

TOLOSAPUB01179
17/05/2022

TOLOSA
pp 01179-01227

PUBLIC
HEARING

COPYRIGHT

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 TUESDAY 17 MAY, 2022

AT 2.00PM

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

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

THE COMMISSIONER: Yes, Mr Darams.

MR DARAMS: Mr Colacicco, the settlement on 231 Victoria Road, is it the best of your recollection that you and Mr █████ settled before the expiration of the six-month extension of the settlement period?---I don't recall the exact date.

10

No, I know you don't recall the exact date but just, you recall there was an extension of the settlement period but do you recall you settled before the expiration of that extension period?---No. I don't recall.

You recall you settled on the property though?---I recall I settled on the property but I don't know the date.

Yeah. Okay. But you didn't get a further extension of the settlement period, did you?---No, not that I'm aware of. No.

20

Now, I want to ask that you be shown volume 3.1, page 164. 3.5, sorry. Now, Mr Colacicco, do you recognise that location?---Yes, I do.

Is that the Nield Park café?---Yes, it is.

Do you recognise the individuals sitting at the table?---Yes.

So starting - - ?---Except for one, I don't know one of them.

30

Right. Well, starting from the left, the person with the shorts, is that you?---Yes, it is.

Do you know who's sitting next to you?---Looks like Gary Sawyer.

Mr Sawyer?---Yes.

The next person around?---Is a gentleman called Frank.

Frank Moio?---Yes. I believe so, yeah.

40

The individual at the end of the table?---No, I don't know him.

Right. Do you recognise the person with the blue t-shirt, even though they're partly obscured?---Yes.

Who is that?---Nino Panuccio.

THE COMMISSIONER: Sorry, I couldn't hear that.---Nino Panuccio.
Nino.

10 Nino.---Yeah.

MR DARAMS: The person with his back turned to the camera?---Looks like Carlo.

Carlo who, sorry?---Ianni.

Ianni. Now, this photo was taken on 25 January, 2019. Does that day stick out in your memory for any particular reason?---No.

20 No. This would have been one of those Friday catch-ups though?---Yes.

All right. Could the witness be shown page 166? Now, so we see Mr Tsirekas in this photo as well?---Yes, I do.

Is that the gentleman with the hat on?---Yes, that's correct.

Could the witness be shown page 170, please? Now, that's Mr Sawyer, isn't it?---That's correct, yes.

30 I think Mr Sawyer was sitting next to you on the first photo I took but he was obscured in the photo, but you recognised that to be he.---That's correct.

Right. Now, could the witness be shown page 169? I just want to focus your attention, in Mr Sawyer's left hand he has an envelope. Do you see that?---Yes. I can see that.

Did you give him that envelope at that meeting?---No.

40 Do you know who gave him the envelope in the meeting?---No.

Did you see anyone give Mr Sawyer an envelope at the meeting?---No.

Were you at the meeting the entire time that Mr Sawyer was there?---Well, we, we would have been there for coffee.

Yeah.---Yeah. And then I would have left.

Mr Sawyer never gave you back any tickets to the SCG, did he?---Not that I'm aware of.

10

All right. Now, could the witness be shown page 166 again? I just want you to focus, Mr Tsirekas' left hand, do you see that he appears to have an envelope in his left hand? Do you see that?---Yes.

Did you give that envelope to Mr Tsirekas?---No.

Did you see anyone give that to Mr Tsirekas at that meeting?---No, no.

20 Do you know how Mr Tsirekas came to obtain that or be given that envelope?---No.

Do you deny that you gave the envelope to Mr Tsirekas?---Yes.

Do you deny you gave the envelope to Mr Sawyer?---Yes.

Did you give the envelope to anyone else at that table to give to Mr Sawyer?---No.

30 Did you give the envelope to anyone else at the table to give to Mr Tsirekas?---No.

I take it then you don't know what was in those envelopes?---No, I don't.

I think I should tender those photos now, Chief Commissioner.

THE COMMISSIONER: These photos, they all come from volume 3.1?

MR DARAMS: 3.5.

40 THE COMMISSIONER: 5, is it? 3.5.

MR DARAMS: Yep. Pages 164, 166, and 170.

THE COMMISSIONER: Is that 56 or 66? 166?

MR DARAMS: 164, 166, 170.,

THE COMMISSIONER: Yep.

MR DARAMS: They're surveillance photos, 25 January, 2019.

10

THE COMMISSIONER: Also one at 159 as well. Do you want – that's the last one. Is that right?

MR DARAMS: So the photos - - -

THE COMMISSIONER: The last one, Mr Sawyer – sorry, Mr Tsirekas.

MR DARAMS: Mr Tsirekas one was one-sixty – sorry, yes, that was 166.

20 THE COMMISSIONER: 166, is it?

MR DARAMS: Yep. 164, 166 - - -

THE COMMISSIONER: 170 is Mr Sawyer on 21 January, '19.

MR DARAMS: 25 January.

THE COMMISSIONER: And then there's the one that the – okay.

30 MR DARAMS: Perhaps I'll do this. Could the witness be shown page 170.

THE COMMISSIONER: I thought you already, you have shown that to him I think, haven't you?

MR DARAMS: Yeah, I just want to make sure that I - - -

THE COMMISSIONER: 21 January, '19. Just check anyway.

MR DARAMS: Yes. That's the photo of Mr Sawyer, correct, Mr - - -?
40 ---Yes, that's correct.

Yes, so that's page 170, I tender that.

THE COMMISSIONER: Yes, very well. The photographs contained in volume 3.5 as specified will be together one exhibit and will become exhibit – what number are we up to?

MR DARAMS: 43.

THE COMMISSIONER: 43.

10

#EXH-043 – SURVEILLANCE PHOTOS DATED 25 JANUARY 2019

MR DARAMS: Mr Colacicco, I wanted to just ask you some questions about some questions and answers you were asked by the Commission's staff when you came in for an interview. Bear with me one moment, I'll get you the date. On 1 July, 2020. So if we bring up volume 8.1, page - - -

20 THE COMMISSIONER: Sorry, could you give me that reference again?

MR DARAMS: Yes, volume 8.1, page 215.

THE COMMISSIONER: Thank you.

MR DARAMS: Now, I want to – so you recall you came and were interviewed by officers of the Commission in July 2020, Mr Colacicco?
---Yes.

30 You remember on that occasion you were told that it was a voluntary interview, that's right?---That's correct.

You understood that you weren't there under compulsion.---That's right.

But you understood you had to tell the truth on that occasion.---Yes.

I think you were reminded of your obligation to tell the truth and you agreed to do so, that's right?---Yes.

40 Now, I just want to ask you about some of the questions you were asked and the answers you gave, and I'll just draw your attention to what starts at the

top of the page, the reference to the sold, they'd sold the units off the plan, and then Mr [REDACTED] asks you, right, you say, "Which I only found out about after, because Angelo had said to me, 'I bought this unit in Ashfield.'" What we're talking about here, or you were talking about, Mr Colacicco, was the purchase by Mr Tsirekas of the Ashfield unit, that's right?---Yes, that's correct.

Then just if I could ask you to then read the next questions that you were asked about this matter. And so just read it to yourself as you go down
10 'cause I need you to read some of the questions and answers, then I'm going to put some questions to you, Mr Colacicco. So tell me when you need us to scroll the page up.---Yep, scroll up. Yes.

I need to show you the next page. Scroll down to the top. I want you to just – just tell me once you get to about line 14.---Yes.

You're finished that?---Yep.

Now you understood that you were being asked questions about your
20 involvement in Mr Tsirekas' purchase of the unit at Ashfield, correct? ---Yes. Well, he, I, it was made to my attention that he had bought this unit off the plan, yes.

Well, when you say it was brought to your attention, we're talking about 1 July, 2020. You knew that Mr Tsirekas had done that by that stage, hadn't you?---Yes.

Because you had been involved in the Machonic bank account. Firstly, you'd been involved in setting up Machonic, correct?---That's right.
30

You were involved in administering or opening up the Machonic bank account.---Yes.

You had been involved in depositing sums of money into the Machonic bank account that had been given to you by Mr Tsirekas.---Correct.

You had been involved in taking out or obtaining the bank cheques from funds in the Machonic bank account.---Correct.

40 At the direction of Mr Tsirekas.---Correct.

Which you understood were being paid for the deposit on the purchase of this unit, correct?---Correct.

Now, I want to suggest to you that you weren't fully frank with the Commission's officers when they were asking you about your involvement in this transaction. What do you say about that?---Well, I wasn't asked at the time about any moneys or anything. I was just asked if I knew about the unit, and I've only come to see the unit when -- 'cause I, he wanted me to attend the settlement, pre-settlement.

10

Well - - ?---But I wasn't asked about any moneys or anything like that.

Well, weren't you asked by Mr [REDACTED], if we look at line, at about line 13, "Okay, so apart from providing some advice, you had no other involvement in this particular unit with Mr Tsirekas?" and you said, "No."---Right.

That wasn't a truthful answer, though, was it?---Well, I, I didn't know that they were, it was in regards to the funds that I assisted him with funds.

