these occasions?---Yeah.

How did you get to his office?---Well, I, I'd drive, yeah.

Right. In a car?---In a car or - - -

10

All right. So you're driving the car and on some occasions, you might have \$5,000 or 10,000 or whatever the amount in a bundle?---Yes.

So you get out of the car, you take the bundle of cash with you and you just hand it over to him?---I, I'd tell him after dad and I would count it how much it was and he'd bank it.

20

Anyway, I was going to ask you, what discussion would take place? You got out of the car, you'd have a bundle of money, thousands of dollars of one order or another. You'd then, what, physically hand it to Mr Colacicco?---Yes.

And what would be said on these occasions?---I, I can't recall specific words but I'd say - - -

The effect of what - - -?--- - - - that, that, you know, dad and I have counted this money, please bank it.

30

That's about all, yeah?---Well, I can't recall the conversation, no.

And this was the routine over and over and over again in respect of all of the transactions we've been discussing?---Yes.

Did you explain to Mr Colacicco what was behind this arrangement?
---Again, I would have explained to him that my father is helping me and that I wanted to, you know, have his, our money put aside in, into an account and that's why it was open, so again my former wife during these periods couldn't get her, you know, as an asset and that dad was trying to help me purchase property.

40

And you say you explained this to Mr Colacicco?---Yes, it is.

That this was behind this dropping off of cash, him taking thousands of dollars and banking it - - -?---Yeah.

- - - putting it into a bank account, not in your name but - - -?---No.

- - - in some other name?---Yeah. Yes, I would have told him - - -

But did you hear Mr Colacicco's evidence about that?---Yes.

10

When he was asked, "Well, did you understand what this was all about, you know, what's the backstory to" - - -?---Yeah.

- - - "all these cash drops?" you recall his evidence?---Yes - - -

What did he say, as you recall it?---As I recall it, he said he, he didn't, he didn't know when he was banking it but it was quite clear that he, he knew the circumstances with my wife and that he was trying to help and he knew that my father was trying to help me, too.

20

But, you see, you heard his evidence to say, he didn't know what was behind this somewhat perhaps mysterious arrangement - - -?---Mmm.

- - - and he says he didn't want to know - - -?---Yeah.

- - - 'cause he felt uncomfortable about it?---Yeah - - -

Do you recall him giving evidence to that effect?---Yeah, yes, Commissioner.

30

See, on Mr Colacicco's evidence, he wasn't told what the backstory was, in fact he was concerned that it might be, perhaps there might be a sinister reason behind it. He gave evidence to that effect, that's not his actual words. Do you recall hearing him say that?---Yes, Commissioner.

Mmm. So I'm putting to you, you couldn't have explained to him the matters you've just raised about money coming from your dad and divorces and so on because he said he didn't know and he didn't want to know.

40 ---Yes, Commissioner, and again the circumstances there was that I was very embarrassed and ashamed that I was doing this. Mr Colacicco was aware that my father was helping and the circumstances that was I in and

certainly familiar it was a very bad situation that I was going through and my father, you know, passed, passed away a couple of years ago and he was, he was trying to help me.

You explained all that to Mr Colacicco, did you?---He knew my circumstances.

10 No, you explained all of that, this arrangement to get the bank account set up, cash will be delivered, you to bank it in the name of the operator of the account. You say you explained all that to Mr Colacicco, did you? That was the reason that you were doing it, because of hiding money from your wife and your dad was contributing cash. You explained all that to him, did you? Did you?---Not every time I gave him the, the, the cash.

Ever?---No. I, I did explain to him and he understood that my father was helping, the circumstances that I was in, and I think he explained those circumstances, and that we, we, he agreed to help me set up this account.

20 Well, he said he didn't know and understand why this arrangement was going forward and didn't want to know, you say that that evidence given by him was false, that was not right?---No, I'm not saying that it's false, Commissioner.

