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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE HELEN MURRELL SC
COMMISSIONER

PUBLIC HEARING

OPERATION MANTIS

Reference: Operation E22/1852

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON THURSDAY 20 JUNE, 2024

AT 10.00AM

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

THE COMMISSIONER: Yes, Ms Huxley.

MS HUXLEY: Commissioner, I've just got a few items to tender before we start questioning with Mr Webb.

THE COMMISSIONER: Yes.

MS HUXLEY: The first is a statement of Jeremy Clarke dated 15 January 2024, and that will be Exhibit 87.

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#EXH-087 – Statement of Jeremy Clarke 15 January 2024

MS HUXLEY: The next document is a code of conduct signed by Pietro Cossu dated 6 May 2020. That will be Exhibit 88.

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#EXH-088 – Code of Conduct signed by Pietro Cossu dated 6 May 2020

THE COMMISSIONER: Yes.

MS HUXLEY: Volume 31.8 will be Exhibit 89.

#EXH-089 – Volume 31.8 – CP Milperra Drain Clearing and Grubbing Brief

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MS HUXLEY: Volume 31.9 will be Exhibit 90.

#EXH-090 – Volume 31.9 – RFQ Documents Brief

MS HUXLEY: Volume 31.10 will be Exhibit 91.

40 **#EXH-091 – Volume 31.10 – Intro and Appian Brief**

MS HUXLEY: And Volume 31.14 will be Exhibit 92.

#EXH-092 – Volume 31.14 – Report CBC Budget and Service Level

THE COMMISSIONER: Thank you. Yes.

MS HUXLEY: Mr Webb, do you recall a project called Vale of Ah dog leash area?---Yes.

And were you involved in the procurement process for that project?---I don't really recall. Not any more than I normally would.

10 I'll take you to volume 36.9, page 18. So this is an email from Mr Hu to Ms Bhuiyan. Sorry. Is that page 18? Sorry. So this is an email from Mr Hu to you on 11 October 2021 with the table setting out the submissions received for that request for quote. Do you see that there?---Yes.

And the only contractor who had fully quoted that work was Northern Fencing Pty Ltd.---Yes.

And the recommendation there is for Northern Fencing to be given the project, awarded the project.---Yes.

20

Were you involved with any discussions with Ms Bhuiyan about seeking a quote from GWAC after receiving this email?---I don't believe so.

I'll take you to page 39. See that email in the middle of the page from Ms Bhuiyan to you on 12 October.---Right.

And she says, "Hi Ben, FYI, I've spoken to Jeremy from GWAC this afternoon. He has had a preliminary look at the project and has advised that he will be able to commence works mid next week." Had you instructed her to go and speak to Mr Clarke at GWAC?---I don't believe so.

30

Why would she-do you know why she went and spoke to Mr Clarke at GWAC in relation to the works?---Those works had some political and community issues and it needed to be done quite quickly, but maybe there was a program issue. Don't know.

I suggest to you that you had spoken to her about getting a quote from GWAC.---I don't believe so.

40 And that you had told her to go to speak to GWAC.---I don't think so.

And you did so, so that GWAC could be given work from council.---No.

See that the next email is from you to Mr Cossu on 13 October.---Yep.

You say, "Give him a call and say we need it to start on Monday."---Yeah.

You had already made the decision to engage him for that work.---Already made a decision to?

10 To award the works to GWAC.---I think we made the decision the day before.

So you made the decision the day before to award the works to GWAC?
---It appears that way on the emails, yeah.

And that was before he had had an opportunity to price those works.---I don't think so.

20 Well, it says in that email below on 12 October, Ms Bhuiyan says to you at the bottom, "He will be providing prices and program tomorrow. I will forward as soon as available."---Yes.

So you made the decision to award the works to GWAC before seeing his prices.---No, I don't think that's the case but - - -

I suggest to you that is the case.---Well, I, I don't accept that. It was something that had to be done quite quickly. And, again, I don't know what all the scope is here. It's completely out of context.

30 I'll take you back to page 18. The recommendation for Northern Fencing Pty Ltd did take into account that short timeframe for the delivery of works. Do you see that there down the bottom, "Given the short timeframe we'd recommend Northern Fencing"?---Well, you're taking some liberty with that sentence.

40 How so?---Well, that's just a project officer saying given the short timeframe he wanted to move forward. There is, there is a number of things going on with this project, so there was a number of scope changes. There was things that occurred on this that, it went back out to community consultation. There was a, it's not as straightforward as you're making it, counsel.

I'll take you to volume 30.1, page 95.

THE COMMISSIONER: Sorry, what's the reference?

MS HUXLEY: Volume 30.1, page 95.

THE COMMISSIONER: Thank you.

10 MS HUXLEY: At the top of the page Mr Cossu sends you a message saying, "How much is a good price for that work approximate? I need to price it."---All right.

And this is sent on 14 October 2021.---Right.

And then there's a reference to, "He can start on Monday."---Right.

And that's again on 14 October 2021. So that's a reference to Mr Clarke starting the Vale of Ah works on the Monday.---I'm not sure. Possibly.

20

And then in response to the message, "How much is a good price for that work?" there's a picture that you sent to him. Do you see that there?
---Yeah.

Do you recall sending that picture?---I don't recall. It appears I did.

When you say, "I don't recall if I did," that just means you have no memory of actually sending it.---Yeah, I don't - - -

30 But you accept that you did send it.---Well, it appears I did, yeah.

That picture is at page 250. Do you see that?---Yeah.

That's a copy of an email that I just took you to in relation to the Vale of Ah works.---Yes. Yeah.

And it discloses the pricing for that work received by council.---Yeah.

And you sent that to Mr Cossu.---Yeah.

40

Why do you say you sent that to Mr Cossu?---Probably showing the budget for the works.

I suggest to you you sent it to him so that he knew how to price the work for GWAC.---No, not at all.

And is suggest to you that text message exchange that we just saw, it was clear to you that Mr Cossu was assisting GWAC in putting together a quote for the work.---Not the case.

10

And you assisted in that by providing this information to him.---I did not.

THE COMMISSIONER: Sorry, why did you send it?---Well, I showed another project officer, project manager, what the budget was.

But are you saying that the budget was \$46,270.---The budget was 60,000. What I am saying - - -

20 All right. So it was just that total budget that you were trying to show him. ---Yeah, what I'm saying, Commissioner, is there was, this project went out to community consultation a number of times. I can't recall what the issue was. There was reasons we were trying to get it done quite quickly. There was, from memory there was, there was a whole community dispute around small dog, big dog integration on the site, as in literally what it is. There was some issue with it at the time.

MS HUXLEY: The budget for this job had already been set as at 14 October 2021, hadn't it?---I don't know the date. Possibly.

30 Well, this email was dated 11 October 2021 and it has the total budget there as \$60,000.---You've lost me with the dates there, counsel, but 14 October, sorry?

So this email was dated 11 October.---Right.

So as at 11 October the budget for these works was \$60,000.---Yeah.

And then you sent this message to Mr Cossu on 14 October.---Right.

40 So the budget of the works on 14 October was \$60,000.---The budget would have been set at the start of the year.

Yeah. So the budget had already been set.---Yeah.

So when Mr Cossu said, “I need to price it,” that wasn’t a reference to pricing it in relation to any work he was doing in his official capacity at council.---He could have been getting a quote. That’s the way Cossu talks. He’s, you know - - -

10 I put it to you that’s not the truthful answer, Mr Webb.---It is my truthful answer, counsel.

I’ll take you to volume 30.1, page 188.

MR PARARAJASINGHAM: Commissioner, sorry, just before we go to that, the witness was giving an explanation, and said something to the effect of, “That’s the way Cossu talks,” and then he was cut off and the proposition was put to him. I wonder whether he would be given the opportunity to finish what he was going to say if indeed he had more to say.

20 THE COMMISSIONER: All right. Did you have something else to say about Cossu’s manner of communication?---It’s not always clear, counsel - sorry, Commissioner.

Yes, Ms Huxley.

MS HUXLEY: You just said there that it’s not always clear. Did you ask him to clarify why, what he meant by “I need to put a price together”?---No. The project team was dealing with that.

30 And I suggest to you the reason you didn’t ask him to clarify what he meant by that text message is because you understood what he meant by that text message.---No. It would be because I’ve got 300 projects a year to deliver, counsel, and I just didn’t have the time. The project team were dealing with it.

And I submit to you, I suggest to you that the reason you sent him that picture of that email disclosing the quote price received from Northern Fencing was so that he could put together a price for GWAC.---No.

Having a look at this document, volume 30.1, page 188, Mr Cossu sends you the GWAC bill of quantities for the light pole footings pricing schedule.---Right.

And then at page 189 he say, “Hi Ben, Jeremy is quoting for the attached. Any idea?” Did you understand what he was saying when he sent that to you?---No. Just someone was pricing it.

10 THE COMMISSIONER: Is that a different project, the lighting?

MS HUXLEY: This is a different project, Commissioner.

THE COMMISSIONER: Yeah. What project is that?

MS HUXLEY: It’s one that’s not in the schedule.

THE COMMISSIONER: Oh, I see.

20 MS HUXLEY: GWAC were not successful - - -

THE COMMISSIONER: I see.

MS HUXLEY: - - - in being awarded this project. And then you respond, “They are all for the light poles, a pretty straight forward job.”---Yeah.

And then he says, “They also screw piles not chip.”---I don't know what that means, counsel, do you?

30 And then he says at page 190, “Have looked the BOQ.” And then he says, “Does he have any chance?” So Mr Cossu is asking you to look at the bill of quantities sent through to see whether GWAC had any chance of winning the job.---No, I don't read it that way.

How do you read it?---Well that he said he’s looked at the BOQ I guess.

Then you respond by saying, “Yes, minor panel was very expensive.”
---That's right.

40 And so - - -?---We were trying, the minor panel was expensive on that job, I remember what it was and, and we - - -

So when you say yes - - -?---And - - -

- - - that's a response to the message, "Does he have any chance?" Isn't it?
---No. I will finish my answer, counsel, if I might.

Sorry, I thought you had finished.---No. So the minor panel on that project was very expensive and we were looking for alternates outside the panel.

10 So you are communicating to him that GWAC does have a chance then?
---No. Anyone had a chance.

He is not asking in that text message "Does anyone have a chance?", he is asking, "Does he have any chance?" And that's in the context of having sent you the proposed bill of quantities put together on behalf of GWAC.
---He, he did have a chance, counsel, as did other people quoting that job. I understand from what you just said that he ultimately didn't win the project.