20 Sorry, say that again, Mr Colacicco.---I didn't, I didn't, I, I didn't understand the question at the time, but it looks like the question was asked what I assisted in funds. But at the time, I, I, I didn't, it was his money, it wasn't my money. That's what, how I understood it.

Well, the question wasn't about whose money it was. Mr [REDACTED] asked you quite clearly and directly "So apart from providing some advice, you had no other involvement in this particular unit with Mr Tsirekas?" Your answer was "No." You didn't say "I don't understand what you mean".---No, I didn't at the time, no. I probably didn't understand the question that he was asking me.

30

No, sorry. My question is you didn't say to Mr [REDACTED] "I don't know what you're talking about" or "I don't understand your question", did you?---No.

This is what I want to suggest to you, Mr Colacicco. You clearly understood that you were being asked questions by Mr [REDACTED] about your involvement with Mr Tsirekas in the purchase of the unit. You knew that, didn't you?---No. I didn't know, when, when you talk about involvement, not that I was buying it with Mr Tsirekas. The unit was his.

40

THE COMMISSIONER: But the question was “So apart from providing some advice, you had no other involvement in this particular unit with Tsirekas?” but you were involved, were you not, in the acquisition of it? That is the financing, at least in part, of the unit?---Chief Commissioner, I only found out when he’s asked me to take the money out of the bank account for a bank cheque that he had bought a unit but I wasn’t involved in him buying the unit or, or negotiating on the unit, no.

10 But the moneys that were put towards purchasing the unit came from the Machonic account, didn’t it?---Yes. Part of it did, when he asked me to get the bank cheque.

That’s your account?---Yes.

Your account. So you were directly involved in an aspect concerning the financing of the unit through your, or the account that you controlled, Machonic?---Yes. But it was his money.

20 But we spent some time the other day talking about how the money came in and came out of that account.---Yes.

And that he would bring sometimes large amounts of cash which you would take from him when you met him at the back of the premises, your business premises?---Yes, Commissioner.

And then you would take the bag of cash and deposit it with, I think it was CBA, is that right?---Yes, Correct.

30 And you understood that the moneys that went into and came out of that account, at least in part, went towards the acquisition of the unit.---Only at the time when he asked me to get a bank cheque. Yes.

Well, I think what’s being put to you is when you were asked whether you had any involvement, any other involvement in this particular unit with Tsirekas, that question, it’s being suggested, should have been said, “Well, yeah, I opened an account and ran it for his benefit from which the unit was partly financed”.---Yes. I obviously didn’t understand the question at the time and I’m sorry about that.

40 MR DARAMS: Well, could I just, perhaps if I could just ask you to take the transcript back to the preceding page. Now, I’ll draw your attention to

Mr [REDACTED]'s question at about line 28. So Mr [REDACTED] puts this question to you, before he puts the question to you again later on, "Did you have any other involvement with Tsirekas over this unit?" Again you've answered "No." And then you qualify and say "I only, I only - - -", and Mr [REDACTED] says "Okay." Then you actually disclose a little bit more information, Mr Colacicco, about what I want to suggest to you is your involvement in the unit and you've disclosed something that is not, or it's in addition to just simply knowledge of the purchase of the unit. So I want to suggest to you, you must have understood that what Mr [REDACTED] was asking you was to detail
10 your involvement in the purchase of that unit, because otherwise you wouldn't have answered this question in that for, that is the question at about line 32, the answer at line 32. What do you say about that?---Which line is that?

Line 32 where you answer. So you're asked by Mr [REDACTED] at about line 28, "Okay. Did you have any other involvement with Tsirekas over this unit?" Your answer again is "No" but then you "I only, I only - - -". Mr [REDACTED] says, "Okay." Then you say, "I only, there was a period of coming where it was, it was coming, I think he was buying it. He was going through a [REDACTED]
20 [REDACTED] and I just said to him, 'Why don't you speak to your ex-wife?'" So you're, Mr [REDACTED] asks you on this preceding occasion about your involvement. You first say no but then you disclose more involvement you have in the transaction. So what I want to suggest to you, Mr Colacicco, is that when Mr [REDACTED] was asking you about your involvement in the transaction with Mr Tsirekas, you did understand that he was asking you to tell him all of the matters in which you were involved in. You didn't misunderstand his question.---No, what I was understanding there was that Angelo didn't have the money to settle and they hadn't settled, I think, the sale of their home or, and I was asking, "Why don't you speak to your wife
30 and see if you can utilise some funds or if the money, and, and to help to settle with the unit and put it in the girls' names?"

Because your involvement in that transaction was giving some advice to Mr - - -?---As a friend, yes.

I'm not suggesting you were doing anything either way. I just want to put this – I'll put this last question to you. You knew when you were asked by Mr [REDACTED] about your involvement, you knew at that time you had been
40 involved in the Machonic transaction.---Yes, I did.

You must have understood - - -?---Well, no, sorry, I take that back. I never got asked anything about Machonic from Mr [REDACTED].

No, I understand that. What I'm putting to you is that you knew at this time in July 2020, when Mr [REDACTED] asked you about your involvement in the transaction, you had been involved in the Machonic bank account, correct? ---Yes, well, I couldn't recall at the time. I only remembered all of this when it's come, come, you showed me when I'm being called into here for this, these proceedings.

10

Is that a truthful answer, is it?---Yes, it is.

This highly unusual circumstance where you are opening the bank account on behalf of one of your very close friends, in which you deposited amounts of cash given to you by one of your very close friends, which you accepted that you've never done that on behalf of any other of your close friends before. This is something you forgot about?---No, I didn't forget about it. I didn't recall at the time 'cause I wasn't asked the question. But again, as I said, I've made a mistake. I made it quite clear that I made a mistake and it was stupid, but I never got asked specifically about the Machonic account from Mr [REDACTED], so I didn't answer that 'cause I, I thought it was relating to what involvement that I had just as a friend giving advice.

20

So I want to suggest to you that you did understand the question and you deliberately didn't disclose your involvement in the transaction.---No, I don't, I, I, I don't agree with that.

THE COMMISSIONER: Mr Colacicco, you did say in evidence the other day, when you were asked about setting up and the purpose for the Machonic account was to receive moneys from, cash moneys from Mr Tsirekas, who would periodically come to your premises. Out the back of the premises there was, he'd hand you the money, you would take it, bank it into your account. And you did, quite frankly, I think I might say, concede that you felt uncomfortable I think or you said, or you - - -?---Yes, Chief Commissioner.

30

- - - thought there might be something that you didn't want to know about as to what this arrangement really was connected to or concerned. That is, cash money coming from Mr Tsirekas, handing it to you, you going to the bank, you depositing it in the name of your company, then he'd withdraw

40

out amounts from it. You felt you didn't want to ask questions about it. You felt that - - -?---That's correct, yes.

- - - there might be something, there could be something wrong I think is my summary of what you said.---Yes, that's correct, Commissioner.

And just so you can respond to these questions, it might be put that one reason why you didn't raise the question of the funds that Mr Tsirekas was proposing to use by way of the deposit was coming from the Machonic
10 account was because you felt you might be somehow implicated in something that was suspicious activity or concerning activity Mr Tsirekas was engaging in in bringing this cash money for you to deposit into that account. Well, how would you respond if something like that was put? That you were being guarded because you thought you might become implicated?---Well, it was quite intimidating coming in here.

Sorry?---It was quite, I was quite nervous coming in here for, to meet with the, the Commission but at the same time I, I, I didn't think anything I was doing wrong. Now knowing these proceedings, thinking back, it could have
20 been a relief when he asked me to draw the bank cheque to know that it he was purchasing a unit. It was traceable so I thought, oh, you know, great, he's, that's it, in my mind but I didn't know at the time, if the question was asked to me about Machonic, I would have answered the same way that I have here in these proceedings. So - - -

Ah hmm. All right, thank you.

MR DARAMS: Now, it's the case, isn't it, Mr Colacicco, that since at least 2012 you've asked Mr Tsirekas to look into development applications that
30 might have been lodged by applicants other than yourself?---Yes, I may have, in my course of work.

So you contacted Mr Tsirekas, giving him the details of a development application and asked him to look into the progress of those development applications, is that right?---I may have in, time to time, just to see where they were at or to get an insight, but no benefit to me.

Sorry, when you say "may have", you know that you've done that, haven't you?---Yes. I've done that.
40

How many times do you believe you've done it?---I don't recall how many times I've done it, but in my line of work I spoke to many people in regards to council through some of the relationships I had built up about various DAs, if I had to.

Well, don't focus on other persons in council, just focus on the times you've asked Mr Tsirekas. Can you remember how many times now?---No, I can't remember how many times. It's been a long period of time that we've known each other.

10

And you've done it, that is asked Mr Tsirekas multiple times during that period of time, is that right?---Yes, I may have, yes.

Yeah. Well, when you say you may have, you have?---Yes, yes.

Is it the case that there have been so many that you can't remember now?---I just can't remember how many times. It's been a long relationship.