Well, we said he didn't know and he didn't want to know.---Yeah, yeah.
Well - - -

30 That's contrary to what you're saying, that you filled him in exactly on why it was being conducted in this fashion. So either he's right or you're right, one of you is wrong.---Well - - -

Are you suggesting he is wrong?---No, I'm not, Commissioner. And again - - -

Okay. Yes, Mr Darams.

MR DARAMS: Mr Tsirekas, all of the cash deposits that were made into the Machonic bank account, of you say each and every one of those came from your father to you?---Yes.

40 So \$41,250 in cash was given to you by your father in 2015?---Was it '14 or '15?

No, the money went into the bank account in 2015.---In the beginning of '15, wasn't it?

Yep, commencing January 2015 and ending in December 2015. \$41,250 in cash from your father during this year.---Yes.

THE COMMISSIONER: Now, is that truthful evidence?---Yes.

10 Are you sure?---Yes.

MR DARAMS: So your father passed away on 2017?---Yes.

He was 80 when he passed away, correct?---79/80, yeah.

So 2015, he's 77/78.---Ah hmm.

Retired for many years?---From his full-time employment.

20 He was on the pension?---I think so, yeah.

Your mother was living with him?---Yes.

She was on the pension too?---I think so.

Receiving Commonwealth Government benefits?---I think so.

Now, where does your father get \$41,250 in 2015 to give to you as cash?
Where does he get it from?---I, I know that my father always had cash. He
30 did, you know, frequently did on-the-side jobs of detailing. He, he has done
that for a number of years, that was his full-time job prior to building. He
always had cash and he also liked a bit of club, pub poker machines that he
would go out and, and enjoy.

But my question – I'll come back to the gambling in a moment. My
question is, where did your father get the \$41,250 in 2015 when he's an
aged pensioner? Where did he get that money to give to you?---Throughout
his life he always had cash on him. And certainly he was understanding my
position and willing to help in my circumstances. So he was willing to help
40 me with the money.

My question is where did he get the cash from?---He always had cash at home. He would do, you know, work at home in the garage.

What would he be doing in the garage?---Just detailing cars, I don't know.

Well, when you say "detailing cars", do you mean – like, I understand detailing is washing the outside, washing the inside of the car.---Full details, yeah.

10 What was he charging for that?---I don't know.

Back in 2015.---I don't know, it's - - -

\$150?---No, I don't know the amount.

Okay. Well - - -

THE COMMISSIONER: So your father is a pensioner at the time, 2015. He and your mother lived off the pension?---Yes.

20

He's 77, 78 at that time.---Mmm.

So I daresay after retirement age, as he moved towards 78, as part of the human condition, the ability of one to continue to do physical or manual work starts to dissipate, doesn't it?---Mmm. Yes.

Now, it's true, isn't it, that your mum and dad did not have a lavish lifestyle? And it's no criticism of them, but that's the reality.---Mmm, mmm.

30

They lived off the pension, didn't they?---And whatever they had, yes.

Yeah. Might have a little fritter on the pokies or something like that, but they were not big gamblers.---I, look, I don't know whether he's big or not because I was never with him.

So putting it as fairly as I can, back in 2015 would it be true to say your parents led a frugal lifestyle?---I wouldn't say frugal. They enjoyed themselves.

40

Frugal in terms of they didn't have much in the way of spare cash to live on.---Well - - -

Spare money. Is that right?---My father – yes.

Am I right or not?---No, Commissioner.

Well, how would you describe their financial position?---They were comfortable.

10

Comfortable? What's comfortable mean?---Well, didn't have a mortgage, they had what they wanted and they were comfortable.

MR DARAMS: Did you have this conversation with your parents about their financial circumstance?---No, no.

You didn't?---No.

Did you know they had a reverse mortgage?---Um - - -

20

You know what a reverse mortgage is, don't you?---At a later stage he borrowed money.

No, no. Do you know what a reverse mortgage is?---On the house, yeah, they borrowed money.

Yeah. They were borrowing against the equity to - - -?---Yes, I know that.