20 Well I suggest to you that when you wrote back, "Yes, minor panel was very expensive", you were indicating that Mr Clarke did have a chance of being a successful tenderer in relation to that job.---That's not what I was indicating.

And at page 191 the first message is, "And we go up." And then Mr Cossu corrects that and says, "Can." He was asking there for your advice about whether GWAC could increase the price for that work.---Oh, I don't know what he was asking.

30 Well did you ask him what he meant by that?---No. That's - - -
You just said, "I will talk to you on Monday morning."---Well it's consistent with some of Cossu's communication, so not always clear.

Well I suggest to you that that is obvious from his text message that he's asking you whether GWAC can go up.---No.

And you responded, "I will talk to you on Monday morning."---Right.

40 And in sending that message, I put it to you that you were intending to raise this with Mr Cossu on Monday morning.---No. I don't believe so.

THE COMMISSIONER: Mr Webb, why were these communications, the last couple you've been shown, but perhaps we should stick with the one on page 191, why were they on WhatsApp?---I don't know. That's, Pietro communicated on WhatsApp sometimes.

Was that common practice for other council employees or other council workers to communicate with you on WhatsApp?---Yeah, a number of, a number of items within council were communicated by WhatsApp.

10 What about say, for example, Peter Anderson, would he communicate on WhatsApp?---No. Peter was a face-to-face type of guy, not an SMS, even a phone call, but not, yeah.

Sorry, Ms Huxley.

MS HUXLEY: What about Ms Bhuiyan, would she communicate with you on WhatsApp?---I can't recall. Probably not.

Mr Webb, I'm just going to take you back to that text message exchange
20 that I took you to yesterday where Mr Cossu sent you pictures of that culvert facility.---Yes.

Do you remember that?---I do, yeah.

And I'll take you back to the exchange at volume 30.1, page 75. And that last message there, "I thought we were going to use GWAC, that's why I was talking to them." I think you denied yesterday that you'd had a conversation with Mr Cossu prior to that message about using GWAC for the culverts.---Right. I don't recall what I said yesterday, but that, I don't
30 think I did, no.

THE COMMISSIONER: So you don't think you spoke to Cossu about culverts prior to this?---So culverts generally, we were talking about them in the office. I think I said yesterday they were very difficult to source at the time, but yeah, specifically about who and how, no.

MS HUXLEY: So you don't think you had a discussion with Mr Cossu prior to this point. Is it possible that you had a discussion with Mr Cossu prior to this point about using GWAC and Obnova to produce the culverts?
40 ---It's possible that I had a discussion around securing culverts, but about who and how, no.

I put it to you, Mr Webb, that you had actually had a conversation with Mr Cossu prior to this point.---All right, I don't believe - - -

About using GWAC to produce, or to engage Obnova to produce these culverts.---I don't believe so, counsel, no.

10 THE COMMISSIONER: When you say you don't believe so, is that a no or you can't remember or what, what is it?---It's, it's a, we, we were trying to secure culverts generally, Commissioner. There was a number of people suggested at various times that could provide culverts. There was a number of calls made, phone calls made around who had the capacity at the time to deliver culverts, so it's a, I, I don't think we had a discussion about any particular supplier, but there was certainly discussions around who could supply, and that wasn't just with Mr Cossu.

And what about GWAC, was there any mention of GWAC prior to this time?---I can't recall if there was, no.

20 As far as you recall there wasn't, or what?---No. As far as I recall there wasn't, no.

MS HUXLEY: And then down at page 77 you've asked, "What's the business called?" And Mr Cossu responded, "Obnova." And then at page 78 Mr Cossu says to you, "But if they bid directly we get nothing."---Yes.

And again, I suggest to you that prior to the date of this text message, you had a discussion with Mr Cossu about obtaining a profit or a benefit in relation to GWAC being awarded the culvert project.---No, counsel.

30 And using, sorry?---No.

I'll take you to volume 38.1, page 226. That's an email from Mr Dankaro to you and it copies in Ms Bhuiyan, Mr Cossu and Mr Luu.---Yes.

At that time was that the project team for this project?---Yes. I, I think so.

And that's why they would be copied into the email.---Yeah.

40 And who had decided who was going to be on that project team?---Just further to my earlier point, people were trying to find people to supply,

suppliers for the culverts, and there's, you know, as you can see there there's a number of them that either just simply didn't respond or couldn't do so.

I asked you who determined was on the project panel.---Sorry. No. It's, it would have been the, the Bankstown ward generally.

And Mr Dankaro, was he one of Mr Cossu's PMLV workers?---Yes, I understand so.

10

If I can take you down to page 227, it says underneath the recommended procurement strategies, precast single select RFQ to Civilmart, and then it refers to Alpha Precast and GWAC. "The project team have investigated and determined that these companies are able to produce and supply required culverts for these projects within the required timeframe. However, direction to the contractor is required immediately."---Yeah.

Had you and Mr Cossu discussed around this time in January 2022 to use GWAC for this project?---No, I don't believe so.

20

Did you know if GWAC did actually have the capacity to produce and supply those culverts?---No.

Volume 38.1, page 426, Mr Dankaro sends you a request for quote for the culverts. Do you see that?---Yes.

Did you instruct Mr Dankaro to send you a request for quote for that project?---No.

30 Do you know why he did that?---No.

Well, who has the ultimate say as to when a project will go out for quote? ---It's left with the project teams generally, but, again, the project had, the overall project had gone out to tender and there was no bid on the project at all, and then the project was broken up into elements and the staff were trying to find suppliers.

40 Were you involved in a decision to transform the RFQ process into an online open tender?---Well, the value would always make it an online open tender.

Sorry. According to this email it was a request for quote as at 19 February 2022.---I don't know why that occurred. It could have been simply the project team look for quotes.

I'll take you up to page 425. And this is an email notifying the recipients of that first email that we just saw, that it's now an open tender process.---Yep.

And do you see there there's an number of precast suppliers included.
---Yes.

10

Who would have been responsible for determining who to send that email to?---The project team. They would have taken their, what they've done looking at the market, and put all of the available suppliers on there.

At page 428 you were sent the documents for your review.---Yeah.

And were they the tender documents that were going to go up on the open tender, the eTender website?---I assume so, yeah.

20 And you approved the evaluation plan.---Yeah, it would have been attached, yes.

And the evaluation plan identified the members of that panel.---It would have, yes.

I'll take you to volume 38.2, page 496. And that's the final evaluation plan.
---I don't know if it's the final one.

30 I mean, it's probably difficult to remember if it was the actual final one. At page 507 it sets out who the evaluation panel would consist of.---Yeah.

And Mr Cossu was there.---Yeah.

So you approved Mr Cossu being part of the evaluation panel.---I approved the plan, yeah.

40 But at that point you knew that Mr Cossu had been trying to identify a precast manufacturer for this work back in September 2021.---I think, counsel, just given what you've shown me earlier, the project team generally were trying to identify suppliers, so I don't think it was just Mr Cossu.

But you knew Mr Cossu was doing that.---So was Mr Luu and Ms Bhuiyan.

Yeah. And he had sent you pictures of culverts back in September 2021.
---Yes.

From a facility that could produce culverts.---Yes.

10 And he told you that that facility's name was Obnova.---Well, he said
Obnova, yes.

And he raised that in the context of referring to, as I put to you, a previous
conversation where you had spoken about using GWAC for the project.
---No.

Did you want Mr Cossu on the evaluation plan because that would give
GWAC the best chance of winning this work.---No.

20 And it would also mean he would have inside information to communicate
to GWAC to assist them in preparing their tender?---No, not at all.

I suggest to you that is the case.---It simply is not the case.

A number of tenders were received. Did you ask to see GWAC's tender
submission before they submitted it?---No.

I suggest to you that you did.---No.

30 And when the tenders had been received were you notified as to who the
tenderers were?---I would have at some point in time.

Do you recall that once the closing date for the submissions has past, that
Ms Bhuiyan came into your room and told you that Cossu had asked to be
removed from the panel?---I can't recall.

You can't recall that discussion?---No, I can't.

Do you recall that Mr Cossu was removed from the panel?---I do.

40 And what do you remember about that event?---I don't remember much,
other than Ms Bhuiyan telling me that was the case.

So Ms Bhuiyan simply said to you, Mr Cossu has to be removed from the panel?---I can't remember the, the exact discussion, but I remember it occurring.

Did you speak to Mr Cossu about why you had to be removed from the panel?---No.

10 Why not?---Well there was people that moved off panels all the time. There was workload, there was other reasons, but yes.

At volume 38, page 37, that earlier email requests Mr Cossu, the replacement of Mr Cossu with Mr Dankaro and you approved that.---Yeah.

Do you know whose suggestion it was for Mr Dankaro to be the replacement for Mr Cossu?---No I don't. He was in Ms Bhuiyan's team, so I just assumed it was, it was, I just assumed it was a natural fit.

20 I suggest to you one reason why you approved Mr Dankaro is because you knew he was a PMLV candidate.---Not at all.

And you understood that he was close with Mr Cossu.---No.

And I put it to you that you understood that, I withdraw that. Were you involved in any of the clarification process for this project?---Not directly.

30 So how were you involved indirectly?---I'm sure there was probably discussions or otherwise. There may have been, I may have been copied in on things but not directly, no.

Were you involved in any of the evaluation panel meetings?---No, I don't think so.

Were you kept up to date as to where the project, the evaluation plan was proceeding?---Oh, Ms Bhuiyan would have kept me up to date.

Did the evaluation panel require your approval if they wanted to set aside any tenderer?---That's the normal process, yeah.

40 I'll take you to volume 38.6, page 71. It refers there to a file note, an email from Ms Bhuiyan to Ms Tran with the file note which you were, she

communicates were in the process of reviewing, and I'll take you down to the file note at page 74. Do you remember reviewing this document?---No, I don't remember directly.

Do you remember if you had any questions about why they were setting aside particular tenderers?---I would have had some questions, but I don't recall. One was, one was based in Melbourne and couldn't supply. Someone else couldn't supply something or other. Yeah, look I can't recall the exact details, but this would have come from the, from the panel.

10

When did you first become aware that GWAC had failed the financial assessment?---It would have been during, after the tenders had closed and through a period, yeah, I'm not sure quite when I would become aware, but it would have been after that tender closed.

Would it have been after at least a tentative decision had been made to engage GWAC?---Typically, yeah.

20 And would the financial assessment come towards the end of that process?
---Normally, yeah.

Because you don't want to have to do a financial assessment in respect of four different companies if - - -?---Not - - -

- - - one of them is not a clear contender.---Not normally.

How did you find out that GWAC had failed the financial assessment?---I think Ms Bhuiyan raised it with me.

