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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE HELEN MURRELL SC
COMMISSIONER

PUBLIC HEARING

OPERATION MANTIS

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON TUESDAY 18 JUNE, 2024

AT 10.00AM

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

MR SUTTON: Commissioner, I thank you for the indulgence. It was a useful time.

THE COMMISSIONER: Oh, I am later than you, Mr Sutton. Now we're ready to resume your evidence, Mr Cossu and you are still bound by the oath or affirmation that you took previously.---Yes, yeah.

10

Good. I see you've got a hearing loop on. Were you struggling yesterday, were you?---Very.

Yes, okay. Well just remember, keep your voice up because we don't have loops on.---Yes, no, I'll stay close to the microphone.

All right. Yes, Ms Huxley.

20 MS HUXLEY: Thank you, Commissioner. Mr Cossu, I am going to ask some questions about the culvert upgrade works at the Appian Way. Do you remember that project?---Yes.

So I'll start with, do you recall that that project, there were a series of investigations about how to procure contractors for that project?---I can't remember that, but - - -

And the culvert works that Mr Clarke and GWAC were ultimately awarded had been put out for tender sometime in March 2022.---Yeah.

30 I'll take you to a text message at volume 30.6, page 20. Is that 30.6 page 20.

MR SUTTON: What volume number was that?

MS HUXLEY: Volume 30.6.

MR SUTTON: Thank you.

40 MS HUXLEY: See that second blue bubble, it's a message from Mr Clarke to you saying, "I need the other culvert drawings."---Mm-hmm.

Do you know why he was asking for those culvert drawings?---We probably discussed it, we are going to do the culverts.

This is in April 2021.---I can't recall the time. I can't, I can't say that.

So did you and Mr Clarke talk about this job a year before it went out for tender?---Maybe.

10 And then you say, "Tomorrow by end of the day." And then on the next page, page 21, you send him a scan.---Yeah.

And that scan is at page 383.---Okay, okay.

So I'll just take you to that scan and it's four, no, it's a series of pages. ---Yeah, yeah.

Are they the culvert drawings?---Yes.

20 Do you know how you got them?---No, they must have been in the office, yeah.

I'll take you to volume 38.9, page 1. So this is an email from, I'm not sure exactly how to pronounce his name, Mr Magsipoc.---Yeah.

And he was one of your PMLV workers at council.---Yes.

And you'd asked him to send copies of the Appian Way culverts to you. ---Yeah, but in council, that one is in council as well.

30 Yeah.---Yeah.

And then you sent that on to Mr Clarke.---Yes, probably.

And then at page 17 of that volume, he sends it to you again in May 2021. ---Yeah.

40 And so what did you do with these drawings, apart from give them to Mr Clarke?---It was probably, I probably took it to, what's his name, to Obnova for the price.

Did you take them to anywhere else for a price at that time?---There was nobody that could have done the job at the time.

Only Obnova could have done the job?---For what was supposed to be done, yes.

Was there another supplier that Mr Clarke wanted to use?---He told me about Paul.

10 Was that a really, was that actually a viable option?---I don't know. I, well I never worked with Paul, really. I know him but I never worked with him but I know that Obnova could do the job. They're very professional.

Did you contact Paul about this work?---No, I didn't.

Do you know if Mr Clarke had contacted Paul about this work?---I can't say that.

Okay.

20

THE COMMISSIONER: Sorry, what did you say?---I don't know. I didn't say.

MS HUXLEY: So at this time in your mind Obnova was the obvious candidate to manufacture these culverts?---Yes.

And did you understand that Mr Clarke's relationship with Obnova wasn't great?---Wasn't, no.

30 And, actually, they had a very acrimonious relationship?---Maybe.

And did that present problems for GWAC to actually subcontract those works to Obnova?---Obnova never done something with, with him, no. They were - - -

THE COMMISSIONER: Sorry? I can't hear what you're saying, Mr Cossu. You're going to have to speak up.---They couldn't have, it was not possible for them to work in the same, in the same room or in the same place.

40 That was your belief?---I knew for fact, yes.

Okay.

MS HUXLEY: And, so, did you and Mr Clarke talk about a solution for that problem?---Yes. Probably, yes.

And was that solution that PMLV, that GWAC subcontract to PMLV and then PMLV contract with Obnova?---Yes.

10 And that was the plan around mid-2021?---I don't know the time, I can't - -
-

THE COMMISSIONER: Sorry? What's that?---I don't know the time.

MS HUXLEY: But that was the plan before the works were actually sent for tender by council?---Yes.

20 And is the reason why - and at that time, GWAC didn't have a fabrication facility to produce these culverts?---They thought they, he was managing Obnova but he didn't have Obnova anymore.

THE COMMISSIONER: Speak up, Mr - what are you saying, Mr Cossu? ---Pietro. Okay. Maybe - - -

Yeah. What did you say?---Him and, and with Obnova, they were not working together anymore.

Sorry?---I - - -

30 MS HUXLEY: But, so GWAC didn't have a facility where they could produce the culverts, did they?---No.

So it had to be Obnova? So you had to use Obnova?---Yes.

I'll take you to volume 38.1, page 105. And so this is an email between you at PMLV and Mr Davidovic about a recent inquiry and that's in relation to this culvert work, isn't it?---Yeah.

And so in July 2021, the plan was to use Obnova?---Yeah.

40 I take you to volume 30.1, page 72. And I can take you to those pictures in a minute, but do you see at page 72, you send Mr Webb a photograph?

---Yeah.

And then at page 73, two - - -

THE COMMISSIONER: Sorry? What's the reference to this - - -

MS HUXLEY: Sorry. Volume 30.1, page 72.

THE COMMISSIONER: Yes.

10

MS HUXLEY: And then at page 73, there's two more photographs, and two more photographs at page 74. And those photographs are at page 234. ---Yeah.

And then 235, 236, 237 and 238. Do you recognise those photographs?
---Yes I (not transcribable) them.

And what are they photographs of?---The factory of Obnova.

20 So why were you sending these to Mr Webb in September 2021?---He's probably the manager of works and I wanted to show him that we had the facility to do - - -

When you say "we" who are you referring to?---Me as PMLV or, I mean, GWAC.

Okay. So you're communicating to Mr Webb that you would be assisting GWAC in sourcing this?---I want to show that GWAC could do the job but I was not fully honest with Mr Webb, no.

30

When you say you weren't fully honest with Mr Webb, how do you mean you weren't fully honest with him? What should you have told him?---That I was helping GWAC (not transcribable) yeah.

Wouldn't it have been obvious that you were helping GWAC if you're sending these photographs of the Obnova facility?

MR PARARAJASINGHAM: I object.

40 THE COMMISSIONER: What's the objection?

MR PARARAJASINGHAM: That might be a submission. I mean, I don't understand the question that's been asked of this - - -

MS HUXLEY: Okay. I withdraw it. I'll take you to page 75 of volume 30.1. So, along with those photographs, you send Mr Webb a message, saying, "Hi, Ben. What do you think about the capability of this guys? They have the moulds we need and they are doing work for Transport. I spoke to them today. Mike, the owner, said if I give them the loads required, he will prepare the design to submit for his culverts." And it goes
10 on. And then Mr Webb says to you, "It won't matter. If they are not on the panel, we cannot use them"?---Yeah.

So, at that time, the council were looking to engage people on the panel. Is that right?---Yeah.

Then you say, "I thought we were going to use GWAC. That's why I was talking to them"?---But that was my assumption, not these looks like.

Pardon?---Looks like is my assumption, not the, Mr Webb.
20

Yeah. But, so you're telling Mr Webb, "I thought we were going to use GWAC. That's why I was talking to them"?---That's what I say, yes.

So you were letting Mr Webb know that - I withdraw that. When you said "we" who were you referring to there?---Council.

So you say I thought council were going to use GWAC. Why did you think council was going to use GWAC at that time?---Because I send him the pictures with regard of the production. I thought that convince him to, to
30 use GWAC, that's all.

THE COMMISSIONER: I'm sorry? I'm not following that. So just tell me again why you used the word "we"? What were you referring to?---We, for me is, is a word, so, like, many time, I, I, I make a mistake. Sorry. It's, like, you in, in the plural sense. In Italian, we use that. It's, I'm, I'm not fully English. So if you say to me what I meant, here, I can tell you what I said.

So what did you mean?---We as council. We, council, we are.
40

MS HUXLEY: So does that mean you'd already spoken to Mr Webb about using GWAC for the culvert works?---Yes, I probably have, because GWC, Jeremy Clarke was first, when I met him, was the director of Obnova. And I knew that he could do the job.

Okay.---And I know that he can do the job.

So as at September 2021, you'd had a conversation with Mr Webb about using GWAC for the culvert works?---I can't say that. I don't know if I had
10 a conversation - - -

Well, here, you're saying, "I thought we were going to use GWAC. That's why I was talking to them." So why did you think council were going to use GWAC?---I must have mentioned that, you know, GWAC or Jeremy used to do that, as a job.

As a joke?

THE COMMISSIONER: Sorry. Could you please keep your voice up.
20 You must have mentioned what?---That he used to do culverts, that used to do that as a precast.

Did you say something about a joke?---Job.

Job.

MS HUXLEY: Job. Sorry. That was my mistake.

THE COMMISSIONER: Okay. That's why you need to keep your voice
30 up, Mr Cossu.---Job. A job.

MS HUXLEY: Then at page 76 he says, "I asked if they were on the panel."---Repeat that, I'm sorry.

Yeah. So then at page 76 Mr Webb says, "I asked you if they were on the panel" and you respond "No", and then you say, "Not in our panel."---Yeah.

And then at page 77 Mr Webb says, "No, the state government panel." And he goes, "What's the business called?" And then you respond, "Obnova."
40 ---Yeah.

And then at page 78 you say, "But if they bid directly, we get nothing."
That "we" there is a reference to you and Mr Webb, isn't it?---Not with Mr
Webb, no. We - - -

So who is the reference of "we" to?---I don't know, I really don't know.

What did you mean when you say, "But if they bid directly, we get
nothing?"---Now in this moment, I don't know.

10 Well I suggest to you what you meant was if Obnova bid directly, that
leaves no room for you or Mr Webb to make money from this.---For me and
Mr Clarke.

Or you and Mr Clarke. So you're saying now that that's a reference to you
and Mr Clarke?---I can't be sure, but - - -

Okay.

20 THE COMMISSIONER: Are you saying it's possible - - -?---It's possible.

- - - that when you said, "If they bid directly we get nothing", the "we"
you're referring to was you and Mr Clarke?---Could be, but I am not
confirming anything.

Okay.

MS HUXLEY: Then you say, "If you want I can give you two more that
are in the government panel."---Yeah.

30 And then Mr Webb responds, "I will call you tomorrow."---Yeah.

Do you remember if you spoke to Mr Webb the next day?---I don't even
remember these messages, ma'am.

Okay. I'll take you to page 158. That third blue bubble, Mr Webb says to
you, "Has everything with GWAC been fixed up?" And you say, "No."
---This one is for the invoices that it was not getting paid.

