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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE REGINALD BLANCH AM QC

PUBLIC HEARING

OPERATION SCANIA

Reference: Operation E15/0978

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON FRIDAY 2 SEPTEMBER, 2016

AT 10.05AM

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

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

ASSISTANT COMMISSIONER: Yes, Mr Mack.

MR MACK: Commissioner, I call Sam Abbas.

ASSISTANT COMMISSIONER: Just go into the witness box, please, Mr Abbas. Will you take an oath or an affirmation?

MR ABBAS: An oath.

10 ASSISTANT COMMISSIONER: An oath? Thank you. On the Bible?

MR ABBAS: Oh, sorry. What's a - - -

MR STEWART: Affirmation.

MR ABBAS: Affirmation.

ASSISTANT COMMISSIONER: Okay. Thank you.

20

<SAM ABBAS, affirmed

[10.08am]

ASSISTANT COMMISSIONER: Thank you. Just take a seat there. You're appearing, are you? You're seeking leave to appear?

MR STEWART: Yes. My name is Stewart, S-t-e-w-a-r-t. Commissioner, I seek leave to appear.

30 ASSISTANT COMMISSIONER: Thank you, Mr Stewart. I grant you leave to appear.

MR STEWART: Thank you.

ASSISTANT COMMISSIONER: Have you spoken to Mr Abbas about an order under section 38 of the Act?

MR STEWART: Yes, I have and we'd like to seek that order.

40 ASSISTANT COMMISSIONER: Very well, then. Well, pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by this witness and all documents and things produced by this witness during the course of the witness's evidence at this public inquiry are to be regarded as having been given or produced on objection and there is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY THIS WITNESS AND ALL DOCUMENTS AND THINGS PRODUCED BY THIS WITNESS DURING THE COURSE OF THE WITNESS'S EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND THERE IS NO NEED FOR THE WITNESS TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR
10 **THING PRODUCED.**

ASSISTANT COMMISSIONER: Thank you.---Thank you.

Yes, Mr Mack. Oh, sorry. Mr Abbas, that does protect you against civil and criminal liability arising out of the evidence you give but it doesn't protect you if you tell lies on oath.---Okay.

Yes.
20

MR MACK: Mr Abbas, do you live at 5365 Wisemans Ferry Road in Spencer?---No.

Sorry?---No.

No. All right. Well, where do you currently live? What suburb?---Condell Park.

Condell Park. Are you familiar with an address at 5365 Wisemans Ferry Road?---I do.
30

I'll show you a picture. One-page photograph. Do you accept that depicts a property known as 5365 Wisemans Ferry Road?---Yeah.

Do you own that property?---No.

Who owns the property?---My sister.

Sister. Do you operate a business from that property?---No.
40

Do you spend much time at that property?---How do you call, yeah.

How much?---Whenever you get a chance to go to your farm.

So on the weekend or more often than that?---Oh, I haven't been for a while.

Do you know Peter Thompson?---I do.

Who's Peter?---My neighbour.

Do you own or have any interest in a property on the corner of the M7 and the M4?---M7?

And M4.---Not that I know of, no.

Do you own or have an interest, when I say interest, do you lease or own a property in Bowral?---No.

10

Do you know Graham Parker?---No.

If I told you that Graham Parker worked for a Regional Illegal Dumping Squad, does that ring any bells with you if I said that?---Don't know. I don't know any - - -

Are you aware that somebody from a Regional Illegal Dumping Squad went to 5365 Wisemans Ferry Road on 2 December, 2015?---Honestly, I can't remember.

20

All right. Well, I'll show you volume 15, page 190, paragraph 7. This is a statement of Graham Parker. And perhaps if the witness could first be shown page 189 of that volume, volume 15.---M4, M7.

Just having a few technical difficulties. This is a statement of Graham Parker's. It appears at volume 15, page 189. First exhibit that was tendered in these proceedings. And you'll see that it was sworn on 12 April, 2016. Just up the top. And if we scroll down to paragraph 2, it says, "I am currently employed by the Gosford City Council in the position of Regional Illegal Dumping Squad investigator."---Yeah. What's that got to do with - - -

30

Well, I'm about to go into that. I'll show you paragraph 7. Mr Parker's statement. It says that "About 11.30am on 2 December, 2015 I attended the property at 5365 Wisemans Ferry Road with ranger Mark Buckley after receiving a complaint in respect to illegal dumping at the property. Upon our arrival I could clearly see a large amount of soil-type material had been dumped at the southern side of the property. It was to the right of a residence, swimming pool and shed situated near the Wisemans Ferry Road. The property was in a large rural setting with a majority on the floodplains of the Hawkesbury River." Do you see that?---I've never met this bloke. I don't know. Maybe I have.

40

All right.---But does he state that I've met him?

No, he doesn't. I'm not saying he does. I'm wondering if this refreshes your memory about an interaction over the phone or with somebody from the Gosford Regional Illegal Dumping Squad?---If I have I can't remember.

Can you recall there being a problem with 5365 Wisemans Ferry Road with the Regional Illegal Dumping Squad?---I've got an affidavit from the ex-owner that Gosford Council was dumping on my property or the property for - - -

It's your sister's property?---Yeah.

10 Yes.---For 45 years so the property was basically let's say raped for 45 years and we're talking about one year.

When did your sister buy the place?---I don't know.

Was it last year 2014, 2013, 1990?---I'm sure it's on record. I'm not sure.

Was it in the last couple of years?---I'm sure it's - - -

Does your sister live there?---No.

20 Who lives there?---Um - - -

You don't know?---No one lives there as far as I know.

All right. Well, I'll take you to paragraph 8 of Mr Parker's statement. Can you read that to yourself.---Okay.

I want you to read paragraph 9 to yourself as well.---Okay.

30 Paragraph 9 says that Thompson, that's Peter Thompson, you said was the neighbour, your sister's neighbour called you on his mobile and then handed it to Mr Parker. Mr Parker then spoke to you. Do you accept that Mr Parker spoke to you?---Mate, I definitely can't remember Mr Parker and I can't remember Peter Thompson giving me the, giving me the phone or speaking to me.

Well, it says a report was prepared for the EPA. Do you know who the EPA are?---Definitely do.