30 And who at council was responsible for conducting that financial assessment?---It would have been someone in procurement.

Do you know who it was in this - - -?---It would have been either Vy or, Ms Ho or Mr Parker.

Was Mr Parker a senior person?---He was. He managed that area, yeah.

40 Okay. Did you have any discussions with Mr Parker about the failed financial assessment?---Mr Parker and I discussed a lot of things potentially.

Did you have any discussions with Mr Parker to try and allay some of his concerns about GWAC as a prospective tenderer?---Not specifically about GWAC, no.

I suggest to you that you did.---Well about the contract I probably did, but not about the, about GWAC in particular.

10 What concerns would you have raised about the contract?---Well I didn't raise concerns. We were working through the delivery of it generally, whether it was GWAC or anyone else, it made no difference.

I'll take you to, did Mr Cossu speak to you during this time about this failed financial assessment?---I don't recall, so, but I've seen that he's sent me something in these transcripts.

Did you see the actual failed financial assessment?---I don't know that I read it in detail, but I think it was sent to me.

20 You received it.---I had a discussion with Mr Parker about it.

Yeah. Do you recall what that discussion was?---Just about the context of it being not great.

Because this was a project that had to be completed?---The project had to be completed, yes, it was under extreme time stress.

30 And what was the time pressure on the project?---Well the time pressure was that there was multiple funding sources coming and that the project was having to be delivered trying to meet Sydney Metro's time frames and a few others, Western Sydney University's timeframe.

Was it also the case that the delays in the procurement process and the fact that no submissions had been received earlier condensed that timeframe? ---Well that is the case. If someone were to tender the original tender when we tried to package it as a whole project, that would have been beneficial but the market conditions at the time, that wasn't uncommon.

40 I'll take you to volume 38.7, page 262. This is an email from Mr Cossu at his PMLV address to your personal Gmail address.---Yeah.

Attaching a series of financials from Mr Clarke's companies.---Right.

And forwarding a message from Mr Clarke.---Yes.

Which outlined what he would be sending to Mr Parker once Mr Cossu had had a chance to review it.---Yes, that's what it says, yeah.

Did you speak to Mr Cossu about this email?---No.

Why not?---I don't need to. I don't know that I even read it.

10

If you'd seen the heading on your, when you received that email, "Financial Assessment T55-22 Supply and Delivery of Precast Pits", that was an important project at council, wasn't it?---Yeah, but I don't know that I even, I don't check my personal emails that often but, no, I don't know that I even read it.

I suggest to you that you did read it.---No.

20

And I suggest to you that the reason this was sent to you was so that you could review it in case you had any comments on it before Mr Clarke had sent it.---I didn't read it and I wouldn't have had any comments.

Can I take you to volume 30.8, page 1. You see there there's a message from you to Ms Bhuiyan asking how she went with Parker.---Yeah.

And she said, "Spoke to him. He has spoken to Ken earlier today and Ken is uncomfortable about our due diligence checks on GWAC."---Okay.

30

And then at page 2 she sets out the concern, and you ask, "What is his solution?"---Yeah.

And she said, "I've asked Alan to push for the information he needs to make Ken comfortable."---Okay.

And then at page 3 she says, "Alan has called Jeremy from his personal number and promised he will push."---Okay.

40

And you say, "I will." And then you propose a response. When you say there, "There is a risk of trialling a scenario that will never return," and that, "Ben is not supportive of a trial," what does that, what is that a reference to?---Sorry, which one is, the green is me, is it?

Yes.---I, I don't know what that is in regard to. Car park (not transcribable)
I'm not sure.

Okay.---Can't recall what that's in regard to.

Yeah. As part of the tender process is it generally a requirement for
references to be provided from the tenderer?---Yeah, the panel will check
references or Procurement Team, yeah.

10

And did you know what the outcome of the reference check was for
GWAC?---No.

Do you remember if there was a clarification issue to GWAC asking for
additional references?---Possibly. I don't know directly, no.

I'll take you to volume 38.7, page 325. It attaches a clarification that was
issued to GWAC. And I can take you to page 327. That's the clarification
attached asking for the two additional client references.---Right.

20

If I take you back up to that email at page 325, Ms Bhuiyan says, "I need to
discuss this with you."---Okay.

Do you remember any discussion you had with Ms Bhuiyan about the
reference checks?---No.

Do you recall that there was ultimately a General Manager's report prepared
in relation to this project?---Sorry, I'm just reading the, yeah. Yes, there
would have been.

30

And can you just explain what that process is. Does the evaluation panel
draft the report?---They do.

And then does it get submitted up a chain for - - -?---It goes through a series
of approvals.

And were you one of the first in line up that chain or - - -?---No, I think it
goes the evaluation panel, Procurement, Finance.

40 Okay.---There's a couple in the chain.

Yeah, but you're on that?---I'm in the chain, yes.

And then it goes to Mr Vangi.---Yes, Mr Vangi.

And then the General Manager.---Yes.

Do you recall reviewing the report?---I would have.

10 Were you involved at all in its preparation?---I don't know. I may have, it wasn't uncommon for me to make some changes or request some clarification.

Do you recall if you requested any clarification in relation to this report?
---No, I don't recall, no.

I'll take you to the report. It's at volume 38.8, page 224. And then I'll take you to page 227. This is the recommendation. Do you see that?---Yeah.

20 And that recommends that the tender be awarded to GWAC for each of the separable portions.---Yes.

And there's a signature there of the General Manager.---Yeah.

I'll take you to page 228. There there's a confirmation and endorsement of the decision of the Tender Evaluation Panel by you.---Yep. That wasn't an approval by me. Sorry, I think you said approval.

Sorry, it's an endorsement, isn't it?

30 THE COMMISSIONER: No, I think you said endorsed.

THE WITNESS: Sorry.

MS HUXLEY: You couldn't approve it because it was outside your financial delegation.---I, I think, yeah, I think you mentioned an approval chain, that's, yeah. Yeah.

Sorry.---Yeah.

40 There's a chain of people that must review it.---Yes.

Yeah.---I reviewed. The panel was happy. Procurement were happy.

I mean, the culverts were a large part of this project.---They were, no, not really.

Not a large part.---Well, it was probably two and a half million of 16 million.

10 I mean of this particular project. It was the largest separable portion, wasn't it?---The Appian Way Project?

Well, for this particular project, the culvert - - -?---This is just the supply to a larger project.

Yeah. If I take you back up to page 227. So there's pipes, the supply of pipes, supply of pits and the supply, that last separable portion is in relation to the supply of culverts.---That's right, simply the supply.

20 Just the supply.---Yes.

What do you mean by just the supply?---It's just, no-one is putting the culverts in. If you're talking about the project - - -

Yeah. Sorry. Yeah.--- - - - the project is the Appian Way Drainage Upgrade.

Yeah.---This is just the supply of pits and pipes.

30 This is just for this particular, yeah, for this project, this tender, it just relates to those three separable portions.---For this tender, yes. The tender and the project are different things.

And the culvert portion is the largest part of that tender.---Of the separable three portion, yes, is the largest part.

So the ability to fabricate and deliver culverts was a significant aspect of this tender.---Yeah.

40 If I take you down to page 233, see that Capability and Available Resources, and it says under that that, "The General Works & Construction production

facility is located in Wollongong and has the following capacity,” and sets out that capacity.---Right.

You knew that wasn't correct at the time, didn't you?---No.

Well you'd been, at that point, and I will take you back to that September 2021 text exchange, that as I put to you indicates that you knew that the proposal was for Obnova to produce the culverts.---I had no idea.

- 10 And then for GWAC to subcontract the production of culverts to Obnova.
---No, I didn't know what facilities General Works & Construction had.

Well did you understand that they had any ability to fabricate precast concrete moulds?---No, I, the panel had made a recommendation. It would be uncommon for a supplier not to directly have their own facility though.

And under the tender process, the tenderer was required to identify the subcontractors.---Right, okay.

- 20 And the fact that no subcontractors are mentioned here suggest that they weren't using subcontractors for the culvert work.

MR PARARAJASINGHAM: Sorry, Commissioner. Is the question asking this witness to draw an inference from the face of the document or is it about his knowledge at the time? If we can just get some - - -

- MS HUXLEY: Well just from the face of this document right now.---It makes no reference there to subcontractors, no. Hang on, it says, separate contractor, no, no that's in regard to civil works. No just the panel would
30 have, it looks like the panel says they reviewed the experience and past performance and there was precast concrete, yeah, the panel and recommended and done some vetting of that, by the look of it.

- THE COMMISSIONER: Mr Webb, if the lion's share of a particular tender was to be undertaken by a subcontractor, you'd expect that subcontractor to be identified, wouldn't you?---You would, Commissioner. It's not uncommon for people to recommend subcontractors and use someone else though. And the supply of concrete culverts and concrete pipes and fittings and things generally involves a lot of manufacturers and otherwise. It
40 doesn't always come from the supplier, as such, the manufacturer.

Well okay, with those qualifications, but you agree with the proposition that if the lion's share of a particular tender was to be delivered by a subcontractor, you'd be expecting to see the name of that subcontractor.
---Yeah, that's, I accept that.

MS HUXLEY: Do you recall that there was a requirement for a council representative to be present at the precast, sorry, the pre-pour inspection before the, sorry, I don't know the right words to use. The pre-pour - - -?
---The pre-pour inspection.

10

There's a pre-pour inspection prior to the culverts being fabricated.---So you would normally do, do an inspection prior to them being manufactured, yeah.

To make sure that the culvert moulds would produce culverts to the specification in the tender documents.---Yes.

Do you recall what happened with the pre-pour inspection for this project?
---I, I read the transcript from here, so I understand that Mr Cossu went, yes.

20

Were you involved in the decision for Mr Cossu to attend that inspection?
---I think I said it would be okay. It made some, it did make some logic at the time.

Like?---Well he was based in Wollongong and I understand that he had spoken to Faiza about that.

Well do you recall the day that it was happening that Ms Bhuiyan came in to speak to you about it?---No I don't.

30

You don't recall that.---I don't.

You don't recall her being angry about the fact that she hadn't been notified earlier?---Notified about what?

Notified about the pre-pour inspection earlier.---She was angry about the pre-pour inspection?

40

She was notified that Mr Clarke hadn't notified her earlier that they were about to start pouring the culverts.---I can't recall her being angry. It's not

uncommon for a contractor not to notify within a reasonable timeframe though.

But it was a requirement for quality assessment and assurance purposes for a council representative to be present.---It's a requirement on all council projects. Whether it happens or not is another question.