40 So that was for GWAC outstanding invoices?---Yes, most probably.

And so did you have any responsibility at council for ensuring invoices get paid?---Not at all. As a human, probably not.

If we can go to volume 38.1, page 108. Ms Bhuiyan sends you the tender documentation for Appian Way North Terrace culverts.---Yes.

Did you have any involvement in the project at the council side at that time?---Not really, no, they used to ask me just advices or - - -

10 Had you asked her to send you this document?---I don't know. I could have.

I'll take you to page 206. Obnova sends you some documents.---Yeah.

In relation to, with a quote for the project.---Yeah.

Had you provided them with those tender documents that Ms Bhuiyan sent you?---No, those are drawing, they were drawings, they were not tender documents, or they were (not transcribable)

20 But so did you send them to Obnova?---Yes.

So that they could quote it?---Yes.

And so that quote could be included in a submission by GWAC?---For the moment I wanted the quotes.

Were you aware that the tender documents that had been sent to you ultimately resulted in no submissions being received?---No.

30 I'll take you to page 226. This is an email from Mr Dankaro to Mr Webb and you are copied in on it. So at this time council were trying to identify a procurement strategy for these culvert upgrades.---Yeah.

And Mr Dankaro had contacted a number of suppliers.---Yeah.

And GWAC was not on that list.---Yeah.

40 And if you go down to page 227, under 3, recommended procurement strategies and the precast, on the second point it says, "Alpha Precast and GWAC project team have investigated and determined that these companies are able to produce and supply required culverts for these projects."---Yeah.

Were you part of that project team?---Which project team?

Well see how it refers to a project team have investigated and determined?
Were you part of the identification of GWAC as the potential supplier?
---No, no.

You didn't have any involvement in that?---No, no, no.

10 Even though you had already been in touch with Obnova obtaining a
quote?---Yes.

So that GWAC could bid for the works?---That was their understanding (not
transcribable)

And you didn't have anything to do with GWAC being identified as a
potential company that's able to produce and supply the culverts?---No, I
stayed away from everything.

20 I'll take you to page 425. So this is an email from Mr Dankaro to a number
of people informing them that the process was now going to be a formal
tender process. Do you recall seeing that email?---No, but - - -

Do you recall that at some point in February 2022, the decision was made to
make it a formal open tender process?---No. I can't recall it, but yeah.

I'll take you to page 250. That's an email from Mr Clarke to you with a
precast BOQ.---Yeah.

30 If you just scroll down that was a bill of quantities that had originally been
sent out to the proposed tenderers. Do you recognise that?---I don't
recognise, but yeah.

Or do you know, what did you do with this document?---I filled out the, the
section for the precast.

Did you go through a number of, do you understand that a number of
documents are sent out for the open tender process?---Yeah.

40 Did you read through any of those documents?---No. I put the, I was
interested only in this one.

Had you seen at the time that the tender documents had gone out there was also an evaluation plan?---No.

Do you remember seeing the evaluation plan?---No, ma'am.

Do you remember that you were initially identified as a member of the panel for the evaluation plan?---Yes.

I'll take you to volume 30.14, page 4.---Oh gosh.

10

Mr Clarke there says to his wife, "I had a talk with Pietro and he said the council will help." Do you recall speaking to Mr Clarke at around early March 2022 about council helping him?---Are you asking me if I remember this particular?

Yes, yeah.---Not this particular, but I spoke many times with him.

About council helping him?---About this project together.

20 And at 38.3, page 9, so Mr Clarke sends you, at your PMLV address, some of the tender documents. Do you, and if we just go down the, keep scrolling down so Mr Cossu can see what was sent to him. Maybe start at page 14. Do you recall opening any of these documents?---No, my lady, no. I spoke to Peter at the time and I removed myself from, from the--

MR SUTTON: Sorry, Commissioner, I know he's my client but if you could keep your voice up, please.

30 THE COMMISSIONER: Your solicitor can't hear you, Mr Cossu. Everybody is struggling.---Yeah.

Right. So sorry, would you mind repeating the question?---No, I didn't open this documentation.

MS HUXLEY: Okay. And then I will take you to volume 38.4, page .3. And so that's an email from Mr Clarke to you at your PMLV address on 9 March attaching the bill of quantities.---Yeah.

40 And if you just go to page 4 and page 5, that's the bill of quantities.---Yeah.

And then at page 6 you sent this onto Mr Davidovic.---Yeah.

Why did you send them to Mr Davidovic?---To put the price of the culverts.

Okay. I'll take you to volume 30.6, page 246. See that picture from Mr Clarke to you.---Yeah.

And that's at page 500. Do you know why Mr Clarke was sending you this picture?---No idea. Probably just to inform me about it, I don't know.
And after he sends you that picture, I'll just take you back to 246. And then
10 at page 247 you say to him, "Call me." And then a little while later, "Call me, no one around please."---Yeah.

Did you want to have a private conversation with Mr Clarke at that time?---I don't know. I could have probably.

And would it have been in relation to the culvert?---I cannot even remember these messages, ma'am.

Okay. Go back to 38.4, page 18 and that's an email from you to Mr Clarke
20 with a copy of the bill of quantities.---Yeah, okay, yes.

And if we go down to page 19, this has the culverts prices in.---Yeah.

Had you obtained prices from Mr Davidovic?---Yes.

And did you amend any of those prices?---Of course, all of them.

You amended all of them.---Yes.

30 Why?---Because they were under-priced.

What do you mean under-priced?---We are doing the job for, for us, isn't it, as the contractors, so - - -

So you added a margin for yourself?---Yes.

Yeah. What was the margin that you added?---I can't remember.

Did you have a typical margin that you would put in?---Yes, a typical one.
40

And what was the general margin that you would put in as a subcontractor?

---I can't remember.

Had you spoken to Mr Clarke about charging a margin?---We didn't speak about it, no.

So he didn't know if that included a price for your services?---I didn't even know if Obnova could be able to do the job, so that one was my safety margin than anything else.

10 You didn't know if Obnova would be able to do the job.---At that price.

At that price.---Yes.

Why, that's the price they'd just given you.---Yeah, but I can, I can do numbers, I can calculate it, and to me it was too long, then I put some margin on top.

20 So does that mean you increased it because you thought Obnova's prices were too low and then on top of that you added a margin?---I can't confirm that, I can't recall it.

Okay. I'll take you to volume 30.10, page 178. So in the middle of that page, you said "call me when you send it" to Mr Clarke.---Yeah, yes.

And then you said, "Please, he wants to see it." Who is "he" a reference to?---I don't know what, what all this means.

Okay. We will go up to page 177 then.---Yeah.

30 Do you see that?---Yeah.

And go back down to 178.---Can I see the pictures please? Yeah.

Well around this time this is when, 24 March is the date that the tender is due.---It most probably was with the, with Mick, I would say so, to confirm.

Well why would Mick need to see the final tender?---I said probably, I don't even know what is this message for, I couldn't remember them.

40 Well is "he" there a reference to Mr Webb?---No, no it's not.

Well you wouldn't want Mr Davidovic to see the final bill of quantities because he would have seen that you'd increased the prices there.---Maybe, yes.

And that ran the risk of him increasing the prices once he finally got the job, so that was, that's not a reference to Mr Davidovic.---It could be Mr Davidovic, yes, it could be.

10 Did you discuss the final bill of quantities before it was submitted?---To who?

Did you discuss with Mr, sorry, did you discuss with Mr Clarke the final bill of quantities before it was submitted?---No, I just put the prices and then (not transcribable) no discussion.

Did you speak to him about whether he was going to disclose in the submission that Obnova was the subcontractor?---No, I didn't discuss.

20 Did you discuss whether he was going to disclose that PMLV was the subcontractor?---We didn't discuss it.

I'll take you to volume 38.4, page 38. So on 24 March, Ms Ho emails an number of people including you identifying four potential contractors. Do you see that?---Yeah.

30 And they attach the conflict of interest form and ask for it to be returned by email. And then I'll just take you up to page 37. Seven minutes after that email, Ms Bhuiyan emails a response to everyone and notes that you would need to be replaced with Mr Dankaro on the Tender Evaluation Panel. Do you remember that?---I completed, yeah.

And so did you speak to Ms Bhuiyan?---No – did I speak to - - -

Did you speak to Ms Bhuiyan about the conflict of interest form?---No. I spoke to Peter.

Peter?---Yes.

40 Peter Anderson?---Yeah.

And what did you say?---That, that I'm too close to, to Mr Clarke and I didn't want to be part of the, the team.

MR SUTTON: Sorry, Commissioner. The voice is dropping again.

THE COMMISSIONER: Yes. He said he spoke to - sorry - - -

THE WITNESS: I spoke to, to - - -

10 THE COMMISSIONER: He spoke to Anderson and said he was too close to - - -

THE WITNESS: Mr Anderson, to GWAC.

MR SUTTON: Thank you.

MS HUXLEY: What did you mean by "too close"?---We're very good friends and I was helping him, but I didn't say that.

20 What was that last part, sorry? Did you say - - -

THE COMMISSIONER: He was referring to the fact they were very good friends but he didn't say that.

Is that what you said?---Yeah.

Now just keep it up. I don't want to have to repeat everything you say, Mr Cossu.

30 MS HUXLEY: So you said "very good friends"?---Yes.

Did you say anything else about the relationship you had with Mr Clarke?
---No.

You didn't tell him, tell Mr Anderson, that you were involved in a subcontracting arrangement with Mr Clarke?---No.

Why not?---I didn't say, I didn't say it to him. I didn't - - -

40 But why?---Because I was doing the, the, the precast, was helping Jeremy -
- -

No, but why didn't you tell Mr Anderson that?---I didn't say it to him. I didn't tell him. I couldn't tell you why I didn't tell him.

But you made a deliberate decision not to say that to Mr Anderson?---Yes.

And is that because you didn't want this arrangement to be discovered?
---Yes.

10 Because it was potentially going to be profitable for you?---Yes, as a contractor, yes.

You didn't actually sign the conflict of interest form?---No.

Why not?---'Cause my understanding was to the, that that one was once you sign that, you could be involve or you could stay. By way no signing, I was distancing myself.

20 But is the reason why you didn't sign the form because you didn't want it on council record that you did have a relationship with Mr Clarke?---No, I didn't understand that, no.

THE COMMISSIONER: So, sorry? You said that you didn't sign it because you were distancing - - -?---I - - -

- - - yourself?---I want to distance of myself, yeah, from the project.

30 In what way?---By not being part of the, of the final decisions. I was helping to do the prices for the culverts.

Yes, but why didn't you put in a form?---Because by putting the form, I thought that was by signing that, I could, I was still part of the, of the process. And I didn't want to be part of the process. That was my understanding. Nobody explain to me differently.

40 MS HUXLEY: Were you worried that if you signed the form and declared a relationship with GWAC, council would then look at other past projects where you'd been involved in projects that GWAC had conducted?---As I say before, by not signing, I was distancing myself from the project.

Was it your idea for Mr Dankaro to replace you?---No.

Whose decision was that?---I don't know. It was not mine.

