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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 THURSDAY 2 JUNE, 2022

AT 9.30AM

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: Mr Darams.

MR DARAMS: Ready to proceed.

THE COMMISSIONER: Ready to proceed?

MR DARAMS: We are ready to proceed.

10 THE COMMISSIONER: I'll have the witness re-sworn. Thank you. Just
take the Bible there, thanks, Mr Tsirekas.

THE COMMISSIONER: Yes. The declaration I made under section 38 of the Act continues to apply to today's proceedings in respect of the evidence of the witness. Yes.

MR DARAMS: Mr Tsirekas, I was asking you some questions yesterday about the cash deposits into the Machonic bank account. Do you recall that?---Yes.

Your evidence was that all of the cash deposits put into that bank account by Mr Colacicco were amounts of cash that you handed or provided to Mr Colacicco.---Yes.

Those amounts of cash you were given by your father?---Yes.

Did your father give those amounts of cash to you as a loan or did he give it to you as a gift?---We, we didn't really talk about it. It was a loan, yeah.

THE COMMISSIONER: Mr Darams, can I just interrupt you for a moment? I just need to speak to my associate. Yes, thank you.

THE WITNESS: Well, can I correct that? You asked me whether it was a loan or a gift. It was neither.

MR DARAMS: What was it?---He was supporting me.

But did you have, when he gave you these amounts of cash, did you understand you would have to repay them, the amounts given to you?---No.

So did you understand that when he was supporting you, he was giving you the money that you could do with as you pleased?---No.

You understood, did you, that he was giving the money to you so that you could put it towards or apply it towards the purchase of the Ashfield unit, is that right?---No.

What did you understand you could do with the money when your father was giving it to you?---The simple answer is that he was going support me

get back on my feet and to look at somewhere, somehow to purchase a property.

So do I understand from that evidence that when your father gave these amounts of money to you, you didn't understand that you were under any obligation to repay the money to your father but he was giving it to you, as you have indicated, to support you?---Yes.

10 I take it that that's the reason, that is it wasn't a loan to you, that's the reason why you didn't disclose that loan or those amounts your father gave to you in your annual disclosures with the Canterbury Council. Is that right?---It was between a father and son and I didn't disclose it, no.

Mr Tsirekas, I know you didn't disclose, in fact, you didn't disclose a lot of things, and we'll come that later on.---Mmm.

20 But just focus on my question, please. I'm just suggesting to you because you said it wasn't a loan from your father, that explains why, if it wasn't a loan, you didn't disclose it in your annual disclosures that you completed with the Canterbury Council. Correct?---Correct.

MR LEGGAT: Chief Commissioner, my learned friend's clearly referring to Canada Bay Council rather than - - -

MR DARAMS: Sorry? Did I say "Canterbury Council"?

MR LEGGAT: Yes.

30 THE COMMISSIONER: Yes.

MR DARAMS: I'm indebted to Mr Leggat. I apologise.

THE COMMISSIONER: Thank you, Mr Leggat.

MR DARAMS: Canterbury Council – sorry, Canada Bay Council. Could I ask that the financial questionnaire document be brought up? [REDACTED]

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I see. Just back to these amounts of money that you say your father gave you in 2015, you remember the exchange you had with the Chief Commissioner yesterday when the Chief Commissioner was outlining, in effect, the substance of Mr Colacicco's evidence on this? Do you remember that?---Yes.

30 I want to suggest to you that if we, that is the Commission, were trying to corroborate the explanation you give about receiving the moneys from your father, the Commission's not able to corroborate that from Mr Colacicco's evidence. Do you accept that?---No.

You don't accept that?---No.

40 Mr Colacicco – again, this is the substance to the effect outlined to you yesterday by the Chief Commissioner – Mr Colacicco's evidence to this Commission is that he didn't know where you were getting those sums of money from. Do you remember him giving that evidence?---I do.

Yep. Do you say that Mr Colacicco's evidence about that is not correct or is false? Is that what you say?---It's not correct.

It's not correct. Well, you did hear Mr Colacicco's evidence, that he didn't know where you were getting these moneys from, that's right?---I did hear that.

So the Commission's heard Mr Colacicco's evidence on that, that's right?
---Correct.

10

You've given your evidence about what you say you told Mr Colacicco, that's correct?---Correct.

Do you accept there's a difference between what you and Mr Colacicco say about that matter in particular?---No.

20

No. Putting aside Mr Colacicco, is there any other information, whether that be in a document or whether it be some other person, who might be able to assist this Commission to corroborate your explanation as to where you got these sums of money from in 2015?---Apart from my father, no.

We obviously can't ask your father, that's right? What about your mother?
---Oh, you could, you could ask my mother but dad was not the type of person who would explain where he got his money from to everybody.

Have you ever had a conversation with your mother where you spoke to her about the money or the assistance you say your father was giving you?
---No.

30

Did you ever have a -- sorry, have you ever had a conversation with your mother about any one or more of these payments that your father was giving you in 2015?---I, I can't recall. This is a fair while ago.

I'm just asking - - ?---So I can't recall if mum ever asked me or, or, you know, I can't recall.

So it's possible your mother might be able to assist this Commission, that's one possibility?---One possibility, yeah.

40

Other than that does it come down to this, Mr Tsirekas, the Commission is left with the position that it has to, in order to determine the truth of where

this money was coming from, has to accept your explanation on that, is that right? Is that what it boils down to?---Ask me again, sorry.

Yeah. So you've explained and told this Commission that your father gave you those sums of money, that's right?---That's right.

I'm asking you is there anyone else or any other document or evidence you might be able to point to to corroborate that explanation? You've identified we can't ask your father, that's obvious, correct? That's right?---Of course.

10

There's the issue between yourself and Mr Colacicco in terms of what you say you told Mr Colacicco and what Mr Colacicco's told the Commission he understood. That's right? The Commission has to resolve that issue. Is that right?---That's right.

Again, the Commission has to make a determination as to who it accepts in relation to that evidence, that's right?---I assume so, yes.

20 It's the possibility your mother might be able to shed light on whether or not your father gave you these amounts of money, that's correct?---It's a possibility, yes.

Absent that, it really comes down to accepting your word on this matter, doesn't it, Mr Tsirekas?---Yes.

The Commission would have to accept that you're a witness of truth in respect of at least that matter, correct?---Yes.

30 If I could just bring the financial questionnaire up.

[REDACTED]

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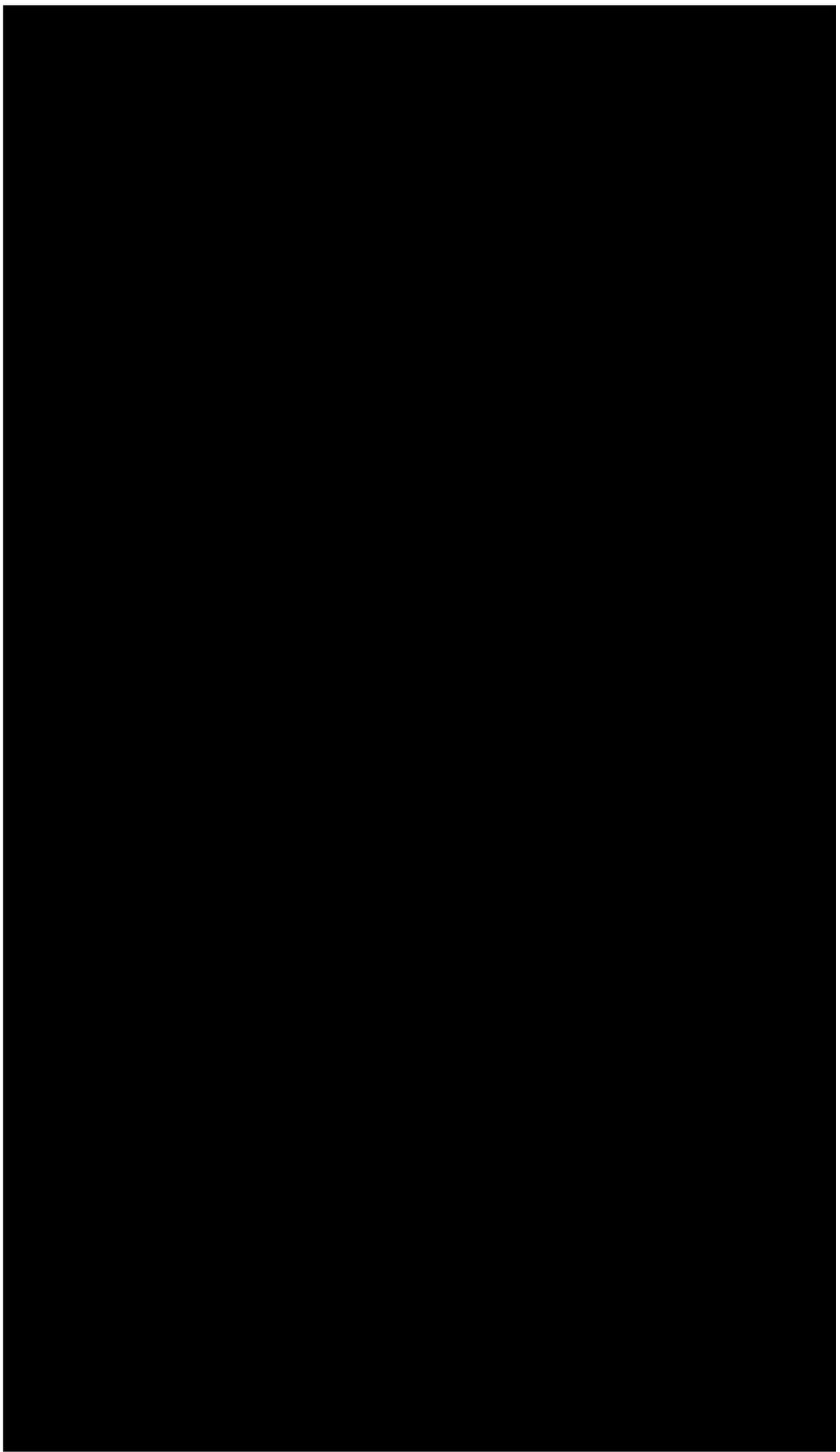
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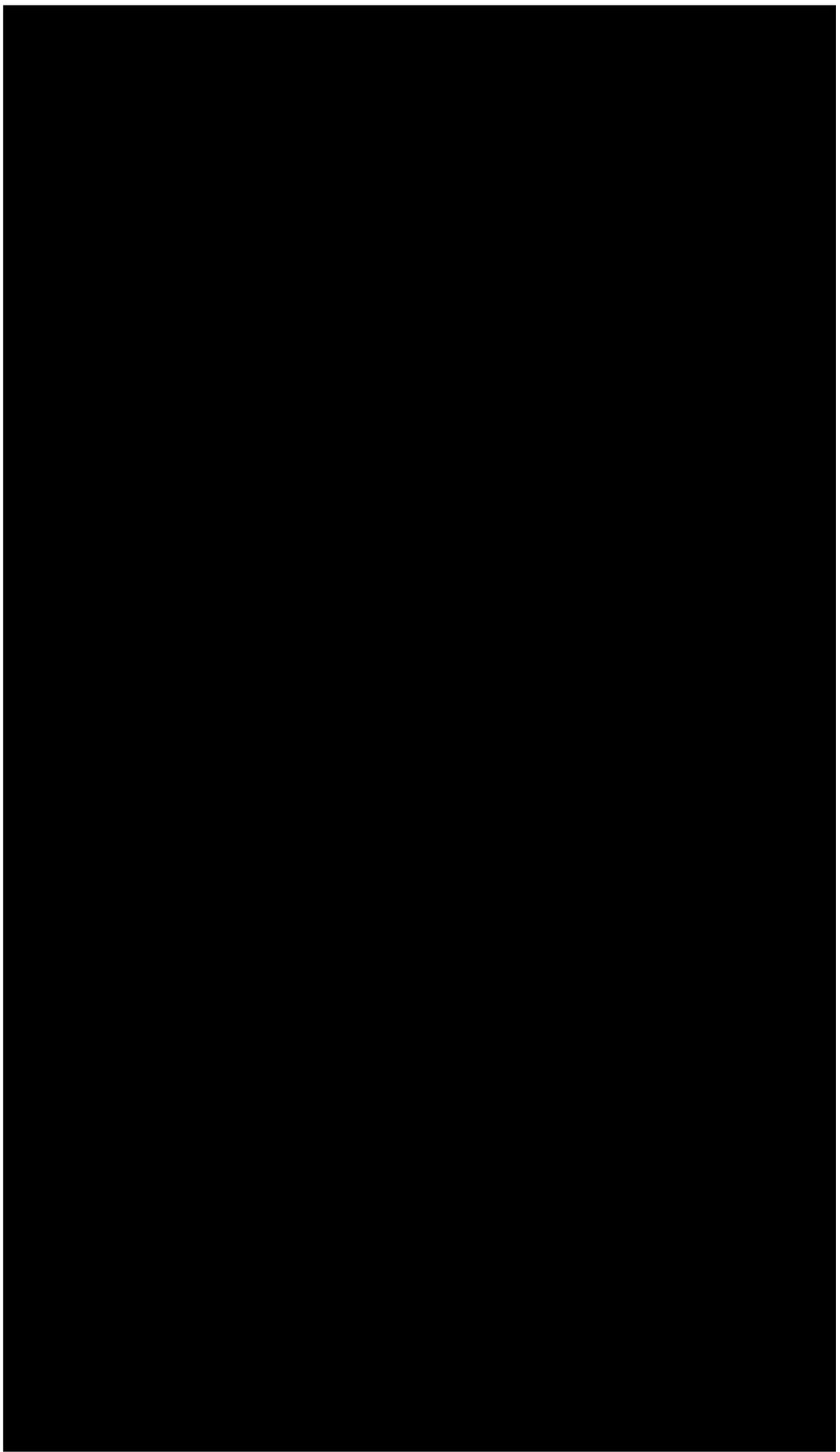