10 And so did you say, was it your idea for Mr Cossu to do it or did you just give him the okay for Mr Cossu to do it?---No, I understand that the notice was late and I said it would be okay for Mr Cossu to do it. Ultimately if the contractor didn't meet the requirements they would have to refabricate the, the culvert.

Does that suggest that Mr Cossu's assessment at the pre-pour inspection was inadequate?---Possibly.

I suggest to you that you and Mr Cossu had arranged for Mr Cossu to go prior to, well prior to the date identified for the first pour.---No.

20 And you did so, so that council would remain unaware of Obnova as the subcontractor.---No.

THE COMMISSIONER: Just in regards to Mr Cossu doing this inspection, you said that you think you approved the use of Mr Cossu, but who suggested Mr Cossu?---I, I don't know. I can't recall. I think Faiza may have said Pietro is there.

30 Pietro is there.---Yeah, or he's in Wollongong or something. I, I don't recall exactly how that come to pass. It wouldn't be uncommon, Commissioner, for someone to do an inspection for someone else.

So you think that Faiza might have suggested the use of Mr Cossu?---I think she may have suggested that Mr Cossu was available to do it.

40 MS HUXLEY: Why did you allow Mr Cossu to do it, sorry, say it was okay for Mr Cossu to do it where he'd removed himself from the evaluation panel?---Oh, it's, it's a simple inspection. It's not anything that's going to be, you wouldn't think, in any way conflicted. It's a measure, it's a look, it's some photographs. It's a reporting function as such.

Do you recall during your time at council there were some issues with the delivery of this project?---I do.

What were they?---The program was the main one, but there was also some, some issues in size.

There was discrepancy in the length of them?---Yes.

10 And was the consequence of that that more culverts were needed?---Well not necessarily, but that would, potentially was one solution.

Were there extensive, was the Design Team engaged to try and come up with a solution to address the discrepancy in the length?---I don't recall, potentially.

Do you recall towards the end of your time at council, there was a letter issued by you as the superintendent to GWAC?---Yes.

20 And I will just take you to that letter. It's at volume 38.10, page 254. So what was the purpose of sending this letter?---Particularly that the program was running behind was the main issue

And do you recall what the outcome of sending that letter was?---No.

And then do you recall there was another letter submitted later on?---I don't recall.

30 I'll take you to volume 38.10, page 265. And then at the next page there's the letter again raising a number of issues including that the culverts were not manufactured to specification.---Yeah.

And then at page 267 another series of issues with the culverts. And then at page 268.---Sorry one, one second.

Sorry. Go back up.---Yes.

So you were asking for a formal response to this letter.---Yes.

40 Do you recall if there was one received during your time at council?---I don't recall.

I'll take you to page 273. Mr Cossu sends it to you at your private email address.---Yeah

Did you ask him why he sent that you?---No, and again not uncommon for him to send random things.

Did you speak to him about it?---No, I don't believe so.

10 I suggest he forwarded this to you because he was seeking advice on how to respond.---No.

Do you recall, were you involved in Mr Cossu removing GWAC's name in this letter and then sending it to Obnova?---Sorry?

Were you involved, I'll take you back up to the letter at page 266. Were you involved in Mr Cossu removing the references to GWAC and Mr Clarke and inserting PMLV and his own name in their place?---No.

20 You left council on 9 December 2022.---Around that time.

Or sometime around that date.---Yeah.

Were you involved in assisting Mr Cossu and Mr Clarke in responding to this dispute with council?---Yes, after I left council, yeah.

And what was the nature of that involvement?---Just helping them draft some letters and then give them some advice as to which, as to a suggested lawyer.

30 Why did you do that?---Why? I'd left council and there was potential for, for some work.

So you were being paid for that work?---I didn't get paid for it ultimately, but yeah.

Sorry, what was that?---I don't think I did get paid ultimately for it.

40 But was there a discussion prior to you doing that work that you would be paid?---Yeah, I did, I did want some fees for it, yeah.

Would you and Mr Cossu communicate using the GWAC Operations email?---He tried to show me it to get some data and information from it. I don't think I communicated, sometimes it didn't work, yeah.

Would you sometimes communicate with Mr Clarke using this email address?---I think I drafted drafts into there, yeah.

And then that would include an instruction to raise an invoice and send it with the letter that you drafted onto council?---Potentially.

10

And that was, happened on a number of occasions?---I don't know how many occasions.

But more than once?---Maybe.

Did you also assist in preparing a script for Mr Clarke for meetings at council that he had in early, in January sometime?---Possibly.

20 THE COMMISSIONER: How long after you left council did you start doing work for GWAC?---About a month, I suppose.

And whose idea was that, that you should do that work? Did you approach them or what happened, did they approach you or - - ?---Mr Cossu and Mr Clarke approached me I think, from memory.

And you obviously thought that was appropriate that you could do that work.---I had left council, so yes I didn't see that it was inappropriate.

30 MS HUXLEY: I'll just take you to volume 30.9, page 196. This is a text message from you to Mr Cossu on 1 February 2023 and you state your name is on the Obnova documents council had.---Yes.

So is that a reference to council having obtained Obnova documents?---Well I'd understood at the time that yes, that's the case.

And I'll take you to page 197. You send him a picture of it and that picture is at page 507. Sorry, 506.---Right.

40 And then if we go back up to that message, page 197, you don't say there why is your name on the Obnova documents?---No, I don't.

And instead Mr Cossu responds, "Hm, client?" And then at page 198 you say, "Yeah we can say that."---Yeah.

And I suggest to you that's you and Mr, that's you coming up with a, you and Mr Cossu trying to come up with an explanation for why his name appears on the Obnova documents.---Yes. I'd found out at that time that Mr Cossu was involved with the Obnova.

10 THE COMMISSIONER: You mean before that time you had found that out or - - -?---Yeah, before this time I'd found out, but after I'd left council.

MS HUXLEY: Well I suggest to you that that's not true, Mr Webb, and that you knew from September 2021 that Mr Cossu was going to be involved with Obnova and GWAC in relation to this project.---That's not the case.

THE COMMISSIONER: Well how do you say you found it out?---Well they come and asked me for assistance and it all became very clear.

20 But when they first asked you for assistance, is that right?---Yes.

MS HUXLEY: You didn't think at that point you should have notified council that this had occurred?---No.

You didn't think there was anything wrong with it?---No. I understood the procurement process it had gone through, no.

30 You didn't think it raised the prospect that the whole procurement process had been perverted?---I understood that the price was the cheapest price, so that, typically when there's a cheapest price for the supply only of something, that's a reasonable assumption.

But because Mr Cossu was the middleman between GWAC and PMLV, did you understand that he had taken a percentage?---I didn't at the time, no.

Well when did you find that out?---Sometime during this period.

40 Well I suggest to you that from before September 2021, you understood that to be the case.---That's not the case.

THE COMMISSIONER: And you had no qualms about acting for GWAC and Mr Cossu, having discovered Mr Cossu's involvement as the middleman?---I, I didn't consider it. I didn't - - -

It didn't cross your mind?---I didn't think there was an issue, no.

You didn't think there was, it did cross your mind and you didn't think there was an issue?---No, I, I don't think I ever thought about it, Commissioner.

10 All right. So you didn't think about it. It never crossed your mind.---Not really. There was an issue and it needed to be tried to be resolved.

You mean there was an issue between GWAC and council that needed to be resolved?---Oh, there was just an issue generally that had to be fixed somehow.

The issue being?---Well, it was two people in dispute over a project. We just needed to try and sort the project out.

20 MS HUXLEY: At that stage, Mr Clarke and GWAC, sorry I'll start again. Late 2022 after you left council and early 2023 while you were assisting with this dispute, you understood that GWAC and Mr Clarke owed PMLV a lot of money?---No, I didn't.

You didn't understand that?---No.

When did you come to learn about that, that PMLV was owed money?---I don't believe I ever knew that.

30 So why were you helping out GWAC?---Because I understood they would pay for it.

THE COMMISSIONER: Sorry.---I understood they would be a client. They would pay for the - - -

It was a purely financial arrangement from your perspective?---It was just a client perspective, yes.

40 MS HUXLEY: So you weren't doing it to assist Mr Cossu?---No, I don't believe so.

You weren't doing it to assist Mr Cossu in getting paid by GWAC?---No.

You said you expected to be paid for it. Did you have a discussion with Mr Clarke about being paid for this work?---Yes, I did. Mr Clarke and Mr Cossu both said they'd work it out.

They just said they'd work it out? You didn't talk about what your fee would be?---Well, I did tell them what my expectations were and they said they'd work it out and come back to me.

10

And what did you say your expectations were?---I said I just need to be paid. My rate was about \$1,400 a day. It was a general discussion.

And did they agree to pay that?---They said they would work it out, and they - - -

Did they come back to you with a figure?---No, they didn't, and my involvement ended.

20 When did your involvement end?---I can't recall it specifically.

How many weeks of work did you do?---I did some days here and there. Half a day here, an hour here, there, yeah.

And over what time period?---Three or four months.

Did Mr Clarke know the extent of your involvement?---Yes, I introduced him to - - -

30 MR PARARAJASINGHAM: Sorry. Is the question - I think my friend knows what the objection is. Is it a question about conversations in which things were relayed? Is it a question about Mr Clarke's knowledge? How can this witness answer that?

THE COMMISSIONER: Can you be more specific about that.

MS HUXLEY: Did you take instructions from Mr Clarke in relation to resolving this dispute?---Sometimes, yeah.

40 And when you provided your work product to Mr Clarke, was it clear that it was coming from you?---I would assume so.

I'll take to volume 30.9, page 84. This is a text, the middle green box, a text from you to Mr Cossu asking if he can see the draft in the operations inbox.
---Okay.

And then saying, "Let me know when you're free."---Yeah.

And then at page 85 Mr Cossu says, "Ben, I deleted as soon as I saw it but I don't know if JC has seen it."---Okay.

10

Do you recall what that was in relation to?---No, I don't.

It's in relation to something called the PPSR registration.---Not sure.

Do you know what a PPSR registration is?---Yes, it's when goods are typically supplied and not paid for. A registration over those goods would be placed.

And did you place a security over any goods?---Yes.

20

And what security, what was that?---Just a security interest because they hadn't been paid.

Who lodged the security interest?---So I made a recommendation and put the documents together and Mr Clarke lodged, as I understand it.

So was that a security over, like, whose property is it protecting?---Mr Clarke's.

30 Mr Clarke's property. So why would it matter if he saw it?---I don't think it did.

So you don't understand why Mr Cossu was concerned about Mr Clarke seeing that?---No. I'm unclear of what Mr Cossu was meaning there.