40 You definitely do. Why do you definitely know who the EPA are?
---Because they (not transcribable) ICAC.

Sorry?---It's like how you know every other Government agency.

Well, have you had interactions with the EPA before?---Um - - -

You have to speak into the microphone so the transcript - - -.---Yes.

And when have you had interactions with the EPA?---Now. Not me personally. Sorry, I'll, I'll rephrase that. People around me have been dealing with the EPA.

In relation to what?---I'm in that industry of dirt and material.

Well, tell the Commission what you do for a job.---That's a hard question because I do a lot.

10 Well, we've got plenty of time so give us a broad outline.---In regards to the EPA I'm in the civil game.

The civil game.---Yeah.

What do you mean by that?---You know, demolition, excavation. At the time, I'm not any more but, you know, used to manage a landfill and - - -

You used to manage a landfill site. Is that correct?---Yeah.

20 Where was that landfill site?---Spring Farm.

Sorry?---Spring Farm.

Do you currently manage any landfill sites?---No.

And what does managing a landfill site involve?---Organising material.

Organising material to be brought into the landfill site? You have to speak. ---Oh, yes.

30 Does it involve spreading the landfill on the site as well?---Not necessarily.

All right. Well, at the landfill site you managed previously, at Springfield? Where was it?---Spring Farm.

Spring Farm. Did material come in and was it spread?---It has to be spread. It has to be compacted.

40 Okay. And how does it get compacted?---With machinery.

Can you drive the machinery used to compact the material?---Me?

Yes.---Mmm, not really.

Can you drive an excavator?---Not good.

Can you drive a truck?---Depends what size truck.

Do you have a truck licence?---No. But do I have an excavator licence, no.

Do you work for yourself or do you work for a company?---I work for myself.

Do you have a trading name?---Bells Civil Group.

Bells Civil Group, is that correct?---Yes.

10 And where's your main place of business?---In what sense? Where's my office?

Yes.---From my car.

Where do you park your car?---[REDACTED], Condell Park.

Sorry, what was the suburb?---Condell Park.

20 So you work from your car?---I'm pretty mobile. I don't stay at one particular place.

So you drive around from place to place?---Basically.

What places do you drive around from? What types of places? You told us you're in the demolition and excavation game. What types of places do you drive around from? Building sites?---Depends.

30 Maybe I'll put – do you drive around building sites?---Okay. I think that makes sense. Wherever work takes me because, you know, one minute I'm here, the next minute I'm – I can't tell you where I am in one particular day.

Do you travel around from site to site?---Or any meetings, sites, anything that, you know.

Do you ever do demolition work?---Do I have a demolition licence?

No, do you do demolition work?---That's like saying do I have a plumber's licence but I do plumbing work.

40 No, it's like asking you if you do demolition work.---You need a demolition licence to do it.

I'm not interested in whether or not you have a demolition licence.---Do I organise people to do demolition work, I think is your question.

No, my question is do you personally do demolition work?---I market it.

All right. So do you employ people to do demolition work?---I contract people to do demolition work.

Is that small-scale demolition, residential demolition or - - -?---It varies. I don't know.

All right.---It's been a long time ago. I can't remember.

10 Do you know Nosir Kabite?---Yeah, I don't know his real surname.

Do you know Nosir? I can show you a picture.---Show me a picture of Nosir.

Can the witness be shown volume 15, page 7? Statement of Anna Kypriotis. Do you recognise that person?---Looks familiar.

Do you recognise that as Nosir?---It's a bit dark but it does look a bit like Nosir.

20 All right. And how long – thank you, that photo can be taken away. How long have you known Nosir for?---I don't know. Can't – it's like me saying how long have I known a particular person. He is – I don't know.

Have you known him since you were a boy?---No.

Did you go to school with Nosir?---No.

Did you go to Nosir's 21st?---No.

30 Do you speak to Nosir very often?---Um - - -

These aren't hard questions. Do you speak to Nosir very often?---You know, I prefer to take my time, if you don't mind.

Well - - -.---So I want to answer the right question.

I just want – if you're going to give truthful answers, I don't mind you taking your time.---That's what I'm doing.

40 All right. How often do you speak to Nosir?---Maybe, I don't know, can you, let's say under 30 times 'cause I don't want to give you – in a year.

Per year no more than 30 times?---Maybe, yeah. I don't know.

Does Nosir work in a similar industry to you?---I don't know exactly what Nosir does. But what Nosir does, Nosir does.

Do you know somebody called Bashar?---Do I know someone called John Smith? Who's Bashar?

Do you know somebody called Bashar?---Who's Bashar? I don't even know who - - -

Do you know somebody called Joe from Riverwood?---Honestly, I don't mean to be rude, but you're not making sense.

10 Do you know somebody by the name of Joe from Riverwood?---No. I don't know. Not that I know of. I don't know.

All right.---Can I have a surname?

Do you know somebody by the first name Bashar?---I know a lot of people by the name of Bashar.

Okay. Do you know anybody by the name of Joe?---Are you – Joe? Who's Joe?

20

Do you know somebody who has the first name Joe?---You know, if I had my phone with me, I'd tell you, I'm sure there'd be a hundred people by the name of Joe in my phone. My phone rings every two minutes without fail. So you need to know that I've got a phone that rings every two minutes. Used to.

It used to?---Used to.

When did it stop ringing?---The day my dad passed away, 2 June.

30

2 June, 2016?---After 2 June, 2016 I haven't gone back to work yet.

Do you know if Nosir operates a tip site or did operate a tip site at Bandon Road, in Riverstone?---Hmm, he might have. I'm not sure.

Have you ever been there?---I've been many places.

40 All right. I'll show you a picture. Volume 18, page 38. Sorry. Do you recognise this picture, if I told you that's Bandon Road running across the diagonal at the top and on the right is Riverstone Road, do you recognise that site?---No. Not, not from the top view. I might – I'm not – I won't deny a fact that I've been there or not but I definitely – that could be anywhere in Australia.