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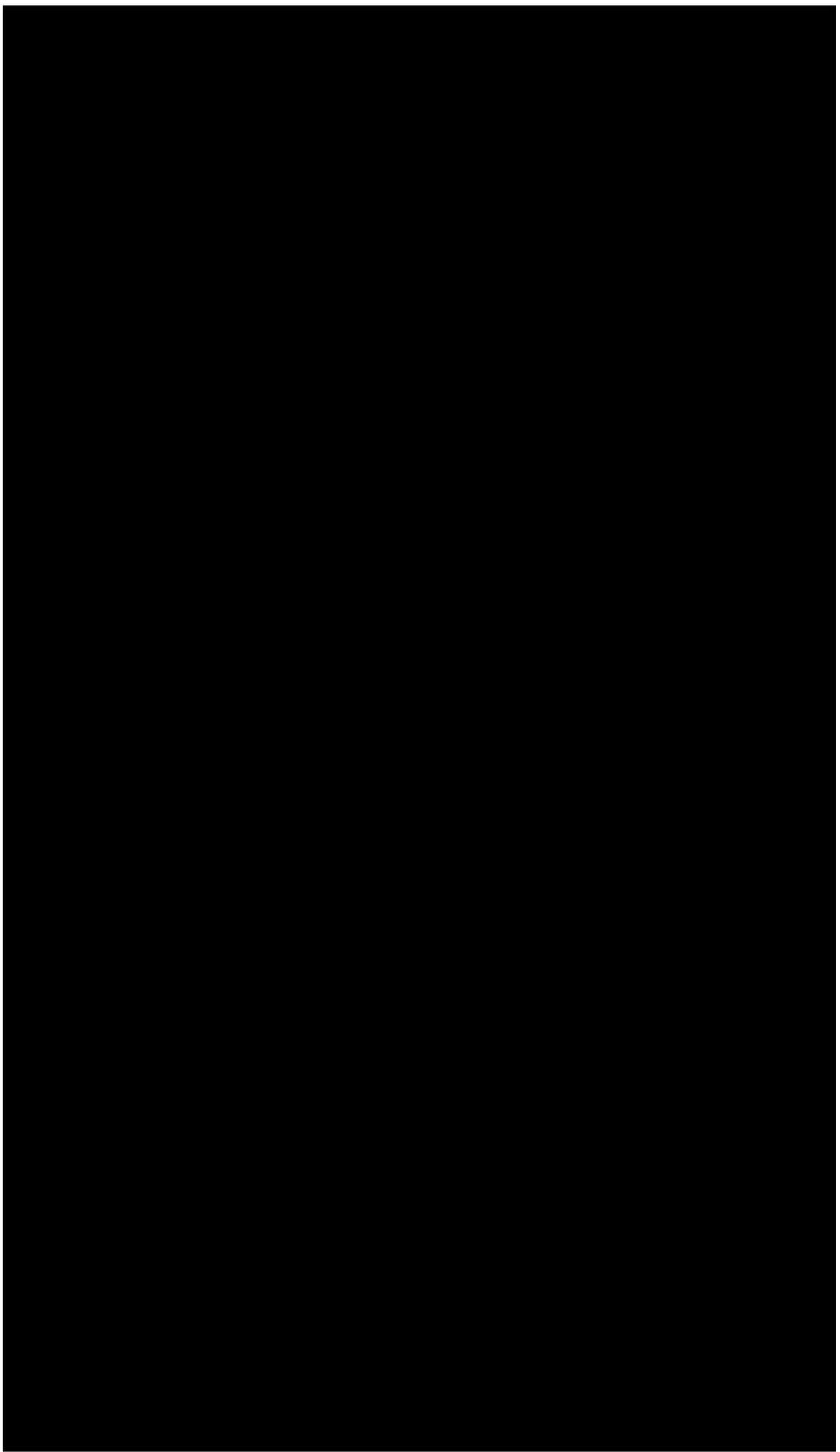


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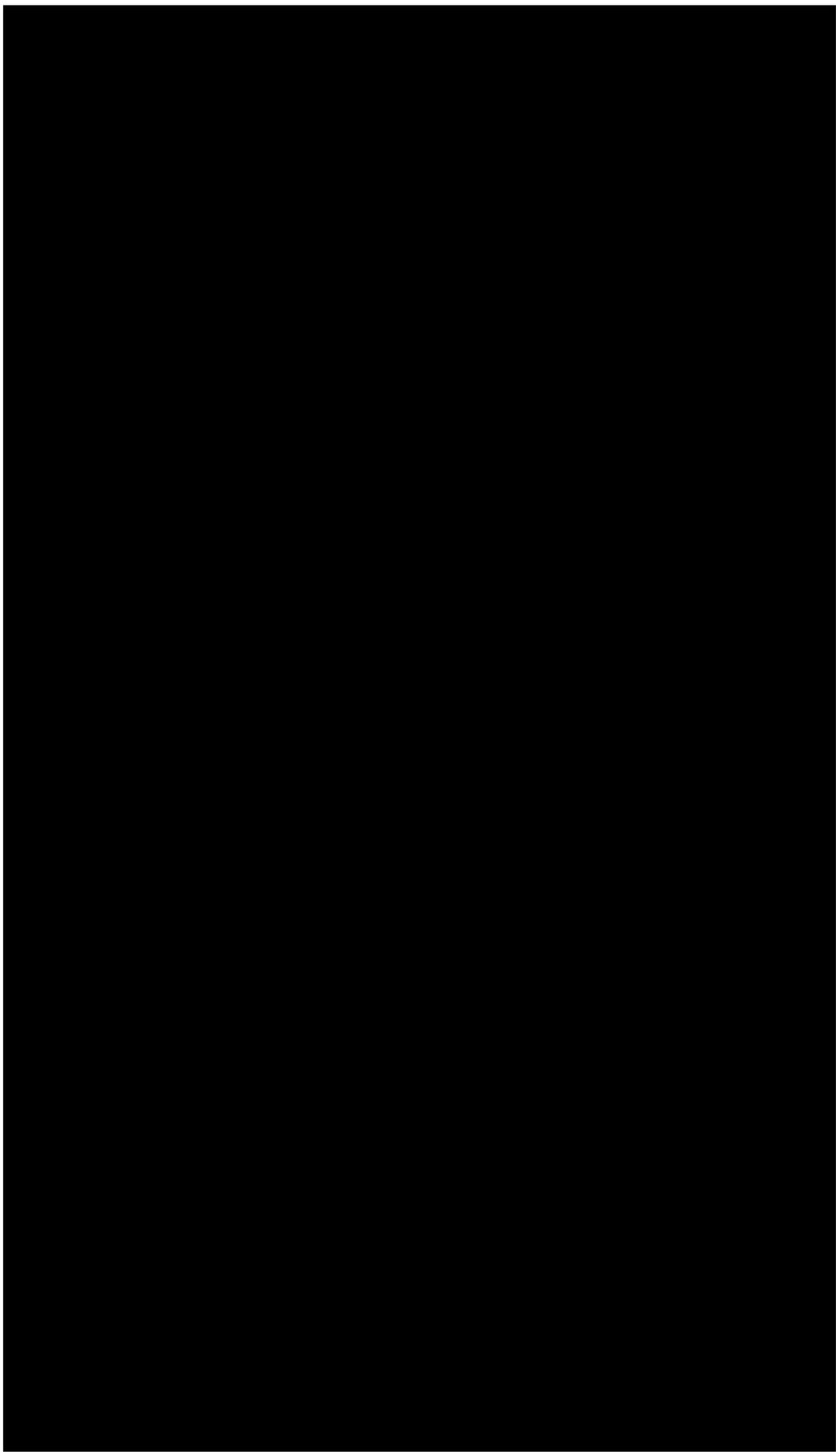