20 Yeah. Is it the case then that each time that you did ask Ms Tsirekas to do that, look into a DA for you, get some information about it, that Ms Tsirekas did respond to you in relation to those questions or queries?---Sometimes he may have, sometimes he didn't

Well, do you remember any particular occasions where he's, in effect, pushed back on you and said "No, Frank. I know we're mates, but I'm not going to do that"?---There was never a need to because I, I don't think I've ever asked him for anything that wasn't just a simple DA or something like that.

30 So is that the answer to my question, no, you can't think of an occasion where you've asked Mr Tsirekas about a development application on behalf of someone else where he said, in effect to you "No, I'm not going to do that, Frank"?---No, I can't recall.

THE COMMISSIONER: On those occasions when you did take up the question about a DA, are you talking about occasions on which DAs have been lodged by a developer and you had been requested and you did ask Mr Tsirekas to look into it?---Yes. I could have and also some mum and dads.

I was going to say, are these occasions where you made contact with Mr Tsirekas about development applications, that may be applications by a constituent or constituents who had business with the council, a DA.---Yes.

Or it may have included, or did include from time to time, DAs that had been lodged, or other applications for approval, been lodge by developers?
---No. There, there, sometimes there was the occasion by a developer that if I had sold them the site or if I was dealing with it, but yes, the same as a mum-and-dad application, but just in, in general conversation. I would say
10 to him, you know, "Could you follow up?"

But you don't deny that you did from time to time - - -?---No. I don't deny that. From time to time I did, yes.

- - - on behalf of a developer, made contact Mr Tsirekas to try and get his assistance in whatever the matter was about?---Yes.

All right.

20 MR DARAMS: Could I just, given some of your answers that you've given, could I ask that you be shown volume 6.5, page 212?

THE COMMISSIONER: Sorry, the reference again?

MR DARAMS: Volume 6.5, page 212. Mr Colacicco, these are, just so you benefit, these again are an exchange of text messages between you and Mr Tsirekas. This one, again your texts are in blue so this one is 20
February, 2018. Now, you don't need to tell me the name of the individual, but do you recognise that address there?---Yes, I do.

30 Was this a developer or was this one of those mums and dads?---No, this was a client that I'd sold property to, and obviously they were developing these two new dwellings, and I saw him at the coffee shop and he just said that he was basically it was been approved or it, it was approved but they were waiting for a letter to, for it to come out.

So the person you sold the property to - - -?---No, I didn't sell this particular property. He bought it from another agent.

Sorry. Okay. So is the owner of this property, is that a personal friend of yours?---They become friends, yes, after I sold the sister a property and the brother-in-law.

Sorry, I misunderstood your evidence. So you sold the sister and brother-in-law a property, that's right?---Yes.

You then became friends with the person or persons who own this property?---That's correct.

10

Were you friends with them at this stage?---Yes, I was.

Yeah. So a friend has come to you and said, "Frank, here's my, I've got something with my application, I'm waiting on some correspondence," or something to that effect, that's your recollection?---Yes, it would have been on the lines "How did you go at the coffee shop? How's your DA going?" He says, "Well, we've got it approved but we're just waiting for it to come out. It's been weeks." And I said, "Okay, no problem." Maybe I just would have asked Angelo, "Look, can you look into that?"

20

Well, the fact is that you did ask Mr Tsirekas to look into it, is that right? ---Yes.

What were you wanting Mr Tsirekas to do?---Just to see where it was at.

No actual benefit to me. This is a house that they're residing in.

THE COMMISSIONER: Well, any developer for that matter, whether they're a mum and dad or a corporate/commercial developer, are free to make contact with council staff and inquire where is it up to and why is it taking this long, and that sort of inquiry.---Yes.

30

That's always open, isn't it?---Yes. Yes, it is, yep.

Well, why in this particular case, this particular one we're dealing with in [REDACTED], Russell Lea, why was it that you took the trouble to take up the issue with Mr Tsirekas rather than say to your friends, look, every Tuesday you can meet your councillor or you can meet your, rather, I should have said council staff member who's dealing with the matter and they'll explain it all?---Just my recollection on the conversation, I think it was just in, in good faith to, to the friend. And also I think it had been approved

40

through the channels. It's just that he wasn't getting any feedback when they'd get their letter so they could start. So just out of good spirit I thought I'd ask Angelo the question.

Well, do you recall if there was a hiccup or a, or a - - -?---I, I don't recall. Just I - - -

10 - - - a particular problem that you were trying to help sort out?---I just recall that I think the gentlemen said to me that it was taking so long to get out of council, the letter of the approval, that's all.

MR DARAMS: So you make this inquiry of Mr Tsirekas, that's right?
---Yes.

Did your friend, the owner of that property, follow you up again and say, "Hey, what's going on?"---He may have, yes. Or I could have called him or sent him a message saying, "Look, it's, it's coming out," or "I've followed up and I'll wait to get an answer."

20 Well, can the witness be shown page 219. I draw your attention to the last blue balloon. So this is, what, 19 days later. Do you – you're following up Mr Tsirekas again, aren't you?---Yes, 'cause I probably would have seen my friend again and he probably would have asked me and I've heard nothing and following up again. There's an example that, you know, obviously it wasn't a priority. It was just asking, "Can you follow it up?"

Well, when you say it wasn't a priority, when you say it wasn't a priority, what are you talking about?---Well, it wasn't, it was just me asking in good faith, just asking a friend, saying, "Look, can you find out where this is at?"
30 They haven't got it." And obviously from the message you're saying 19 days later. I've just followed it up again and Angelo's replied saying, "What's his address again?" He's obviously forgotten about it.

Right, sorry, just you said it wasn't a priority. Are you saying it wasn't a priority of you or wasn't a priority – your assumption it wasn't a priority for Mr Tsirekas, is that right?---No, well, I think it wasn't a priority for anyone. I was just helping him, what I've done over the years in my business. If I can help, I'll help.

All right. So is it clear that the friend must have come back to you after 2 February and raised it with you again?---I could have spoken to the friend again. I manage properties for them.

You've had another conversation with them?---Yes, at some point we may have.

Sorry, when you say that you say, at this time were you managing properties for them, were you?---That's correct.

10

So they were more than just a friend, were they not?---Well, no - - -

You had a commercial relationship with them. I'm their friends, yes.

Yeah, so - - -?---This, this developed.

Yeah, so but at this time, I just want to understand your evidence, you said that they were friends, that you'd sold some property to their sister or sister and brother-in-law.---Brother-in-law, that's correct.

20

But were you managing properties at this time on behalf of this friend?
---Yes, I may have, yes.

So you had a commercial relationship as well?---Yes, and also I, he had a mutual cousin that's a good friend of mine through the football club.

Well, were you also trying to, in helping out your friend in following these things up with Mr Tsirekas, were you trying to also provide a benefit to your client as well at that stage?---No, because I'm already managing property
30 for him, so why would I claim for a benefit just by doing that, when I'm already doing business with them? I don't, I don't understand the question.

You might want to continue that commercial relationship with this individual, and assisting them out in relation to their development application, that might be one way that you thought would help them out and therefore continue your commercial relationship with them.---No.

No?---The development was already approved, apparently. I was just waiting, he was just being stalled on the letter.

40

We might be at cross purposes. What I'm suggesting to you that another reason, other than simply being friends with the owner of this property, is that you're also in a commercial relationship, so that if you could help that friend out, you would also be assisting the commercial relationship between you and your friend.---But I, I already manage, I already manage the properties for him.

I – well - - -?---So I don't know where it's going to benefit me any more.

- 10 Well, could I come back another way. It's certainly not going to harm that commercial relationship if in fact your friend raises the issue of their development application and you make inquiries of the mayor on their behalf. That's not going to harm your commercial relationship, is it?---No, it's not. But, like, my other 80 clients as well in my business. I help them as well if I have to.

THE COMMISSIONER: Scroll down the screen. No, the other way. To the top, okay.

- 20 MR DARAMS: So just if I can see Mr Tsirekas' response, "What is his address again?" See that?---Yes yes.

So we go over the page. You have to give the address to Mr Tsirekas.
---Yes.

Now, Mr Tsirekas says, "You sure? I thought it was [REDACTED]."
Now, just stopping there, does that address [REDACTED] ring any bells in your mind?---Yes, as I mentioned to you last time, that was for a friend of ours that was wanting to know how to go about removing a tree at his home.

30

So is this another example of an instance where you and Mr Tsirekas were talking about or had been talking about some inquiry on behalf of another person, is that right?---Yes, who does he speak to at council to come out and see if they can remove the tree.

So is it the person who was associated with [REDACTED], they come to you, they say "Frank, I've got some issue," or something like that, "who do I speak to?"---Just mutual conversation, yeah.

- 40 When you say mutual conversation, do you mean a conversation between you, Mr Tsirekas and - - -?---No, no. Me, me and the person.

Right.

THE COMMISSIONER: Just so I'm clear about this. The person referred to there, sorry, start again. Is the reference, if we scroll down to the bottom, the reference to "Andrew's", who was "Andrew's"?---Andrew's a friend of ours.