All right. I'll show you another picture. Volume 18, page 24. If I told you that the Vineyard train station was near the railway tracks on the right-hand side would that help you in recalling whether or not you've been there?---

No, it doesn't recall. Yeah, I've – as far as I remember that's around that – mate, I've been in that area a fair – like in that Penrith, St Marys - - -

I'm not interested whether you've been in the Penrith Area. I want to know if you've been to that site there. Have you been there, Mr Abbas?---You don't need to repeat.

Well, I need an answer.---I'm not going to give you the wrong answer.

10 Well, give me the right one. Have you been there?---Do you want me to say yes just to satisfy you or do you want me to - - -

I want you to tell the truth. Have you been there?---Or do you want me to be honest with you.

I want you to be honest. That's what your obligation is.

ASSISTANT COMMISSIONER: Mr Abbas, stop sparring with these things. Answer the question. It's an offence not to answer questions - - -.
20 ---Okay.

- - - at this inquiry.---Okay. Well - - -

Could you answer the question please.---Then I'll say I can't remember.

Thank you.

MR MACK: I'm going to show you that picture now at volume 18, page 38 and ask if you've been to this place, 405 Willowdene Avenue?---(No
30 Audible Reply)

That avenue on the right-hand side is Willowdene Avenue and that's 405 Willowdene Avenue and this inquiry has heard evidence about Nosir operating a tip site there. Can you recall ever going to that site?---Honestly I don't know.

You can't recall or you don't know?---I can't recall but it does look like a nice property. I don't know. It looks, I don't know.

40 All right. I'm going to play you a phone call. This is from 3 December, 2015, phone call 3-5-7-4, and it's a phone call between yourself and Nosir. ---Okay.

It's in Arabic. There's a transcript.

AUDIO RECORDING PLAYED

[10.36am]

MR MACK: Does that refresh your memory about who Joe from Riverwood is?---I can confirm that's my voice.

Does it refresh your memory about who Joe from Riverwood is?---Okay. It refreshes my memory how I used to work and, and the way I – so by me listening to this convo I know what I was trying to get at, what the end result.

10 All right.---I was trying to see – it's an interesting convo.

Well, I'll take you to the start of the conversation - - -.---Yeah.

- - - where Nosir says, "Congratulations for the tip, the one, the one on the corner of the M7 and the M4".---There is none. I remember, I, I remember – I don't remember this conversation but I remember what type of person I used to talk to people that I used to paint a picture that never existed so if you go through that, that's what I'm saying, it reminds me of what I used to be like.

20

And when did you stop being like you used to be like?---2 June.

Why did you – explain this. Nosir says to you, "Congratulations for the tip" - - -.---So there is no tip at M7/M4.

Well, why did you say thank you?---I used to paint pictures of something that didn't exist but it never existed.

Why did you do that?---(No Audible Reply)

30

Why?---I don't think that's, I don't think that's a question that I have to answer here.

Yes, it is. Absolutely it is. You have to answer the questions I ask you. Why did - - -

ASSISTANT COMMISSIONER: I think we should take a five minute break. Mr Stewart, would you have a word to your client.

40 MR STEWART: Yes. Thank you.

ASSISTANT COMMISSIONER: Because he's verging on the point of a problem. I'll adjourn just for five minutes.

SHORT ADJOURNMENT

[10.43am]

ASSISTANT COMMISSIONER: Thank you. Now, you're still on oath, on the affirmation that you took.---Yeah, yes.

Thank you. Yes, Mr Mack.

MR MACK: Mr Abbas, I want you to appreciate that this inquiry is quite a broad inquiry. It's looking into illegal dumping around Sydney, in addition to the activities of Nosir and a person by the name of Craig Izzard, and it's important that you give truthful evidence and answer my questions. In this
10 phone call that I just played you, Nosir asked you, "Bashar was dumping at your place. Is that right?" And you answer, "Yeah." Two questions. Who is Bashar?---I know of Bashar but who that is, I don't know. I don't know who Bashar is.

Where is "your place"? This is at page 3.---As in my place?

Yes.---"Bashar was dumping at your place. Is that right?"

And you say, "Yeah."---I know where I was going wrong before the break,
20 so I'll know how to answer your questions. I used to big-note myself and that's why I didn't want to say it earlier. So I used to – that's why I used to paint a picture of something that didn't exist so I can show that I know it all and I have it all.

All right.---So - - -

So where's your place and where was Bashar dumping?---I wouldn't know where my place is. But from reading through this text, maybe I was trying to get information out of him. But what information is that, I don't know.
30 So from what I can see, I've created a tip. This is just on assumption. But, Your Honour, there is no tip on the M4 and M7.

But is there a Bashar? Did you create that? Did you create Bashar?---I'm not, I'm not sure. I'm not – I don't know.

All right.---So - - -

All right. I'm going to take you - - -.---But do I know a Bashar? I know
40 Bashars, I know Joes. I know them all. So - - -

All right. I'm going to take you to the bottom of page 2. And Nosir says, "Which council is it? Blacktown?" And you say, "Liverpool." Then Nosir says, "Excellent. Anything to do with Liverpool or Penrith or Blacktown, you let me know." And then you say, "You are the best."---Yeah.

And then Nosir says, "You understand how, any problem, anything, you let me know straightaway. We'll fix it." "Yeah, all right." What did you think Nosir meant by that exchange?---Okay. I don't mean to be rude to Nosir,

but it just shows you how dumb, like, how intelligent he is. M4, M7 is not part of Liverpool Council.

We're not talking about the M4, M7. What did you think that Nosir meant by being able to sort out problems because the M4 and the M7 wasn't in Liverpool?---Honestly, I don't, I don't even remember the whole – I don't remember this conversation, Your Honour.

10 All right. Well, this was on 3 December, 2012. I'm going to play you another call from four days later. Four days later, on 7 December, 2015. I've just been told I said 2012 before. We're talking about 2015. So the first call was from 3 December, 2015. The second call is four days later and it's call number 4-1-9-8, and it's between you and Nosir.

AUDIO RECORDING PLAYED

[10.59am]

20 MR MACK: All right. I'm going to take you back to page 1 of that call and it says – about the fifth exchange Nosir says, “He said to me send me the address.” Do you know who Nosir was referring to when Nosir said he?---No, I don't remember.