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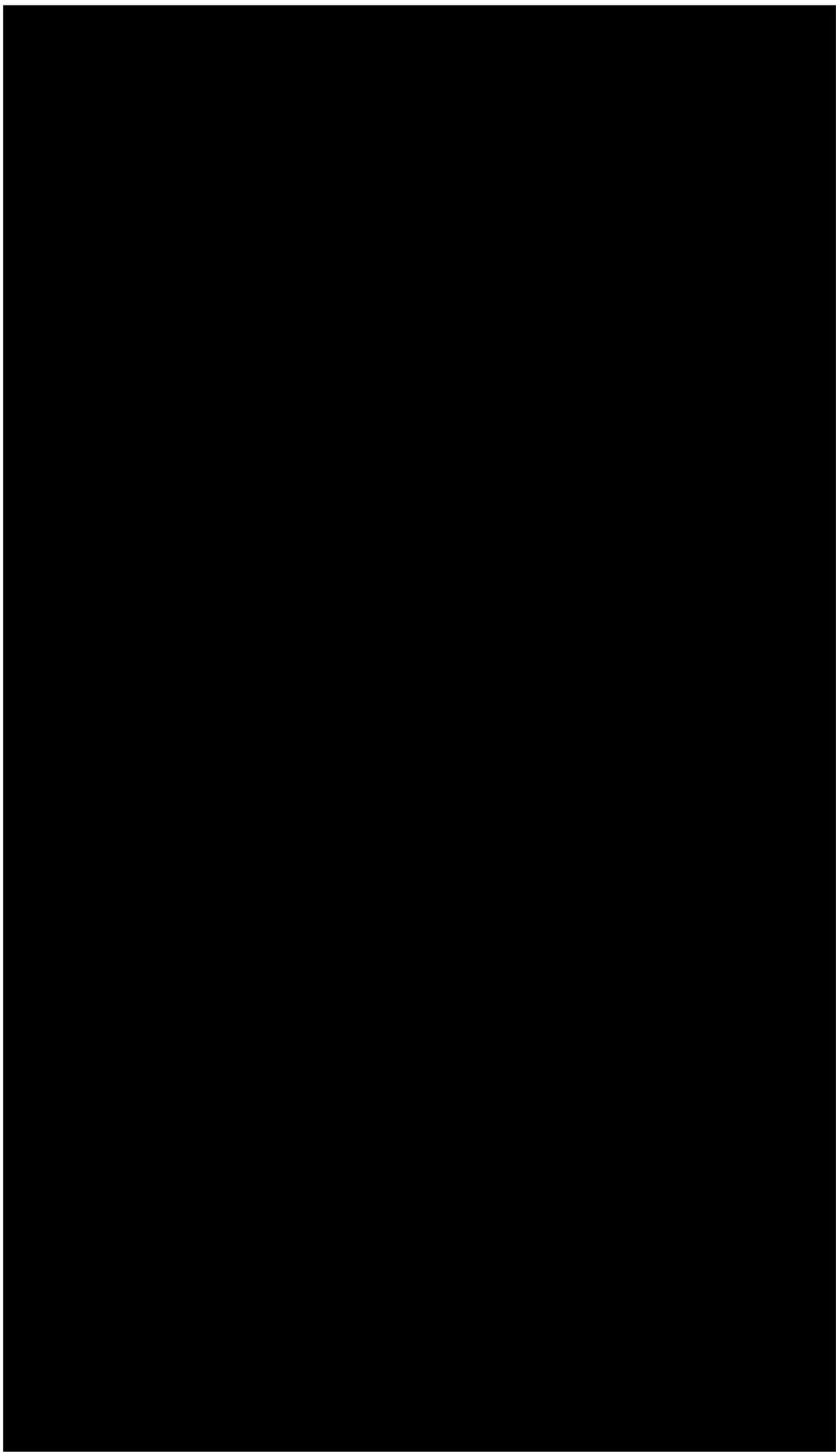


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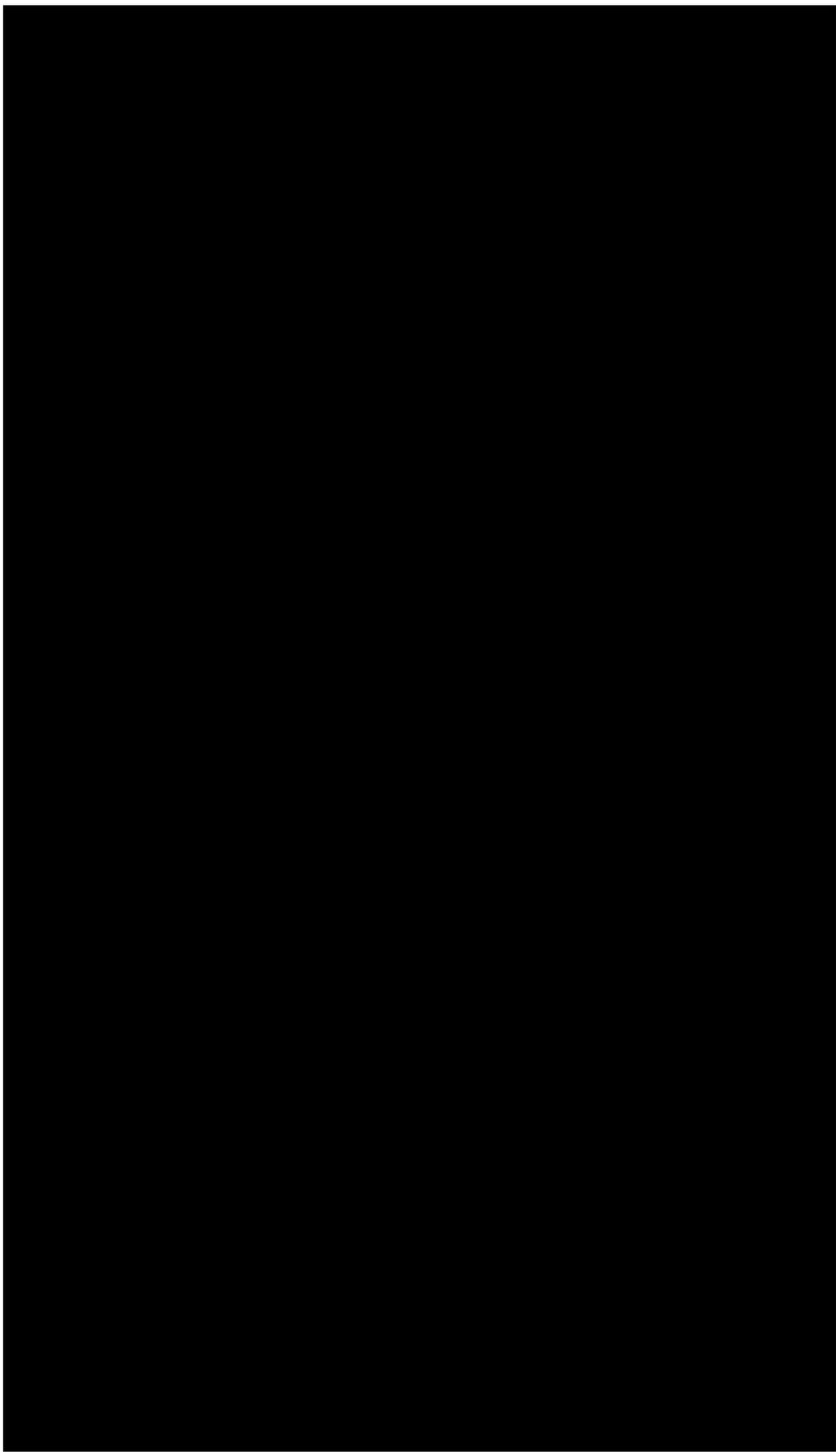


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MR DARAMS: Do you remember I took you to the evidence you gave in your compulsory examinations?---Yes, I do.

Yeah, you remember I did that?---Yeah, yes, yeah.

I just want to draw your attention again – just for completeness so we have an understanding of your position.---Sure.

10 Could you be shown volume 8.3, page 35? See about line 25, the numbers down the side of the page? Just for context, Mr Tsirekas, this is the transcript of your interview with the Commission’s officers on 9 September, 2020, Mr Tsirekas. Do you remember - - -?---Yeah, yes, I do.

Yeah. So I just want to draw your attention to, Mr Berry showed you some documents in this interview and the first one that he’s showing you here is the email that came to you, and others, from Mr Kenzler that had attached the draft or proposed resolution. Do you see that?---Yes, yes.

20 You don’t seen me to take you to that email again, do you? That’s the one that we went to yesterday with Mr Kenzler’s proposed motion attached. ---No.

I’m just showing this to orientate yourself - - -?---Yeah.

- - - with the evidence or the questions you were asked on this occasion ‘cause I want to give you some context to your answers.---Yes.

30 Then could I have the witness be shown page 36? I draw your attention to about line 24. Mr Berry says, “Do you agree that you sent that to David Furlong on 31 May at 9.27am?”---Yes. Yes, I can see that.

40 Then you acknowledge that. Mr Berry asks you, “Can you tell me why you would have forwarded?” You say, “No, I,” go to the next page “that resolution or proposal” so it seems on the transcript you’ve cut in to what Mr Berry was asking you. In effect, he’s asking you why you forwarded it to Mr Furlong. Then you say, “To give him an idea of what we’re proposing, so he could think about, think, could think of doing similar to give us affordable housing.” So that was the explanation you gave Mr Berry in September 2020. You can look at the rest of the transcript, but you don’t refer to matters of transparency or being transparent in this interview

as the reason why you forwarded it on to Mr Furlong?---Yes, I can see that. Yeah.

So you were effectively, that answer there, the way I interpret that is that you were forwarding it on to Mr Furlong to give Mr Furlong, which we should read to be I-Prosperity. Correct?---Yes.

10 Give them the opportunity to see whether they would come up with some affordable housing as well. That's right?---That was part of what the item was talking about, including other things in the planning instrument and an EPA.

Well, you don't give this explanation that Mr Berry that you've given to this Commission yesterday, this whole issue of trying to be "transparent", do you?---No, and that's why I want to correct it.

Sorry? Correct which evidence? The evidence you gave yesterday - - -? ---No.

20 - - - or the evidence here?---No. On that particular day, that was the first that I'd seen that for many years, so - - -

Just stick to my question. Which one do you want to correct, the evidence you gave yesterday on transparency or do you want to correct this evidence here?---No, I don't want to – I want to correct the evidence that was there when questioned back in 2020.

30 So when you say, "To give him an idea of what we were proposing, so he could think of doing similar to give us affordable housing," that was an incorrect response, was it?---Not entirely.