So you know that they had that during 2015?---I, at one stage, yes.

30

But did you understand they had that during 2015 when you say your father was giving you \$41,250 in cash?---Yes.

So you just say you, I take it you were comfortable in those circumstances. Your parents have a reverse mortgage, drawing down upon that during 2015?---Yes.

To take cash from your parents in those circumstances?---He was happy to support me and that was one way that he wanted to support me.

40

In relation to this flutter or whatever they had at the club, which club was it they used to go to?---Oh, oh, look, I don't know which – he, he would, he wouldn't tell me where he went. Local pubs. I don't know, he had some friends that he went out with.

But where to? West Ashfield?---On occasions he'd go there, I think.

Anywhere else you can remember them going?---Oh, he had a group of mates that he'd go out with. I, I don't know.

10

Do you know what the pension was in 2015?---No.

About \$650 a fortnight.---Yeah, no, I didn't.

So just going back to this detailing. I mean, do you have any knowledge at all or understanding of how many cars a week your father was detailing at 77, 78 years of age?---As I think I said before, he'd been doing it for a long time prior to that period, so, you know, it, it, it, on occasions, there'd be, my understanding, he, he'd tell me he'd do a few a week, on other occasions, he, he wouldn't. So I can't tell you exactly how many he would do.

20

What, he's doing, these are all cash in hand jobs, are they?---I'd say so. I, I didn't ask but I think so.

Not telling the government when he's on the pension?---Probably not.

So just going back again to this, are you saying that your father had, what, significant sums of cash, let's say at the beginning of 2015, before he starts giving you cash, he's got this cash reserve sitting at home, has he?---I, again, I'll try to explain. He, he'd always have cash, so - - -

30

Yeah. Okay. Well, how much cash did he have at home?---I, I can't, he wouldn't tell me. But as a typical European who didn't, you know, trust institutions or, he'd like to have the security of cash at home.

Well, where did he keep it?---I, I don't know.

Shoebox?---I don't know.

40 Did he have a safe?---I don't know.

Did he keep this cash at home even after they were robbed?---I don't know.

You remember your parents got robbed?---Yeah, can't, I can't recall that but
- - -

But you remember them getting robbed in the - - -?---No, I don't.

You have no knowledge of your parents getting robbed?---No. If you can
tell me when, I, I don't remember.

10

Okay. So just if your dad had this stash of cash at home, beginning of 2015,
why doesn't he just give it to you in one lump sum, say, "Here, Angelo, I
want to help you out, here's \$50,000, \$40,000"?---You keep referring to
2015. As I've tried to explain, he, he'd always have cash, so - - -

That's what I'm asking you.--- - - - you know, I, well, I don't think that was
the question.

20 Yeah. I said if he had an amount of cash at the beginning of 2015 when you
started putting in - - -?---Yeah.

- - - these, giving you these amounts of money, why didn't he just give the
cash to you in one lump sum and say, "Here, Angelo, I've got this cash. I
want to help you out. Let's put it into the bank"?---I, I can't give you an
answer to that. He'd, he'd come to me and say, "Look, you know, here's
some more that I can assist you with," and I'd count it with him and, and put
it into the, the account or - - -

30 Did the cash that you were putting into this bank account or giving to Mr
Colacicco to put in this bank account come from people other than your
father?---No.

Come from Mr Chidiac?---No.

Come from other developer interests in the local area?---No.

Your oath and evidence under oath is that all of the money, the 41,250,
came from your father?---Yes.

Just in relation to your evidence about hiding the money from your ex-wife, as I've understood your evidence, the money was going to be used to buy the Ashfield unit. Correct?---That's what came up, the Ashfield unit.

But you said before that your father was going to help you out in relation to purchasing property?---Well, to help me on my way, yes.

Well, no. As I understood your evidence before, that's why your father was giving you this money?---No, that's right, to help me on my way.

10

Didn't want to see you rent?---He didn't like to see me burn the money, no.