All right. Well, the second-last exchange on this page Nosir says, “Okay. As soon as something happens I'll put you in the picture straightaway like what is going to happen but I think he will fix it if it's not the EPA and it's only the unintelligible squad he will fix it.” You don't know who he is? ---Fix. Not that I - - -

30 Don't know what he's referring to when he says fix?---No, I don't remember, sorry.

It's not a reference to the RID Squad investigating 5365 Wisemans Ferry Road is it?---I'm not sure.

Do you know if Nosir was trying to get somebody to fix your problem at 5365 Wisemans Ferry Road?---In regards to 5365 I've had a lot of people try to help me try and resolve the problem with 5365.

40 Well, what's the problem there?---The problem is that Gosford Council were dumping for 45 years on that property and I've got engineers' names and town planners' names that allowed that to happen and when my sister bought the property section 149 did not state that Gosford Council was dumping illegal material on the property.

All right. Well, when did your sister buy the property?---Within the last five, four years.

All right.---Three years.

But there was a problem – a more recent problem that happened on 2 December when Graham Parker came out to your sister’s property and found what he thought was fibro. That’s the problem I’m talking about. Do you understand?---Okay. I understand that. So Graham Parker went out to the property and I understand that.

10 All right. And he found some fibro, what he thought was asbestos.---Okay. Just to clarify something, that I’ve got an affidavit from Gosford – like an employee saying that they dumped asbestos on the property for 45 years because 45 years ago it was not contaminated.

All right. You’ve said that. You’ve told the Commission that.---Okay. So for 45 years material – this riverbank was built, the whole riverbank on the Hawkesbury River was built on contaminated material.

All right.---So what the - - -

20 Well, if you’ve got an affidavit that’s probably got something to do with other legal proceedings. Is that correct?---That’s in regards to what we’re talking about.

No, it’s not in relation to these proceedings. We’re looking into - - -.---See if that person from the RID Squad came – is it illegal – isn’t it illegal - - -

Graham Parker.---Yeah, Graham Parker. Well, if Graham Parker went out there when did he go out there, in?

30 2 December, 2015.---2 December. The problem that we’ve got with the property is just aroused now.

All right.---Just now.

When - - -.---And prior to that I remember when my sister first bought the property two/three years ago or four years ago all right, when I was doing work on the property Gosford Council truck rove down and - - -

40 All right.--- - - - dumped material there and said this is the norm so we won’t have to go pay for material.

Okay. I appreciate that. I’m going to play you another phone call. This is from 7 December, 2015, the same day. It’s phone call 4-2-5-0.

AUDIO RECORDING PLAYED

[11.05am]

MR MACK: So Nosir says to you, "Well, because our friend is asking me, 'Are you sure?' and I said to him yeah." You see that?---Because of -- yeah. "Because our friend is asking, 'Are you sure?' I said" - - -

Who's our friend? Was Nosir helping you? And did Nosir have another friend that was helping you in relation to the property?---Well, from this phone conversation, I can see that I've asked Nosir for help in regards to Spencer. But that's what this conversation does state.

10 All right. And do you know if Nosir was getting help from somebody else?
---I don't know, sorry.

You don't know?---No.

I'm going to take you back to the statement of Graham Parker on 2
December, 2015, at volume 15, page 8. Sorry, volume 15, page 191,
paragraph 8. All right. And this is a statement of Graham Parker from the
Gosford Regional Illegal Dumping Squad. It says, "We," that's him and the
other officer that was with Graham, "We entered the property and saw the
20 amount of dump material was significant." So they've gone into 5365, seen
that there's some dumped material and took photos of it. And then he
obtained five samples of compressed cement-type material from the soil,
which appeared to be asbestos. And that was on 2 December, 2015. And
then he called you on that same day.---Graham Parker called me?

Yes.---On my phone?

Yes. No, he called you on Peter Thompson's phone.---Okay.

30 Look at paragraph 9. "Before we left the property, Thompson," that's your
neighbour or your sister's neighbour, "made a telephone on his mobile and
then handed it to me. I spoke to a male person who identified himself as
Sam Abbas. I informed him I was returning to my office to prepare a report
and forward it to the EPA. Abbas asked to meet me and I indicated I would
be willing to meet whoever the matter was to be referred to the Newcastle
EPA." Do you recall that conversation?---No, Your Honour. No, sorry.

Do you recall what Graham Parker was referring to in relation to the
dumped material on your property?---No.

40 Okay. All right.---I can't remember, sorry.

I'll play you another phone call.---Okay.

This is from 8 December, 2015 and it's phone call 4-3-5-4. Commissioner,
we're just having a couple of technical difficulties. I do apologise.

MR MACK: Commissioner, I should indicate for the purposes of the transcript that that was call 4-6-5-8 on 9 December, 2015. The call I announced would be played was 4-3-5-4 on 8 December, 2015 but that was not in fact played. Mr Abbas, I want to ask you again, in relation to that call that was just played, the second page – the bottom of the first page of the transcript, Nosir mentions “our friend” and then at the top of page 2 you
10 say, “He what?” And then Nosir says, “Our friend.” And then you say, “Yeah.” And then Nosir says, “He just left and good news for you.” Do you know, can you tell the Commission who your friend was?---No, Your Honour, I don't know who our friend was. I can't remember who our friend was. I'm trying to look beyond that and see what this conversation was trying to mean at the time.

All right.---And I'm sorry. I can't make, I can't make - - -

Is any, any ideas coming to you, coming to mind?---I'm trying to make a
20 view of something that, sorry, I can't.

Can you explain that call? You have a friend you just left somewhere, it's good news for you.---I'm just trying to work out – maybe if we can – I don't know.

Do you want to play it again?---Honestly I know that's - - -

Maybe I'll – I was going - - -.---I know that's me but I honestly can't recall what that conversation is about.
30

So do you and Nosir have a mutual friend?---We have many mutual friends.

All right. Do you and Nosir have a mutual friend by the name of Peter?
---We might have, we might have a mutual friend by the name of Peter.

Well, do you and Nosir have a mutual friend by the name of Craig?---We might have a mutual friend by the name of Craig.

Do you and Nosir have a mutual friend by the name of Craig Izzard?---We
40 might. I don't know. We might have.

Do you and Nosir have a mutual friend that was a RID officer? Do you know what I mean by RID officer?---Illegal Dump Squad officer.