Was it an incorrect response?---No.

Which part was correct, then?---Well, affordable housing was one of the requirements that if anyone was to put in a development, or a proposal, they may consider.

40 What about "to give him an idea" which you understood to mean I-Prosperity an idea so that they could think of giving up or providing affordable housing. Is that true?---That, that was part of the items listed as what council were after in that area.

Well, let me just come back to an easier question. Do you stick by that evidence that you gave in answer to Mr Berry's question that I've just drawn to your attention?---I, I, I think I've corrected that by giving evidence yesterday.

10 THE COMMISSIONER: What part, you're now looking at page 37 of 87 of the record of interview with Mr Berry. On that page 37, is there anything in your answers that that are not correct or that you need to correct?---Can I just read the whole page, then?

MR DARAMS: Sure. Sure.---I've only read the second line. Thank you, Commissioner. I've read it.

THE COMMISSIONER: All right. Now is there anything in any of those answers on that page you gave that needs to be corrected or that you want to correct?---Commissioner, the evidence I gave yesterday I think corrected it.

20 So what's wrong with page 37, the answers on 37? Wrong in the sense of what's deficient about them or incorrect?---Well, again, Commissioner, that was the first that I'd seen of that email. I was trying to put it in context. But given further context that I've been, you know, had a chance to understand a bit more about that meeting and about what happened - - -

Okay. Now just answer my question. Is there anything about the answers given by you as recorded on page 37 that needs to be corrected or changed in any way?---I think it needs to also refer to the evidence I gave yesterday.

30 Well, why didn't you raise that with Mr Berry during the course of the record of interview?---I can't answer that except that at that time I couldn't recollect what had happened in 2016 when I was interviewed. So I couldn't recall everything.

And how would you respond if it was put that the answers on page 37 you gave Mr Berry in the record of interview was an attempt by you to assist I-Prosperty? How would you respond if that proposition's put?---No.

40 MR DARAMS: Just in relation to your answer that you just gave a short while ago, and I might have misunderstood your answer, but you were talking about reflection and the like. Are you saying on further reflection between that date and giving your evidence in the proceedings, is that

right?---I had a chance to put more context behind my answers given that that, that was the first time I'd seen it, and the meeting was in 2016. So I couldn't recall.

Well, can I suggest to you, what if it was suggested to you that you, on reflection, have formed the view that it would be better for you to give different explanations or different evidence in this public hearing to the evidence you've previously given before? What would you say about that?

10 ---No, I'm trying to correct the information that I'd given and to give it more context because this meeting happened, what, four years before this, this interview.

See, Mr Tsirekas, it might be suggested – you accept that you have made a number of concessions, particularly in relation to the circumstances as they existed on 31 May, 2016, involving whether or not you should have disclosed conflicts of interest arising out of your relationship with people involved with I-Prosperty. You accept you've previously given concessions or admissions to that effect, do you accept that? Just yes or no?---Yes.

20 Yes. You've now given different evidence. That is you deny that you were under any obligation to disclose any conflict of interest arising out of your relationships, that's correct?---That's right.

So it might be suggested that in fact what you have done is, on this reflection you've undertaken, as you say, you've decided that the concessions and admissions that you honestly and truthfully gave previously were against your interest and you don't wish to stick to those concessions or admissions anymore. What would you say if that suggestion was made?

30 ---No, I disagree with that.

THE COMMISSIONER: Mr Darams, in relation to the transcript of the compulsory examination 24 March, 2022, pages 810 - - -

MR DARAMS: 810.

THE COMMISSIONER: - - - through to 812. Have I already made an order varying to permit the use of those pages?

40 MR DARAMS: You have, Chief Commissioner.

THE COMMISSIONER: Yes. All right. I don't need re-do it then.

MR DARAMS: You don't.

THE COMMISSIONER: Now, Mr Tsirekas, on that last matter that Counsel was just putting to you about various concessions you had made and so on, just on one matter, I'll just bring up your evidence given to the Commission in compulsory examination on 24 March concerning matters related to the Kenzler motion and what happened with the Kenzler motion.

10 That's the one we'd been talking about yesterday. So if we bring up page 810. Mr Tsirekas, just to orientate you to this page and the next page or two, at about somewhere between lines 20 and 30, there was a question put by Counsel, "Right. Did you have a conversation with Mr Kenzler about this?" "I can't remember." So we're talking here about the motion. "You can't remember. But whatever, to the best of your recollection, whatever happened you were the person who caused this amended resolution to be put before council. Correct?" You replied, "For consideration." "Yes." And then you answered "Yes." And then a further question, "No other

20 councillor was involved in that process, it was you?" "I put it forward, yes." And then there's some more questions which I don't think I need to provide. If you go through I think that's the context in which this evidence is going forward, and if we go to page 811, the next page, so then the first question relates to the minutes of the meeting, you will see, of council meeting on that evening. You identified you as being present, your recollection, being present and you answered "Yes" to those. And then reference is made in the next question to "The minutes don't record any declarations including any non-pecuniary interests by you." And you answered "No." You're following my references, aren't you?---Yes, Commissioner.

30 The next question, "Right. Now, so the case is you never disclosed any non-pecuniary interest in respect of what had happened on the 30th," and I think that's a reference back to the amended notice of motion. "I withdraw that – what had happened in respect of the email correspondence between you and Mr Furlong. That's right?" "No." "You never then, generally you didn't disclose any particular non-pecuniary interest in relation to IPG." "What's IPG?" "Sorry, I-Prosperity I should say." "No." "No." "No." And then the next question, "Now, can I ask you is there a reason why – I'll ask you a question. Why didn't you in relation to this conduct disclose a non-pecuniary interest?" Answer, "Look, in hindsight would have been

40 probably the best to disclose a non-pecuniary interest." Just pausing there, you adhere to that evidence, that last question I just read, and answer, do

you adhere to that?---Counsel, I, I answered that as, as truthfully as I could at that stage, given that that was the first time that this was raised with me.

No, I didn't ask you that. I said, do you still adhere to your answer there?
---No.

You don't.---No.

10 Why don't you?---Because it's given me an opportunity from that moment, where I did give that compulsory evidence, to look back over those years and put it in better perspective and, and have a, it corrected because there was no reason why I should have disclosed a pecuniary interest at that stage, or non-pecuniary interest.

Well, what was it, after you reflected on it, that now leads you to want to change that evidence?---Well, to look at the relationships, to look at people involved and, and to see, not to see, but to consider the, the proper position.

20 Well, looking and considering all of those things, what particular aspects of it now lead you to change your evidence?---Hearing evidence here has given me one view, but going back and looking at my relationships with the people that have been involved and they've been mentioned, at that stage back in 2016 I didn't need to declare a pecuniary interest.

What aspect of the hearing of the evidence are you now referring to that has contributed to you now wanting to change your evidence?---No, Commissioner, what I meant to say is going back to 2016, I've heard evidence from people here - - -

30 What evidence? That's what I'm asking. What part of the evidence now warrants any change in your evidence?---Not in 2016.

No, but what evidence? You said having heard evidence you're now adopting a different stance on this question and answer that I've just drawn your attention to. What part of that evidence do you identify as leading you now to want to change your evidence?---Oh, no, no. It's got nothing to do with changing my evidence.

40 Well, then going back to when you said, "Look, in hindsight, it would have probably been the best to disclose a non-pecuniary interest," you still adhere to that answer?---No, I want to correct that.

Well, that's why I used the word "change".---Yeah.

You want to change that evidence now, do you?---No, I want to correct it.

You want to correct it? So the evidence you gave was wrong, was it?---No, at that stage it was, it was the evidence that I, that I gave truthfully. But I want to correct that.

- 10 Why do you want to correct it now? What's wrong with it?---Because going back to 2016, going back over what Counsel, Mr Darams, has asked me about certain people, it puts me in a better position to give an answer.

All right, well, let's move on. So at line 30 Counsel said, "Right, so let me just ask you about that hindsight. When did you come to that view that you should have disclosed a non-pecuniary interest?" And you responded, "In hindsight I should have been more aware of my disclosures."---Mmm. I - -

- 20 Do you still, you adhere to that evidence you gave?---No, I, I want to correct that evidence.

Just answer my question first.---Sorry, Commissioner.

Do you adhere to that evidence, that answer that I've just read to you?
---That was the, that was the truth that I gave on that date.

That was the truth, was it? So it stands as - - -?---I'd like to correct it.

- 30 But you just said it's the truth.---It was to my best of my recollection I gave that answer.

You said - - -?---I'd like to now correct it.

You said a moment ago it was the truth that you were giving evidence about.---It was - - -

MR LEGGAT: Chief Commissioner, my note was "the truth that I gave on that date".---Yeah.

40

THE COMMISSIONER: Yeah. It was the truth that you gave on that date.
---Yes, and I want to correct that evidence.

Oh, do you? Well, all right. What do you want to correct it to?---That there was no reason for me on that date to declare an interest, or non-pecuniary interest.

When you say correct it, you want to completely change it. That is to say that you should not have been aware of any obligation to disclose, is that
10 right? You want to say the opposite now, is that right?---I want to correct it.

No, no. I'm putting to you in wanting to correct it you want to substitute the opposite answer, that you should not have been more aware of any disclosure obligation, is that right? I'm just trying to understand you.---No, Commissioner.

What do you want to say, then?---I want to correct that evidence.

Okay, you go ahead.---And I think I - - -
20

How should it read? I'll put the question that Counsel put to you. "When did you come to that view that you should have disclosed a non-pecuniary interest?" And you said, "In hindsight I should have been more aware of my disclosures." How do you now wish to answer that question?---That back in 2016, there was no obligation for me to disclose an interest.

So you want to completely change it, to reverse it - - -?---Well - - -

- - - from "I should have" to "I need not have". Is that right? I'm just trying
30 to understand you.---Yes, Commissioner.

Right. And what would you say if it were put that this is a belated attempt by you to, in effect, retract concessions you had made on 24 March, 2022, and that you wish to retract it as a matter of your own interest, to protect yourself from any adverse finding? How would you respond if that proposition were put?---Commissioner, I'd like to correct the evidence. Having an opportunity to, after this compulsory evidence, to go back those many years and to review that time period is giving me the opportunity to try to correct the evidence that I gave.

40

MR DARAMS: Mr Tsirekas, the question the Chief Commissioner asked you, with the greatest respect to you - - -?---Yeah.

- - - wasn't the question that you answered then. So could you please answer the Chief Commissioner's question?---I've responded here, the Chief Commissioner asked me to respond to that question.

And that's the response you want to give?---Yes.

10 I want to suggest to you that that answer that you gave was non-responsive to the Chief Commissioner's question. What do you say about that?---It was responsive.