Were you relieved when you saw that it was Mr Dankaro who was going to replace you?---Not at all.

Well, Mr Dankaro was one of your employees, wasn't he?---Sure. There were many others.

10 But Mr Dankaro was one of your employees?---Yes.

And he took instruction from you?---He - - -

Well, you were his employer?---Yes.

And you had an employer/employee relationship?---Yes.

And so you gave him directions or asked him to do things?---No, not in this case. No.

20

Well, so can you explain how the employer/employee relationship worked when you were working at council?---I, I don't understand the question?

So you were Mr Dankaro's employer - - -?---Yes.

- - - at PMLV?---Yes.

And so when you were both working at council, did you expect Mr Dankaro to take instructions from you?---No, I didn't expect that.

30

Had you explained that to Mr Dankaro?---I think he's a big man. He can understand that human beings, human being behaviour.

But when he was at council, did you say to Mr Dankaro, "Even though I'm your boss and your employer, this project is for council and so you need to take instructions from your direct supervisor"? Did you have that conversation with him?---No, and I don't think it's needed. He was working for somebody else, not for me.

40 Well, he was employed by PMLV?---Yes.

So he was working for you?---Yes.

And you were paying him?---Yes.

And you could terminate the employment contract?---Yes.

So were you relieved when you saw Mr Dankaro was there, because you had, in effect, a man on the inside?---Like I say before, no at all.

10 Did you hope at that time that you'd be able to ask Mr Dankaro to influence the evaluation process?---No.

THE COMMISSIONER: Mr Cossu, you had that conversation with Mr Anderson where you said that you were too close to Mr Clarke - - -?---Yeah.

- - - and you declared your conflict of interest?---Yeah.

20 You had that conversation as soon as the tenders closed and the conflict of interest form was distributed. Is that right?---When, the minute the, the, the forms were distributed, I discuss it. It's not question of timing.

Okay. Now, when were you put on that Evaluation Panel? It must have been earlier than that?---No. When this, when the Evaluation Panel is formed, then you, you get the - - -

When was the Evaluation Panel formed?---I don't know. I couldn't recall it.

30 But it was before the afternoon of 24 March, wasn't it?---I can't recall that, ma'am.

Well, I'm just wondering why you didn't declare your conflict of interest as soon as you found out you were on the Evaluation Panel?---I did. As soon it came out, I did, straightaway.

All right.

MS HUXLEY: Did you ask Mr Dankaro to contact Mr Clarke at around 24, 25 March?---I can't recall that.

40 Did you ask Mr Dankaro to set up a Dropbox folder and send to you and Mr Clarke?---I, I wouldn't be able to, to even think about Dropbox, not me, no.

THE COMMISSIONER: Sorry? I can't hear you?---I not, it's not me, no. I never used the Dropbox.

MS HUXLEY: Well, did you ask Mr Dankaro to set up some arrangement, so that documents could be shared?---No.

I'll take you to volume 38.5, page 3.---Okay.

10 Mr Dankaro there emails you at your PMLV address a Dropbox linked?
---Yeah.

And that he can begin the production of a standard suite of management plans and templates?---Yeah.

So did you speak to him about setting up this link?---The only thing I remember of this is that he was going to, to make something for my company, for the PMLV company. And then he wanted put pictures of stuff for the, for the company. But I can't really recall it. I know that his wife
20 used to do sort of a, what do you call those things? Internet Web, websites, website, sorry.

I'll just take you to page four and there's Obnova sending a culvert program.---Yeah.

And then you forward this onto Mr Clarke at page 12.---Yeah.

Is that, do you know if that was one of the documents that council had requested?---I can't remember. Probably they requested him to do their
30 program.

And at page 45 one of the documents that you sent to Mr Dankaro was the culvert program.---It is not the culvert program.

Oh, no the culvert program is further down at page 61. Is that one of the Obnova documents?---Yes.

So why did you send this material to Mr Dankaro?---I can't remember why I did, it's - - -
40

Well was it so that he could help put together documentation for GWAC?

---Did I send this one to Mr Dankaro?

Yeah, you sent it to him at his Gmail address.---This is more for, for somebody to do programs, but Mr Dankaro doesn't do programs, but I don't know why I sent it to him, sorry.

Volume 38.5, page 87. So down the bottom is an email from tender box to Mr Clarke.---Yeah.

10 With a clarification. He then sends that to you and then you send it to Mr Dankaro at his Gmail address. Do you know why you sent it to Mr Dankaro?---I think, I really don't know.

Was it so that he could put together the response for GWAC?---The paperwork for GWAC was not the best, so probably.

THE COMMISSIONER: So sorry, the paperwork for GWAC was not the best, so probably what?---It was helping him reply I guess, I don't know. But it was not through me.

20

MS HUXLEY: It wasn't through you.---No.

Well you're the one that's sending it to Mr Dankaro.---I don't know. I did send this email, is anything attached to it or - - -

Yeah, the attachment is at page 92, which is the clarification that council sought.---Yeah.

30 Sorry, that's the response. Page 88 is the actual clarification sought by council.---Yeah.

And then at page - - -?---No, I never saw this one.

Pardon?---I never saw it.

But it was sent to you.---Yeah, he did, probably - - -

And then you sent it to someone else. You don't know why you did that?---I can't remember, no.

40

Page 90, Mr Dankaro sends it to you.---Yeah.

“Please find attached clarification response for review and issue.”---With the changes, there were changes there?

I’ll take you page 92. You see there that’s the response that Mr Dankaro had put in.---Yeah.

Did you tell him how to respond to those clarifications?---No.

10 And page 93, did you tell him how to respond to those?---No. But did he change prices yet or it’s just the words?

Just the words. Page 97, there’s a reference to the capabilities of GWAC and it says, “The GWAC production facility is located in Wollongong.”
---Yeah.

And then it says, “Our production capacity includes” and sets it out. Did you tell Mr Dankaro to put that information in there?---No.

20 Mr Dankaro gave evidence that you did tell him to put that information in there and told him what to say.---Well he’s got, he’s against me I guess, but I can’t recall it.

THE COMMISSIONER: Sorry, what did you say? He what?---If he says that he’s against me, but I can’t recall it ma’am. I can’t recall it. It’s not, English is not my first language to write down, clarifications.

Are you aware of any reason why Mr Dankaro would want to help GWAC?
---Mr Dankaro is, you know, was probably trying to improve himself.

30 Maybe he was trying to make more money, I don’t know, he was trying to, I don’t know why. I really don’t know why, ma’am. I know that he is very smart. He’s a very intelligent man.

Yes, but I am just asking you whether you’re aware of any reason why Mr Dankaro would want to help GWAC.---No, I don’t have any reasons.

Okay.

40 MS HUXLEY: Did you offer him any benefits for his assistance?---No I didn’t.

I'll take you to page 104. This is an email from you to Mr Clarke with the subject matter, "Submit ASAP."---Yeah.

And it attaches the documents that Mr Dankaro had prepared.---Yeah.

And you knew Mr Dankaro had prepared them.---It's blank.

Do you want to see the documents that were submitted?---It's a blank page, ma'am.

10

So go down to the next page. So that's the response that Mr Dankaro had sent you.---I haven't seen it before.

So you didn't review the documents to see if they were appropriate?---No.

I'll take you to volume 30.6, page 254. It's a message from Mr Clarke to you saying, "Submitted. I had to print them to PDF to take away the reference to Nosakhare partner."---Yes, I never say that. This is Jeremy saying it.

20

Yeah.---Yeah.

Did you ask him what he meant by that at the time?---No I didn't.

Is that because you understood that Mr Dankaro had actually prepared those documents?---There is no reason.

I'll take you to volume 38.5, page 173. It's an email from Mr Clarke to you at your PMLV address attaching another council clarification. I'll take you to page 174. Do you recall that email?---No. What, can I read it please?

30

Sure.---Okay.

And then I will take you to volume 39.10. Do you see there, there's two calls after, one at the second entry, 17.38.---Yeah.

And another one at 19.32 on 7 April. Did you discuss the clarification that had been sent to Mr Clarke?---I don't remember the phone calls, ma'am.

40 THE COMMISSIONER: Sorry, what did you say?---I can't remember the phone calls.

MS HUXLEY: Well do you remember discussing the response to this clarification with Mr Clarke at any time?---In the response they are asking for a, for the precast isn't it? SP3 I think. The only thing that I could have told him is, was the SP3 and that's it. How many culverts to bring in and how could he have done it. I needed to tell him that. I don't think he could have gone to Obnova.

10 And then at volume 38.5, page 275, Mr Clarke sends you an email with the clarification 2 response.---Yes.

And he says, "For your review".---Yep.

And at page 276 that's the proposed response and 277 - - -?---Can you go back to the first one, please?

Sure.---Yep.

20 Did you review this document?---No.

Why not?---Not in my interest to write the thing but I must have given the information, the SP3.

Had you agreed with Mr Clarke that you would review documents for him before he submitted them to council?---No, no agreement but he sent it to me.

30 I'll take you to volume 38.6, page 1. This is an email from Mr Dankaro to you at your PMLV address attaching a summary post GWAC clarification 2.---Yep.

And if you go down to page 2, that's the summary. Is that a document that's usually produced in an evaluation panel process?---Oh, I don't have idea. I never - - -

THE COMMISSIONER: I beg your pardon?---I don't know.

40 MS HUXLEY: Well, you see the four columns there, that you've got GWAC, then Precast Civil Industries, Modcast and Cadia Group. They are the four contractors who had put in a submission for these works.---Yep.

And so he's sending you the prices that had been included in those submissions.---This is after submission?

Yes.---Okay.

Did you ask him to send you this document?---I can't recall it.

Did you review the document?---I can't recall it, ma'am.

10 I'll take you down to page 18. So do you see that there's a score listed for each of those companies?---Yep.

And is that what normally happens in an Evaluation Panel process, each company gets a score?---Yes.

And then I'll take you to page 19. That includes a summary of where each prospective contractor is sitting in relation to the others.---Okay.

20 Did you do anything with that information?---I couldn't do anything with that information.

Well, did you speak to Mr Clarke about what was recorded in this document?---I can't recall that.

Do you recall becoming aware that GWAC had failed the financial assessment?---Yes.

And did you speak to Mr Clarke about that?---Yes.

30 Did you tell him prior to him being notified that GWAC had failed the financial assessment?---I can't recall that. I could have, I don't know.

How did you come to know that they had failed the financial assessment?---Must have been in the office.

Was it something that people were talking about?---Yes.

40 I'll take you to volume 30.10, page 207. You sent Mr Clarke a message, "Any news on the financials?" and then you correct that to say, "Your financials." Why did you care about whether there was news on his

financials?---I wanted to make sure that he, that he was doing about something about - - -

THE COMMISSIONER: You wanted to make sure that what?---That he was doing something about the financials because they were no good.

MS HUXLEY: And you wanted to win this work?---Yes.

Because if he won the work you would get paid?---Not if.

10

Pardon?---Yes, I wanted him to win the work.

38.7, page 29. This is an email from Mr Clarke to you and it says, "Dear Alan." Is Alan a reference to Mr Parker?---Probably.