Yes.---Not that I can remember, sorry. We might have. I don't know.

It's a possibility?---Oh, I'm not sure. I don't know.

So it's possible that when Nosir is saying our friend he's referring to a mutual friend of yours who's an illegal dumping officer, it's a possibility?
---No.

No.---Most likely not. Most likely not.

Do you and Nosir have any mutual friends in council?---I don't know.

10 This isn't that long ago. This is December last year. Can you recall perhaps meeting a friend of Nosir's last year?---I'll be honest with you, I had 16 employees up to – or 15 employees up to 2 June and I've currently got zero.

I'm not interested in how many employees you've got. I'm interested in
- - ----I'm mentally - - -

- - - whether or not you can - - -?---What I'm trying to say is I'm mentally after my dad's - - -

20 Did you meet a friend of Nosir's in December last year?---Sorry, I can't remember if I did or if I didn't.

Did you think Nosir was going to help you with the property at 5365 Wisemans Ferry Road?---From this telephone conversation it sounds like he was one of many that I asked for help.

And what did you think Nosir could do?---It would have been just like the Blacktown M4/M7.

30 That doesn't make any sense. What did you think Nosir was going to do in relation to 5365 Wisemans Ferry Road?---I think from – only from this convo and that's just from what I've heard maybe he was – but you need to know that I've asked a lot of people just to get into the – speak to council, Gosford Council because they won't talk - - -

Why didn't your sister do it? She owns the property. You don't live there.
---She's given me the role of managing the place and looking after it.

So you manage the place?---When you say manage - - -

40 What does it need managing for?---There's cattle, there's chickens, there's a water spring that comes out. You just need to maintain it.

Do you employ anybody there?---I have Peter Thompson there. He looks after the place but I - - -

Do you pay him money?---I do.

And he looks after the cattle and the chickens, does he?---And, and, yes, like, he's an all-rounder tradesman. He's a painter, carpenter.

Does he live there?---No, he lives next door.

Who lives there?---At the moment, from what I know, no-one. But - - -

You manage the place. You should know who lives there.---Oh, not necessarily I need to know who lives there.

10

So your sister needed help with the property and Nosir was going to help you help your sister, is that correct?---No.

No? Well, was Nosir going to help you - - -?---I think, I think - - -

- - - at 5365 - - -?---Nosir's, I don't think Nosir's capability – I don't think he can.

You don't think Nosir's capable? Is that what you said?---No.

20

Do you think that Nosir might know somebody who's got a bit more capability than himself?---I don't know. Maybe he does. Maybe he doesn't.

Does Nosir have friends that are more capable than himself?---From what the recording, it sounds like he's tried. Well, he tried to do something, from what the phone call.

Well, if Nosir's not very capable, you would appreciate the assistance of a more capable friend of Nosir's, wouldn't you?---I'm not sure.

30

All right. I'll play you another phone call, from 9 December, 2015. It's quite a lengthy phone call. It's phone call 4-6-7-4.

AUDIO RECORDING PLAYED

[11.22am]

MR MACK: So do you know if Nosir had a friend now who was more capable than himself?---You know, I'd even put my hand on the Koran and swear that I don't even remember this phone call.

40

All right.---And that's how much I'll swear on that. Okay? And, and number two, if this guy could help me, he didn't help me. I'm still in the EPA, you know, like - - -

Who's in the – you're still in the EPA?---My sister's - - -

Well - - -?--- - - - just had an interview with the – I haven't. My sister has been interviewed by the EPA. She's getting a clean-up bill. It's going to the courts. So, but I'll swear on the Koran I don't remember this convo. But I can tell you now, if this guy tried to help me, well, he hasn't helped me.

ASSISTANT COMMISSIONER: Mr Abbas, if you would swear on the Koran, why did you choose to take an affirmation and not an oath on the Koran?---I'm just saying, they're both the same level, but what I'm trying to say here is - - -

10

No, can you answer my question? Why did you choose to take an affirmation and not an oath on the Koran?---Because, I don't know.

Okay. Yes, Mr Mack.---Everything that I have said is true but this one, I'm speaking to a Peter bloke. Who's Peter?

MR MACK: Don't recognise the voice?---No.

20

So you just told the Commission that your sister's in trouble. Are you sure it's your sister and not you?---A hundred per cent not me.

Well, you said I bought this property off a year ago. In this conversation it says that you bought the property. Your sister's got nothing to do with the property, does she?---Same way I own a tip on the M4, M7.

30

And you dump material at this – you dump soil and material at 5365 Wisemans Ferry Road, don't you?---I fixed up Gosford Council problem. I did dump material there. Sorry, to answer the question, as my solicitor said, yes, I did dump material there.

Did you have a permit to dump material there?---I didn't think I had to because Gosford Council was dumping there for 45 years.

Did Graham think you had to have a permit?---Who's Graham? Graham who? Graham the - - -

The RID officer.---The – I don't know. I don't know. Well, could I, could I talk out, Your Honour? Or, like, can I say - - -

40

ASSISTANT COMMISSIONER: Sorry?---Can I say something in regards to what you're saying?

No, just answer the questions.---Okay. All right. Sorry.

MR MACK: When you said, "Two wrongs don't make a right," in that conversation, one of the wrongs is what you've been telling the Commission about Gosford City Council dumping rubbish there, and the second wrong is that you're responsible for dumping illegal material there, aren't you?

---With the EPA, anything that doesn't have a DA is illegal. And any material, even though it's VENM material, is still classified as, as, how do you put it? You can't bring it in. I can't use the right terminology for you. But, like, it's, you can't bring in the material unless you've got a DA. And there was no DA on this site.

Is that what the EPA's investigating you for?---They're not investigating me. They're investigating Ranya Ibrahim. And they are investigating the dumping of material on the site.

10

But you say that you brought that material in.---Yeah, but they haven't come, they haven't asked for me yet. And I've put my hand up for them to interview me but they're still - - -

Did that material contain asbestos?---No.

Did you speak to this person in the conversation, that wasn't Nosir, again? ---Say it again.

20

Did you speak to the person in this conversation, that was not Nosir, ever again? There were three people in this conversation.---No, Your Honour. No. No, sir, I didn't. I don't remember this convo. Don't remember any of them.