Was he connected to the property in Russell Lea?---No.

10

Right. Just scroll down again. So the other way. This stream of SMSs starts with [REDACTED], and that was the property of your friends that you've spoken of.---That's correct, yes.

Then you go down to - - -?---The other blue one, Chief Commissioner - - -

The other, yes.---That's referring to the [REDACTED], Chris and his dad.

20 Right. And when you go down the last one, if we scroll down, when you say "Andrew's is sorted", what was the issue concerning Andrew's?---He had a tree that he was - - -

That was the tree.---Yeah. It was causing issues and he wanted to know if he, how, how about going to get it removed.

If I just go back to the previous set of SMS messages that we were dealing with before. Go back up to the top. In the second message there from yourself, it's a message to Mr Tsirekas, is that right, that one?---Yes.

30 And you pose a question to him "Everything okay for JA?" Who is JA?
---JA is a mutual friend of ours that wanted to catch up for a coffee.

What was his name?---Mr Joseph Assaf.

Joseph?---Assaf.

Sorry?---Assaf. Assaf, A-s-s-a-f.

40 And was he a property owner or a businessman?---No, he's just a
businessman, friend, client, mutual friend that we sometimes have had
dinners at his place and caught up for coffee.

Was he a person who regularly attended the coffee meetings or not?---No, no.

No.---Not at all.

Okay. And when you said anything was okay for JA, what was okay for JA?---To catch up. Probably it was to catch up, yes.

10 Just to catch up, was it?---Yes.

So this was signalling to Mr Tsirekas that he will be there so that you – was it indicating that he - - -?---Yes, from time to time he would like to - - -

- - - would be there with, meeting with Mr Tsirekas or meeting with Mr Tsirekas and you?---No. Just meeting with myself and Mr Tsirekas at his house for a coffee or - - -

20 Right. And did that concern a development application?---No, no.

Or a matter concerning property?---No, no.

A business matter?---No.

No.---Just a friendly catch-up.

Okay.

30 MR DARAMS: A number of answers ago, in one of your answers, you said that you have often done this in behalf of clients, that is reach out to Mr Tsirekas. Can I just understand that? Do you include in that the clients being those who you might be managing properties on behalf of at that particular time?---Yes, it could be.

It could also include persons who you have sold a property to or on behalf of?---It could be.

40 Do you still call or regards those persons as clients if it was transactional event?---Well, no. If it's just a transactional event and it's just, bought and sold the house and that's it. I mean, you're keeping touch but, no, it's - - -

Sure. But when you talk about reaching out on behalf of clients, they are people who have a client relationship with you at the time and that would be because you were either managing their property, that's right?---That's correct.

But you wouldn't include those who you might have sold a property to on sold a property on behalf of?---No. Not all of them I build up a relationship, well, a friendship.

- 10 So a number of these occasions that you reach out to Mr Tsirekas to enquire into the progress, for example, of a development application or other matter before council, would it be a significant number of them are actual clients of yours at the time?---Some may be, yes.

Yeah. Okay. Could the witness be shown page 222? I'll just draw your attention to the first one, first balloon. So this is 28 February. So you still appear to be following Ms Tsirekas up about the – the first thing you do is you're following up about [REDACTED]?---Yes.

- 20 But then you're also asking him, aren't you, to organise this meeting, a meeting, for Mr Bartolotta. Correct?---That's correct, yes.

Now, we've obviously asked you a number of questions about all of this, but it's also this meeting was obviously a benefit for yourself, correct, or a perceived, you perceived it to be a benefit for you?---Yes.

Do you know whether Mr Tsirekas did do that?---I don't recall if he did, but obviously there's been mention that there was a meeting, so - - -

- 30 It's likely that did happen?---It likely could have but only to make him aware of what's going on. And obviously if we've, John wasn't getting any, anything. But again, it's something that I've asked him to do. It's not that it's actually, it's, it's, I'm asking for him to give me, to make it a benefit. 'Cause this DA was actually approved from the JRPP.

THE COMMISSIONER: Who is John Onslow?---He's a gentleman at the council.

- 40 He was the general manager?---No, no.

MR DARAMS: I think you meant Mr Osland, correct?---Mr Osland, yes. Osland.

THE COMMISSIONER: Sorry.

MR DARAMS: “Mr Onslow” should be “Mr Osland”.

THE COMMISSIONER: Oh, I see.

10 THE WITNESS: Or Osland, yes, it could be, yes.

MR DARAMS: Osland, yes.

THE COMMISSIONER: I see.

MR DARAMS: So the new GM. ‘Cause we’re talking February 2018. That was Mr, you come to know was Mr Gainsford.---That’s correct.

20 He had, as you understood, because by this stage you’re close friends with Mr Sawyer.---Yes.

February 2018. You know Mr Sawyer’s left council.---Yes.

You know there’s a new GM.---That’s correct.

You’re wanting Mr Tsirekas to arrange this meeting between the new GM and Mr Osland.---That’s correct.

30 In relation to the matter that you’re involved in, although you say you don’t disclose it to Mr Tsirekas.---That’s correct.

THE COMMISSIONER: What was it that you’re asking Mr Angelo to organise the meeting?---I think because, as I said before, there was some hold-up or some – it was, there was no feedback coming back.

MR DARAMS: This is the extension of the settlement period. That’s what you’re trying to arrange here.---It may be, yes.

40 No, it was because this is February 2018. Remember I took you to the correspondence earlier today?---Yes, okay, yep.

That's what you were - - -?---Okay, yes.

That's the matter that you wanted to meet with.---Yes. But not intention for any benefit out of it. Just to keep them aware of what's going on.

Where you just – can you scroll down to the, yeah, that blue balloon there. Where you say, “Still waiting for the letter. Nothing received today by the applicant,” is that a reference to [REDACTED]?---Yes.

10 So you - - -?---I believe so.

So you, again, you're in contact with the owner of [REDACTED], touching base with them as to whether anything has come, and then you report back to, go back to Mr Tsirekas.---Well, we did speak a fair bit, yes.

I see. Sorry, when you say, “We did speak a fair bit,” you're talking about the owner of [REDACTED]?---That's correct.

20 THE COMMISSIONER: In relation to the messages above that, talking about flights, what's that about? Sorry, you might need to scroll down. ---I'm not sure. Could have been in regards to, I don't recall that particular year whether it was Shanghai or Dubai, I'm not sure, Chief Commissioner.

And who are you communicating with here?---I think that's - - -

MR DARAMS: It's Mr Tsirekas.---Mr Tsirekas, yes.

THE COMMISSIONER: Mr?---Tsirekas. Tsirekas.

30 Sorry, who are you communicating? Mr Tsirekas?---Yes.

MR DARAMS: This is about China, though, isn't it? Because you were going there in March.---Yes, if it's, if it's, it'll be about China, yes.

Yeah.

40 THE COMMISSIONER: In the second message on that topic, “Same flights of last time,” what was “last time” by reference to?---The last time we would have been to China. There was a particular flight that got us in at a certain time.

MR DARAMS: Just so that you're clear about this so that we're not at cross-purposes, perhaps if I could show you page 217. I draw your attention to the green balloon. So Mr Tsirekas says to you, "China, 15th to the 20th of March."---Yes.

So this is a few, I think a couple of weeks before the text messages we were just on.

10 THE COMMISSIONER: You may have told us before, what was that trip for?---It was just a, just a holiday.

Just a holiday?---With some friends.

Mr Darams, have we dealt with this one in earlier evidence?

MR DARAMS: We have, yes.

THE COMMISSIONER: Okay, thank you.

20 MR DARAMS: Can we go to page 222, please? Now, I just want to draw your attention to the second-last blue balloon. So "Still waiting for the letter. Nothing received by applicant." Then Mr Tsirekas says "Check your email." You respond "Nothing." And if we can then go over the page. This is all on the same day. You then say "Got it" and a second text message. Do you remember this exchange? That is it seems to be that Mr Tsirekas was sending you some email with presumably some document attached and it seems that you received it. What I wanted to ask you, if you do remember it, was this is in relation to [REDACTED]?---I don't
30 remember exactly. It may have been, or it could have been a copy of his flight to China but I, I don't remember exactly.

Right, okay. Well, if we just – so it could have been in relation to some correspondence that had been sent, or was going to be provided in relation to [REDACTED], that's one possibility?---Yes.

The other possibility you referred to is potentially some flight information, is that right?---That's correct.

40 If we just look at the next text messages from Mr Tsirekas, he then says "Okay. Ticket booked." Then if we go down to the last message, and we might be able to blow that up. I think I can read it, I think it says "Sydney

to Shanghai Pudong International. Shanghai Pudong to Sydney.” Can you read that, do you make those words out?---Yes.

So it seems to suggest that it’s in those text messages that Mr Tsirekas is giving you information about flights, as opposed to what might have been attached to the earlier email. Would you accept that?---Yes, it may have been. I don’t recall what the other one was.