THE COMMISSIONER: Sorry, I'm not quite following what happened.
So - - -?---So one of the recommendations I made to Mr Cossu and Clarke is that where they had supplied goods and they hadn't been for, that they could register a security against those goods.

40

Right. Okay.---Yeah.

Those goods being - - -?---The culverts.

The culverts, okay, thanks.

MS HUXLEY: I'll take you to volume 30.9, page 371. You see that message there from you to Mr Cossu saying, "Whenever is better for you I can meet. We need to plan out how this is going to work."---Right.

10 Do you remember what that was in relation to?---No, not specifically.

And Mr Cossu responds at the next page, "I think take the PMLV shares and Shardana shares. There's no need to transfer your vehicles either. Just try to talk via mail with JC. Let's pay the debts and do as you wish. I'm too stressed."---It's probably about the time we were talking about potentially acquiring PMLV.

20 He doesn't talk about you buy the PMLV shares. He just says you take the PMLV shares and Shardana shares.---Yeah. That was never going to be the case.

And so when had you first had the discussion with Mr Cossu about taking the PMLV shares and Shardana shares?---Around this early 2023 period, March-ish.

And how did that come about?---He was, yeah, he was stressed, wanted to finish up and slow down. Yes.

30 I suggest to you that the reference there to take the PMLV and Shardana shares was a reference to you taking them because they had always, he had always regarded you as a part owner in those companies.---That's not the case at all.

And now that you'd left council you could formalise that arrangement. ---No, not the case.

THE COMMISSIONER: Did Mr Cossu know that you were bankrupt? ---Yes.

40 You told him?---Yeah, we had a discussion. We were friends.

When was that?---I'm not sure when. He'd know. He - - -

When you were at council or before you were at council or - - -?---Possibly when I was at council. He had, you know, we were good friends and he would know, he knew our family had some problems with the construction contract.

So when - - -

10 MR MOSES: I didn't hear that last part of the witness's answer.

THE COMMISSIONER: Something about Cossu knew that your family had problems with the construction contract, is that right?---Yeah, that's right.

And those problems would have been presumably before you started at council.---Yes.

20 So does that mean that you had discussions about you being a bankrupt with Cossu before you started at council?---I don't know when, but, yes, I, I thought he knew, yeah.

You've got no idea when?---I don't know when. We have a lot of discussions but I don't know when that was discussed, yeah. I thought he did know.

When would have been the latest time it was discussed?---Oh I don't know. It's not something you discuss a lot, but, no, I'm not sure.

30 MS HUXLEY: Sorry, I might have missed if you had answered this, but in what context did it come up that you were undischarged bankrupt with Mr Cossu?---It was just a general discussion between friends.

I'll take you to volume 30.9, page 20. At the top of that page on 10 January you've asked Mr Cossu for a copy of the tender Jeremy submitted for the culverts.---Yep.

And he says, "You'll have it in the operation mail shortly."---Right.

40 So is that how you and Mr Cossu would communicate, by sending things in the operations - - -?---No, not always. That's, that's how we did at the time.

In relation to the GWAC dispute, to the extent that you were involved in assisting preparing documents for that dispute, would you keep it in the operation mail email?---No, not always.

Okay. And then at page 21 you say, “Okay. Do we say Obnova will produce?”---Yes.

10 So you were asking whether Obnova, it was disclosed in the tender documents that Obnova will produce?---Well, that’s what I was asking, yes.

And I suggest to you that when you say “we” there, you mean GWAC. ---Yes, I mean, the, does the contract say that.

And I suggest to you that you say “we” there because you’re also involved in the decision for Obnova to be the subcontractor way back in September 2021.---That’s not the case.

20 MR PARARAJASINGHAM: Commissioner, at an appropriate time I wonder whether we could - - -

MS HUXLEY: I think that might be an appropriate time because I’m about to move to a different subject.

THE COMMISSIONER: Okay. Sorry, I just wanted to clarify about that last point, in that communication you were just shown you were seeking to clarify with Mr Cossu whether Obnova had been disclosed as a subcontractor in the tender or in the contract.---That’s right.

30 Okay. Thank you. I’ll adjourn.

SHORT ADJOURNMENT

[11.32am]

MS HUXLEY: Mr Webb, I’ll just take you to volume 30.9, page 11. See that message from you to Mr Cossu in the middle of the page, “Okay, no worries. I’ll send this to Jeremy on the GWAC email and you can message him.”---Yeah.

40

And then the next message is, "Seen your email, I'm ready to issue this letter Monday via Jeremy, that will get payments made next week."---Right.

The reference there to getting payments made next week, is that payments from council to GWAC?---I would have thought so, yeah.

Yeah. And then at page 12, Mr Cossu responds saying, "We still have more funds in the event that payments will not materialise." And then he says, "You know that the client will not break his leg to finalise the payments."
10 You don't know if that's a reference to GWAC or a reference to council?
---I don't know.

Don't know. And then he says, "We need to be ready in the event we need to wait extra weeks, people will need to be paid, Mick keep a bay and some taxes need to be paid even if I ask the account to apply for scheduled payment until we receive something." And then you respond, "Yes, understand."---Okay.

So you understood what he was talking about?---Oh, not always, but yeah.
20

Well you've indicated there, "Yes, understand."---Right.

So you understand the general situation?---I get the gist of it, yeah.

And the gist of it is that Mick needed to be paid for the culverts he'd produced?---Yes.

And that was Mick at Obnova?---Yes.

30 And PMLV needed to be paid by GWAC.---Yes.

And at that time, GWAC owed PMLV a large amount of money?---Yeah, I don't know.

And then - - -

THE COMMISSIONER: Sorry you don't - - -?---I don't - - -

40 What is it that you don't know?---I don't know. I don't know what PMLV or GWAC were owed.

MS HUXLEY: You don't know what PMLV was owed by GWAC?
---Correct.

Did you have a vague understanding?---No.

And then Mr Cossu refers to needing to pay some taxes.---Right.

And then after you say, "Yes, understand." He then says, "We still need more funds."---Right.

10

So you understood that PMLV needed more funds?---No. I, that was, we were talking in the context of GWAC and otherwise, so yeah, look, that's - -
-

Well then when he says to you at the beginning of the page setting out what the financial situation, that refers to the collective "we", as in you and he.
---No.

Well I suggest to you that is the case.---No. Cossu uses "we" regularly.
20

Well and then at page 13 you respond, "No I am confident that we will be fine. We need to play our cards right this coming week and we will clear the loan giving enough breathing space." So I suggest to you that when you're referring to "we" there, you're referring to Mr Cossu and yourself.
---No.

And the reason you're doing that is because you and Mr Cossu were joint owners of PMLV.---That's not correct.

30 I'll take you to volume 20.9, page 367. And you ask Mr Cossu if everything is okay.---Yeah, he was ill.

Okay. And then he responds, "I am trying to write you a detailed email for you to understand all that is going on, but probably better to sit down with you." Then his next message is, "How to hold the man to his commitments." And then he says, "Send him an invoice." And at page 368 he says, "Make a contract, getting him to sign something but what? He still has a debt of 180K with us." And then he says, "From the culverts." And then on the next page, "I need to sit down with you and make a plan." And
40 you say, "Okay, Monday."---Right.

So at the very least at this point you knew that GWAC owed PMLV \$180,000.---Yeah, it would appear that way, just from what Cossu said.

When did you first become a bankrupt?---2018 I think.

And how did that happen?---Initially the guarantee of my parents' facility for the business.

10 So you went as, you were guarantor for your parents' facility, a business facility?---Yes.

And that ran into some financial difficulties, did it?---It did. There was a construction dispute, yes.

And how much money was owed as part of that dispute?---Oh, a significant amount. I can't recall now.

20 I'll take you to volume 2.1, page 203. Were you also made bankrupt in November 2011?---That may, that may be what I am talking about, sorry.

Oh, okay.---Yeah.

Were there two bankruptcies or only one?---I think there is two, yeah.

So the first bankruptcy related to being guarantor for on your parents' business facilities.---Yes, and then we couldn't get out of the problem, yes.

And so what was the second bankruptcy in relation to?---I'm not sure now.

30 So when did the second bankruptcy occur?---Probably 2018, I think that's (not transcribable)

Okay. So the first one was 2011.---Yeah.

As part of the bankruptcy process, are you required to submit a statement of affairs?---Yes.

And furnish information requested by the bankruptcy trustee?---Yes.

40 And can they direct you to make particular payments?---Yes.

And are those payments made to pay off the debt?---To some extent, yes.

Do you recall how much the debt was?---No, not exactly.

I'll take you back to that document, sorry. Can you see there that the trustee had filed an objection to the discharge of your bankruptcy?---Yes, we'd been dealing with the trustee regarding that.

10 Okay. And there'd been two grounds for that. One was a failure to comply with a particular paragraph, and the other was a failure to pay the trustee an amount that the bankrupt is liable to pay under a particular provision.---Yes.

Do you know what that related to?---Yeah, there's a, there's a dispute about the amount owed with the trustee.

So you didn't pay it because you didn't think you owed that amount.

---Correct.

20 And so how are you resolving that dispute?---We're dealing with the trustee with some advice.

So that's still ongoing.---It is ongoing.

And I'll take you to page 205. This is the second bankruptcy.---Right.

And what was that in relation to?---I can't recall how that happened.

Do you know how much money was owed?---No, I can't recall.

30 To whom it was owed?---No, I can't recall.

Again, there's an objection to discharge, failure to pay the trustee an amount that the bankrupt was liable to pay. What's that in relation to?---It's a similar dispute with the trustee, about the amount owed.

Okay. And what is that dispute?---Well, there's a question as to how my children are accounted for and otherwise, yeah.

40 I'll tender those two documents. The first one will be Exhibit 93, the volume 2.1, page 203 is Exhibit 93.

#EXH-093 – Volume 2.1 Ben Webb Brief page 203

MS HUXLEY: And volume 2.1, page 205 is Exhibit 94.

#EXH-094 – Volume 2.1 Ben Webb Brief page 205

10

THE COMMISSIONER: Thank you.

MS HUXLEY: As part of the bankruptcy process I think you said that you had to furnish information to the trustee.---Yes.

And that would be in response to a request from the trustee.---(NO AUDIBLE REPLY)

20 Can I take you to volume 2.1, page 155. Here is an email from you to Ms O’Driscoll-Carmody attaching a response to the request. Do you recall this?---Yes. Well, I don’t recall it, but yes.