Did you meet the person?---No. Not that I remember. Can't remember if I did, didn't.

Commissioner, I've got a few more calls. I'll probably be more than 10 or 15 minutes.

30

ASSISTANT COMMISSIONER: All right. We'll adjourn for 20 minutes for morning tea break.

SHORT ADJOURNMENT

[11.32am]

ASSISTANT COMMISSIONER: You're still under the same affirmation to tell the truth, Mr Abbas.---Yes, I understand.

40

Yes, Mr Mack.

MR MACK: Mr Abbas, I just want to take you back to that last call that you had where Nosir put you on to somebody that was in his presence. Do you recall that call?---If you can just put it back on the screen so that way I can - - -

Okay. Thank you. This is, this is phone call 4-6-7-4 from 9 December, 2015 at 1.04. And then is says, "Here, Peter." This is what Nosir says, "Here, Peter. My friend wants to speak to you the one from the council. Speak to him." And then the one from the council, you and him have a conversation. What did you think the person you were having a conversation was going to do for you, was going to help you in relation to - - -?---To, to answer your question and that's just that question, I'm not sure what he was planning on doing but I don't remember the whole convo than to remember one particular question but I do put my hand up to say that
10 wherever I – like I asked a lot of people for help.

All right. I'll play you another phone call from 10 December, 2015. This is phone call 4-7-7-2.

AUDIO RECORDING PLAYED

[11.54am]

MR MACK: Do you recall going to Nosir's place at 2.30 on 10 December, 2015?---Sorry, I'm just trying to think. No, I don't, sorry.
20

This is Nosir's place at Bandon Road. I've showed you the picture earlier. I can take you back to the picture if it's going to refresh your memory.---No, that photo won't refresh my memory.

All right. Did you go to Nosir's place on 10 December, 2015?---I might have but I can't remember.

Have you ever been to Bandon Road, to Nosir's place at Bandon Road
30 before 10 December, 2015?---I might have but I can't remember.

All right. I'm going to show you a text message.---Okay.

Text message 4-7-7-3 from 10 December, 2015. It's from Nosir to you. It says Bandon Road, Vineyard come to your phone.---Okay.

Do you recall receiving that text message?---I might have.

All right. This is almost at midday on 10 December, 2015.---Okay.
40

You then went to Bandon Road and you saw Craig Izzard and you had a discussion with him at Bandon Road on 10 December, 2015 didn't you?---I might have.

It's a possibility?---I do not know.

You're not being very helpful to the Commission. Every time I ask you a question you say I might have, I don't know. Did you go on 10 December,

2015 and meet Craig Izzard at Nosir's place?---I might have but I still stick by my word.

Did you have a conversation with Craig Izzard at Nosir's place at Bandon Road?---Honestly I can't remember.

Can you remember having any conversations with Craig Izzard?---I don't remember anything.

10 You don't anything about anything do you?---No, I don't remember anything that far back. I don't remember anything because I'm not in a mental state where I am at the moment after my dad died.

That's a lie isn't it. You recall going and meeting Craig Izzard on 10 December, 2015.---I might have. I can't remember.

I'm going to play you another phone call on 14 December, 2015, phone call 5-3-6-4.

20

AUDIO RECORDING PLAYED [11.59am]

MR MACK: What was the news that Nosir had about your friend?---I'm not sure.

Who's your friend? Is that a reference to the guy you spoke to on the phone previously?---I'm on oath and I swear I don't know.

30 I'll play you another phone call. 23 December, 2015. 6-9-4-2.

AUDIO RECORDING PLAYED [12.01pm]

MR MACK: Did you feel special being the only one that had met Nosir's friend?---Say it again?

40 Did you feel special that you were the only one that got to meet Nosir's friend?---I feel special (not transcribable).

Nosir says to you, this is page 11, "Yeah, and for your information, you're the only one that has seen this man out of all the people we know."---Okay.

Well, how'd that make you feel? Did you feel privileged to meet this man? To meet this friend?---Mmm, I don't know how to answer the question. I don't know. How do I feel special about meeting what man?

Well, the man that Nosir says you met.---He's saying that he fixed the problem for me and I'm just trying to work out which problem.

I see. Well, why wouldn't you tell Nosir how much you paid for the tip in Bowral?---Because it's like the tip in Blacktown. (not transcribable) M4, M7.

Are you getting confused between Blacktown and M4 and M7?---It sounds like it.

10

Do you have a tip in Blacktown?---No.

Do you have a tip in Bowral?---Have I ever tipped in Bowral?

Do you have a tip in Bowral?---I don't have a tip in Bowral.

Do you manage a tip in Bowral?---I looked at, I looked at a tip in Bowral.

20

Did you buy it from Ali?---No. I was going to but it didn't go through.

Who is Ali?---He's the owner of Bowral.

What's his surname?---I think it's Abdul-Rahman.

Sorry?---I think it's Abdul-Rahman.

And does he take dirty contaminated asbestos, oil and diesel into that tip? ---I'm not sure if it does take that but I know it does take GSW.

30

Take what, sorry?---General solid waste.

All right.---It doesn't, it doesn't – I'm not, I'm not – I don't think it does take (not transcribable)

So you were going to buy it from Ali were you?---I wasn't going to buy it from Ali. I was just saying I was going to buy it from Ali.

40

And you were just saying that you were going to fill it up with a million cubes of dirty contaminated asbestos, oil and diesel waste?---Again I was big-noting myself . It's – I was never - - -

So you were, you were lying when you were on the phone, telling untruths? ---I wouldn't put it at lying. I've been just big-noting myself but if you want to call it lying you can - - -

So you were, you were lying to Nosir?---That's what you need to do in that industry. You need to, you need to feel like you're unstoppable. That's all it is.

All right. Well, you don't have to feel like that here and there's no need to lie here so when Nosir says, this is at page 6. Nosir says, "You impressed him, you impressed him. He likes you." That's a reference to Nosir's friend who was helping you, who was on the phone before isn't it?---If I've impressed him by me talking to him, if he's, if that's what you're saying it might be. I don't, I don't know.