And so he is there sending you a proposed response to Mr Parker?---Yep.

Did you review this?---I, he probably sent it to me as a, to, to make me know that he done it but I didn't review it. I mean, he couldn't do nothing. I seen it.

20

I'll take you to 30.14, page 43. This is a message from you to Mr Clarke and the next page, that's what you attached. Do you recognise that as the GWAC failed financial assessment?---Yes.

Why did you sent that to Mr Clarke?---To show him how stupid it was probably.

THE COMMISSIONER: To show him what?---That it was no good, that this, I mean, 17,000.

30

MS HUXLEY: And that the information he needed to obtain had to address what was in that part of the report?---No. This one is what he submitted.

That's what he submitted?---Yes.

So why are you sending him a picture of he submitted?---I don't think, I don't know, I can't remember. I just telling him that this is no good.

40 Well, if you look at the bottom of that page it says, "Prepared by Equifax Australasia Credit Ratings".---Yep,

And then the next bit is “General works and construction.” So that’s not a document prepared by GWAC, it’s a document prepared by Equifax.---Oh, I didn’t know that. For me when I saw General Works & Construction, I thought was him, that he done it.

So how did you obtain this document?---I can’t recall it.

10 THE COMMISSIONER: You probably what?---I can't recall it.

You can’t recall.---No.

MS HUXLEY: I’ll take you to 38.7, page 262. It’s the first email from Mr Clarke to you at your PMLV address on 18 May 2022 and he says, “FYI, this is what I will sent to Alan in the morning once you have had a chance to review it.” Did you review that?---No, I did not review it but I read it.

Why did you sent it to Mr Webb?---To Mr Webb? Did I send it?

20 You sent it to Mr Webb at a Gmail address for him.---Sorry, ma'am. I can't remember this.

Well, did you sent it to him so he could also review it?---I don't think he would have done such a thing, but I don't know why I sent it to him.

Was it because, did you send it to him because Mr Webb also had an interest in GWAC obtaining this work?---Mr Webb had no interest but he was interested in the work.

30 One of the documents that council required was a program for the culverts. Do you remember that?---No, I can't remember that but I expect - - -

Would you have obtained that from Obnova?---The program, yes.

I’ll take you to volume 38, sorry, 39.4. And is that the program that Obnova sent you?---There is no program here, ma’am.

I’ll take you to page 3.---Yes.

40 Is that the culvert program?---Yeah.

See how it says “Obnova” at the top?---Yeah.

Did you speak to Mr Clarke about removing that before it was provided to council?---No need to, I never speak to Clarke. I told, I gave this one to Clarke, yes.

Did you tell him to remove “Obnova” at the top?---I don't know even if it's possible.

10 Okay. There were some further documents, quality assurance documents that had to be obtained from Obnova. Do you recall that?---Okay. No.

I'll take you to 39.8.---Okay.

And if you just scroll down to the first page of the first document.

MR SUTTON: Sorry, could that just go out so I can see the reference at the bottom?

20 THE COMMISSIONER: Is there a reference down the bottom? We can't see it.

MS HUXLEY: It's volume 39.8. I'll tender it now, at the break, sorry, I've got a few documents to tender at the break. Can you just scroll down. Keep going.---Was that my name? Go back one - - -

We can go back up.---Yeah. I sent this one to Obnova?

So go back up.---Or to whom?

30

So Mr Bennett from Obnova sends it to you at your PMLV address.---Yeah.

In response to an email from you.---And - - -

So keep going down, from your PMLV address, and then the next page you've copy and pasted something from an email, a council email.---Yeah.

And keep going down.---And I gave it to them.

40 You gave it to Mr, to Obnova.---Yeah.

And see how there's Obnova branded documents attached to that email?
---Yeah.

Did you speak to Mr Clarke about removing these before sending them, removing the Obnova branding before sending it to council?---No I didn't. I submitted to him what was required, that's it.

THE COMMISSIONER: Sorry, what was that?---I submitted what was needed for the job.

10

MS HUXLEY: And then at volume 38.10, page 1, Mr Clarke sends the program to you at council.---Yeah.

And then you send that on to Mr Webb. Why did you send the program to Mr Webb?---To make, to make him, if he was happy to complete the job in time or not.

And if you go to page 2, do you see there's a black box up the top?---Yeah.

20 Do you know who had put a black box over that?---No, I don't know.

Do you recall - - -?---This one is what I sent to, to Ben, this one, ma'am.

Yes, this is the one that was sent, well sent to you by Mr Clarke and then it was sent to Ben, Mr Webb. I'll take you to page 5 of that volume. This is an email from Ms Bhuiyan to Mr Clarke stating that a representative from council should be in attendance if possible for the pre-pour inspection.
---Yeah.

30 Did you speak to Mr Clarke about this?---I can't remember. I don't know.

Did you and Mr Clarke devise a plan so that you could be the so called council representative for the pre-pour inspection?---Devise a plan?

Did you speak to Mr Clarke about a plan to avoid council finding out that Obnova was going to be the fabricators of the culverts?---Not that I recall, no.

You can't recall that.---No.

40

Well didn't this present a problem because you hadn't mentioned Obnova in
- - -?---I didn't mention Obnova.

Sorry, I withdraw that.---Yeah.

Was Mr Clarke worried about council finding out that Obnova was a
subcontractor?---I can't recall that, ma'am.

10 So how did it come to pass that you were the representative at the pre-pour
inspection?---How it come to pass, I must have been asked to go and check
it.

Who asked you?---I don't know. Faiza or, I don't know.

So do you recall conducting the pre-pour inspection?---Yes.

20 And did you have to speak to anyone at council while you were doing that?
--- I think I was on the phone with Peter or, Peter and Faiza while I was
doing the, while, while we're pouring the concrete.

And did you notice, was there an issue about the length of the culverts
raised at that time?---No, I didn't check the length, no.

You didn't check the length.---No, I'm more concerned on the reo and the
position of the reo.

Why didn't you check the length?---The width is important to me, the length
was not important.

30 But isn't it important for the culverts to be manufactured to the specification
in the documents provided?---Not for that length, no.

Pardon?---I didn't check the length.

When was the issue about the discrepancy in length first noticed?---After
the first delivery I think.

40 And how many culverts have been delivered with that first delivery?---All
of them.

All of them.---Yeah.

So the 300?---No, we never completed the job. I mean - - -

But so the first delivery, how many culverts were delivered as part of that first delivery?---I can't recall.

Had you ever had any discussions with Mr Davidovic about the length of his culvert mould before the submission was put together?---(not transcribable) this time, it didn't come to me.

10

THE COMMISSIONER: Sorry, I didn't catch that. What was that?

MS HUXLEY: I don't think he heard the question.

THE COMMISSIONER: Oh, okay.

MS HUXLEY: Was there any discussion with Mr Davidovic about the length of his moulds prior to GWAC submitting the tender submission? ---No, not prior, no.

20

THE COMMISSIONER: Sorry, there was no discussion about lengths before the original, before the tender was put in by Obnova?---No.

Okay.

MS HUXLEY: There are a number of issues in the delivery of this project. ---Yes.

And that including the discrepancy in the length?---Yes.

30

And that resulted in a dispute between GWAC and council?---I was not part of the dispute, no. I don't know.

When you say you were not part of the dispute what do you mean?---I didn't even know there was a dispute until GWAC stopped the, cancelled the contract.

So you say GWAC cancelled the contract.---To me, yes, and then I automatically cancelled (not transcribable)

40

Okay. So you didn't know anything about this - - -?---Disputes?

- - - dispute until GWAC cancelled the contract?---Yes.

Did Mr Clarke tell you before he cancelled the contract with you that that's what he was going to do?---I think he's done that after he got cancelled.

When the first delivery of the culverts occurred and the discrepancy in length was noticed, were you involved in trying to find a solution for that?
---Yes, what Mr Davidovic, yes.

10

And was Mr Clarke also involved in that?---Not, indirectly, not - - -

He was trying to find a resolution with council.---Yes.

And you were trying to find a resolution with Obnova.---Of course.

THE COMMISSIONER: Now I'm just interested. You said that you went to the pre-pour inspection you didn't check the lengths because you were more concerned about the width of the culvert. Is that right?---Yes, that is standard. You can't reduce the volume.

20

But I still don't understand why you didn't check the lengths.---The, it's called, I'm a precaster. I build precast, so - - -

No-one is questioning that.---No.

I just want to know why you didn't check the lengths.---Okay. May I explain?

30 Yes.---You asked me. So it's called creeping. If you put one behind the other one, and then you carry on doing that, by a certain time, a certain distance, becomes longer, so you usually make it smaller in such a way that you can fill up of the 20 millimetres, the 2 millimetres, and you, you, you seal it. You can't allow the water to come out. But that one was, yeah. So for me was standard to keep a little bit smaller.

All right.---Or if you don't reach to that you put the piece in between.

This is a well-known thing, is it, that - - -?---In engineering it is.

40

All right. But when the lengths were specified normally wouldn't the person doing the specifications be aware of this well-known situation?---We are humans and usually humans tend to divide the length for the same distance without thinking the construction, specifically for a designer.

So you thought that the designer would not have realised the situation.
---Yes.

10 But you didn't make, did you make any inquiries about that?---I couldn't get involved but then I mentioned that to Mr Jeremy Clarke and he just put that forward to the council, but I didn't want to get involved more than what I was supposed to be 'cause I didn't want to, I was making the culverts. As a contractor I didn't want to be part of the, the solution.

I'm not talking about the difficulties that arose later.---Yeah.

20 I'm just talking about what was in your head when you went and did the pre-pour inspection.---My head, the length was good. This, what my intention was to check that the steel was all right and the other dimensions were right, but the length for me was good, because it was only 20 millimetres.

But wasn't it 40 millimetres out? I thought you said that the differences between the pipes that the intervening was 20 millimetres.---Is, is one behind, is one behind the other.

30 Yes.---So that distance that was supposed to be – I can't remember. I can't recall it in the, at the moment, but that distance, because it increases in creeping, when you're (not transcribable) it, that distance was supposed to be, that is the 40 millimetres required.

But you said 20 millimetres.---I can't recall it if it's 20 or 40 millimetres. I can't recall it.

Okay.---But to me the, the building up, the distance was, was okay.

40 Because if the, if the length of the culverts was too short that would mean there weren't enough of them for the whole distance, wouldn't it?---But, yeah, you, but you can make another piece if that is the case, but if it's too long then you have to cut it. Then you have exposed reo and you have other

issues, but to put another piece in between once you, you have the mould is not a problem.

Okay. Yes, sorry, Ms Huxley.

MS HUXLEY: But, I mean, Mr Cossu, you said that in explanation for why you didn't mention the length.---Yes.

But if the consequence of a culvert being too long - - -?---Yeah.

10

- - - meant that you'd have to cut it and expose the reo - - -?---The reo, yeah.

- - - then doesn't that mean measuring the length of it is important so you avoid having to cut through the reo?---Yeah, I did measure it, but not the 20 millimetres. I saw that was 2.4 metres and I left it.