It wasn't responsive to the question you were asked.---I answered that as best I could to the question - - -

THE COMMISSIONER: All right, Mr Tsirekas. I'll put it again. This question is designed to give you an opportunity, just in case you're missing the point. How would you respond if it was said that the reason you want to
20 change and retract a concession in that answer, "In hindsight I should have been more aware of my disclosures", is because you now see the concession you made as against your interest and you now want to change it so that you are in a position where you no longer make a concession simply to protect yourself? How would you respond to that suggestion if it were made?---I, I, I would disagree with that.

You'd disagree with it?---Yes.

Right.

30

MR DARAMS: Just to finish off this evidence at volume 8.3. Pick up the, page 38.

THE COMMISSIONER: Mr Tsirekas, you understand we're now going back to the record of interview?---To the compulsory interview, yes.

MR DARAMS: No, no. This is the record of interview with Mr Berry and Mr Fox.---Right.

40 THE COMMISSIONER: Not compulsory examination.---Sorry.

MR DARAMS: Not the one where I was asking you questions but where the - - -?---The previous one, yes.

- - - Commission's officers, yes. So I draw your attention to about line 23. You can see you are asked a question by Mr Berry, "Do you think this is beyond the realm of what a mayor should do?" If you need to, please just read the preceding questions, maybe it's best you do that?---Sure. Yes, I've read it.

10 Just where it attributes to you at about line 24 where you say, "In hindsight, I'd made a mistake"?---Yes.

Do you see that?---Mmm.

Do you wish to change that evidence, as well, or do you stick to that evidence?---I'd like to correct it.

20 THE COMMISSIONER: Why does it need correction?---Because it, it, I'd like to correct it because I, I don't think I was doing anything wrong as the mayor.

You now want to, do you, revisit your answer, "In hindsight, I'd made a mistake." Is that right?---Yes.

30 And why do you want to now change that answer as well?---Commissioner, I would like to correct the evidence because it's given me time, that since the first interview, I was asked all of these questions and I really, really couldn't put them in context and, given time, I've been able to put that into a bit more context about a number of things.

A bit more context so that you want it to read that you didn't make any mistake, is that right, you want to put the opposite of what you said, is that what you're trying to tell me?---I would like to correct it.

Yeah, to say the opposite, is that right?---I would like to correct it, yes.

No, to say the opposite.---I, I would like to correct it.

40 No, Mr Tsirekas - - -?---Well, I don't know if it's - - -

I'm asking you a question which I have repeated three times. Are you going to refuse to answer this one as well? Are you indicating, signalling – we'll get in a moment to what it is exactly that you want it to, how we should read it, or how you want us to read it. But before we get to that point are you suggesting that you want to change it so that it is reversing it, that is to say that there's no mistake by you? Is that what want to achieve? And then we'll find out what you want to say about that.---No, Commissioner.

10 No, it's not. All right. Well, what is it that you want to – it's a very straightforward question and it seems a very limited straightforward answer.---Yes.

Mr Berry asks you, "Do you think this is beyond the realm of what a mayor should do?" And you replied, "In hindsight, I made a mistake." You accept that you did make a mistake, as the question to you suggests?---I, I don't think I'd made a mistake, Commissioner.

20 MR DARAMS: So an answer to the Chief Commissioner's question that he asked you a little while ago was that you want to say in effect the opposite now?---No.

Yeah, you do. You want to say, "I did not make a mistake," in effect. That's what you want to say.---Well, no, I didn't make a mistake.

Yes or no? Yeah, so you want this to be recorded or reflected to say you did not make a mistake.---I, I didn't make a mistake.

Which is the opposite of what you said on this occasion.---Yes.

30 THE COMMISSIONER: How could you have made an admission, "I made a mistake," and now you want it, in effect, to read "I did not make any mistake"? Can you just explain to me how you get to the reasoning or factual basis that takes you to that point of saying the opposite of what you told Mr Berry?---Commissioner, if I may - - -

No. Just you answer my question.---I'd like to correct it. Yes, I would like to correct it.

40 No, no. Mr Leggat, I don't know, this client of yours doesn't seem to be understanding me. I don't know whether he has a problem, I don't think he does, that is that, you know, some people sometimes do have trouble. I

mean, for example, and I'm not suggesting this for a moment, some people are affected with dyslexia, for example, they don't connect with the question. I don't think that's your – I'm not suggesting there's anything of that kind with your client but we're having constant problems, and I raised this yesterday.

MR LEGGAT: Yes.

10 THE COMMISSIONER: It means that the Commission cannot effectively proceed with a witness who keeps constructively refusing to answer questions. I'm troubled by this.

MR LEGGAT: Chief Commissioner, I have raised with my instructing solicitor and with Mr Tsirekas this morning whether there might be matters of context which ought to be brought to the Commission's attention. I can raise a couple of matters now if that would assist. It's - - -

20 THE COMMISSIONER: I have no doubt that any matters of context or any other matters that you feel you should raise will be raised.

MR LEGGAT: Yes.

THE COMMISSIONER: And there will be - - -

MR LEGGAT: There is some medication that he is taking - - -

THE COMMISSIONER: Sorry?

30 MR LEGGAT: There is some medication that he has been taking and there is also a question of being born in Greece and being raised in a household where English was not the first language.

THE COMMISSIONER: Oh, yes, well, but he – all right.

MR LEGGAT: I simply raise those.

THE COMMISSIONER: Yes.

40 MR LEGGAT: They may or may not be relevant.

THE COMMISSIONER: There's no medical evidence, is there, that I should be aware of?

MR LEGGAT: Look, there likely is. I've been sent a copy of the, a photograph of the medication that Mr Tsirekas has been taking during the hearing and prior to these private hearings.

THE COMMISSIONER: Mr Leggat, I am totally dependent upon you on this issue.

10

MR LEGGAT: Yes, I understand.

THE COMMISSIONER: If you think there's something there that needs to be brought to light, I'm inviting you to - - -

MR LEGGAT: Thank you.

THE COMMISSIONER: - - - do whatever you think you should do - - -

20 MR LEGGAT: Yes.

THE COMMISSIONER: - - - in your duty to the Commission.

MR LEGGAT: Yes, indeed.

THE COMMISSIONER: As well as to your client.

MR LEGGAT: Yes.

30 THE COMMISSIONER: If, however, on examination you don't think it's such that it rises to a level where I need to be made aware of it - - -

MR LEGGAT: Yes.

THE COMMISSIONER: - - - then of course I need not be troubled by it at all.

MR LEGGAT: Yes.

40 THE COMMISSIONER: But I rely entirely upon you, as Senior Counsel - - -

MR LEGGAT: Yes.

THE COMMISSIONER: - - - which I know of course I can rely on - - -

MR LEGGAT: Yes.

10 THE COMMISSIONER: - - - without hesitation, to just take that on board,
if you would, and come back – I think we’ll go through to the morning tea
period anyway, and that’ll give you the opportunity of perhaps having your
solicitor or you consult - - -

MR LEGGAT: Yes.

THE COMMISSIONER: - - - with the medical practitioners involved.

MR LEGGAT: Yes.

20 THE COMMISSIONER: All right.

MR LEGGAT: Thank you.

THE COMMISSIONER: Now, yes, you continue, Mr Darams.

MR DARAMS: Could Mr Tsirekas be shown page 39 of that interview
transcript. I draw attention to about line 32. Just to again orient you with
what happened on this occasion, Mr Tsirekas. So Mr Berry shows you the
email that came back from Mr Furlong with the amended motion or
resolution.---Yes.

30

Do you remember that?---Yes.

Now if I can ask you to be shown page 43. If you need me to take you back
to the transcript that preceded this, I can do that, Mr Tsirekas, but you were
asked questions about the process after the amended resolution was
provided to you by Mr Furlong.---Yes.

40 But what I wanted to draw to your attention is that you were then, you see
from Mr Berry at the bottom of the page, about line 33, Mr Berry says, “All
right. Well, talking of the vote, I happen to have the meeting minutes here

on 31 May. I see that you're present on that particular occasion." Do you see that?---Yes.

You say, "Ah hmm." Again, I took you to those minutes the last couple of days.---Yes.

If we go over the page, then perhaps if you just look at the first few questions and answers. Do you see that?---Yes.

- 10 Then I want to skip over the next few questions and go down to line 25, where Mr Berry says, "Clearly you voted on that and at the start of the minutes there's always the situation where declarations of either pecuniary interests can be declared. I'll give you an opportunity to look at it. Do you agree that both of them say 'nil'?" "Yes."---Yes.

And then Mr Berry, "Would you have thought at this stage you should have made a declaration either of an interest or a conflict of interest?"---Yes.

- 20 You respond to that, "At that time it was a master plan. At the time it wasn't given DA consent. Looking back now, I may have a mistake and I should have declared, but at that time," go over the page, "wasn't giving consent for any." And you say, "Okay, any building." Then you say, "Well, why do you think you should have made some declaration?" Then you give this answer, "Looking back now, I made a mistake with the relationships that I have, you know," then it goes on. You can just read the rest of it on the questions.---Sure. Yes. I've read the page.

- 30 In particular between lines 20 and 27, it's effectively being put to you that in short form the evidence that you gave to Mr Berry and Mr Fox was that you, on reflection, should have declared conflicts of interest arising out of your relationships with I-Prosperity, that's a fair assessment, isn't it, Mr Tsirekas?---That's what he asking, yes.

But that's actually what happened, that's a fair description of what happened at that this stage if the interview, correct?---Correct.

- 40 I take it, because of what you've just said today and what you've said yesterday, that you want to change that evidence as well?---I want to correct that evidence, yes.

You wish to put the opposite position now, don't you, that there was no occasion for you to declare, or basis for you to declare any conflict of interest as at 31 May, 2016?---Yeah. Not at that stage, no.

In relation to this interview - - -

THE COMMISSIONER: Well, at any stage. Was there any stage where you should have declared an interest with IP, I-Prosperty that is?---What particular matter, I'm, I'm not sure when you're saying at any stage.

10

MR DARAMS: Let's be clear about all of this. Was there at any time in the period from, let's say, October 2015 to 1 January 2020, where you should have disclosed a conflict of interest to council arising out of anything to do with the I-Prosperty planning proposal or matter before Canada Bay Council? At any stage in that period of time.---No.

Not at all?---No.

20 Is that the evidence you want to give to this Commission under oath in the public inquiry?---Yes.

No occasion at any time between October 2015 and 1 January, 2020, that you were required or should have disclosed any matter at all?---That's right. No. Not that I can - I mean, that's a long time period what you're referring to but - - -

30 Well, you did know what I was referring to when I asked you the question, because you answered it quite, I would say quite directly. You said, "No"? ---Yeah, yeah. No.

Could I just ask you this? Even sitting here today knowing that you went to Harry Huang's wedding in January 2016, the founder of I-Prosperty, even knowing all of that you say that that didn't occasion any declaration, even with hindsight?---No.