And you provided a bit of information including about how your children were accounted for and things like that. I’m not going to take you to all of it, but I will take you to an attachment that was annexed that, that annexure A which is at page 167. So the trustee had made a table asking what the source of the funds were. Do you recall that?---Yes.

30 And you filled out the table, the column on the right.---Yep.

And many of them list Ivan and Elaine Webb as the people who deposited that money, or the source of that money.---Yeah.

And you were intending to convey that they were the source of the money. ---Yes, correct.

Except for where it’s listed otherwise.---Yes.

40 So, for example, that bottom payment, that doesn’t list your parents.---Yep.

And I’ll take you to page 168, page 169 and page 170.---Yeah.

Now, with the exception of where the transaction reference expressly says, "Payment from Ivan Webb," none of those deposits in those bank branches were made by your father, were they?---The source of those funds is our family.

Are you saying now that the source of all that money is your family?
---Yeah.

10 So how did Mr Ivan Webb give you the money to put into that, to deposit into those ATM branches?---So the, the sale of the equity stake in the software that our family own is, is myself, my mother and parents, my family.

THE COMMISSIONER: Sorry, the sale of - sorry?---The software. The equity sale of the software to Mr Cossu is the source of those funds.

MS HUXLEY: When did that happen?---It happened over a period of time from late 2020.

20

So you said the sale of the equity in the software program.---Yes.

What is that? What are you referring to there?---So there's a software program, a project management software program. Mr Cossu has taken a 25% equity stake.

But so the cash that was deposited, let's say on 23 August at that ANZ Bathurst branch - - - ?---Yeah.

30 - - - how do you say that money came from that - - -?---It's come from our family, my mum and dad and me. It's our family.

That came from the bank. That was a cash deposit.---Sorry? I don't understand the question.

So did Mr Ivan Webb or Ms Elaine Webb give you \$2,000 to deposit into that ANZ ATM branch?---That's the source, our family.

40 I'm asking you did Mr Ivan or Ms Elaine Webb give you \$2,000 in cash around the time that this was deposit, this \$2,000 was deposited in the branch?---Did they give it to me?

Yes.---Well, they agreed that I could have it, yes.

Did they hand you \$2,000 in cash? It's a simple question, Mr Webb. Did they provide you \$2,000 in cash?---No.

And so how do you say this relates to that 25% equity stake?---Because the payment of 25 equity stake is owned by our family.

10 THE COMMISSIONER: Sorry, it is what?---The software program is owned by my family.

MS HUXLEY: And so why were they giving you that cash?---Why?

Yeah.---Whatever I needed at the time, whatever they needed at the time. It was a variety of things.

And so that cash, how did you obtain that cash?---That cash was paid in instalments for the equity stake from Mr Cossu.

20

But what account was it paid into?---Mr Cossu had an account that he used to deposit funds to that we drew down on.

And do you withdraw the cash?---Yes, we could do.

And then you would put it into your account?---Not always, but yeah.

Well, I suggest to you, Mr Webb, that including Ivan and Elaine Webb in these notes is misleading.---No.

30

And the money that was being deposited was actually coming from Mr Cossu.---It was a payment from Mr Cossu to our family, correct. I've already said that.

THE COMMISSIONER: Can I just ask, regarding this software program that you say was owned by your family, who owned shares in this software program and in what amount?---So we owned all of the software. And - - -

We being the family?---The family.

40

The family being yourself, your mother and your father.---Yes, my brother, and my brother.

The three, and your?---And, my family generally, yes. All of my - - -

Just name the family members involved.---Okay. Well, Ivan and Elaine, my mother and father.

Yeah.---Yeah. And the software program is owned - - -

10

No. No. Who are the family members who had a - - -?---Ivan and Elaine Webb, yes.

Ivan and Elaine Webb.---My parents, yes.

Not yourself.---No. Well, our family generally, but Ivan and Elaine Webb and myself, yes.

So you, your mother and your father - - -?---Yes.

20

- - - each had a share in this software program?---We own that, yes.

Yes. What was your percentage and what was Ivan's percentage and what was Elaine's percentage?---It's, sorry, it's the family trust owns it.

Right. The family trust is called?---It's the Webb Family Trust.

The Webb Family Trust. Okay. And who is the trustee?---ACN, the ACN company is the trustee.

30

The W Project.---Well, that's the trading name, yeah, for the ACN company, yeah.

All right. And who owns the shares in the W Project?---Ivan.

Okay. All right.

MS HUXLEY: So what was the payment actually for, the payment from Mr Cossu, the series of payments from Mr Cossu?---It was for a 25% equity stake.

40

Had the business been valued?---Valued by?

Well, had you obtained a valuation for the business?---So we'd had a discussion. It was about, we had arrived at about \$400,000 worth of work, and that the package was worth about \$1 million, and he took a stake in that at 25%.

And how much was 25%?---350,000.

10 And you said you needed, you made a reference there to 400,000. Was that the amount that you needed to raise in order to keep developing the software?---No, that was work that, work that had been completed over time and otherwise. That's how the valuation of 1.4 come about.

THE COMMISSIONER: The valuation was what, 1.4?---Yes.

I thought you said it was 1?---So there was \$400,000 worth of work quantified being done to date and the valuation on top of that was another million dollars.

20

MS HUXLEY: Was that a written agreement?---No. Mr Cossu and myself and Ivan made that agreement.

Why wasn't it a written agreement?---We'd been friends for ten years.

THE COMMISSIONER: When did you finalise this software program? ---It's not finalised, it's still going through development, so we're still going through the process.

30 MS HUXLEY: Who did the \$400,000 worth of work?---Predominately me over a long period of time.

And so were these reimbursements for that work that you had done?---No.

So what was the \$350,000 for? I thought you had mentioned it connection with that \$400,000.---So the \$350,000 for a 25% equity stake.

40 In a business that you had significant involvement in developing.---I understood the process and understood how to develop it, yes, the project management process.

So - - -

THE COMMISSIONER: I'm still struggling with the mathematics, Mr Webb, because you said that, I thought, that the value of the software was \$1 million and I don't see that \$350,000 is 25% of \$1 million.---Sorry, I will explain that, Commissioner. There was, we'd arrived at \$400,000 worth of work that had been completed up until that time and then the future value of the software we thought was a further \$1 million on top of that, so that brought the value of the software to 1.4.

10

MS HUXLEY: How did you determine the future value?---We'd looked at other comparable raises at the time and other software in a similar scenario.

And had you investigated with level of capital you would need to get the, to further develop the software?---We had looked at it, yeah.

And how much was that?---It depended on how quickly you progressed it.

20 But how much was that?---Well it depended on how quickly you progressed, so it wasn't a simple figure.

Well can you give me, did you get a range? Were you told a figure?---We were told a number of figures from people and it ranged from, from basically 200 grand to over 2 million.

So you needed to find at least \$200,000 to continue to progress with the business?---Well yes, yeah.

30 And Mr Cossu's investment, or payment for the equity stake, would be the source of that.---It assisted, yeah.

Yeah. But so here it would be more accurate to say that it's from a sale of an interest in equity rather than from your parents.---Oh, you say that. I'll get some advice, my own advice on what that may need to do, if it needs to be altered it - - -

Well you were trying to convey, sorry, I didn't let you finish. What was the last part of that answer?---I will get some, some advice on that.

40 Did you get advice when you wrote it?---I think we did, yeah.

And what did that advice say?---I, I can't recall exactly, but we, I had some assistance in preparing this.

From who?---From my lawyers.

Had you disclosed to your lawyers that the source of those funds was Mr Cossu and him taking a 25% stake in that business?---I can't recall whether I had that specific discussion.

10 So this 350,000 that was invested in Mr Cossu, do you know how he paid this amount to you?---No.

Well had you spoke about it at the time where you'd reached that agreement how he would be paying for his stake in the company?---No.

Why not?---There was no need.

So you didn't talk about the mechanics of the payment at all?---He told me he wanted to pay progressively which that was fine.

20

Oh, so you did talk about the mechanics of the payments?---Well no, you asked me about the source I think. What was your - - -

No, I asked you how it was going to be paid.---Sorry, I misunderstood the question.

Okay. So can you tell us about the discussion you had about how it was going to be paid to you?---He said he couldn't provide a lump sum and he'd pay it off over time.

30

And was that in agreed instalments or how did that occur?---So it was in a number of different payments and then some instalments that he made regularly.

Who kept a record of this?---Both of us.

THE COMMISSIONER: Sorry, what's that?---I'd assume he did and, and, you know, I've kept track of it.

40 MS HUXLEY: Was part of this arrangement to pay your legal fees?---He did at one point.

Do you recall making that request of him to pay your legal fees?---Yeah, we'd spoke about it at the time.

Did you say in the messages where you're asking him to pay your legal fees that this would be part of the payment for the software?---No, it was understood.

10 When you requested any payments to him, did you say this is in payment for the software?---No, it was understood that that was the case. We had a discussion early on and that's the way that the - - -

So you had a, sorry, you had a discussion early on.---Yes, and that's the way it occurred.

Do you know when this discussion occurred?---Late 2020 I think.

So before the first PMLV candidate was engaged?---Maybe.

20 I'll take you to volume 33, can I just tender, which one? Volume 2.1, page 155 as Exhibit 95.

#EXH-095 – Volume 2.1 Ben Webb Brief page 155

THE COMMISSIONER: Mr Webb, when did you become aware of ICAC's interest in these matters? Would that be early '23?---Yeah, it would be. March '23 or something.

30

Can you identify any document whatsoever prior to early '23 in which reference is made to a software program that you had or that the W Project had or that Mr Cossu was acquiring an interest in or had a personal interest in. Can you identify any document regarding that?---There was, so the Commission took a hard drive of mine that had information regarding prior revisions and, and notes around, that had some working names of software, HTC, Builder, Projector, just as working names along the way and those maps were there, yeah.

40 Is that all?---There were process maps there and things, yes.

Yes, I know but beyond that hard drive that was taken, is there anywhere else you can identify where the existence of this project, this software project, was identified in writing?---Sorry, what do you mean by existence, like notes and things?

Notes, emails, WhatsApp messages, text messages, letters, contracts.
---There's some, there's some notes and things, yeah.

Where?---I, in my notebooks and otherwise and - - -

10

Were they produced to the Commission at some stage, these notebooks?
---No.

No, all right. Well I think that what I will do is under section 35(2) require you to produce them to the Commission.---Okay, yeah.

By 10am tomorrow.---Okay.

20 **DIRECTION TO PRODUCE: BENJAMIN WEBB'S NOTEBOOKS
TO THE COMMISSION BY 10AM, 21 JUNE 2024**

THE COMMISSIONER: Thank you. Yes, sorry. Go on, Ms Huxley.