You thought thereabouts is fine.---The 20 - - -

So you did measure the length.---Yes (not transcribable)

20

Okay.

THE COMMISSIONER: Oh, I thought you said you didn't check the length.---No, I didn't check precisely the length, no.

Well, did you measure it or didn't you?---When we done the quotes I check it up, we have to check through the - - -

30 No. No. Let's just talk about the day that you did the inspection, that's 16 September 2022. Did you check the lengths?---My apology, ma'am.

Yes. Did you check the lengths?---I must not have. Probably not.

You must not have.---Yes.

Okay.---I couldn't have done that, no.

Yeah. Okay.

MS HUXLEY: I'll just take you to volume 38.10, page 273. From the bottom there Ms Bhuiyan sends an email to Mr Clarke attaching a letter from the superintendent. Do you recall this?---No.

I'll just take you down to the letter. It's at page 275. It raises a number of issues with the project.---Okay.

If you go to page 276 and then page 277. And that's signed by Mr Webb. ---Okay.

10

So if we go back up to page 273, Mr Clarke sends this to you on 22 November - - -?---Yeah.

- - - to a PMLV address.---Yeah.

And then you sent it on to Mr Webb at a Gmail address. Why did you send it to Mr Webb at a Gmail address?---I was supposed to send it to Mick, not to Ben, but I - - -

20 So, what, that was just a mistake that you sent it to Ben?---I don't know. I can't recall this.

Well, at that stage did Mr Davidovic know that this work was for Mr Clarke?---No.

So you couldn't forward it straight on to Mr Davidovic because it refers to Mr Clarke.---Most probably, yeah.

30 If I take you to volume 38, page 282. That's a document that was found on a USB at your home.---Yeah.

And so had you removed the references to Mr Clarke and GWAC and put your own company in there?---Oh I don't know if I done it. Probably Jeremy sent me that.

And then at 38.10, page 259, this is a copy of that letter that was in Mr Davidovic's possession.---I never saw this, ma'am.

40 You never saw this letter?---No.

So do you have any explanation as to why your name now appears there instead of Mr Clarke and GWAC?---No idea.

Are you sure about that?---Why should I have given it to him anyway?

Well, because it raises a number of issues in relation to the culvert manufacture.---It's nothing to do with him.

To do with who, Mr Davidovic?---Yes.

10

Well, he's the one manufacturing the culverts for you, isn't he?---But he's got the contract with me.

Yeah. So you're sending this to him. So you've given this to him identifying a number of problems with the culverts.---I don't think I would have done that, no.

Okay. So you have no explanation for how this came to be in Mr Davidovic's possession?---Absolutely not.

20

Volume 38 point - - -?---One second.

Volume 38.15, page 210. This is an email from Mr Clarke to you at your PMLV in April 2023 attaching a copy of an employment offer. I'll take you to page 211.---Thank you.

So on 21 December 2022 Mr Clarke signs this document that offers you a full-time position with him, managing some aspects of GWAC on a profit share basis. Do you recall that?---No, I don't but it's nice.

30

Well, did you ask him to formalise the arrangement once you left council? ---This is after I left council, isn't it? Yes.

Do you recall what date you left council?---Oh, I don't know. Isn't it '22 though, December '22? Yeah. Yeah.

So basically immediately upon leaving council Mr Clarke offers you this? ---Yeah.

That's because it was formalising an arrangement that you had already had in place in relation to sharing profits in GWAC?---I wouldn't agree with that but, I mean, yeah.

Well, you could now formalise it because you were no longer engaged by council?---Just formalising it, yes.

And it's formalising a preexisting arrangement that you had with GWAC where you and Mr Clarke would share profits?---For this job, yeah.

10

No, for all GWAC jobs.---No. We are doing this together.

So you say that you were only doing the culvert job together?---Yes.

I'll take you to volume 30.12, page 93. Sorry, page 95. Sorry, I will go back up to page 93. There is a message from you to Mr Clarke saying, "Those emails are good news. Rob Dudley clearly doesn't understand the New South Wales laws around payments." Does this relate to this dispute that GWAC had with council at the time about the culverts?---I'm not sure.

20

Do you know who Rob Dudley is?---Yes.

Who is he?---I think he is managing the, the culverts now, he's dealing direct with Obnova, I guess.

Was he dealing with this project at the time that you were at council?---No.

Do you know if he - - -?---He was working for Faiza and Faiza was dealing with this.

30

So you don't know if this is a reference to the dispute that you were having with council?---I don't even remember a dispute with council.

Sorry, that GWAC had with council.---Maybe, yeah.

Then at page 94 Mr Clarke says to you, "It seems more money can be made from disputes that, the actual work".---Who say that?

That's Mr Clarke to you.---Oh, maybe.

40

So is that relating to the GWAC-council dispute over the culverts?---Back in the bottom say Lendlease.

Then at page 95 you say, “My money is directly related. If we lose I am not alone.” What did you mean by that?---Because we, we pay in the - - -

Was that because the contract was between PMLV and Obnova?---I guess, yes.

10 So you had money in the game?---I guess. If he didn’t get paid then I had to pay.

You recall Mr Webb left council sometime in early December 2022?---Yes.

Did you know if Mr Webb was assisting GWAC or PMLV in relation to this dispute about the culverts?---Yes.

He was?---After, after he left, yes.

20 What was he doing?---Giving advice, I guess.

Was he helping draft letters to respond to council?---The lawyer was doing that.

Was he providing information to the lawyer in order for the lawyer to draft the letters?---I can't say that. I was never part of it.

30 Would you and Mr Clarke - sorry. Would you and Mr Webb communicate using the operations@gwac email address?---I can't say that, I don’t know. I can’t remember. I think Jeremy has made a, an email address for me to, to make better communicate but, yeah.

THE COMMISSIONER: Sorry, what was that? I didn’t catch that.---Yeah. The, Jeremy made an email for me to use if I was working with him but I don’t know if I use it.

40 MS HUXLEY: I’ll take you to volume 30.9, page 58. Then there’s a message from you at the bottom, “Hey Ben. I modified the dispute document to remove your name. I want to put it in the Dropbox before I do that. I will send to you to make sure it’s okay. Can you check it?” Why did

you want to removed Mr Webb's name from the dispute document?---I really don't know but, as we can see here, we both out of the council.

I accept that, you're both out of the council.---Yeah.

But I'm just wondering why you wanted to remove Mr Webb's name from it.---There is not really a reason at all.

10 Did Mr Clarke know that Mr Webb was assisting in this dispute?---He probably called him. We both know that Ben is quite, quite good in these type of things.

I'll take you to 30.12, page 59. Start at page 58. That bottom message is a message where you send to Mr Clarke, "Did Jeremy submit a claim on Friday?"---Yep.

And then on page 59 Mr Clarke responds to you, "Not for culverts today". ---Yep.

20 And then you say, "He is not going to like you." Is that a reference to Mr Webb?---I, I'm not sure but, I mean, I didn't need to, to, to hide anything, this change, no. I don't know, ma'am. Is this before or after - - -

I'll take you to volume 30.9, page 84. Mr Webb sends to you a message - oh, sorry. 30.9, sorry. Mr Webb sends you a message saying, "Can you see the draft in Operations inbox?" And, "Let me know when you are free." So were you using the Operations inbox to communicate with each other in relation to the GWAC dispute?---Yes.

30 And then go to the next page. You say, "Ben, I deleted as soon as I saw it, but I don't know if JC has seen it"?---Yes.

Well, why did you delete it?---I don't know.

Were you concerned Mr Clarke would see something he shouldn't? ---Ma'am, I don't remember. Can we see the - - -

40 I take you to page 196. Mr Webb sends you an email saying your name is on the Obnova documents council have and then at page 197, he sends you a picture and that picture's at page 507.---Can, can I see that, before?

Yeah. Just go back to page - do you want to go back to page 196?---If you don't mind? Okay. What are we talking about? How he knew that? Well, anyway - - -

And then if, sorry, page 197, and that document, that screenshot's actually at page 506. See, down the bottom there, it says "clients Pietro culverts"? ---And - - -

10 And then if you go back to page 197, you say, "Mm." And then you say, "Client?" And then Mr Webb responds on the next page at 198, "Yeah, we can say that." So were you trying to find an explanation for why your name appears on those documents?---Is not this documentation going to the lawyer? Just a question. I really don't know, because who's fighting this is probably GWAC. I don't - if we look the dates here, we are, everyone is out of council by then.

Yeah. But so why are you helping GWAC with this council dispute? ---Because I'm working with him, isn't it?

20 And why was Mr Webb helping GWAC?---We probably ask, maybe Jeremy must have ask him. He knows it is quite good. He worked with him on that.

Was it because Mr Webb and you had an interest in PMLV?---An interest in PMLV? I was PMLV.

You were PMLV?---Yeah.

30 And at that time, in December 2022 to January 2023, did Mr Webb have an interest in PMLV?---No, not that I know of, but was my friend, I guess, he was - - -

MR SUTTON: Sorry, Commissioner?

THE COMMISSIONER: That was my friend, that was, "he was my friend, I guess," I think is what the witness said.

MR SUTTON: Thank you. I just ask if he could keep his voice up again?

40 THE COMMISSIONER: Yes. Please speak up, Mr Cossu.

MS HUXLEY: And then I take you to 30.9, page 34 to 35.---Yeah. Done -
--

And then 35.---Point five.

Mr Webb says to you, "I can. You'll need to discuss \$ for helping"?---Well

10 And then you respond, "Said to him that a percentage will apply." So did
you speak to Mr Clarke about needing to be paid for the work Mr Webb was
doing in relation to assisting GWAC in this dispute with council?---I can't
recall it, but I could have. I don't know. I can't recall. I can't recall it. I
can't recall it. But I guess it was, 12 January '23, must have been out of
council.

I take you to volume 30.12, page 331. Sorry. I'll come back to - in 2022,
did you loan any money to Mr Clarke's companies?---I can't recall it, I must
have, I could have.

20 Can I take you to volume 33.9, page 1?

THE COMMISSIONER: Sorry? What was the reference?

MS HUXLEY: 33.9, page 1.

THE COMMISSIONER: Thank you.

MS HUXLEY: So this is a financial analysis of loans from you to BCE and
Mr Clarke?---So this is mine or it's Mr Clarke's?
30

No. This is analysis done by the investigation at the Commission.---Yeah.

And you lent Mr Clarke \$105,000 over 2022, and he paid that back to you?
---Yeah.

Why were you lending him money?---Because he didn't have the cashflow,
ma'am.

40 Did you disclose that to council, that you were lending him money?---No,
ma'am.

Why not?---He was my friend. I wanted him to work.

Did you also want him to stay afloat?---Yes, ma'am.

You didn't want him to go under?---Yes.

And that's because you were profiting off this arrangement that you had with him to win work for him and his company at GWAC?---No, but I was interested in the company, to stay with him, for the future.

10

You sent a number of invoices to BCE during 2020 to 2022?---Yeah.

What was that for?---Probably to pay me back.

Pardon?---Probably to pay me back.

For him to pay you back?---Probably.