10 Could I ask that you be shown page 226? I just want to see if you can help me out so I can understand some of your text messages. Just in your first blue balloon where you say “Call me, vre.” What does that mean?---As I said last time, “vre” means like “sir” in Greek.

Sorry. I didn’t understand that you had explained that last time.---Yeah.

So it’s some sort of Greek, okay.---Yep.

20 Then if we go down to the last balloon. So this one here, you’re asking Mr Tsirekas to meet, are you not, with the owner of [REDACTED], is that right? ---Yes, that’s correct.

Can you recall now why you were trying to arrange a meeting?---No, I don’t.

Well, it had to be about that development application, didn’t it?---Yes it may have been.

30 Well, what else did – I mean, just when you say it may have been, I just want to be fair to you. It seems to be at this stage, up to this point in time, all of the text exchange involving you and Mr Tsirekas about [REDACTED] is about the development application. Do you accept that?---About the letter, yes.

Yes. So, the letter was in relation to a development application?---Yes. That had been approved but he hadn’t received the letter yet.

40 Okay. So it appears that you are asking to meet with Mr Tsirekas with the owner of [REDACTED], presumably and obviously to talk about, on your evidence, the letter that, what, by this stage had received or not received?---I’m, I’m not sure. Well, if we refer back to the other text saying “Got it”, if that was the email about it, then that would have been the

situation. So this could have been just for a coffee. I'm not sure what, what it would have been, why it would have got together.

Well, you're not only just asking to meet the owner of the property, you're actually identifying that you want to talk about the property because you say "Re [REDACTED]".---Yeah. I, I, I can't recall what the actual conversation was about.

10 I want to suggest to you this isn't just a catch-up between friends. You want to arrange a meeting with your client and Mr Tsirekas and you want to talk about whatever he has received from council.---Possibly. I, I, I can't recall the actual meeting.

Now, if we go over to the next page.

20 THE COMMISSIONER: If it was a matter to do with the [REDACTED] [REDACTED] and the development application, why would there not be a meeting arranged at council premises with or without a staff member to assist in discussing the issue? Why do this in a coffee shop?---Chief Commissioner, I, I don't know why, if the approval's already given, the letter had been received, I don't know what that conversation would have been about. I can't recall what it was about.

You've said that. But if it did, as it's suggested it did relate somehow to the development application for [REDACTED], Russell Lea, and I think you accepted - - -?---Yes.

- - - it had something to do with - - -?---Yep.

30 - - - the development proposal or application for that property?---Yes, in - - -

All right.--- - - - following up where the letter was, yeah.

40 By way of, you say, follow-up. But why not deal with this matter of business concerning council at council, at the council building, with or without some staff member there if you needed help, rather than the three of you meeting up in a coffee shop to deal with this if it related in some way to a development that was, application that was then current?---But, Chief Commissioner, I don't know what the content of that meeting would have been. Because if you have a look at these other messages, I don't even know if it happened.

No, I know you don't know, but we do know it had something to do with the DA concerning [REDACTED], as you've made clear.---Yes.

What precisely it was we know not.---That's right.

My question is why do matters of business, the current business before a council, concerning a development application such as this one, becomes the subject of a meeting with no less a person than the mayor, yourself and
10 Chris in a coffee shop, rather than being, if it's a matter of business, dealt with at the place where the business is taking place, namely council premises?---I'm not sure, Your Honour.

But you now appreciate that it may not be a good look, if I can put it that way - - -?---No, no.

- - - for business to be transacted in a coffee shop with the mayor.---We did, we did meet a lot at - - -

20 No, no, just a moment, I haven't finished.---Yep, sorry.

You accept now, don't you, looking back, it could be not a good look to have a then current matter that's under consideration by the council being discussed by the person who's seeking the approval, or his corporate company if there was one. You and the mayor sitting down to discuss such a current matter in a coffee shop. You can see that from appearances' sake it's not a good look, is it?---Yes.

30 Do you agree?---Yes, I agree.

You accept without reservation what I'm putting?---Yes, I do. However, I think that had been approved. I think, I don't know why we were meeting but, yes, I - - -

But it still involves something to do with a development application.---Yes.

Yeah. So it had not been done and dusted as if to say it's all over, it's all finished, it's not current business anymore. It's still current business, isn't it?---Well, yes, as I said, I don't recall why, why, why it was happening.
40

But it was current business, that's the point.---Yes.

About a current development.---That had been approved, yes.

Well, it had been approved but the council had not discharged its full functions, has it, in relation to this matter at this time?---No, I think, I think the letter had been sent through and I think he was right to go with his DA and then I don't know.

10 Well, I've put to you a number of times – perhaps Mr Darams I'll leave it to you to deal with it if you see fit.---Sorry.

MR DARAMS: Perhaps – you keep saying that it was approved, but let me just test that proposition with you.

Can we just have you shown page 222 of volume 6.5. Just, we'll focus on Mr Tsirekas' text message, "Check your email," see that? It's 28 February?---Yes.

20 So note that. And then if we go over the page, "Got it," 28 February? ---Yeah.

Now, if the witness can now be shown volume 4F, page 5? So I want to suggest to you that, here we go, here's the email that Mr Tsirekas is referring to and forwards to you where he asks you to check your email. See that? Now, I'll come to the document in a moment. But just note the date.---Yes.

30 28 February. And see the attachment, [REDACTED]?---So, obviously, it could have been about some - - -

Just let me - - -?---Go on. Yeah. Sorry.

I just want you to listen to my questions. So it's about [REDACTED], what we've been talking about. Correct?---Yes.

This is the email forwarded onto you. That's right?---Yes.

40 You've given evidence all this was approved and you were just waiting for a letter. That's right?---Well, I was assuming, yes.

Just let me finish.---Yeah.

That's the evidence you've given, you seem to be relatively confident in those answers that it had all been approved and all that was seeking was a letter?---That's correct.

And so there was nothing wrong with these meetings that were being arranged. Is that right?---Yes.

10 Perhaps now if I'd ask you to be shown the next page. Commissioner, if I could just note at this stage obviously personal information is subject to the suppression order of the Commission. It might be an appropriate time to just reiterate that to people - - -

THE COMMISSIONER: Sorry? What are you suggesting, the names?

MR DARAMS: Yeah, the names - - -

THE COMMISSIONER: The name?

20 MR DARAMS: Yeah.

THE COMMISSIONER: And address of that person?

MR DARAMS: Yes.

30 THE COMMISSIONER: All right. In respect of the document entitled – sorry. I withdraw that. Yes. In respect of the letter headed up reference DA2017/0509 23 February, 2018, the name of the person at the head of that letter and the address stated there are subject to the order I now make pursuant to section 112 that the details concerning that person and the address are not to be published or communicated in any way, subject to further order of the Commission.

40 **SUPPRESSION ORDER: IN RESPECT OF THE LETTER HEADED UP REFERENCE DA2017/0509 23 FEBRUARY, 2018, THE NAME OF THE PERSON AT THE HEAD OF THAT LETTER AND THE ADDRESS STATED THERE ARE SUBJECT TO THE ORDER I NOW MAKE PURSUANT TO SECTION 112 THAT THE DETAILS CONCERNING THAT PERSON AND THE ADDRESS ARE NOT TO**

BE PUBLISHED OR COMMUNICATED IN ANY WAY, SUBJECT TO FURTHER ORDER OF THE COMMISSION.

THE COMMISSIONER: Does that cover the relevant data?

MR DARAMS: Yes, it does. Now, it's pretty clear from the first couple of paragraphs, put aside the first paragraph, but the first few lines in the third paragraph, also the second paragraph, that there were issues with this development application. Correct?---Yes, I can see it now. Yes.

Yeah. So this is the letter that you're sent by Mr Tsirekas which is a letter for your client. Correct?---Yes. I'm not sure. Was that letter attached to the, to that email?

Well, I'm suggesting to you that it was attached to the email. If you go back to the email, see there's a reference from the general manager forwarded on to you? See, there's an attachment?---Yes.

20 Yeah.

THE COMMISSIONER: You proceed, Mr Darams.

MR DARAMS: Yes.

THE WITNESS: Yes.

MR DARAMS: So go to the letter. Right. Clearly not approved at this stage, in fact, quite the contrary. There are issues with the application? ---Yes, well, I couldn't recall so far back, but, yes, okay. It's here. I, I can see that.

THE COMMISSIONER: Well, you see in the third paragraph - - -?---Yes. Yes.

- - - it says, "It is advised that the proposal will not be supported by council in its current form"?---That's correct, yes.

Well, that's a pretty - - -?---Yes. Well, I - - -

40

Just wait. Let me finish. That to a developer is a concerning message, is it not?---Yes.

MR DARAMS: So then if we go back to volume 6.5. Sorry, page 226, my apologies. Page 226. Right. Then if we go down to the last message on the page, this is yours on 5 March. So a few days after 28 February. You're now asking Mr Tsirekas to meet with your client and your friend - - -?---
Yep.

10 - - - about this development application. And clearly you must be wanting to talk about the issues in that letter.---Yes, it may be.