No. Even accepting, as you did, travel benefits on that trip in January 2016?---I was, I was of, I was of the understanding Joseph Chidiac was the person who was - - -

40 Paying for those benefits.---I mean, all of the organising. I, I - - -

Paying for those benefits, Mr Chidiac?---Well, I, I don't know - - -

Yeah. And you understood that Mr Chidiac was associated with I-Prosperity.---No, I didn't.

Are you suggesting at no stage in the period October 2015 and 1 January, 2020, please listen very carefully to this question, are you saying under oath to this Commission at no stage in the period October 2015 to 1 January, 2020 that you did not know that Mr Chidiac was acting for to associated
10 with I-Prosperity?---I didn't know, and I didn't know the relationship until evidence given here in this Commission.

THE COMMISSIONER: Mr Tsirekas, just before we move on, I want to give you another opportunity.---Sure.

Just think about what you've just said. Was that answer you just gave a truthful answer?---Yes.

Okay. Thank you.

20

MR DARAMS: I just want to go back now if I can to, could I ask the witness be shown volume 4A, page 46? Mr Tsirekas, this is the Machonic bank account. If I draw your attention to the withdrawal on 23 December, do you see that, \$10,015?---Yes.

That withdrawal went to, maybe this is the correct terminology, purchase a bank cheque?---That would have been, yes. Yes.

You did that, sorry, you instructed or gave instructions to Mr Colacicco to
30 withdraw the money from this bank account and get a bank cheque for part of the deposit for the Ashfield unit?---Yes.

He did do that on your instruction and gave you the bank cheque?---Yes.

So the amount of \$10,000, do you say that came from the moneys that your father gave you. Is that right?---Yes.

If we go to page 51? The entry on 29 February, 2016, the \$39,750, that was also withdrawn to purchase a bank cheque?---Yes.

40

You gave Mr Colacicco the instructions to withdraw that money from the bank account and purchase that bank cheque in that amount?---Yes.

Mr Colacicco did do that and gave you the bank cheque?---Yes.

That bank cheque was a further contribution or payment of the part of the deposit on the Ashfield unit?---Yes.

10 Perhaps if we could just bring financial questionnaire back up again, please, just to close off the evidence?

[REDACTED]

20

[REDACTED]

Mr Tsirekas, I want to show you a document. Yeah, please bring that up. This is a table, Mr Tsirekas, that the Commission's staff have prepared with some analysis of your financial position for, a broad description, over a number of years.---Mmm.

30

Now, just a few questions that I wanted to ask you about. Just so you understand, Mr Tsirekas, the columns are calendar year, not financial year, so they don't stretch over two years. We see in 2013 your income sources are from the Canada Bay Council as the mayor, that's right?---(NO AUDIBLE REPLY)

You'll have to say yes or no.---Yes, sorry.

40

And Canterbury Council, where you were an employee.---Yes.

The continued through 2014 and 2015. They were your major sources of income, that's right?---Yes.

Did you have any sources of, any other sources of income in those years? And what I mean by sources of income, regular sources of income.---There are some occasions where I was on boards with - - -

Which year was that?---I can't recall.

10 What board was that?---The Architects Board.

Did you receive a stipend or - - -?---Yes.

THE COMMISSIONER: What was the board?---I think the Architects Board. I forget the full name. New South Wales Architects Board.

Where were they located?---In the city.

Sorry?---In the city.

20

Yeah, whereabouts?---Oh, forget the, the address.

MR DARAMS: Do you recall what you were paid by the Architects Board?---No.

Do you recall the year that you were a director of the Architects Board? ---Sorry?

Do you recall the year or years - - -?---No, I don't.

30

Was it before 2013?---I can't recall.

Do you recall when you ended or ceased your directorship?---No, I can't recall.

Did they pay you in cash, your stipend?---No. That would have been - - -

40 So if you were paid some stipend from this role and if it was paid to you in these years, and you'll have to make the assumption that what's included in here would include amounts paid from bank accounts that the Commission's

aware that you have, then it would show up in these records.---Oh, I'm sure it would.

Yes. So then we move to 2016. Your salary from the council, your mayor stipend, is obviously less in that year because you resign partway through, that's right?---Correct.

Likewise, in relation to your salary from the Canterbury Council, that was much less because you only worked for part of the year.---Correct.

10

You withdrew money from your superannuation account during that year? ---'16. Correct.

Likewise you received a – I'll call it a lump-sum termination payment from Canterbury Council?---Yes.

Probably accumulated leave and things like that.---Correct.

20 Then in 2017 you started or commenced again in the latter part of the year as the mayor of the council?---Correct.

So you started then receiving the stipend again?---Correct.

It's the case in that year that you also withdrew a further amount from your superannuation fund?---I can't recall.

Well, just have a look at the - - -?---Where is it?

30 See that 2017 there's a line, the fourth line down, see the 76,000 you withdrew from your super?---Yes.

In those years, 2016 and 2017, did you have any other sources of income? ---I can't, can't recall. I don't, I, I can't recall whether I - - -

Were you working cash-in-hand anywhere?---No.

THE COMMISSIONER: Not doing any work at all in those years, 2016-17, for which you were paid in cash?---No.

40 MR DARAMS: Then if we move to 2018, this is a full year that you are the mayor, is that right?---Correct.

If we come down to the payment of 81,120, that's a refund to you from the rescission of the contract over the Ashfield unit?---Correct.

The 40,271 from Revenue NSW, that's the stamp duty that was paid?
---Correct.

That was refunded as well. There's an amount of 17,395 which the Commission has identified as being, well, it's referred to as "unknown
10 income". I'm just wondering whether - - -

MR LEGGAT: Excuse me, Chief Commissioner.

THE COMMISSIONER: Yes, Mr Leggat.

MR LEGGAT: The image that we see displayed is being displayed to the public. I'm not sure if that was – we've just gone outside and it is.

THE COMMISSIONER: Are you suggesting that this should be suppressed
20 from publication?

MR LEGGAT: I thought it was.

MR DARAMS: Sorry, as I understand, and this has been confirmed, this is not going on the live feed. It might be shown out in the waiting room here but there is no general attendance of the public in the waiting room. But - -
-

THE COMMISSIONER: Well, Mr Leggat - - -
30

MR LEGGAT: That's a satisfactory answer. Thank you.

THE COMMISSIONER: It is. But I still raise the question though, and this may be a question for not now but in the near future, whether there is a basis for suppressing publication of the schedule that's on the screen now. We don't need to decide that now but I foreshadow there's a real question as to whether it should or should not.

MR LEGGAT: Thank you, Chief Commissioner.
40

THE COMMISSIONER: Mr Darams, I see the time. We started a bit early.

MR DARAMS: Yes.

THE COMMISSIONER: Perhaps it's a good time to take a break?

MR DARAMS: Appropriate time, yes.

THE COMMISSIONER: All right. Well then we'll resume at about twenty
past.

10

MR DARAMS: May it please.

THE COMMISSIONER: Yes. We'll adjourn.

SHORT ADJOURNMENT

[11.03am]

20 THE COMMISSIONER: Mr Darams, just so that everyone's on notice, I
will be adjourning just after midday today. I have an online commitment at
12.15. I will resume at 2 o'clock. So there'll be an extra period for lunch, in
other words. Thank you.

MR DARAMS: May it please, Chief Commissioner. Could I have the
financial overview document brought back on the screen?

[REDACTED]

30

[REDACTED]

Well, just go back to 2018. You're the mayor?---Yes.

40 Are you doing any jobs on the side where you're getting paid cash-in-hand
or any other cash payments?---No, not that I can recall.

But you'd likely remember that, though, wouldn't you, Mr Tsirekas?---Not that I can recall.

What I'm suggesting to you, though, Mr Tsirekas, in 2018 you were doing any other work outside being the Mayor of Canada Bay and someone was paying you cash, you would remember that, though, wouldn't you?---But I can't remember if I was or not back then, I can't remember.

- 10 Have you ever worked for, well, I should say this, probably a bit, try and narrow the time. Have you ever worked in the period 2013 to 2020 a job or done work where you were paid cash?---No.

That would mean, if we just focus on one of those years, 2018 - - -?---Yeah.

- - - that you had no source of income that was cash in 2018. That's right?
---Not that I can recall.

- 20 Likewise in 2019, it's the case that you didn't have any other source of income where you were being paid cash. Is that right?---Not that I can recall.

Given your answer before that you weren't at any stage during the period 2013 to 2020 working any other job where you were being paid cash in hand, that would suggest that in 2019, even if you don't recall, that you weren't or didn't have a source of income from work that you were doing where you were paid cash in hand, wouldn't it, Mr Tsirekas?---The only cash I got between that period was from my father.

- 30 I was going to ask you that but I might do it now. The cash you got from your father, firstly, was the amounts that were deposited into the Machonic bank account in 2015?---'15, yes.

(MOBILE PHONE RINGING)

THE COMMISSIONER: Sorry about that. Yes, Mr Darams.

MR DARAMS: Mr Tsirekas?---Yes.

- 40 So my question was you referred to the source of cash being your father. That's right?---Yes.

So that, what you're referring to is the cash that your father gave you during 2015?---That, that was one period where he did give me cash, yes.

So the cash that your father gave you was the cash that you put into the Machonic bank account in 2015?---In 2015, yes. '15 I think it was, yes.

2015 he gave you cash?---Yes.

- 10 The cash that he gave you, you put into the Machonic bank account, that is, you gave it to Mr Colacicco to put into the Machonic bank account?---The, that was one lot of cash that I did, yes, from my dad, yes.

You're going to tell me that in 2016, he gave you \$10,000 cash that you applied to one of your trips overseas, aren't you?---During the period where I was running for Reid, yes, he - - -

2016?---'16, yes.

- 20 That's the period you were running for Reid?---Yes.

So I'll ask you these questions later on but you're going to tell me that that \$10,000 that your father gave to you, you applied or used that to buy plane tickets, business class, for you and Ms Crichton, aren't you?---Yes, he gave me some money to go towards the trip and I used it, yes.

\$10,000?---Yes.

- 30 THE COMMISSIONER: So you say they were two first-class flights to, where was it, Fiji, was it?---To, to Europe, yes.

To Europe?---Yeah.

MR DARAMS: Two business class flights.

THE COMMISSIONER: Two business class, I'm sorry.

MR DARAMS: One for you and one for Ms Crichton?---Yes.

- 40 I think was a trip you went to at least Rome, is that right?---No, we didn't go to Rome.

But Italy?---Italy, yep. It was, I was no longer in the mayoral, political position so we took the opportunity to, to travel.

Sorry, what's the relevance of that little statement?---Oh, it, it was a holiday that my father supported me during that period and he was willing to support me to go away after the Reid election.