20 So you'd send him an invoice that represented money that he owed to you?
---I can't recall.

And how would that be treated in your tax returns?---I pay more tax.

So you're paying tax on money that wasn't your actual income?---No, pay twice, because it was income and then I pay it again, isn't it?

THE COMMISSIONER: So, sorry? You did pay tax in relation to those invoices?---Yes.

30 Even though they were just concerning repayment - - -?---Yes.

- - - of loans?---Yes.

MS HUXLEY: I take you to volume 30.12, page 181. You send Mr Clarke a picture of something?---I can't remember, ma'am.

And if you go to page 533.---Yeah.

40 That's the picture.---Yeah.

They're all the invoices.---Some.

There's some of the invoices, and what were those payments for?---This one was for Obnova.

So he owed you money?---Big time, yes.

And did you owe Obnova money or had you already paid Obnova?

---Mostly, I don't know, I can't confirm that.

10 See that the heading there is "GWAC Summary of Payments Paid to PMLV Updated."---Where do you see that?

At the very top.---Yeah.

So that was a summary of what GWAC owed you.---Yeah.

Do you recall if in those invoices you identified GWAC or did you say BCE?---I can't recall that, ma'am. I can't recall.

20 I'll take you to volume 33.7. Sorry, page 3.

THE COMMISSIONER: Sorry, what volume is it?

MS HUXLEY: This is volume 33.7. See that total down there, that's the total of money coming into Mr Clarke's account from council for work GWAC did.---Okay.

Did he discuss how much work, how much money he was making from the council jobs with you?---Not with me, no.

30

I'll take you to volume 33.8, page 1. So this spreadsheet is a spreadsheet of payments made to you from Mr Clarke's entities and then payments you made to Obnova.---This is made by you or by him?

By the Commission.---By the Commission, okay.

And if you go down to page 2.---Yeah.

See those figures, the totals on the right-hand side?---Yeah.

40

So the total paid from one of Mr Clarke's accounts to you is \$1,247,376.

---Yeah.

And then there's two other amounts from his BCE accounts. So when you total that up, it's \$2,428,612.---Say that again.

So when you add all of those last three columns together, it totals \$2,428,612.---How, how you do that? I don't understand.

I just added them together.---But why you do that?

10

To see how much money Mr Clarke had paid PMLV over this period.

---How much money?

\$2,428,612.---I think you have to review the calculations because that's not possible.

So you're saying it's not possible that he paid you \$2,428,612 over that two year period?---Absolutely not.

20 Well that's a figure based on analysis of your PMLV bank account.---Not from Mr Clarke. Impossible ma'am. I think you have to review that.

So you're saying the bank records aren't accurate?---No, that calculation is not right. If you are saying that he's got a contract, he's got a contract for X but you tell me that he's given me Y, (not transcribable) I must be a gentleman.

So your response to that is that the bank records mustn't be accurate?---This record is not right.

30

So you deny that you've been paid \$2.428 million by Mr Clarke?

---Absolutely.

And then if you subtract what you paid to Obnova, that leads to a total of \$1,249,539.60.---This calculation is wrong.

Well if you accept that that is based on the bank records - - -?---I don't accept it.

40 You don't accept it.---Absolutely not.

So you don't accept that you've been given, once you take out the payments to Obnova, \$1.249 million?---No. How much you say again? 1.4?

\$1.249 million.---1.2, maybe, I'm not - - -

Yeah, so what I, that 2 million, \$2.4 million, you have to subtract the payments that you made to Obnova - - -?---No, no, no.

10 - - - because you've had to pay Obnova, so you didn't make that money, you had to pay Obnova.---No. \$1.2 million, how much money I made 600,000 you say?

No. I am saying that once you, the analysis of the bank records shows that Mr Clarke paid you approximately \$2.428 million and then you've paid Obnova \$1.179 million.---I am - - -

Which leaves left over \$1.249 million.---Absolutely not, ma'am. This is, this calculation is wrong.

20 Okay. Well so how much do you say were paid by Mr Clarke over this period?---I wish you asked me yesterday, I would have brought it today but yeah, probably a million, a million - - -

So not far off. We're \$200,000 apart then.---Probably.

So that million dollars, what was that million dollars for?---To pay Obnova and transport.

30 So you're saying \$2 million just in relation to Obnova?---1 million.

Sorry, 1 million just in relation to Obnova.---Yes.

How much did, what percentage of that was profit that you'd put on those Obnova prices?---Probably 30%.

30%.---30%, yes.

So what, about 300,000?---Probably.

40 So you made that, so, and that's just in relation to the Appian Way Project? ---Probably 200,000, but yeah.

If you go up to page 1. That first payment is that \$28,600 payment that I took you to yesterday.---Yeah.

Do you see that?---Yeah.

And so what was that for?---I cannot remember. I can't recall.

And then 21st, line 6, 21 May, 7,480, hold on.---Yeah.

10

There's two, there's, sorry, I'll just go back to the BCE ones. 12,980 and 33,000. So that's in March and April of 2021. So that was well before the culvert program. So what were those payments for?---I can't remember ma'am.,

Were those payments for helping him get awarded particular projects at council?---I can't remember.

Were you here when Mr Clarke gave evidence?---Say that again?

20

Did you listen to Mr Clarke giving evidence?---Yes.

Did you hear him give evidence that some of these payments included payments as a reward for getting the job awarded to GWAC?---Did I see that?

Did you hear that, him give that evidence?---No, I never, I never heard that.

30 He gave evidence that part of these were kickback payments. Do you remember listening to that evidence?

MR SUTTON: Commissioner, if I can just - - -

THE COMMISSIONER: Yeah.

MR SUTTON: He wasn't, if my memory serves me correctly that was the day his wife had a condition.

40 THE COMMISSIONER: Sorry, Mr Sutton, what was that?

MR SUTTON: If my memory serves me correctly, that was the day that his wife had a condition and he left to be with her, so - - -

MS HUXLEY: Okay.

THE COMMISSIONER: Oh, Mr Cossu left.

MR SUTTON: I know he said that he was here. Yes, Mr Cossu left. He wasn't - - -

10

THE COMMISSIONER: Oh, right okay, so he may not have heard it, all right.

MS HUXLEY: Okay.

MR SUTTON: Well I just thought you should be aware of that fact.

MS HUXLEY: I'll, yeah.

20 MR SUTTON: Obviously - - -

MS HUXLEY: I will rephrase the question.

MR SUTTON: He could have been online at some stage, I don't know. I just - - -

THE COMMISSIONER: Oh, I see, yeah.

30 MS HUXLEY: So Mr Clarke gave evidence when he was before the Commission that some of these payments, at least some part of the payment was - - -?---Some part.

- - - a kickback to you for helping GWAC win the work.---Part of the payments.

Yes. Do you have anything to say about that?---Could be if it, if he says that it could be that. I don't want to deny nothing.

40 Is that consistent with what your understanding of these payments were?
---Yes.

THE COMMISSIONER: Right. So, Mr Cossu, you're agreeing that you got a kickback for some of the projects that were awarded to GWAC?---If, if Jeremy say that, must have been that case, ma'am. I agree.

Right, okay. Well, which projects were they?---I haven't got idea. See, of he decide to give me something because he decided, I can't, I don't have idea, ma'am.

10 MS HUXLEY: So were all these invoices that you sent for these figures at the request of Mr Clarke?---I can't recall that either.

THE COMMISSIONER: Sorry, what's that?---Which one is this? This one says all, all money before - can you show me?

MS HUXLEY: So if you see in the description column, the first one is "Jeremy Clarke invoice 20001." Then there's another one, "My 20002" and so on. So that was your practice for identifying the invoice numbers?---Yes. Ben still is.

20 So those are the invoices that you had sent to Mr Clarke and he's paying them to you?---So is 28,017, isn't it? And 7,000. What is all the rest? Okay.

Not only were those payments a reward to you for helping GWAC win work at council but they also represented a share of the profits, didn't they?---No. I was never part of the company.

That was never part of the contract?---I was never part of the company. I was never - - -

30 You were never part of the company?---No.

But even if you weren't part of the company there could still have been an understanding to share the profits and that's what occurred here, isn't it? ---No. There was never an understanding to share any profits.

Well then why in those spreadsheets that we saw yesterday was there reference - I withdraw that.

40 THE COMMISSIONER: So let me just get this clear, Mr Cossu.---Yes.

You agree that some of these payments could be by way of kickback for helping GWAC to win work, is that right?---I agree.

Yep. And you agree that you sent invoices for different amounts of money to Mr Clarke?---Yes, yep.

How did you know how much to invoice him?---I can't remember, ma'am.

10 You can't remember?---He must have been done, told, he must have asked me invoice this or invoice that.

So it was Mr Clarke who would suggest how much you would invoice him?---Most probably. There is, don't youse have evidence of this, or - - -

Sorry?---I've got, I can't recall it, ma'am. It's 2022.

You can't recall.---No.

20 MS HUXLEY: If I take you back to page - - -

MR SUTTON: Commissioner?

THE COMMISSIONER: Yeah.

MR SUTTON: I know that there is a colloquial understanding but perhaps given the English language and the Italian, the phrase "kickback" should be explained.

30 THE COMMISSIONER: Yes, all right. Yes, Ms Huxley, can you explain in what sense you are using that word for Mr Cossu's benefit?

MS HUXLEY: By that I mean you were being rewarded for helping GWAC win contracts at Council.---I agree.

And I'll take you to volume 39.11, which is Exhibit 69. And we went through this spreadsheet yesterday and you agreed that JC was a reference to Mr Clarke.---Yep.

40 And PC was a reference to you.---Yep.

And that \$53,000 figure comes from dividing that \$106,000 figure by two.

---There wouldn't be nothing left, ma'am. Is not possible that this one is a profit. That's what I'm saying to you. It cannot be possible.

Why do you say that's not possible?---Because I know how much work goes to, to an excavation. You need machines, you need people.

Well, if I take you to the next page, see that's the profit?---Yeah.

10 The net result up there in the green box is the profit that was made off the cooling tower.---How much is that, 14 grand?

14,000.---Very lucky man.

Pardon?---(NO AUDIBLE REPLY)

Well, that's the total revenue. The 36,000 is the invoice that was submitted to council.---Yeah, yep.

20 And the \$21,000 is the costs associated with the project.---I can, I can read, yes. I have read it.

So it's \$14,000 profit.---I never saw this paper before but you - - -

Well, this was found on a USB in your premises.---I never done this, ma'am. That's for sure. I wouldn't be, even know how much money he spent.

30 Well, I suggest to you that this spreadsheet discloses an arrangement between you and Mr Clarke to share the profits from GWAC winning council work.---I disagree that.

Did you ever disclose to council that you were receiving payments from GWAC in relation to council work?---No, I didn't.

And I'll take you to - you signed a conflict of interest in May 2021 for the Milperra drain?---Yeah.

I'll take you to volume 39.12. So this was submitted by you on 14 May 2021.---Okay.

40 And you see there it identified GWAC as one of the submissions received. Sorry, just go back up to the - - -?---Yeah.

And then if we go down to the conflict of interest attached - - -?---Yeah.