No, no, not maybe.---Yes, yes.

It was.---Yes.

Yes. If we go over the page. Then you, Mr Tsirekas responds that you can do 8.00am and you ask about a later period in time. Now, do you recollect whether you did meet Mr Tsirekas?---No, I don't. I, I can't remember if we
20 ended up meeting.

Would it be in accordance with your experience with Mr Tsirekas, and what I mean by that in dealing with these types of matters, that if Mr – you and he were trying to arrange a meeting to talk about something like a development application, then you would have arranged a meeting with him.
---Sometimes. Sometimes it didn't happen.

Okay.---I can't recall on this particular one.

30 THE COMMISSIONER: Mr Tsirekas is indicating not that he won't meet.
---Yes.

It's just that 8.00am didn't suit him. So it's obvious that you've got a development application that was lodged according to the document we saw before, on 6 September, '17. There's a letter then sent, which we've had a look at, in February 2018, to say council's not going to prove it, and there are a number of issues - - -?---Yes.

40 - - - that would have to be addressed. And then we've got early March there's discussion about having a meeting - - -?---Yes.

- - - about that very matter - - -?---Yes.

- - - that's become troublesome. That is, council won't approve it. That right?---Yes.

The likelihood is, isn't it, that it was followed up at a meeting which took place in the coffee shop. In fact, that's the case, isn't it?---Well, I'm not sure if we ever ended up having a meeting. I'm not sure. I, I can't recall if we ever – 'cause I could have made the 8 o'clock meeting, so I don't recall
10 if we met.

We discussed before that there was a coffee shop meeting, wasn't there?
---No. I asked for a coffee shop meeting.

All right. We saw the correspondence which made the arrangements for you to meet with Mr Tsirekas and the owner of the property or the person, Chris.---Commissioner, Chief Commissioner, it says, "Angelo can do 8.00am," but I said, "What about later? I have a sales meeting at that time."
So it - - -
20

Well, somehow you've, as is common, you go back and forth between you. You can find the time that suits everyone.---And I, and I then said any other time today, and I didn't get that response.

Let's go back to the SMS that deals with the coffee shop meeting.

MR DARAMS: Yes. 226, page 226.

THE COMMISSIONER: On this occasion you were seeking from Mr
30 Tsirekas his confirmation as to whether he'd be free tomorrow at 10 o'clock.---That's correct.

To meet for a coffee with Chris. Chris is the owner of the property in question.---Yes.

In [REDACTED] at the time.---Yes, yes.

Yep. And the purpose of your request was to discuss the then current position in relation to the development application on behalf of your friend
40 as at 5 March, 2018, that right?---Yes.

That right?---Yes, I believe so.

You didn't have any other objective in mind for this meeting. It was to meet in respect of [REDACTED] development application.---That's correct. Yes, that's correct.

And by that time you were aware, were you not, that there were problems associated with the development application.---Yes, from what I've seen now, yes.

10

Yes. And not, as you earlier had been saying, it was all done and dusted and been approved.---No, I thought – yes.

In fact it had only been lodged in December of the previous year.---Yes. Yep. Yes, Chief Commissioner.

And it's clear that the development application was either destined to be rejected, right?---Yes.

20 Unless a number of significant issues could be properly addressed.

---That's correct, yes.

Okay. So your friend, Chris, no doubt conveyed to you that he was very concerned now that his development application looked like failing.

---That's correct, based on the letter, yes.

Yeah. And this message to Mr Tsirekas about the meeting was a response to your friend's concern about this development application of [REDACTED] [REDACTED]?---[REDACTED], yes.

30

Concern to do something to help your friend by meeting Mr Tsirekas to see what could be done?---Possibly, yes.

To help him.---Yes.

Yeah. Well, that's obviously what you had in mind in trying to make this arrangement for a meeting with Mr Tsirekas at the coffee shop, correct?

---Yes, yes, Chief Commissioner.

Right. And, Mr Colacicco, tell me on your oath as you are, what happened in relation to matters that you assisted with concerning this development involving Mr Tsirekas and Chris?---What happened?

Yeah, what happened?---I don't know, I can't recall what actually happened if we, if we met. If we did meet they would discuss obviously the issues and I'm sure Chris would go back to his team to sort out the issues to try and get this resolved.

10 Your friend was very concerned, wasn't he, about the fate of his development application for [REDACTED]?---Yes, I think because of some of the conditions that the letter stated, yes.

He was facing rejection by council as stated in the council's letter to him in February.---That's correct. Yes.

That made him very concerned?---Yes.

20 And you were concerned to help him with his concern?---Well, I was just trying to assist him in coming to a - - -

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

You were concerned to help him with his concerns.---Yes.

About this development application that had every appearance of failing, according to the council letter?---Yes. If I could assist, yes.

30 Yeah, if you could assist. And one way you could assist would be to have Mr Tsirekas involved, correct?---Yes.

And to help alleviate your friend's concern in some way by finding a solution?---Yes.

Yeah. Was there a solution found in due course for this development application?---I'm, I can't recall exactly but I'm sure there was because it did eventually get approved and built.

40 Yeah. Well then were you involved in any discussions involving Mr Tsirekas about [REDACTED] subsequent to the council's letter

indicating that it was going to reject the development application?---The meeting may have gone ahead. I can't recall if the meeting went ahead.

No, I'm not talking about the meeting, I'm talking about any discussion at all with Mr Tsirekas about your client's problem?---Not, not that I can recall at this stage.

Are you serious?---No, I'm, when you say did – are you referring to the meeting going ahead?

10

No, I'm not. I expressly said any meeting, any discussion with Mr Tsirekas after the council letter indicating rejection.---Well, I may have, may have put in contact and I know what's, what, what happened thereafter. I wasn't involved in any other meeting that I'm aware of.

You accept that on the probabilities you did speak to Mr Tsirekas about it on behalf of your friend?---Yes, I'm not denying that.

20 Right. And what aspect was it that you raised with Mr Tsirekas about it? ---It would have been "How do they resolve this issue? Can you give us some direction?"

All right. And what happens then?---I'm not, I, I can't recall what happened. I don't know if we met, I don't know if, what happened. Chris has got a good team of consultants. They may have made an appointment to go see someone at council. I can't recall exactly what happened, Your Honour.

30 Well, if he had a good team of consultants, why are you writing, trying to set up a meeting with Mr Tsirekas and Chris in the coffee shop with you? ---Maybe Chris wanted to explain some of the concerns. I'm not sure.

MR DARAMS: But those concerns could have been raised directly with council.---Yes, they could have, and that might have been the instructions that he received.

Well, did he receive those instructions?---I don't know. I don't recall if we met to talk about it.

40 It's unlikely that you wouldn't have pursued that meeting with Mr Tsirekas in light of the fact that you were, could I suggest, insistent, or on a number

of occasions, pressed Mr Tsirekas for the letter that your friend was looking for, correct? Remember I took you to the letter?---Yes, but Mr Tsirekas could have came back to me and said, look, it's a matter for him to go and see the council officers.

THE COMMISSIONER: Now you might care to answer the point of the question.---Sorry?

Just listen to it again.

10

MR DARAMS: The question I put to you, it's likely that you pursued the meeting with Mr Tsirekas that the text message here is about because you were quite insistent on behalf of your client and friend about getting the correspondence out of council, correct?---Yes.

You raised that a number of occasions.---Yes, I did, yes, sorry. I didn't understand.

20 What I'm suggesting to you, that given that you were seeking to do that in relation to the letter, you then get the correspondence, which is bad news for your client. You reach out to Mr Tsirekas to try and arrange a meeting to discuss the letter and the issues.---That's correct.

It's very unlikely you wouldn't have continued to try and arrange the meeting with Mr Tsirekas, even though he said I can't do, in effect couldn't do 10 o'clock but how about 8 o'clock? It's unlikely you would have given up at that stage, correct?---Yes, correct.

30 So what I'm suggesting to you is in all likelihood it's more probable that you actually had this meeting with Mr Tsirekas.---It could have been a possibility. It could have been a phone discussion.

THE COMMISSIONER: It's being put to you it was a high probability. You, having been insistent trying to get this meeting, get the letter, having seen what the letter said, then making contact with Mr Tsirekas, it's highly likely that - - -?---It may have.

Yes, listen to my question.---Yep.

40 I'll start again. By reason of what Counsel's put to you, a history of you communicating with your friend, communicating with Mr Tsirekas, with a

view firstly to get the letter from council, which eventually was successful, sent by Mr Tsirekas to you or at least a copy of it.---Yes. Yes.

The letter, as has been characterised, was bad news.---Yes.

And it was put to you it would be highly unlikely that you would then give up and not do anything to pursue the logical next step, and that is to get the meeting.---Yes.

10 And I think it's been put to you now that when you look at it in that context with all of your efforts, which has been described as reasonably insistent, the high probability is that there would have been a meeting between you and Mr Tsirekas and Chris about - - -?---Yes, there could have been, yes.

- - - the very same development.---Yes, there could have been.