Burn the money in rent?---Rent.

So as I understand your evidence, you set up this bank account or set up this company with a bank account, with Mr Colacicco?---Yes.

To hide money from your wife, ex-wife?---Yes.

20 Money that you were going to use to purchase property with?---Yes.

So I want to suggest to you that, in fact, the property that you were thinking about purchasing at the time that your dad was helping you out, you say, with these cash deposits or the cash that he was giving to you was the Ashfield unit?---Well, that's what came up - - -

No, well, I'm suggesting to you that that's exactly the unit you had in mind, the property you had in mind?---Again, that's what came up in available.

30 When did it come up?---I can't recall. We were looking at off plan, I can't recall the date.

Well, it was before the end of 2015?---Yes.

I want to suggest to you it was before the beginning of 2015.---Before 2015, I can't recall.

See, I want to suggest to you that during 2014 and 2015 you were discussing the potential purchase of the Ashfield unit with your wife, weren't you?

40 ---No.

You weren't - - -?---With my wife?

With your ex-wife.---No. I know what you showed me yesterday on the affidavit. The period where I was, yeah, of, of concern about securing that was when they were finally asking for a final payment as such and that would have been in 2018, and that's when I would have been discussing again with my ex-wife.

10 Sorry, just let me understand that evidence you've just given. You say the evidence, or the statement that you called at affidavit, but the document that was filed in the Federal Circuit Court that you attested or said was the truth, that's what you're referring to?---To, to the best of my knowledge, that was what I signed but can I tell you that I have done many affidavits over the eight years or seven years and I can't remember every one of them.

But the document you just referred to was that statement that I took you to yesterday.---And it had corrections in specific - - -

20 Well, the only thing you wanted to correct was something in the first sentence where you had said, in 2019, which you said was the truth, was that you had been discussing with your wife - - -?---Ex-wife.

Ex-wife, sorry. Sorry, before your separation.---That's incorrect.

Well, I know you corrected it yesterday.---It's incorrect.

But you also accepted yesterday that you had discussions with your wife about the purchased of the Ashfield unit. You accepted that yesterday. ---They weren't real, real discussions, okay? They, they were more - - -

30

THE COMMISSIONER: Just a minute, just a minute - - -

MR DARAMS: You accepted yesterday - - -?---I didn't - yes.

THE COMMISSIONER: Let's take it a step at a time. Is it true that you did discuss with you ex-wife the intention that you had to buy real estate, and you referred in that respect to the Ashfield unit in your discussions with her about that matter?---Yes, I did, Commissioner. At a particular stage, yes.

40

And that's consistent with what we see written in the matrimonial document?---If you can, no, it is not. There's some inconsistencies there.

Okay. You recall that the document we looked at yesterday, which was part of the documentation in your matrimonial cause, disclosed that you'd had conversations with her, or indeed it suggested there was an agreement reached at one point, about using the Ashfield unit to be purchased as security. You recall that being in the document?---Yes, yes, Commissioner. I do.

10

And I think there was evidence you gave that there had been some discussions between you and your ex-wife about using the new unit, the Ashfield unit, as security?---No, Commissioner.

But you had discussed, firstly, the Ashfield unit with her?---At a very late stage, yes.

And you discussed the prospect of using it as security.---For property if it did come up.

20

Yes. But using it as security for a loan, to complete the purchase.---To, to support, yeah. Look, I don't want to go into it, Commissioner, but - - -

Okay. I'll see if I can do this very sharply and quickly. I'll ask questions and see if you can just answer directly.---Certainly.

First question, did you have some discussions with your ex-wife about the Ashfield unit that you proposed to purchase?---Yes.

30

Did those discussions include the question as to the prospect that that unit could provide or be used as security for a loan to be able to complete the purchase of that unit?---No.

Third question. Did you raise and discuss with your ex-wife the question of a security for a loan?---At a late stage, yes.