10 Saying that you went and met him and you impressed him when you met him. Did you meet him?---Honestly I don't know.

Do you remember impressing a friend of Nosir's?---I don't recall.

Page 10 Nosir says, just up a little bit, "And that man can help." That's a reference to the man who was trying to help you on the phone wasn't it? ---I'm not sure.

20 That man's the guy in council, the man who was helping you.---I'm not sure and help - - -

That man is Craig Izzard isn't it?---(No Audible Reply)

I'm going to play you one final call which I didn't play you before. This is going back in time. This is on 8 December and it's phone call 4-3-5-4.

AUDIO RECORDING PLAYED

[12.17pm]

30 MR MACK: When Nosir says, "Yeah, this guy number one. He's all right," he's talking about his friend in council, isn't he?---I don't know.

Talking about Craig Izzard.---I'm not sure, sorry.

Did you ever pay any money to Craig Izzard?---Not that I know of, no. No.

Did Craig Izzard ever assist you?---Not that I can recall, no.

40 Did you ever pay any money to a friend of Nosir's in the council?---No. Not that I - - -

No? Or you can't remember?---I can't remember.

ASSISTANT COMMISSIONER: Mr Abbas, it appears from some of the statements that the property at Spencer, a complaint was referred from Gosford to the EPA at Newcastle?---Okay.

And the conversation that you were having with Nosir in December about the problem being fixed seems to be that the EPA at Newcastle were no

longer proceeding with it and the matter was back at Gosford Council so the problem was fixed?---Your Honour, the problem is far from fixed.

Well I know all about the dispute you're having with Gosford Council, but just what I'm saying, do you remember that sequence of events? That Gosford Council referred your property at Spencer to the EPA at Newcastle and you spoke to Nosir Kabite about getting some help about that and he then rang you and said that's been fixed, they've referred it back to Gosford Council. Is that all correct?---Not that I can recall. But, Your Honour, I can
10 tell you I don't even think it was ever with Gosford Council. I think the problem was always with EPA.

Is it still with the EPA or did they send it back to Gosford Council?---
Currently it is heavily with EPA.

But did they at some stage send it back to Gosford Council?---Not that I know of, Your Honour. It's always been EPA. I'm trying to do it, I'm trying to talk to Gosford Council.

20 Yeah. I know all about the dispute you're having with Gosford Council and you may be correct in that, I don't know. That's not what we're dealing with. What we're dealing with is this telephone conversation when Nosir is saying to you that it's now been referred back to Gosford Council from the EPA and the problem's fixed. Now did that happen?---I can't recall that. I can't recall, I can't recall that but from what I know today is that it's always been EPA.

So are you telling me that what Nosir was saying to you in December was just wrong, that it hadn't been fixed at all?---It's never been fixed, Your
30 Honour.

Okay?---It's a bit problem, Your Honour.

Yeah. I understand your problem with Gosford Council and you may be quite right about that and you come out of it on top, I don't know?---Okay.

But that's not what we're concerned with?---Yes.

40 MR MACK: Mr Abbas, the evidence you've given today has not been of great assistance because you can't recall a lot of things. When I ask you questions you say I can't recall or I don't remember. Now I'm going to ask you a few more questions but before I ask you those questions it's very important that if you do remember and you're telling the Commission that you can't remember that will not necessarily save you from, that will not protect you for an offence under section 87 of the Act which makes it compulsory for you to give truthful evidence. Do you understand that?---I do.

If you were to pay money to somebody in Council is that something you would likely remember?---No, not really. I wouldn't remember that.

If you were to pay a bribe to anybody is that something that you would likely remember?---I wouldn't pay a bribe.

But if you did it would be something that you would remember?---Under the condition I don't, I don't think I would.

10 You don't think you would remember it?---No.

It just would be insignificant, would it, if you paid somebody a bribe?---No. I can look you in the eye, and I'm talking under oath, and I'll, and I'll say it again that everything I've said is the truth.

And if a law enforcement officer offered to assist you and you accepted that assistance, would you remember that? And by assist, I mean give assistance by not enforcing the law. Do you need me to put that question a different way?---Yeah, please.

20

If there's somebody - - -?---Yeah.

- - - who's in charge of enforcing laws - - -?---Yeah.

- - - and they told you they would neglect enforcing those laws out of a favour to you, would you remember that?---Under the usual circumstance, I would. But at the current circumstance I don't. That I'm in.

30 The current circumstances now or the current circumstances before your dad died?---Before my dad died.

I have no further questions, Commissioner. I have to tender a fair few telephone calls. Perhaps if I do that now before, while you're, before any cross-examination. I'll try and call them out in the order that they were played. The first call is 3-5-7-4 from 3 December, 2015. The second is call 4-1-9-8 from 7 December. The third call is 4-2-5-0 from 7 December. The fourth call is 4-6-5-8 from 9 December. The fifth call is 4-6-7-4 from 9 December. The sixth call is 4-7-7-2 from 10 December. The seventh call, which is a text message, is 4-7-7-3, also from 10 December. The eighth call
40 is 5-3-6-4 from 14 December. The ninth call is 5-5-4-6 from 23 December. And the final call is from 8 December and it's 4-3-5-4. I tender those calls.

ASSISTANT COMMISSIONER: That is Exhibit 26.

#EXHIBIT S26 – TRANSCRIPT SESSIONS 3574, 4198, 4250, 4658, 4674, 4772, 4773, 5364, 6942, 4354

ASSISTANT COMMISSIONER: Yes, Mr Rushton.

MR RUSHTON: Mr Abbas, do you think it's important to tell the truth?
---Hundred per cent.

And do you understand that telling lies down here is a very serious matter?
---Yes.

10 And do you understand that if you tell lies down here you can be sent to
prison for a period of up to five years?---Yes.

Do you understand that? I have two gentlemen sitting in front of me. Do
you recognise the gentleman to my right?---I might, I might have.

What do you mean you might have?---Your Honour, I meet a lot of people.

I'm going to ask you again and I want you to think very carefully before you
answer. Do you recognise the man at my right?---I might have an answer.

20 What is your answer, sir?---I don't know. No.

Are you saying that you have not met this man before?---I might have, Your
Honour.