MR DARAMS: It's also the case, Mr Colacicco, that you didn't in effect give up on the matter on behalf of your client 'cause you continued to press Mr Tsirekas later on in relation to this matter, didn't you?---Yes.

20

Yeah, so could I ask you to be shown page 249. I draw your attention down to the blue balloon at the bottom of the page. So we're now in June 2018. You say, or you raise a question of Mr Tsirekas, "Any news on [REDACTED]?" ---Yes.

We're talking about [REDACTED] here, correct?---Yes.

If we can go to the next page. Mr Tsirekas responds, "Being done." Now, did you understand what he was referring to there, Mr Colacicco?

30 ---Obviously something to do with [REDACTED].

Right, but my question was did you understand what in particular was being done about it?---No, obviously an assessment.

He must have understood from what he said to you, he must have appreciated that you understood what he was saying being done that meant something to you. What did it mean to you?---Maybe the progress of the assessment of it.

40 THE COMMISSIONER: No, it's not maybe. It's a question of what was it about?---Oh, the assessment, the assessment of maybe [REDACTED], yes.

MR DARAMS: The assessment of the application was being undertaken?
---Yes. Yes.

So just let me ask you a few more questions. If we can then go to page 252. So it's a few days later on 6 June. You say again, "Did you find out about [REDACTED]?" Again you're persisting with this questioning or inquiries of Mr Tsirekas on behalf of your friend or on behalf of your client.---Yes, that's correct.

10

Mr Tsirekas responds, "Yes, talk later."---Yes.

Do you have any recollection of that conversation if you had one with Mr Tsirekas?---No, I, I, I don't.

No? Then if we go over the page to 253. 253. Then you ask – sorry, and I think I asked you before. What's, is it "megale"?---Yes, "sir".

What's that? "Sir"?---Yeah.

20

Questioning again about [REDACTED] a couple of days later. And then Mr Tsirekas responds, "I got told Tuesday, brother. Apologies." Now - - -? ---Must be that it was being processed.

Right. Then - - -

THE COMMISSIONER: Just stopping there. When you wrote, "Megale [REDACTED] done," what were you seeking information about as to what was done?---If it had been assessed.

30

Pardon?---If it had been assessed.

What was your understanding as to the assessment process about this property at that time?---Well, I believe that they obviously would have had to make changes subject to the letter that they received and probably had to resubmit new plans after the discussions between their consultants and council.

40

And were there new plans prepared and reports supporting a change in the development to try and meet council's requirements?---I would believe so, yes.

Pardon?---I'd believe so, yes.

What's that belief built on?---That obviously was probably had, changed had to be made to, to, to comply with whatever they wanted there, what was allowable.

Do you recall the names of the consultants engaged?---No, I don't. No.

10 And do you understand what Mr Tsirekas was saying when he says, "I got told Tuesday, brother. Apologies"?---Yes. That'd probably be assessed by Tuesday or a report would be given.

Mr Tsirekas, he referred to you as "brother" from time to time, did he?
---Yes.

And what was he apologising for?---For maybe not getting back to me at the time, I'm not sure.

20 You're not sure?---No.

MR DARAMS: And so when it says, "All good for Tuesday," are you referring to a meeting or are you saying it's okay if it comes out on Tuesday or by Tuesday?---Yeah, I think it's, I'm referring to if it comes out by Tuesday.

Right. And then we go down and Mr Tsirekas seems to be apologising for the delay. That's how I read that. Correct? Is that how you read that?
---Yes. Correct.

30

Right. Just then if I could ask you to go over to the next page. I just want to see whether you can assist me here. You send a rather cryptic question mark. Do I take it this is in relation to, you're saying to Mr Tsirekas, "What's going on? Can you tell me?" about [REDACTED]. Is that right?
---Yes, that's right.

'Cause he responds, "Should be mailed out tonight"?---That's correct.

Do you see the date, 12 June, 2018?---Yes.

40

Then you say, "Okay, thanks," then Mr Tsirekas says, "Get them to check their email." Now, just I want to stop there. Do you see that?---Yes.

And I want to now show you something else. So just bearing the date here, 12 June. If I could show you volume 4F, page 10? So here's an email message on 12 June, 2018. Now - - -?---Yes.

- - - it's actually copied to you this time and who's Alex?---I don't know.

10 Well, look at the email admin@mcleanhamilton. Is that someone engaged on behalf of - - -?---It may have been.

Well, you don't know now who that is?---No.

Right. Okay. So it's 12 June, 2018, [REDACTED], just about that. Correct?---Yes.

20 Can I show you the next page? Here we go. 12 June, 2018. "Council is pleased to advise now that" well, not now but the correspondence now is "the development application has been approved subject to conditions attached"?---Yes.

Then I just want to take you back to volume 6.5, page 254. Just so Mr Tsirekas tells you, "Get them to check their email." You respond, "You are a champion." Why is Mr Tsirekas a champion?---'Cause obviously he's come back with the information, so I could tell my client.

30 THE COMMISSIONER: Sorry, say again.---He's obviously advised me of the information.

Well, you – I think in a subsequent email - - -?---It's another way of saying "thank you", I suppose.

- - - you again call him a champion.---Yes.

Well, were you not there referring to the fact that an approval was now coming?---Yes, that's right.

40 And that he had in some way acted to assist in the process of getting the approval.---Yes, but I'm sure the council department and the relevant

officers and, and the owners' consultants would have dealt with it 'cause it's addressed to Mr A. Pappas.

Oh, of course, yes, but that's not my question, that's the point.---Yep.

You were saying, calling and expressing your appreciation.---Yes.

Saying, "You are a champion."---Saying thank you, yes.

10 Is that right?---Yes.

You were expressing your indebtedness to him for having involved himself in getting the process to a stage where it was now approved.---Yes.

All right. Of course the development application has to go through the normal processes to get an approval.---Yes, that's correct.

20 So if anyone's to be congratulated on getting an approval on any DA, it's those involved in council who, in due process, determine that approval should be given.---Yes.

They are the champions, if you want to call them that.---Yes, correct.

But in this case you're not saying the council are to be congratulated. It was in effect Mr Tsirekas who - - -?---I think my intention.

No, I haven't finished.---Go on. Sorry. Sorry, sir.

30 You were not saying, "I'm indebted to the council." You are indicating that you're indebted to Mr Tsirekas for his role in relation to this development application, leading to its approval.---Yes, and his assistance of, yes.

That's what you were conveying.---Yes.

Yep. And in what particular respects did he assist with this development application? Why was he a champion?---Oh, look, it, it's obviously a terminology.

40 What did he do? What was his role?---Well, obviously getting back to me on where it was at and the process that was happening and just keeping me notified.

Being the messenger boy?---Yes, so I could obviously tell my client.

Are you seriously saying that his role in the successful development application after the initial letter from council indicating that this project wouldn't be approved, you were congratulating him – or, no, withdraw that. You were acknowledging his contribution, as I think you've accepted, in the process to get the approval?---Yes, assisting me.

10 And also to correspond with you to keep you up to date with how things were going and sending you copies of documents.---That's correct, yes.

As we've seen.---Yes.

All right.

MR DARAMS: Now, I just want to ask you about that example of your engagement and correspondence and responses between you and Mr Tsirekas about [REDACTED], we can assume that that's the type of
20 correspondence and engagement that happened with these other applications that you had raised with him during your friendship on behalf of other clients and friends, is that right?---Most of the times, yes.

Now, did you have a – I just want to ask you about, can you be shown volume 6.5, page 242. I'll just draw your attention to the second – so this second-last blue balloon. This is a separate matter altogether, isn't it, a separate application altogether, is that right? So when I say, sorry, when I say "separate", separate from [REDACTED].---Yes, it is.

30 So do you know the owner of this property?---Yes.

Was that a property that you were managing at the time?---Yes. I think I was, and I used to own that property with some partners.

Right. So when did you own that property?---Oh, I can't recall the dates now but it was quite a long time ago.

I see. So were the owners of this property, at that time, that is May 2018, were they the people who you sold the property to?---Yes.

40

So can you tell us what this matter was about, what the application was?---I don't recall. It says something about a 149 in council but I don't recall what it actually was about.

Now, when you say "Any news, megale?" you are obviously asking him to look into that matter as well?---I may have. I don't know what that refers to.

10 What, you don't understand what "Any news, megale?" refers to?---No. I don't know whether I'm referring to the message above or not. No. I, I can't recall. It's, it's a while ago. It could be about that 149 in, in Leichhardt Council. It had nothing to do with City of Canada Bay.

THE COMMISSIONER: Is this a message to Mr Tsirekas?---I believe so, yes.

The use of the term "megale", what's that?---That's like, it's just Greek word for "sir."

20 Sorry?---Just a Greek word, just - - -

"Mate" or - - -?---Sure, "mate", yeah, rubbish, just talking stupid.

Yeah, okay. Thank you.

MR DARAMS: I just want to rule this out as something being related to Canada Bay Council. But that address isn't in Canada Bay Council, is that right, or you don't - - -?---No. It's not, it's in Rozelle.