Keep going down. Sorry. So that's your declaration?---Yeah.

And if you go to schedule 1 further down, keep going, and again, "Nil actual or potential conflicts of interest".---Okay.

10 And then I'll take you to volume 38.1, page 92. On 29 April you sent Mr Clarke an invoice for work done.---Mm-hmm.

And we go to page 93, that's \$12,980, including GST.---Okay.

And then again at page 94, this is on 13 May.---Yep.

And at page 95, it's an invoice for \$33,000.---Yep.

20 After sending this invoice you then signed that conflict of interest in relation to Milperra drain where you don't disclose any interest.---Okay.

So do you accept that you failed to disclose your interest with GWAC?---I say to you before, if I was going to do something, I wouldn't have signed it, if I was going to use - - -

So you thought you only had to disclose a conflict in relation to a particular job you were going to do on a project?---If I was going to do the job, yes.

If I can take you back to volume 39.12.

30 THE COMMISSIONER: Sorry. Can I just clarify, Mr Cossu, just those documents you've just been shown a minute go, and I think you said that you thought that you had to disclose a conflict of interest if you were going to do work on the actual project?---Yeah.

What do you mean? You mean if PMLV was going to be doing work on the project or what - - -?---Yeah. Yes.

40 Right. So only if PMLV was going to be, like, physically doing work in connection with the project?---Yes, as a contractor, yes.

Okay. Not just because you knew - - -?---Exactly.

- - - Mr Clarke?---Yes. In the case of the culverts, PMLV was going to do the culverts. That's why I distance myself.

Okay.

MS HUXLEY: But you assisted Mr Clarke in carrying out other projects, didn't you?---Yes.

10 You didn't disclose that in connection with those projects?---'Cause I didn't put any profit on it.

MR SUTTON: Please keep your voice up, sir.

THE COMMISSIONER: He said because he wasn't - - -

THE WITNESS: Yeah.

THE COMMISSIONER: - - - going to get any profit.

20

MR SUTTON: Thank you, Commissioner.

MS HUXLEY: When you signed the conflict of interest form in relation to the Milperra Drain project, did you read the document?---No, ma'am.

You didn't think I'm about to declare that I have no interests in GWAC, you didn't think you might need to check what council regarded as a pecuniary interest?---No, ma'am.

30 But it's true to say that you never disclosed the actual nature of your relationship with GWAC at the time?---I don't know what you mean by true nature?

Well, that you were receiving money from GWAC?---Yes.

And some of that money, at least, was as a reward to you, for helping him win projects at council?---And that I don't - - -

40 And you didn't say to anyone at council that that's what was happening?
---Yes.

And you deliberately didn't disclose that?---Yes.

Because, if you had, it would have ended that source of income for you?---I didn't think (not transcribable) line, on those lines, but, yes.

THE COMMISSIONER: Sorry? What did you say? I couldn't - - -?---I didn't think on those lines.

You didn't think along those lines?---No.

10

MS HUXLEY: And you were aware that this presented a conflict of interest when you were required to evaluate any of the projects that GWAC had made a submission in relation to?---No.

You weren't aware?---That I was supposed to?

Well, you agreed yesterday that as part of the evaluation process, you were meant to bring an impartial mind to evaluating the contract?---Yes.

20 But by accepting payments as a reward for GWAC winning work from council, that meant that you couldn't bring an impartial mind to it?---Yeah, accepted.

And you knew that at the time?---Yes.

And you actually wanted GWAC to win the work?---I wanted him to win the work.

And you'd be paid for that?---Was not discussed.

30

Well, insofar as you were part of an Evaluation Panel that recommended GWAC to be given work, that was a dishonest exercise of official functions by you?---I, I agree.

Can I take you to volume 35.1, page 117?---Okay.

Did you create this document?---I couldn't recall. Probably.

40 Do you know why?---Jeremy was asking me to, to represent him, you know, with the, with the culverts. So I needed to go back to, to council, you know, when we delivering stuff.

Well, so did you give him this document?---He ask me to do, to make something and then I gave it to him, yes (not transcribable) sign it, 'cause I think he wanted to, to send it to council.

Well, were you concerned that if he sent it to council, that it might disclose this relationship that you had with him?---But this is after I left, ma'am - no. There must be a mistake in the, in the date.

10 Okay.---I think a document was prepare like this to go, for me to go back to council after I finish.

THE COMMISSIONER: So, sorry? What was it?---A document later was prepared to go to council after I finish. This one is for Bomaderry, something else.

MS HUXLEY: Well, this document was actually created in February 2021.---Okay.

20 So do you remember giving this document to Mr Clarke?---No. No, I can't remember. Must have been a reason why.

I'm going to go back now to this recruitment arrangement that you had with council.---Yeah.

If you go to volume 33.2, page 1. So this is an analysis of the PMLV bank accounts and the Spinifex payments.---Yeah.

30 And do you see there that there was a total of \$6,434,033.56 - - -?---Yeah.
- - - deposited into the PMLV account from Spinifex?---Yeah.

And then paid to the contractor was a total of \$2,386,327.74?---Yeah.

And then there's a difference of just over 4 million?---Yeah.

40 And insurances and tax would be deducted from that 4 million?---I had an income in that period of 6 million. I spent 6.4 - yeah, more or less this amount, yes. I spent about 5.2 million between, you can get that one in from my documentation, I used to - - -

So your total costs for that were 5.2 million, were they?---Total expenses was five - - -

Sorry. Yeah, total expenses were five - - -?--- - - - for, for the three years, for the - - -

For the three years?---Plus, I had to pay the, the taxes and insurances and all the rest. But the remainder was probably under 20%, 25%

10 But when you say the costs were 5.2 - - -?---Yeah.

- - - does that include the costs across not just the Spinifex arrangement but also the Randstad arrangement?---No, no. I had Randstad and Spinifex bringing money in, and it's around \$6 million. And I had about 6.4 million that this, these around, that is quite, quite right on that, but then you have the expenses of four point, \$4 million of the labour, plus you have the contractors, that another million something, but they are not here, because many of these people are actually contractors that I pay and makes a total of five, of \$5 million, 5.1, 5.2 million. And it remains of gross, of 25% gross.

20

So your profit was 25% of the gross?---Gross.

Okay.---This is gross income, not profit.

Yeah.---Off that one, you pay the, the rest of the taxes and you pay all the rest and it's quite right for the, for - - -

But, so the payments coming in to your account here from Spinifex are 6.43 - - -?---In total, between the two.

30

- - - and then, yeah. But then you also had the Randstad arrangement?---No, no. This is for both. 6.4 was - - -

So, yeah. So my point is this analysis is just in relation to the Spinifex. And I'll take you to the Randstad one now.---Yeah.

MR MOSES: Can I just have the volume reference for that page, please?

MS HUXLEY: I don't think you - - -

40

MR MOSES: Can I have the volume reference? Thank you.

MS HUXLEY: Is that, that's not on the - that's not public, is it? That's not public.

MR MOSES: Okay. Thank you.

MS HUXLEY: Hold on. Lost my - then if we go to volume 33.1, page 1. And so this is payments from Randstad and that's a \$750,904 total?---Yeah.

10 So you add that, that has to be added, in terms of the total that you've made from the PMLV scheme, you've got to add the Randstad payments to the - - -?---The contractors, yeah.

- - - to the other, the 6.43 million that we just saw. So it's over 7 million. ---No, in total it's 6.4 million that I have in my calculations because I checked through everything. I still have it from the accountant and I spent \$5 million, 5.1, 5.2, and it was a GP, gross profit, in total of 25%.

Okay. But so the expenses that you had - - -?---Yeah.

20

So that \$5 million, that included paying the wages of these people?---Of course.

And it included leave entitlements or paying out leave entitlements.---It comes in and there was the contractors that I pay everything with the GST and everything.

30 And then it included worker's compensation insurances and other relevant insurances. I'm just trying to understand what the expenses covers.---You, you pay from, I can't remember the program (not transcribable) to the, to the ATO. You pay everything there, you come back to that and you pay everything. When the ATO comes back it pays you the amount of money that you spent plus the, the, the taxes.

Yeah.---That one is the total that I, that I calculated because I couldn't get all the rest of the documentation. After that, you have all the invoices of all the contractors because many of the contractors were paid every week with their company.

But I'm just trying, the \$5 million that you refer to as expenses, I'm just trying to understand what the expenses are, so like you had to pay insurance.---No, no, no, no. That is only for the labour.

So you say you only pay, the \$5 million was the money that you paid directly to these people for working.---Yes, of course insurances, with the super and everything, the (not transcribable) and everything that was in that
- - -

10 And the tax that they owed, that included the tax that you had to withhold.
---Of course.

Okay.---I paid that.

And so the 25% is gross for you.---Yes, yes.

And then you had to pay tax on that 25%.---Of course, plus you pay the insurances.

20 Okay. And so - - -?---The company insurance and all the rest.

After that whole process how much money do you say you were left with at the end?---I wouldn't be able to tell you, but we, we didn't finish all the calculations but let's say 12%, 13%.

12% of the \$6 million.---Yes, which is 600,000 in three years.

Okay. And so that's 600,00 for about two years.---No, no, the three years' time, yes, for the period.

30

Well the first person was engaged in early 2021.---Yes.

And they finished up around mid-2023.---Yes.

So that's a two and a half year process.---Two and a half year process.

And then do you see here that the total income you received as a contract, you being the contractor to Randstad, was \$691,729.50.---Minus GST, yeah.

40 Well no, that's for, yes, and that's for your engagement by council.---Yes and not, not, not direct to me.

Did you give Mr Webb any money during the time that both of you worked at council?---Yes.

How much? Do you know?---200, 200,000.

About 200 grand.---250 probably.

10 How did you give it to him?---I used to give him slowly every week or something.

But would you pay it into his account or would you pay it into a different account?---No it was paid, it was using my, on my account, it was paid into my account.

Is that your Commonwealth Bank account?---Yes.

And did you give him the card to access that?---Yes.

20 So how did that arrangement come to pass?---He was not supposed to get money, I guess, from, from a contractor and I needed to pay him, I wanted to pay him, I want to buy a, a Progetto design. We've been discussing this Progetto for a few years and I want to buy into it.

So you wanted to buy into this, is it a software?---Yes it is.

So you wanted to buy into a software that he was developing?---Yes.

30 And what did he tell you about this software?---We could have sold it for, for lots of companies.

But so at the time that you were both working at council, how advanced was this software?---How much advanced was it, I think I left you (not transcribable) about it, I can't remember exactly how but it was quite a bit.

But so you wanted to invest in that business?---Yes.

40 And so why did you give him a card that was linked to one of your accounts as part, as a way of investing into that business?---It was easier for me to give him the money slowly.

Why?---Because I didn't have the lump sum to pay him.

But that doesn't explain why you gave him, why, that doesn't explain why you gave him a card to a bank account that was in your own name.---Yeah.

Why did you do that?---I done it. I done it.

Yeah, but why wouldn't you just transfer him the money?---It was easier for me, like I said to you before, to take, if I give him the card, that's it.