Yes. The answer's yes. And did you have a discussion with her about using the security to get a loan to complete the purchase of the unit itself?---At a very late stage, yes.

40

Yes. And did those communications, discussions on those matters between her and you, at least at some point, culminate in an agreement that the unit would be used as security?---No.

No? I see. Did their – the fifth question or proposition. Was there a discussion between you and your ex-wife of using the Ashfield unit as security to which she agreed, but then at a later stage she said she would not be party to using it as security? Did you have those discussions?---I never got an answer.

10

Sorry, what's the answer to my question? Did you have - - -?---No

No. Thank you.

MR DARAMS: Mr Tsirekas, I think the Commissioner asked you about using the Ashfield unit, but you understood what he was referring to was the matrimonial property as security?---No, I, I, I - - -

20 That's what you understood when he was asking those questions?---Well, got a bit confused - - -

THE COMMISSIONER: Let's be clear about it. If I've made a - - -

MR DARAMS: Yeah, no, we need to be clear. So the conversations you had with your wife, the discussions you had with your wife, was using the matrimonial home as security for the purchase of the Ashfield property? ---At a very late stage, yeah.

30 Okay. So - - -?---All right. I understood what Commissioner, I - - -

You understood that – yes, you understood the Commissioner was asking, even though he referred to using the Ashfield property, what he was asking you about was using the matrimonial property?---I gathered that.

Yes. So you understood that. But you then said “at a late stage”.---Yes.

Now, when you say at a late stage, what do you want to tell us is this late stage?---Because - - -

40 No, no, when? When?---Conversations were infrequent.

When?---Oh - - -

When's this late stage?---I can't recall the date but it would have been - - -

Well, use it by reference to the Ashfield transaction. Use it by reference to the things that happened in Ashfield.---To the best of my recollection, it would have been very late in the stage where they were requiring further funds to proceed with the contract.

10 So you mean, what, 2018 or something like that?---I can't recall but at a late stage.

THE COMMISSIONER: Well, just give us some idea. Is this before, after the exchange of contracts on the Ashfield unit?---Yeah, on exchange of contracts.

20 These discussions that you had with your wife, you say they occurred at a late stage. By "late stage" do you mean to say it was some time after the date of exchange of contracts for the purchase of the Ashfield unit?---At a later stage, yes.

And how much later was it?---I think, Commissioner, to the best of my recollection, it was when further funds were required to proceed with the purchase.

To complete the purchase?---Yeah.

30 MR DARAMS: After the deposits had all been paid, a deposit had been paid?---Yes, yeah.

See, I want to suggest to you, Mr Tsirekas, that – first suggestion I want to put to you is that the evidence you're giving now is different to the version of the events that was in that financial questionnaire that I took you to yesterday. You accept that, don't you?---There were some, yeah, there were some - - -

No.--- - - - like, incorrect information on that, yeah.

40 My question was that the version of the events you're giving now about when these discussions with your wife occurred - - -?---Yes.

- - - is inconsistent with what you said was the true state of events in that financial questionnaire back in 2019, that's right?---Could you, yeah, I, I can't remember the second part of the affidavit that you put up. But first, first one was incorrect.

Well, I don't want to - - -?---If you can put it up again.

Yeah, I think we should bring it up again. So page 8 of 13 of the questionnaire.---Is this document shown on the public?

10

It's coming up. No, it won't be streamed live and there's a suppression order over it, Mr Tsirekas.---Thank you.

So, Mr Tsirekas, I draw your attention to the subparagraph (d), we went through this yesterday. So the first sentence, "Prior to separation the parties agreed." You changed that yesterday, you said that the words "Prior to separation" is not correct and it was after separation.---Yes.

20

But the reference to "the parties agreed for the Russell Lea property to be used as security in order to raise a mortgage to complete the purchase of the Ashfield property" that's still correct. So you had, as you understood it, an agreement with your ex-wife, that's right?---That's right. Can I just - - -

That's your understanding based on discussions you had with your wife.---I had many discussions and we also agreed to support the girls if they were to buy a property.