30 Okay. So can you assist us as to why you were giving this address to Mr Tsirekas?---No. I don't know. It could have even been an error, I'm not sure. I can't recall why.

Now, what about property at [REDACTED] ?---Yes.

What about that property, do you know the owners of that property?---Yes, I do.

40 Did you have any ownership in that property?---No. I resided there on a lease for three years with my family.

What period of time did you reside there?---Well, I've been at Hunters Hill now for nearly a year, so three years before that.

So during 2019?---Yes.

Right. Okay. So when you were there, was there some application before council, was there?---No. I, Chris' father was looking for a property to buy to be close to his kids. I knew that the property was coming on the market for another agent in that area. I told them to approach the other agent
10 because it was an off-market sale and they bought it. Then the property was for lease, I was looking for a property with my family to move out of our small home and I ended up leasing it from the owners for, it supposed to be one to two years because I was going to put in a DA and then I ended up staying there three years while they got their DA for it.

So whilst you were residing in the property the development application was in council, is that right?---Well, at some point it went in, yes.

Do you remember when it went in?---No, I don't. It could have been just
20 after we moved in or even before. I'm not sure.

Could I ask the witness be shown volume 4F, page 51? Now this is a number of dates in this document, but just in relation to this period. So it looks like the application was lodged on 9 May, 2019. Were you in the premises at that time?---I don't recall but what are we now? Two, so 2021 I moved out, so, yes, I would have been, yes.

Now, I take it Mr Tsirekas knew where you lived at that stage.---Yes, he did.
30

Had he been to your house?---Yes, he did.

Right. Now, I'll just ask you to be shown page 47 of volume 4F. So this is an email from Ms Gibson to Mr Pedder. Now, there's a reference in there to a request from Mr Tsirekas, where he says he's also asking about [REDACTED]
[REDACTED]. It's likely, is it not, that you have in fact raised this matter with Mr Tsirekas - - -?---Yes, I could have, yes.

Well, when you say you could have - - -?---Well, I just said yes, yes.
40

Yeah. There's another, this time it's more direct, isn't it, because you're in the accommodation at this stage, are you not?---Yes, I am.

In relation to the owner of that property, did you have a relationship with the owner before you moved into the accommodation?---Yes, I did.

How long had you been friends with the owner? Sorry, I assume the relationship you had with the owner was a friendship relationship.---Yes, it was after because we met firstly on commercial terms and then we became friends because, as I said, I knew his nephew quite very well.

So how long before you moved into this property had you become friends with the owner?---When I sold the daughter and son-in-law a house in Drummoyne. I don't know the exact date.

Well, what about the approximate date?---I, I can't recall that.

Well, so was it, you know, three, four years before 2019?---I can't recall. I'd be lying if I gave you a date.

All right. Can I just ask you to - - -

THE COMMISSIONER: So this inquiry is being made – sorry, we'll go back to the - - -

MR DARAMS: Page 47.

THE COMMISSIONER: The inquiry referred to in the letter is in respect of the property in [REDACTED], where it says “notification closed”, that would mean, does it, that that was the Gateway which any objections would be lodged if - - -?---Yes, I believe so, yep. From the content.

And the writer of the letter was saying that the mayor wanted to know if there were any objections, that was the nature of his inquiry.---Yes, correct.

So he, he for some reason was following at this reasonably early stage, correct me if I'm wrong about that, he's showing some interest in knowing whether there had been objections.---Yes, correct.

And do you know why he had that particular interest?---I may have asked him to question.

Sorry?---I may have asked him the question on behalf of the client.

Oh, I see. Okay.---My landlord.

All right, thank you.

10 MR DARAMS: So when you say, this is the most likely course of events, is it not, that you've had some discussions with your landlord, correct?---Yes.

You know there's a development application that's been lodged with council?---Yes.

You're discussing with the landlord and you decide, you're discussing the progress if it, the landlord wants to know information about the application, that's right?---Yes.

20 You reach out to your close friend, Mr Tsirekas, and ask him about it all and see whether he can follow up for you firstly?---That's correct.

So you can provide that information to your landlord?---Yes. And also to know my timing on how long I could be there for my family. It's just not very easy just to pick up and leave. I have to look for another place to go to if that was going to be approved.

30 Can I just understand that evidence? Do you mean to say that you understood that if and when the development application was approved then the landlord would undertake the works and you would be moving out?
---Yes. They would give me ample notice but I would have to move out, yes.

THE COMMISSIONER: This enquiry that was being made in the letter about whether there would be any objections, the request is marked of high importance, you'll see that on the screen there. Do you understand why an enquiry of this nature was being classed as of high importance?---No, I don't.

40 In any event, that was the request being passed on by the administration officer, executive in councillor support?---Yes.

MR DARAMS: Could I just ask you about a diary entry for 30 June? So can I ask you to go to page 50 of volume 4F? Just as a, this appears to be some extract, or at least entries that have come out of the diary of Mr Tsirekas. The reference there to the "4.00-4.30pm Frank Colacicco and applicant, GM's meeting room with Scott", the Scott, is that Mr Pedder?---I believe so. I, I'm not sure.

10 Yeah. Do you recall going to a meeting with Mr Pedder and Mr Tsirekas about this application?---No. I maybe would have asked him, asked if I could make the meeting on behalf of the clients at [REDACTED] but I don't know if I actually attended the meeting.

No, and that's what I was going to ask you, whether you have any recollection.---I, I, I don't recall, no.

20 Perhaps if the witness can be shown page 49. So this is, again appears to be an extract or some reference to Mr Tsirekas' diary for 11 June. So there's a 4.30pm entry, "[REDACTED], Frank Colacicco." Just there, couple of questions. Do you recall whether you and Mr Tsirekas had a meeting, firstly, either in council, do you recall?---No, I don't recall but that could have been the meeting I've organised for [REDACTED] [REDACTED] to meet with the council officer.

Well - - ?---And it would have been at council.

30 Right. Well, that's what I was going to ask you. So this one's, this looks like it's an extract from 7 June. Talks about, this one's just yourself. And what I was asking you is do you recall whether you had a meeting with just Mr Tsirekas, firstly, about this?---I don't recall if it was just with Mr Tsirekas.

Did you ever recall meeting with Mr Tsirekas at this property, just you and he, to talk about the application?---No.

You don't recall doing that?---No.

40 No. Is it possible you could have done that?---No, he visited my home many times.

Right. So just focusing on this development application, though, is it possible that you and he had a meeting onsite, so to speak?---No. That would have been at the council chambers.

Do you know whether the application ultimately got approved?---Yes, it did. There was some concerns with neighbouring properties and the height, and it eventually got approved, yes.

Chief Commissioner, they are all the questions I had for Mr Colacicco. I
10 know there are some applications for cross-examination, but I think they're only – I think, I believe there's, at this stage I think there's only one application but I'd like to just tender some documents before we proceed to that. So could I tender the interview transcript of Francesco Colacicco of 1 July, 2020? That will be Exhibit 44.

THE COMMISSIONER: Yes. The record of interview Mr Colacicco, 1 July, 2020, will become Exhibit 44.

20 **#EXH-044 – INTERVIEW TRANSCRIPT OF FRANCESCO COLACICCO DATED 1 JULY 2020**

MR DARAMS: Next I'd like to tender volume 6.5, pages 210 to 337 inclusive.

THE COMMISSIONER: Yes. Pages 210 to 337, volume 6.5 will become Exhibit 45.

30 **#EXH-045 - PUBLIC INQUIRY BRIEF - VOLUME 6.5 PAGES 210 TO 337 INCLUSIVE**

MR DARAMS: Lastly, I tender volume 4F.

THE COMMISSIONER: Volume 4F will become Exhibit 46.

40 **#EXH-046 - PUBLIC INQUIRY BRIEF - VOLUME 4F**

MR DARAMS: Yes. Thank you, Chief Commissioner.

THE COMMISSIONER: All right. Now, who is making application to cross-examine Mr Colacicco?

MR LEGGAT: Chief Commissioner, we made a written request to cross-examine Mr Colacicco. That was made about 10 o'clock this morning and the time indicated was about 20 minutes.

10

THE COMMISSIONER: Okay. Yes. All right. Thank you.

MR LEGGAT: Since then, other topics have arisen and we're in the process of amending our request to identify some of the topics dealt with this afternoon. I expect that might add another seven to eight minutes.

THE COMMISSIONER: Well, you should give that notice this afternoon if you would?

20 MR LEGGAT: Yes.

THE COMMISSIONER: All right. Well, Mr Colacicco, we'll need to have you back but from what's been said, I think we probably will be finished about mid-morning with you tomorrow.---Okay.

Right.---Thank you, Chief Commissioner.

MR LLOYD: Chief Commissioner, we had also given notice. I'm content to do that tomorrow. I expect to be somewhere between five and 10 minutes.

30

THE COMMISSIONER: Right. Thank you. Well, I'll adjourn.

THE WITNESS STOOD DOWN [3.53pm]

AT 3.53PM THE MATTER WAS ADJOURNED ACCORDINGLY [3.53pm]