10 Sure. Now, your father obviously couldn't have given you any cash after April 2017, that's right?---After 2017, around - - -

After April 2017, when your father passed away, he couldn't give you any cash.---No.

That's right?---Prior - - -

That's right, isn't it?---If I can explain, prior to - - -

20 No, no. Just answer my question.---In 2017 he did give me cash, yes.

Mr Tsirekas, please. The question was pretty clear. After April 2017, when he died, he couldn't give you any more cash, could he?---No. He couldn't.

So I think you want to say that your father gave you more cash, don't you, at some stage after he gave you this \$10,000 cash in 2016, don't you?---I, I can't - - -

Mr Tsirekas - - -?---What, what period of time did you say?

30 He gave you 41-odd thousand dollars in cash in 2015?---Yes, yes.

He gave you \$10,000 cash before the middle of 2016 when you went to Italy with Ms Crichton?---Yes.

He dies in April 2017, so he can't give any cash after that?---No.

So I've bookended the periods of time for you, Mr Tsirekas.---Yes.

40 From the middle of 2016 to April 2017, do you understand that?---Yes, I do.

So do you want to now tell me that he gave you cash in that period of time as well?---Early period of 2017, he, he was, yeah, he was withdrawing a fair bit of cash.

THE COMMISSIONER: What do you mean by “a fair bit of cash”?---Yes.

What do you mean a “fair bit”? What’s your concept of a fair bit of cash?
---Well, I think he, he was withdrawing out, you know, thousands of dollars out in those months.

10

How many thousands?---I don’t know but I know he was withdrawing, I, he was withdrawing cash out and - - -

Is all this cash coming from your father?---From, yes.

MR DARAMS: Sorry, just so we’re clear, early 2017 before he passes away?---Yeah. It would have been late, I think my best recollection, it was around Christmas/January.

20 So, Christmas, so December 2016, January 2017.---That, those months before he went to hospital.

Well, I’m asking you to assist us. Just - - -?---I’m trying to recall as best I can.

So, probably somewhere just before Christmas 2016?---Yes. December, November/December/January, around that period, best of my recollection.

30 November/December 2016, January 2017, he was withdrawing thousands of dollars in cash, was he?---Well, that’s what he was telling me.

THE COMMISSIONER: Sorry?---That’s what he was telling me and showing.

You’re talking about from December ‘16, January ‘17?---’17, yes.

You’re giving evidence that you father was still handing out cash to you?
---Well - - -

40 Is that right?---Yes, he was.

I see. Was this while he was in hospital?---No, no, no. Yeah, he was still going out, he was still - - -

He had unfortunately been unwell for some period of time before December 2016, is that right?---Unwell in a way that he needed to find out what was wrong with him.

Well - - -?---But not bedridden.

10 No, I'm putting - - -?---And not in hospital.

But seriously ill?---No, not seriously ill. It only was diagnosed in January 2017 of what it was. Prior to that he continued on with his life as best he could and trying to enjoy himself.

MR DARAMS: How many thousands of dollars did, well, I shouldn't say this, do you say your father gave you in this period of time, November/December 2016 and January 2017, that's the three-month period?---Yeah.

20

Do you say your father gave you thousands of dollars in cash again?---Yeah, yes.

How many thousands do you say he gave you?---Oh, look, I can't recall. It, it was - - -

THE COMMISSIONER: Well - - -?---I can't recall, Commissioner. It was, it, it would have been up to - - -

30 This was exceedingly generous by your father, wasn't it?---Would have been, well, I was his only son.

Yeah, but - - -?---I was looking after him.

But he's being exceedingly generous according to your account.---Well, well - - -

No, is that right or not?---Commissioner - - -

40 No, no, please. Is that right or not?---Pardon, what was the question?

I'll put it a second time. On your account your father was being extremely generous giving you cash moneys, is that right?---No.

MR DARAMS: Do you have a sibling or siblings?---A sister.

Do you know whether your father was giving your sister the same amounts of money?---I don't know.

You haven't had a conversation with her to that effect?---No.

10

You've never told her that your dad was giving you all this money?---She knew dad was helping me, but I didn't tell her this - - -

Have you told her?---No.

So you didn't tell her that your dad gave you this 40-odd thousand dollars in 2015?---No.

20 You didn't tell her that your dad was giving you this thousands of dollars, on your evidence, in this period 2016-2017?---No.

Just back to the question about how much your father did give you in that period of time. How many thousands do you say your father gave you? ---Over that period, probably been around eight to 10,000. I can't recall. It was over those two months.

THE COMMISSIONER: You say eight to 10,000 but you don't recall, so - - -?---No, around that figure.

30 - - - how can it be eight to 10,000 if you don't recall?---Around that figure. I don't know the, the correct figure.

Did you ever keep a record of these amounts your father was giving so that when the day came to perhaps offer repayment, you'd know how much to pay him?---No, Commissioner.

40 Didn't keep any note at all in a diary or recorded anywhere in a computer or anything like that as to the amounts your dad was giving you so that you would be able to, as a dutiful son, in due course repay him?---No, Commissioner, and I was still going through settlement, so he was still

helping me in that way. I hadn't finalised settlement or the divorce. But, you know - - -

Why didn't you keep a running total for the benefit of being able to repay your father's generosity?---No, I never kept a record.

But why? Why wouldn't you do that? It seems to be something you would do.---No, Commissioner.

10 So you're telling the Commission there's no record anywhere of any amount, you say, your father paid to you, is that right?---Correct, Commissioner.

None at all?---No, Commissioner.

MR DARAMS: Mr Tsirekas, you said before that your father was withdrawing these amounts of money.---Yes.

20 Did you know he was withdrawing these amounts of money?---No, not at that time.

Well, why did you tell us that he was withdrawing these amounts of money, thousands of dollars? Why did you say that? Did you just make that up in the witness box?---No, I didn't.

You did.---No, I didn't.

30 Well, then why did you tell us he was withdrawing this money?---'Cause he told me, he showed me the money.

He showed you?

THE COMMISSIONER: What did he show you?---He, he showed me the money when he gave it to me.

MR DARAMS: Did he show you the bank account where he was withdrawing this money from?---No.

40 So how do you know he was withdrawing the money?---He told, he told me he was withdrawing money.

Did you ask him where he was withdrawing the money from?---No.

Do you know where he was withdrawing the money from?---No, I wasn't with him.

Yes, but whether you were with him or not, you were the son, the only son you've told us. You must have known or had some idea what bank accounts or what accounts your father had.---Yes.

10 Were you one of the executors of his will?---No.

No. Did he leave a will?---I think he did, yes. I think he did, yeah.

Is your sister the executor of the will?---I don't know.

You don't know who is though?---No.

Okay. So you don't – tell us about how these additional amounts, and when I talk about the addition amounts, these amounts in 2016/2017, were given
20 to you? Was it one lump sum?---No, it wasn't.

How many different amounts did he give you?---I can't recall.

Was it two amounts?---No, I, I can't recall. I was with him over that period of time, trying to do what I could and we would go out and he would come home to my unit, stay and watch TV, he would, he would give me the, the cash then. I can't recall - - -

30 Did you count the cash that he gave to you?---Sorry?

Did you count it when he gave it to you?---I probably did at that stage.

What did you do with the cash?---I kept the cash.

When you say you kept the cash, but what did you do after you kept it? He gives you the cash, what did you go and do with it?---Nothing.

Well, why did he give you the cash?---Because he was supporting me.

40 But that seems to – what, did you spend the cash?---I did over time, yes.

What did you spend it on?---On, well, it helped me over time and I used it for the 2018 trip to, with, with Heather to Hawaii, for part of it.

THE COMMISSIONER: Was it used for other trips as well?---Well, there was the, the, the Italy trip.

MR DARAMS: Sorry, just stop there. Let's not get confused, I don't want you to be confused. When you say "Italy trip", you're not talking about the Italy 2016 trip?---Oh, that's what I was referring to, yeah.

10

Well, then don't. We're not talking about that \$10,000.---Right, okay.

We're focusing, and I need you to focus because it's important, focus on this addition cash you say your father gave you in November or December 2016 and January 2017. So just focus on that. You've told us about eight to \$10,000.---Around that much, yeah.

20

We've been asking you some questions about well, what did you do with it all? So first thing you've said to us – sorry, I shouldn't say first thing. One of the things you've said to us is that you've used some of it for the trip with Ms Crichton in 2018.---Ah hmm, yes.

How much of the cash did you use for that trip?---Oh, I can't recall.

Well, you've got this eight to \$10,000. Was it half of it?---Look, I really can't recall.

30

I'm asking you to assist us. You can recall that your father gave you about eight to 10,000.---Yeah.

I'm asking you to assist us, Mr Tsirekas, try and think back how much cash was used for that trip in 2018?---Look, I can't remember.

Can you have an estimate, please?---Oh, I wouldn't like to estimate. I can't remember.

Was it all of it?---Look, I can't remember.

40

So you've said 2018. Which trip in 2018, where did you go with Ms Crichton?---I think it, I think it might have been Hawaii.

So tell me about how you paid for this trip to Hawaii in 2018. Where did you take the cash?---Best of my recollection, was it Flight Centre.

Where?---Flight Centre.

Where was the location, sorry?---I think it was Ashfield, yeah.

Was there any particular reason why you went to the Flight Centre at Ashfield? Do you know someone who worked there?---Yes, Pina.

10

Pina who?---Colacicco – sorry. Panuccio.

Mr Panuccio’s one of your good friends, isn’t he?---He’s a friend, yes.

One of your good friends?---He’s a friend.

You don’t rate him as a good friend?---He, he’s a good friend.

20 THE COMMISSIONER: Well, have you known him for long?---Probably 15 or more years.

And I take it as a friend, you’ve socialised with him over many - - -?---Yes.

- - - trips overseas with you?---Yes.

So you’d class him as a close friend, then, I take it?---A, a good friend, so, Commissioner.

A good friend?---Yeah.

30

MR DARAMS: Has he ever lent you money?---In 2019 he did.

How much did he lend you?---It was for the upgrade - - -

Upgrade for what?---For the trip that I was going on.

Which trip?---The 2019.

Are you able to be any more specific in 2019?---It was - - -

40

You seem to - - -?---2019, it was - - -

Well, you've taken at least three trips in 2019.---Yeah, it, it was to Europe, trip to Europe. I think he lent me some money to - - -

How much did he lend you?---Best of my recollection, I think it was four or 5,000.

So have you paid it back?---I know at the time that - - -

10 No, no. Have you paid it back?---Yes, I have.

When did you pay it back?---I, I know I paid him back a large portion within the first two months and then I, best of my recollection, I paid him the rest on, on settlement.

When you say "settlement" you mean the settlement of your property dissolution with your ex-wife?---Yes.

So in mid-2020?---So 2020.