MS HUXLEY: I'll take you to volume 33.4, page 1. This is a list of payments from PMLV on your behalf or to you.---Mm-hmm.

From 10 February 2020 to 15 September 2023.---Right.

30

Does that accord with your, that's all right, memory of how much Mr Cossu paid on your behalf or to your account?---Some of it, yeah.

So he paid, there's a few payments to a law firm on your behalf, four payments. Do you see them?---Yeah.

In the order of about \$33,000.---Yeah.

And he paid a rental bond for you.---Yeah, he did, yeah.

40

He paid iCare insurance on your behalf.---Yeah.

AGL bill.---Yeah.

Storage King bills.---Yeah.

Transfer cash into your account.---Yes.

And there's also a deposit for a property in Glebe. See the last two - - -?
---Yeah.

10

So that was in the order of about \$70,000.---That's probably about right.

You didn't disclose any of this to Mr Vangi when you were at council, did you?---No.

Why not?---I was so busy at the time that it never entered my mind.

Mr Cossu also purchased the family residence in Dubbo, didn't he?---Well that was a residence my family were renting, yes.

20

And he paid \$430,000 for that?---Yes, I believe so.

And he owns that in, that's property owned by Shardana.---Yes.

You knew that was a Mr Cossu company?---Yes, I knew that.

Do you know if your parent have paid rent to Mr Cossu for that property?
---We have, yeah.

30

When did you start paying rent?---I don't know. Six months ago or something. We've paid double rent to catch up on what we missed.

And what account does that come from?---What account does it come from?
It's paid from the business account, I think.

Which, what business account?---That's the PMLV account now, yeah.

Has that come from money that was in that account when it was transferred to your father? PMLV was transferred to your father.---No.

40

So what's the source of those funds?---Just general income from consultancy.

But does it include income from the recruitment worker scheme?---No.

Well what's the source of that income?---Consulting to the Northern Beaches Council to, to any other clients.

10 And so how much rent has been paid on a weekly basis for the last six months?---\$850 I think, which is sort of double what it should be.

Do you have an arrangement with Mr Cossu that he will transfer that property to you?---No.

Mr Cossu also gave you a card to access a Commonwealth Bank account in his name.---That was the drawdown that we spoke about, yes.

20 I'll take you to volume 33.3. Page 1. So this sets out your use of that card. So on the right hand side you have deposits coming from Mr Cossu into that account. See the first two there for \$10,000 on 29 December?---I see that, yes.

Were you in Port Douglas around that time?---Yes, with my family.

And that was transferred to you for your holiday?---It was transferred as part of the, the loan agreement, part of the sale agreement.

What did you spend the money on?---Family holiday.

30 Being on holiday?---Family holiday.

So it wasn't spent on, it wasn't applied to the business in any way?---No.

I'll take you down to the last page of this spreadsheet that analyses the bank records. It's at page 21. Do you see there, there's, your uses amounts to \$233,468.24?---I see the number, yes.

And the deposits are around \$253,500?---Right.

So you accept that you spent about \$233,000 of Mr Cossu's money?---I don't accept that. It's, there's a, it's a spreadsheet, I haven't been able to analyse it.

Okay. But that, so you accept that's come from an analysis of the bank statements for that CBA account. Do you accept that you utilised around \$233,000?---No, I accept that there was that amount of money paid in regard to the sale of the equity stake.

10 Okay. So he paid that to you?---Well he paid it, yes, to my family, yeah.

Yeah. And what did you spend that money on?---Oh, various things.

Like personal expenses?---Some of them.

Did you spend it on payments for the bankruptcy trustee?---I can't recall.

Is it possible that you did?---I can't recall.

20 You'd spend it on things like food.---Could do.

Transferred money to your partner.---From time to time.

Did you spend any money on this investment?---Yeah, time and there was funds paid to the investment, yeah.

What were they?---It's my time and there was, we paid things like insurance and there was the Storage King you referred to, that was getting, we had stored some IT equipment and otherwise there. Yeah.

30

So how much would those costs?---I wouldn't know off the top of my head. I'd have to work it out.

Did you engage any people that you'd spoken to about progressing the business?---We'd spoken to people at the time but as to where the funds went exactly, I'd have to work that out.

Well did you engage anyone to assist in progressing this business idea?---I was doing that at the time. It's an equity stake, it wasn't a payment.

40

So were these, it wasn't an investment you're saying?---It wasn't, he - - -

It was an equity stake.---It was an equity stake he took.

So these payments, did you regard some of these payments at least to be repayment for your time?---No. These payments were for the equity stake.

So no money was spent on engaging anyone to continue to grow the business or develop the software?---Some of it, I just answered that.

10 Do you know who it was paid to? Do you know the name of the person you engaged to do that?---I didn't have a specific person no. Sorry, last - - -

Oh, sorry. I thought you said that you paid someone to do - - -?---No, no you - - -

To assist in developing the business.---No. You asked me was there any money paid on the business I thought. Sorry if I misunderstood.

20 THE COMMISSIONER: Anyway, did you engage anyone?---No I didn't engage anyone specifically, no.

You didn't - - -?---Not - - -

- - - engage anyone to work on the business between - - -?---Not up to this period.

I don't know what period that covered but I think it started in December '21 to was it early '23?---Yeah.

30 MS HUXLEY: Mid '23.

THE COMMISSIONER: Mid '23.---Not up to this period, no.

MS HUXLEY: But, I mean, this represented a decent cash injection that you could use to apply to your growing the business.---It was for an equity stake.

But you wanted to grow the business.---The business was growing.

40 You wanted to get the product at a level where you could put it out to market.---Not yet.

Was that the end goal?---That is the end goal, yes.

Okay. And here you have a sum of about \$250,000 to apply to that.---No, this is an equity stake in the business, so, yes, simply that.

Did Mr Cossu purchase a car for your use?---He did, yeah.

How did that come about?---Same agreement.

10

So that was part of this equity stake?---Yes.

How is the equity stake accounted for in the financial records of this business?---So the trust owns all the property of the business at the moment, and there's a special purpose vehicle being set up to take it to market come the new financial year and then - - -

And how will Mr Cossu's interest, how is that recorded in the trust accounts?---Mr Cossu's interest will be 25% of the new business.

20

So it's not currently represented in the trust accounts. Is that what you're saying?---No. That's not what I'm saying.

Sorry, I thought by your reference to the word, "He will have a stake in the company," that that was a reference to something in the future.---No, the company is being - so the vehicle that will take this software forward will be established in the new financial year.

So presently that doesn't exist.---What doesn't exist?

30

That vehicle.---No, not yet.

And the trust owns - I understood your evidence, the trust owns the business.---The trust owns the assets of the business, yes. Yeah.

And Mr Cossu, according to your evidence, has a 25% stake in that.---Yes.

So how is that represented in the trust financial records?---I would have to get some advice from accountants and stuff like that.

40

I'll take you to volume 30.1, page 153. It's a message from Mr Cossu to you attaching a photograph, and then the next message he says, "My car is on the last legs. Company's account okay? I will have to not pay tax for one payment, postpone." That's on 7 January 2022. I suggest to you that he's asking you there for your permission to use the company account to pay for a car.---No, I don't accept that.

Well, why is he asking you if the company's account is okay?---No idea.

10 That's a reference to the PMLV account, isn't it?---No, not that I know of.

I'll take you to page 154. Your response is, "Absolutely."---Right.

That was you giving your approval for him to use the company's account to pay for the car.---No.

Well, what do you say that's for?---His car was, his car was terrible, so, "Absolutely you should get a new car."

20 He wasn't asking you if he should get a new car. He was asking you if he could use the company's account.---I don't agree.

Mr Webb, that is not true, is it?---I don't agree.

Just going back to that CBA account, just so we're clear, I suggest to you that that money doesn't represent an investment in a - sorry, a payment for the 25% equity in the software business. Do you accept that?---No, I don't.

30 And you were given that card so as to hide the fact that you were receiving money from Mr Cossu during your time at council. Do you accept that?
---No.

Do you accept that the payments made to that account represented shares in - the profits obtained from not only the PMLV recruitment scheme - - -?
---No.

- - - but also the arrangement that PMLV had with GWAC to assist at getting council work.---I don't accept that.

40 The money that was coming into that CBA account, on your evidence do you regard that as income?---Personally, no.

What do you regard it as?---Payment to my family for the equity stake in that business.

How is that disclosed in the tax returns of the family trust?---I'd have to, I'd have to check with the accountants.

We saw some text messages earlier today and you gave evidence about them, about Mr Cossu saying to you, "Take the PMLV shares and the
10 Shardana shares." That was in about March 2023. When was the decision made to formalise the agreement for the sale of PMLV shares to Mr Ivan Webb?---A little bit later than that, but that's around when it started to, the discussion.

And so what did you understand you were purchasing in PMLV?---We were purchasing a good team of people.

And they were the contingent workers?---No, not all of them, no.

20 Okay. So what was the business of PMLV at the time that you purchased it?---So a number of them were working in the contingent business, yeah, but there was really good people working in that business, some of them still there.

And is that still run as a contracting arm of PMLV or is it - - -?---
Consulting, yeah.

Consulting.

30 THE COMMISSIONER: Just a moment. I'm getting a bit muddled up here. So I think Ms Huxley was asking you what was the value in PMLV, if you like, at the time it was purchased, and you referred to the, one thing I think you referred to I think was the contract workers. Is that right?---No, the quality of people is what was interesting.

Which people are we speaking about?---So there was a number of staff there. Some of them were in the contingent workforce, contracting people.

All right. So part of was the quality of the contingent workforce - - -?
40 ---Correct.

- - - that worked for PMLV.---Yeah.

And was there another part of it that represented value that you were buying in PMLV?---No, the value we were buying was the quality of the people, an established team that is effectively a turnkey consultancy.

Right. And where were they working?---At the time some of them at Canterbury Bankstown Council, some of them not.

10 Where else were they working?---Some are working for some civil contractors. Yeah, other clients.

How many workers were there altogether at the time that - - -?---Oh, I can't recall exactly, Commissioner, 15 or so.

Approximately?---Ten or 15.

And of that ten or 15, how many roughly were at council?---Maybe eight or nine.

20 Yes, Ms Huxley.

MS HUXLEY: Why was it the case that Ivan Webb was appointed as the director of PMLV under the sale agreement?---That's how a family business is run, yeah.

Is it because you can't be a director because you're an undischarged bankrupt?---That's one reason.

30 And the shares are not owned by that ACN company.---Yes.

I'll take you to the agreement itself, volume 34.36. Who was involved in negotiating this agreement?---Myself, Ivan and Pietro.