10

So it was easier for you to set up an arrangement with your own bank where you transferred money into an account and then give him the card to use?---I didn't want to transfer money to him. He was not - - -

Did he ask you not to transfer money to him on a regular basis?---No, I did ask him if I could pay him like that because he didn't want to be, I don't know, I can't remember for the reason but I - - -

20

Well did you know at the time that he was an undischarged bankrupt?---No.

You didn't know that.---No.

When did you find that out?---After I left council I think.

And how did you find that out?---I can't remember.

30

Would you have given him so much money to invest in a software application if you had known that he was an undischarged bankrupt?---It's easy to think after, I'm sorry, he's, I can't say that, he's a good man for me, I mean he was a good friend, he's still a good friend.

Well so you didn't give him that card to access your bank account because he'd asked you to?---I can't recall it ma'am. The arrangement, I can't recall the arrangement. The arrangement was for me to buy part of the, of the Progetto.

Well when you gave him that money, did he inform you what plan he had for that application?---We spoke about it quite a bit.

40

Did he tell you what he was going to spend the money on?---Engineering.

Would he give you any updates on the money that you were putting into the account of how he was spending it?---We used to go to see this program, he showed me the program, gave me the pen and sometimes he used to update it and that's it.

But so what did you understand you were investing in then?---In a program that would have been very useful for, you know, for big companies.

10 But so what did you think the money you were giving him was going to be used for?---For the development of the, of the, of the project itself.

Yeah, so to pay, say, software engineers?---Yes.

And to pay people to market the - - -?---I never really thought about it, but that's what the expectation is, yes.

But the intention was to provide money so that it could be applied to the development of the business.---Yeah, yes.

20 And you had access to your bank statements?---I'm no good at that, ma'am, no.

So you didn't go through the bank statements that you had that you're paying this money into for Mr Webb's use to see how it was being spent? ---No.

You weren't concerned to see if it was actually being applied to the business you were investing in?---I trust the man, no.

30 Was there any formal arrangement or written document that set out the terms of the investment?---No, ma'am.

Why not?---I don't think it was required.

THE COMMISSIONER: Sorry?---I don't think it was needed.

Right.

40 MS HUXLEY: Well I suggest to you that it was done this way so as to hide the fact that you were providing Mr Webb benefits.---I disagree with that.

Did you ever pay legal fees on behalf of Mr Webb?---Yes, ma'am.

Do you know how much money you paid for that?---I can't recall it, but I have it written down somewhere. I've got the list of everything here, yes ma'am.

So about \$28,811.99?---Yes.

Do you recall when you first paid that?---No.

10

I'll take you to volume 30.1, page 65. So Mr Webb sends you the debtors ledger and that's at page 227. Did you understand that the items highlighted were the items that he needed you to pay?---Yeah. I can't recall this but - yeah.

If we go back to page 65, he just sent you the debtor's ledger there. Do you see that?---Yep.

20 Did you speak to him where he asked you to pay it on his behalf?---He must have. I can't remember. I can't recall it.

And what was the arrangement, why did you pay that on his behalf?---Must be part of the loan.

Part of the loan?---Yeah.

What do you mean by a loan? A loan to him?---That \$5,000 was a sort of loan against the, the Progetto, isn't it?

30 So this is part of - - -?---The, the investment.

- - - you investing in the business?---Yes.

I'll take you to volume 30.1, page 70. You say there, "I done answer requested but it's still processing. Must be internet problem. I will send the updated receipt. See attached. And he says, "Thanks". And then at page 71 you say, "Don't you have rents also? If you send the list I will put in sequence and will be easier".---Yep.

40 So were you there offering to pay his rent as well?---Yes.

Why?---Because would be easier for me to, to pay him.

Why would it be easier for you to pay his rent rather than just providing him with a weekly transfer into his own account?---I don't see, I don't see any other reason, ma'am.

Was the money that was used to pay the rent and the legal fees coming out of your PMLV account?---Most probably, yes.

10 And that was the account that payments from GWAC were going into?
---Probably, yes.

And that was the account that the payments from Spinifex and Randstad were going into?---Yes.

So was the money that you were providing him sourced from those payments?---Yes.

20 So, we saw there that you were offering to pay his rent. Do you recall you paid about \$10,800 in rent for him?---No, I don't recall it.

Do you know how much money you paid in rent?---For him?

Mm-hmm.---I can't recall it.

Do you recall paying a rental bond from PMLV on his behalf?---I think I did, yes.

30 And would Mr Webb send you, when he needed you to pay his rent, would he send you the details for the rental payments?---I can't remember that, ma'am.

If we go to 30.1, page 109. So there's two photographs Mr Webb sends to you and then he says, "If we can". And then on the next page you respond, "Okay" and send a receipt and I'll just take you to those - the pictures are at 262. So that's a copy of the receipt to Professionals Bathurst.---Yep. I can't recall it.

40 And then one of the photographs is at 259. That photograph was sent by Mr Webb to you and that's for a Storage King at Homebush unit. Do you recall paying is Storage King bills on occasion?---I can't recall but if is there, yes.

Do you recall paying a deposit in relation to a property at Glebe?---That one I can't remember, ma'am.

THE COMMISSIONER: Sorry?---I, I can't remember, I can't remember. Can I see it?

MS HUXLEY: I'll take you to 34.34, page 2. Oh, hold on. Page 16. Do you see that there? Do you recall making this payment?---I can't recall it but it's here.

Did you ever speak to Mr Webb about the purchase of this property at Glebe, at [REDACTED]?---No, ma'am.

Do you recall if he went ahead with the purchase of that property?---Excuse me?

Do you recall if he went ahead with the purchase of that property?---I don't understand what you - - -

You don't remember having any conversations with him about this property?---No.

40C - - -?---No, I didn't, no.

Do you have a company called Shardana Pty Ltd?---Yes, ma'am.

And you still control that company?---Yes.

30 Are you still the shareholder in that company?---Yes, ma'am.

Is one of the assets in that company a property in Dubbo at [REDACTED]? ---Yes.

And when did you buy that?---Three years ago. Maybe two years ago. I don't know.

And why did you buy it?---Ben advised me.

40 He advised you to buy it?---Yes.

What did he say?---Will be a good investment because big block and was belong to his grandmother or something and was on the market.

So he wanted you to buy it or was he just advising you in relation to buying it?---He says to me that would be a good thing if I buy it.

Because it would be a good investment?---Yes.

10 Did he also tell you that it would mean that his family would be able to continue to live there?---He was happy to pay rent.

That he was happy to pay rent?---Yes, if - - -

And did he pay rent to you?---Yes.

Into what account?---It was part of the, of the same loan for a period and then I start to, to pay him, to charge him.

20 You say it was part of the same loan for that period. What do mean by that?---For a period, for a year or so I allow him to stay there but I charge him \$800 a week. It was part of the 350K that was supposed to pay for that.

So you charged him \$800 a week?---Yes.

But that just added to the loan that you'd loaned him as an investment for that app?---Yes.

And so where were those records kept?---No, I didn't - - -

30 Did you maintain a record of that figure?---No, I maintain the expenses, yes. I know how much money I spent.

So you noted down that \$800 was part of the loan?---It's per week, yes.

Pardon?---No, I not, I didn't need to note it down. I know that you owe me something and I owe, you owe me the money.

But so when did he start paying rent?---Couple of, six months ago, maybe.

40 Only six months ago?---Something like that, yes. Maybe more.

What account does he pay the rent into?---PMLV. No, no, sorry. He pays it to, to Shardana. He pays to Shardana.

Okay. So Shardana has its own account.---Yes, ma'am.

Does he now control the PMLV account?---No, but he made a new account for PMLV.

Okay.

10

THE COMMISSIONER: Can I just ask you, Mr Cossu. I think a moment ago you said that the rent money that wasn't paid, if you like, was part of the 350,000.---Yes.

What's the 350,000?---Is the portion of the Progetto share.

What portion do you get for 350,000?---35%.

Sorry?---35%.

20

35%.

MR SUTTON: Sorry, was the 35 or 55?

MS HUXLEY: I thought it was 25. Is it 25 or 35?---35.

25?---35.

35, okay.---Sorry.

30

That's okay.

THE COMMISSIONER: That's because what, this project is valued at \$1 million, is it?---Yes.

Right. And how was that arrived at?---How?

Yes.---Yeah (not transcribable)

40

What?---I can't recall it, but that time is what Ben convinced me that was the value of the, of the Progetto.

At what stage did Ben convince you of that?---When I bought it.

Which was when?---Just after, I can't remember, ma'am, but is in the same period that I start paying in.

Okay. Yes, Ms Huxley. Oh I see it's 1 o'clock, or - - -

10 MS HUXLEY: Almost. Can I just ask a few more questions on that.

THE COMMISSIONER: Yes, please, unless anyone else is desperate to break.

MS HUXLEY: Just a few.

THE COMMISSIONER: Okay.

20 MS HUXLEY: So you say that you started paying money sometime around September 2021.---Okay.

But at that point, and there was an agreement that you'd get 35% of a million dollar company.---Yeah.

But at that time it wasn't known exactly how much you were going to be paying Mr Webb through the course of this, or so were you just going to pay for his expenses up until the point where it reached \$350,000?---That's it.

That was the plan.---That's my plan, yes.

30 And so did you monitor how much money he was spending?---I have a good, yes, well, the, the card is in the statement.

So you've got the card that has the statement.---Yes.

But if you transferred money into his account you'd also have a record of how much you're being paid.---You're right.

40 Okay. Yeah. I might just tender some of the documents so that they can be placed on the public website. Okay. So I think in about ten minutes these will be uploaded to the website. So MFI 2, the training document and receipt for Mr Nikolaev produced by Mr Cossu will be Exhibit 70.

#EXH-070 – MFI 2 – Training document and receipt for Yavor Nikolaev (produced by Pietro Cossu)

MS HUXLEY: The unit structure and capability review June 2022 will be Exhibit 71.

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#EXH-071 – Unit structure and capability review June 2022 (produced by Benjamin Webb)

MS HUXLEY: Volume 34.2 will be Exhibit 72.

#EXH-072 – Volume 34.2

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MS HUXLEY: Volume 34.36 will be Exhibit 73.

#EXH-073 – Volume 34.36

MS HUXLEY: Volume 39.4 will be Exhibit 74.

30 **#EXH-074 – Volume 39.4**

MS HUXLEY: Volume 39.8 will be Exhibit 75.

#EXH-075 – Volume 39.8

MS HUXLEY: And volume 39.10 will be Exhibit 76.

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#EXH-076 – Volume 39.10

MS HUXLEY: Volume 39.12 will be Exhibit 77.

#EXH-077 – Volume 39.12

10 MS HUXLEY: And volume 34.34 will be Exhibit 78.

#EXH-078 – Volume 34.34

THE COMMISSIONER: Thank you. We'll take the lunchbreak now.

MS HUXLEY: Thank you, Commissioner.

20 THE COMMISSIONER: All right. We will take the lunchbreak now. I'll adjourn.

LUNCHEON ADJOURNMENT

[1.04pm]