20

Did you ever declare this, must have been a loan if you were intending to pay Mr Panuccio back. That's right?---Yes. Yeah.

Did you ever declare or disclose that in your annual disclosure with the Canada Bay Council?---I paid him back - - -

No, but did you ever disclose the loan?---I, I don't know. I don't think I did.

30 Is there a reason why you didn't do that?---No, it's just I, I completely missed that. So just going back to the evidence about your cash your father gave you, so somewhere between eight and \$10,000?---Yes, that's best of my recollection.

Over this period of time, just November/December 2016, January 2017?
---Yes.

Gives you this cash. Where do you put this cash? Did you put it in a bank account?---No.

40

Why didn't you put it in a bank account?---I kept the cash at home.

Why didn't you put it in a bank account?---Probably I didn't want it to be included in my settlement finances.

You said "probably"?---More than likely.

THE COMMISSIONER: Well, don't you know?---Well, it would have been, that I wanted - - -

10 No. Not "would have been". Do you know whether - - -?---Well, yes.

Do you know whether that was the reason?---Yes, it was the reason.

You know now, do you?---No, it was the reason, Commissioner.

Any other reason?---No, I, well, no, 'cause I always have cash at home and I didn't want to bank it.

20 You had a bank account, though?---Sorry, Commissioner?

You've always had a bank account?---Yes.

Cheque account.---Yes, Commissioner.

Why wouldn't you put large amounts of cash into that account?---No real reason, Commissioner, except I didn't – probably the reason is I didn't want it to be included in my financials.

30 What, you wanted to keep it secret, hide it?---From my financials, yes.

In terms of your divorce proceedings?---I was going through the settlement, yes.

Well, then if you were hiding it so that your ex-wife was unaware of it, that's what you're saying, isn't it?---Yes, Commissioner.

Then you're hiding it from the court as well. That right?---I wasn't aware of that at the time, no.

40 But looking back now you can see - - -?---Yep.

- - - if you were not disclosing the money, the cash money, by depositing it into a bank account to keep it from your wife, it follows, as night follows day, that you'd also be seeking to hide it from the court that may be called upon to determine property settlement, financial matters.---Correct.

Is that right?---Yes, Commissioner.

10 Why would you want to deceive a court?---No, no real reason, Commissioner, except that I was going through this difficult period of time and my father and I had had these discussions, and I think I've explained it to the court.

Yes, you have.---Yep. So - - -

I'm just trying to follow your reasoning. You say you intentionally did not bank large amounts of cash that you received, did not bank it into the bank account that you held with, is it CBA?---Yes, Commissioner.

20 CBA. Because if you did that, then your wife would, ex-wife, could become aware of the fact that you've got those amounts sitting in your bank account, is that right?---That's right.

And you wanted not to do that so that it could remain hidden from her. Yes?---No, Commissioner. I've already explained that – I retract that. Yes.

30 Yes. Well, now, it follows from that that this was a strategy to keep it from your wife but also to keep it from the court that may be called upon to make the determination of the property and financial arrangements between you and your ex-wife in the matrimonial proceedings, that's right, isn't it? ---Yes, Commissioner.

Well, you'd accept now, wouldn't you, that would be an extremely serious thing to do, to hide it from the court?---No, Commissioner.

You don't?---No. I was spending the cash. It wasn't like it was building up. It was there to be spent.

40 But however much was in the account from time to time, you were required, were you not, to bring it into account? And that's why you decided to hide it. That right?---One reason, Commissioner.

Yes. And as I think you've already accepted, in that way you'd be acting not honestly but you'd be acting dishonestly so far as not revealing it in court documents, correct?---No, Commissioner.

I thought you had agreed with me before.---Not to the effect that I was aware I was doing anything wrong towards the courts because the finances of - - -

10 I see.--- - - - holding that cash, I was spending. It wasn't like I was saving it.

But it would follow, wouldn't it, that if you were hiding it from your wife, as you said - - -?---Well - - -

- - - it was one of your, part of your intention, then you'd be hiding it from the court as well.---No. And, but - - -

20 Is that, I mean, that's obvious, isn't it?---Yeah. I was spending the cash, Commissioner.

That is obvious, isn't it?---Not to me at that stage.

Well, let's go back. You said that you decided you wouldn't bank it because your wife then would find out about what cash reserves you had sitting in the bank. Right?---That's one reason, Commissioner, yes.

That's called hiding money we'll call it.---Yeah.

30 Hiding money from ex-wife.---Yes.

Right. And if you were hiding it from her and you were not banking it then it would follow, wouldn't it, that you would be hiding it also from the court as to what your true financial position was.---No. I wasn't aware of that, Commissioner.

Well, you may not have been aware of it but now looking back - - -?---I wasn't aware of it.

40 Now looking back that's the net result of it, isn't it?---Well, as I said I, I - - -
Yes?---Yes, Commissioner, now looking back.

Yes, yes. But you would have been aware of that at the time.---No, Commissioner.

Well, you realise that the proceedings are on foot in the Family Court and that you had to be, [REDACTED], frank and make full disclosure, yes? You were aware of that?---Not at that stage, Commissioner.

10 We've been over this this morning.---I know. Not at that stage, no.

You weren't. Well, what stage?-- [REDACTED]
[REDACTED]

I see. All right.

MR DARAMS: Just in fairness to you Mr Tsirekas, when I asked you why you didn't bank the money, your first answer was in effect to, you were going through the settlement proceedings and you, in my understanding of
20 the evidence, you in effect wanted hide the money from your wife, that's right? That's right?---Yes.

In all fairness to you, you then later, in answer to the Chief Commissioner's question said that was one reason.---Ah hmm.

What was the other reason or reasons?---That I was going to use those funds to, you know, continue living and, and expenses and holidays.

30 Sorry, you wanted to, but that doesn't mean – you could still do that if you banked the money, correct?---I was keeping cash at home. Is there anything wrong against that?

Just focus on my question, please. The reason you decided not to bank it was to hide it from your wide and you said - - -?---One of the reasons, yes.

40 Yeah, that was one reason. I know, I accept that it was one reason. I'm giving you the opportunity to explain. I asked you, "What was the other reason or reasons?" You've given me this explanation because you were going to spend it. I'm suggesting to you that that's not a reason not to put the money in the bank account because you could still spend it if it goes into the bank account. Would you agree with that?---No.

Why don't you agree with that?---Because I always had cash at home to use.

No, stop.---You asked me the question.

Why don't you agree with this simple proposition that if you put money in the bank account you can still spend it?---I disagree with that.

10 But why do you disagree with that?---I tried to explain to you, I always had cash at home and I liked having cash at home. That's the reason.

THE COMMISSIONER: Just listen to the question. I don't know you're connecting, you're passing like ships in the night at the moment. Just put the question again.

MR DARAMS: You could still spend the money that your father gave you if you put it into the bank account, yes or no.---I didn't put it in the bank account.

20 No, I know you didn't put it in the bank account. I'm just trying to test your explanation as to why you didn't put it into the bank account. One explanation you've given, or one reason, you say, is to hide it from your ex-wife.---Mmm.

I accept that, I understand that. Then next reason, when I asked you, "Well, what are the other reasons?" you said because you were going to spend the money, is that right?---Yes.

30 My question to you is that if you put the money into the bank account, you could still spend that money, correct?---But I didn't.

I know you didn't put it into the bank account but I'm suggesting to you if you had put into the bank account, you could have still spent it.---Yeah. You're suggesting that I could have put it in the bank, but I didn't and I had it at home.

THE COMMISSIONER: I think we know that.

40 MR DARAMS: We understand - - -

THE COMMISSIONER: It's been put to you, though, "if you had have put it in the bank", okay? So this is a hypothetical now we're putting to you.
---Hypothetical, yeah,

Had you not hung onto all this cash at home and put it in the bank, that's the scenario you're being asked to address your mind directly to.---Yes.

MR DARAMS: I'll be more direct to see if I can help you, Mr Tsirekas.
See, I'm really testing with you your evidence that there was another reason
10 why you didn't bank the cash.---Right.

And I'm suggesting this other reason, i.e. "Because I was going to spend it", isn't really a reason because even if you banked the money you could still spend it. So at the end of the day it seems to be the only reason you didn't bank it was the reason you first gave, to hide it from your ex-wife.---No, I disagree.

Could I ask the witness be shown volume 5A, page 256? Just look at this first page, Mr Tsirekas.---Yes.
20

This is the invoice, isn't it, in relation to the travel that you and I have been talking about that you took with Ms Crichton in 2018 to Hawaii?---It appears to be. There was a few different versions but it appears to be.

Could I ask that the witness be shown the next page, so volume 5A, page 257? So this is, the next page of this invoice, there's a reference to transfers, there's a reference to accommodation. Do you see it says Outrigger Reef Resort? That's where you stayed on this trip. Is that right?
---Yes.
30

If I could then ask that the witness be shown page 263? It's the last page of the invoice, Mr Tsirekas?---Mmm.

The records of this booking seem to demonstrate that on 5 December, 2017, you were issued the tax invoice in relation to this trip?---Yes.

And the total cost is 13,949?---Yes.

Then it records three separate cash payments being made which are assigned
40 or said to be received from you?---Yes.

One is \$8,500?---Yes.

The next is \$5,000?---Yes.

The next one is on 7 December, 2017, \$449?---Yes.

Now, Ms Crichton has given some evidence that in relation to this trip, she gave you \$5,000 that came out of the safe that she had in her house.---Yes.

10 Is that the \$5,000 payment there?---I would say it is.

Well, are you saying that this \$5,000 cash payment came from somewhere else?---No. I, I would say it is.

So given your evidence before in relation to the cash that your father gave you in this period November and December 2016 and January 2019, the cash that your father gave you, is that that \$8,500 there?---I don't know how much of that would have been dad's and a bit of my cash but it was the amount that we paid for the trip, including dad's amount.

20

Well, you said you used your dad's cash to pay for this trip?---Yeah. And it, some of it was mine, too, but I don't know, it was just included in the, the final figure.

Sorry? How much of this \$8,500 was, what, you say your cash?---Some of my cash, only a small amount that I - - -

How much?---I can't recall.

30 When you say "small amount" what do you regard as a small amount?
---Look, I, I can't recall. It was eight - - -

Chief – well, what, less than 1,000?---I, I can't recall. The, the money was put, where I kept it at home was all put together. It wasn't excluded. So I can't recall.

Where did you keep it at home?---In a bag in, in a box.

In a shoebox?---Well, you can call it a shoebox.

40

What did you call it?---A box.

You kept it in a bag. What kind of bag?---I, a little travel bag.

What colour?---Tan.

Chief Commissioner, I note the time.

THE COMMISSIONER: Yes. Thank you. Very well. Well, we'll resume at 2 o'clock.

10

LUNCHEON ADJOURNMENT

[12.05pm]