And did you have negotiations about price?---Yeah, there was a little bit.

So how was it, what was the company valued at?---Half a million dollars.

40 And who determined that value?---It went back and forward a little bit, but there was some tax debt liabilities that were there and there was some, yeah, back and forward.

Well what did you take into account when determining what the value of the company was?---The people and the contracts that it had.

And what were the contracts?---There was some civil contracts and the, the council contract obviously.

And who were the civil contracts with?---I can't recall exactly. I think Mack Civil was one of them. There may have been some others.

10

What was the value of that?---It was an ongoing weekly agreement I think from memory.

Why was there a need for an agreement?---Ivan in particular wanted the agreement on this one.

20

Well there wasn't an agreement in relation to the family's, the sale of the 25% equity stake in the family's software business, so why take a different approach with the sale of PMLV?---Because there was not a corporate entity as such set up at that time for that, a different scenario.

You don't need a corporate entity to own a business.---Sorry?

You don't need a corporate entity to own a business. I'm just asking. I'm just saying, do you agree, you don't need a corporate entity to own a business?---I, I don't know. I don't know - - -

30

You don't know if you need a corporate entity to own a business?---Well normally a company would own a business, yeah.

Well you can also own a business in your own name.---Potentially. Sorry, I don't know.

You don't know.---No.

Well Mr Webb, I mean you're not a naïve person, are you?---Well no, I would, I would think that if you own a business you'd typically run via a company.

40

But do you accept that a person can own a business?---Well - - -

I mean you've just given evidence that you - - -?---A person - - -

- - - that your family owned this software business without having a corporate entity, and so you spoke about it as you were owning a business. So you accept that you owned it as an individual rather than as a corporation.---Well sure.

10 Okay. So, sorry, can you just answer the question again. Why do you need an agreement in relation to the sale of PMLV when you didn't have an agreement in relation to the 25% equity stake?---Because the understanding at the time was because of the sale of shares in the corporate entity and otherwise.

So the agreement reached was to pay \$500,000 for the shares, for the shares in PMLV?---In the company, yes, yeah.

And who was going to pay that?---It's to be paid in instalments.

20 Over a three-year period?---From memory, yeah.

And has anything been paid for this business?---Yeah. There was a couple of months sorted out, so one was offset with some funds that a client paid into Mr Cossu's account directly and there was, I think there was one other payment made and then there was a series of undisclosed things that we started to become aware of.

Like what?---A workers compensation bill for about \$70,000 and a legal dispute.

30 And so you've ceased making payments under that?---Well we're not quite sure of the quantum of, there's an indemnity by Mr Cossu for anything undisclosed. We're not quite sure of the quantum of that yet.

Have you discussed this dispute with Mr Cossu?---We indicated that to him, yes.

THE COMMISSIONER: So what's the legal dispute? What's the subject matter? Anything to do with GWAC or - - -?---Well it's to do with Obnova.

MS HUXLEY: How is that undisclosed?---Well he didn't disclose that there was a dispute at the time with Obnova. Well I think the terms of the indemnity say the dispute or the potential to be a dispute.

I should just go back to volume 33.6. There were payments made from PMLV to the W Project between February 2023 and June 2023. Do you recall that?---Yeah, I recall that.

10 What were those payments for?---They were finalising off the, the investment and then some, some of those are just for costs, consulting costs, and then there's, the larger one there is the first instalment of the, the transfer of the business.

THE COMMISSIONER: Sorry, what's the reference to that page, Ms Huxley?

MS HUXLEY: This is volume 33.6, page 1.

20 THE COMMISSIONER: Thanks.

MS HUXLEY: Sorry, can you just repeat that last bit? The larger one there was a payment - - -?---So, yeah, so as we were transferring the business across there was \$140,000 as an asset of PMLV. There was a number of things, annual leave and otherwise, that whilst it had assets it also had liabilities, so that was, that was how it was worked.

30 So that capital transfer, is that money from PMLV's account into the ACN account?---Yeah, well the ACN account become the, the PMLV account to, to take the - - -

So you didn't take control of the PMLV account?---No. Mr Cossu had other personal things attached to that.

Okay. See that payment on 9 June 2023?---Yeah, yes.

What was that payment for?---That was the first of the transfers of that, of the PMLV transfer.

40 The agreement hadn't been signed at that point?---No it hadn't.

What did you use those funds for?---Those funds were paid to my trustee.

Was that so you could overseas?---It was.

Part of the contract required Mr Cossu to be given an employment package of \$120,000 plus superannuation. Do you remember that?---Yes, yeah.

And so is he employed with the business?---He is.

10 What does he do?---He does all the tenders and general construction management.

Do you recall coming to give evidence in a compulsory examination before the Commission?---yes.

And you gave evidence that Mr Cossu had paid money for an interest in Progetto?---Yeah.

And that's the business that you're talking about today.---Yeah, that's right.

20 You said today in your evidence that it was your family business.---Yeah.

And that was always the case that it was your family business?---It was my idea but the family owns it, yeah.

You never mentioned in your compulsory examination that it was family owned, did you?---I can't recall.

30 So you've got no written documentation showing a 25% stake, showing Mr Cossu purchasing a 25% stake in your business?---No.

And you didn't apply, the vast majority of funds given by Mr Cossu to you weren't applied to the business?---No.

Exactly how much has Mr Cossu invested in the business?---I wouldn't know the exact figure. I'd have to have a look.

Well could it be more than \$350,00?---I don't think so.

40 Well I suggest to you that this idea that Mr Cossu has given you these benefits as a payment for a 25% stake in the business is a complete lie, isn't it?---No.

And it was, it's a lie designed to conceal the fact that you and Mr Cossu had agreed to share in the profits obtained by PMLV during 2021 and 2022 in relation to the recruitment of workers at council.---No.

And it was also designed to, you also had an interest in PMLV, with Mr Cossu, and the work that they'd done with GWAC to obtain work from council?---No.

10 And just so that we're clear, I suggest to you that you and Mr Cossu did have an arrangement from 2020, early 2021, even before to November 2020, to source workers as agency workers for council to be supplied through PMLV.---No.

And during the time there was an increase in expenditure at council, there was an increase in the capital works budget.---Yes.

And there was a lot of pressure to deliver work.---A huge amount of pressure.

20

And council had been understaffed at that time.---Yes.

And this presented an opportunity for you to make some money with Mr Cossu by supplying workers to council.---No.

And you had provided the employment contract template to Mr Cossu for him to use in this arrangement.---Not for this arrangement. He requested one and I sent him over.

30 And both you and Mr Cossu would source the candidates, proposed candidates for PMLV.---I had suggested some to him, not all of them, no.

You had agreed the PMLV pay rate with Mr Trapman.---No.

You'd consulted with Mr Cossu, sorry, Mr Cossu consulted you on what to pay the workers at various points in time.---No.

I also put it to you that you knew exactly how much money was being made as part of this scheme.---No.

40

And that had been communicated to you in that spreadsheet that I took you to yesterday that Mr Cossu sent you - - -?---No.

- - - in August 2021.---I disagree.

And after receiving that spreadsheet that showed the profit for four people, you and Mr Cossu set about hiring more to increase your profits.---I disagree.

10 And again just we're clear, I put it to you that you're the person that terminated Mr Osborne because he'd raised this issue about Mr Cossu supplying people to council.---I disagree.

And you didn't want anyone else at council to find out about it.---Again I disagree.

You didn't disclose to Mr Vangi that you were anticipating receiving benefits from Mr Cossu or PMLV during your time at council.---I - - -

20 MR PARARAJASINGHAM: I object. There's two propositions there.

THE COMMISSIONER: Yeah.

MR PARARAJASINGHAM: My friend should break up, break them up.

MS HUXLEY: Sorry, I'll start again. You didn't disclose any receipt of funds from Mr Cossu at any time during your time at council.---No.

30 You never informed Mr Vangi that Mr Cossu was, that PMLV was Mr Cossu's company.---I don't recall exactly, but I did advise Mr Vangi about Pietro.

You didn't disclose to Mr Vangi that PMLV was making money off the recruitment of workers.---I couldn't disclose. I wasn't aware.

I put it to you that's not true, you were aware.---No.

40 And you never disclosed to Mr Vangi that PMLV was receiving money from GWAC in connection with projects obtained from council.---Again, I couldn't have.

And you didn't disclose at any time that PMLV was receiving a benefit from council.---Sorry?

Receiving, you never disclosed to Mr Vangi that PMLV was receiving a benefit from council.---Being paid for the staff they were supplying, no. But you didn't tell Mr Vangi that, that PMLV was being paid?---Well I told him Pietro, yeah.

And you never disclosed - - -

10

MR MOSES: Sorry. The witness said that a couple of times. If it could actually be explored so I don't have to do it, what does he say he told Mr Vangi? What is his actual evidence?

MS HUXLEY: I was going to come to that.

MR MOSES: Thank you.

20 THE COMMISSIONER: Well look, maybe what we might do is take a lunch break and resume at 2 o'clock. Mr Sutton, problems?

MR SUTTON: I'm sorry, Commissioner, well yes. I have an AVL booked with a client who is in custody at 2.30 on the basis I think Ms Huxley and I expected things to be a bit quicker because I am expected in the Supreme Court before Justice Button tomorrow. I, on what I've heard so far, am presuming we're at the end. I've got just a couple of minutes of questions.

THE COMMISSIONER: Well why don't you go immediately after Ms Huxley?

30

MR SUTTON: Well that is the proposition, providing we finish early enough, or otherwise I was going to suggest if I could be interposed at 3.50 or something like that. Whatever suits the Commission, I just - - -

THE COMMISSIONER: So roughly how much longer do you think you will be, Ms Huxley?

MS HUXLEY: I think about ten minutes.

40 THE COMMISSIONER: About ten minutes. And Mr Moses? Rough, I thought, I think - - -

MR MOSES: Probably about an hour. It might be a bit more than that.

THE COMMISSIONER: About an hour, okay. Okay. Well, so did you say 3.50 or 3 - - -

MR SUTTON: I expect the conference to take no more than half an hour.

10 THE COMMISSIONER: Okay. I think the best course probably, Mr Sutton, is if you follow Ms Huxley if that is okay with you.

MR SUTTON: If I'm still in the room when she's finished of course, I would be very - - -

THE COMMISSIONER: Well she thinks she will only be ten minutes.

MR SUTTON: Certainly.

20 THE COMMISSIONER: Yeah. All right. I'll adjourn until 2.00.

LUNCHEON ADJOURNMENT

[1.06pm]