Don't worry about the children.---All right. Just giving context, okay.

30

No, no. Just focus on the questions I'm asking you, please.---Yep. Apologies.

40

So you've had discussions with your ex-wife, you had agreed the matrimonial home is going to be used as security in order to raise a mortgage to complete the purchase of the Ashfield property. So there's discussions with your ex-wife. You agreed yesterday that you were operating on the understanding, from those discussions, and that understanding you had about the use of the matrimonial property continued at all times up until the time that I said yesterday, I used the words your wife reneged, as you would say, on this agreement which happened, that is the

renege on the agreement, happened after exchange, after 24 December, 2015. That's right?---No.

When do you say these discussions with your wife occurred?---There was no real understanding that it was going to happen but, but there, there was, there was no understanding that, that my ex was going to support purchasing the property.

10 That's what you say here though. You say there was an agreement.---No, no. There was no agreement.

But that's what you say.

THE COMMISSIONER: That's what you've said.---But the, Commissioner, there, there was no agreement.

20 Just pausing there. I accept, for the moment, you say there was no agreement to use the matrimonial home as security for the purchase of the Ashfield unit, is that right?---That's correct, that's correct.

Well, this document that you see on the screen, page 8 of 13 and signed by you, in subparagraph (d), as you would appreciate, says exactly the opposite.---Yeah, yeah.

Doesn't it?---Well, yes, we, we discussed it.

30 Yeah, no, please just stay with my questions. This document in (d) is to the effect that you and your ex-wife had an agreement concerning the Russell Lea property as set out in paragraph (d). Correct?---No.

I mean, that's what it says.---I, I can read it but it - - -

Okay. But let's take a step at a time. If you cast your eyes onto the page into (d) and read it again, just the first two lines, you see it asserts, it states that the "parties agreed". Can you see those two words "parties agreed"? ---I, I can read them, yes.

40 Now, you're saying, are you, there was no agreement?---There was no agreement.

Why then did you sign this document to say that there was an agreement?
---I, look, again, Commissioner, I, I sign many of these affidavit documents.
I, I wasn't really wanting to prolong this. I wanted to finish this. I wanted
to get this all over and done with. I probably didn't read every word, line by
line. To the best of my recollection, I was signing something that, that, you
know, at that time, in my mind was, was what was happening.

MR DARAMS: Mr Tsirekas - - -

10 THE COMMISSIONER: You would agree, would you not, this is a solemn
document?---Yeah, yeah, I understand.

This is not just any old document?---Yeah, I understand, Commissioner.

MR DARAMS: Mr Tsirekas, I want to suggest to you, just before we
adjourn, I want to suggest to you that you're now changing, you're seeking
to change what you said on this occasion in June 2016 because you actually
now realise that it's not going to assist you in your story in relation - - -?
---No.

20

- - - to the moneys going into the Machonic bank account that somehow you
were doing that to hide this from your wife because, in fact, there would be
no need to hide it from your wife because you were having conversations
with your wife - - -?---No.

- - - about the Ashfield property and you now realise that this document you
signed in 2019 doesn't match up with the story you're giving about this
bank account? What do you say about that?---No, that's incorrect.

30 Okay. If that's an appropriate time?

THE COMMISSIONER: Very well. We'll adjourn. I propose resuming at
9.30 in the morning to try and pick up some time. I will have to adjourn at
about midday. I have another commitment, online commitment at midday,
so to pick up time, I'm proposing to sit at 9.30. Does that occasion any
particular difficulty to anyone? Mr Leggat?

MR LEGGAT: No, Chief Commissioner. Thank you.

40 THE COMMISSIONER: Thank you. Very well. I'll adjourn. 9.30
tomorrow.

THE WITNESS STOOD DOWN

[4.02pm]

AT 4.02PM THE MATTER WAS ADJOURNED ACCORDINGLY

[4.02pm]