If you might have, where might you have met him?---Anywhere. I don't
know. I'm not going to say, no, that I haven't met him if I have, and I'm not
going to say, yes, that I have if I haven't.

30 Let me put it another way. Do you recognise that man?---To me, Your
Honour, he looks like a man, a normal person. There's nothing in him that
will – a character that I can pick out that another person doesn't look like.

So are you saying, are you, that you don't recognise him?---I don't
recognise him.

Thank you.

ASSISTANT COMMISSIONER: Thank you. Anyone else? Mr Stewart?

40 MR STEWART: No, Your Honour. I have no questions.

ASSISTANT COMMISSIONER: Thank you. Mr Patterson?

MR PATTERSON: Thank you, Commissioner. Mr Abbas, my name is
Patterson and I represent Mr Izzard. Mr Abbas, are you also known as
Ahmed?---No.

Are you Nosir Kabite's brother?---No.

Because there has been evidence given to this Commission that you are.
---Well, that's something I can answer you (not transcribable). I'm not his brother.

You have told the Commission today that you are or you used to be in the habit of big-noting yourself. Is that right?---Yes.

10 Do you know – are you familiar with the expression pumping up your own tyres?---No.

No. But if I was to suggest to you that that has a similar meaning to big-noting yourself would you accept that?---(No Audible Reply)

You've known Nosir for many years haven't you?---I'm known him for a while. I've known him for a while.

20 Would you say that he also is in the habit of big-noting himself?---I talk generally. Everybody in this industry big-notes themselves.

And also tells lies on occasion?---I wouldn't really call it lies but big-noting themselves.

You have heard a conversation played to you earlier in which Peter offered to check with the EPA for any notification and to see what he could do. Do you recall that?--- No, no, Your Honour.

You don't recall that conversation?---(No Audible Reply)

30 Is the situation that the EPA referred your problem back to Gosford Council?---As I spoke to the Honourable Judge I didn't even, I'm not sure it did ever go back to the Gosford Council.

So as far as you know the matter is still and has always been with the EPA. Is that correct?---That's correct as far as I know.

So there is an open investigation with the EPA which is still a big problem. Is that right?---Yes, Your Honour.

40 Could I suggest then that you got no help at all?---One can assume that.

I have no further questions, Commissioner.

ASSISTANT COMMISSIONER: Anything arising, Mr Mack? Thank you, Mr Abbas, you can step down. You're excused.

THE WITNESS EXCUSED

[12.33pm]

ASSISTANT COMMISSIONER: Thank you, Mr Stewart.

MR MACK: Commissioner, I call Atef Fattah.

<ATEF FATTAH, on former affirmation

[12.34pm]

10 ASSISTANT COMMISSIONER: Mr Fattah, are you at the back of the court?---Yes.

Come back to the witness box would you. Just take a seat there. You're still on the same – under the same affirmation to tell the truth - - ----Yeah.

- - - that you took yesterday.---Yes. Yes, I do.

MR MACK: Mr Fattah, I'm going to play you the call that I played you yesterday before we finished and ask you a few more questions and then I'll play you a couple more calls. Okay.---Okay.

20

The call I played you yesterday before we adjourned was 5-9-9-8 on 17 December, 2015.

AUDIO RECORDING PLAYED

[12.35pm]

MR MACK: I think yesterday you agreed with me that the farm was the property at Bandon Road, Riverstone?---Yes. From what I know, yeah.

30

You didn't agree with me that you knew who Craig was?---No.

You stand by that evidence?---Yes.

So the reference to Craig's weekly payment and when you say "Yeah, yeah", how do you explain that?---Mate, as if in, in our language as if saying, oh, okay, okay, no worries, yeah, yeah. But I didn't want to, I didn't want to do (not transcribable)

40 You don't know what?---I don't know who Craig is.

All right. Did you see the person that just gave evidence?---I didn't, I didn't pay. And as I said – as I spoke to him on the phone, I said "I can't".

Do you know Sam Abbas the person that just gave evidence?---I, I know him from face but I don't know him, like he's not my friend or something.

Do you recognise him?---Yes.

Where do you know him from?---I met him once in the café and I know he works in the excavation industry, that's all I know about him.

Do you know if he owns a tip in Bowral?---No. Nothing to do with business with him at all.

All right. I'm going to play you another phone call. It's phone call 6096 from 18 December, 2015.

10

AUDIO RECORDING PLAYED

[12.37pm]

MR MACK: So a fair summary of that call on page 2 is that there's an agreement between you and a friend that every Friday the friend must get paid some money?---Me?

Yes?---Between me and him?

20

Between you, Nosir and Nosir's friend?---No, no. That's not right, man.

All right. Well how do you explain that exchange?---That's not right, man. As if he's asking me I don't know who the guy is. Maybe he's asking me, he's given me a name but I don't know who the name is. Sometimes he tell me Sam, the carpenter, he wants \$1,000 off me. Should ask him who's Sam, 'cause we were family, you know that. Sometimes he called me up and he say Adam, he needs \$500 off me. Should I ask him who's Adam, I'm not involved in that.

30

Well it's not just in isolation, there's a series of phone calls here?---Mate, but I didn't pay, did I pay something or do something, there's the proof.

Comes every Friday. Did you know somebody that came every Friday?---No. No way. No, I don't know nothing about that. And I told you that yesterday.

Well, you said before that Nosir used to ask you for money for Adam and for other people.---Yeah, yeah.

40

This is for somebody that comes every Friday, asking for money.---Mate, I don't know. Maybe that's the excuse, because he needs the money off me.

Well, you didn't say, "No, Nosir. Go away." You said, "I'll have a look at it for you."---Mate, because he's my uncle, in my culture if someone older than you, you respect him. You can't tell him go away or tell him anything. You respect him. You tell him yes if, if you want to - - -

So you tell him yes and then you don't follow through? How - - -?---Yeah. Yeah, yeah.

Where's the respect there?---Mate, it's not respect but you – it is respect. Instead of telling you no to your face or something, or go away. I tell him yes but I don't do it.

So you routinely lied to your uncle on the phone?---Yeah, I'm a liar. I lied to him.

10

Are you lying now?---No, I'm not lying. But don't call me a liar, please.

I didn't call you a liar.---Lying to uncle.

I was asking if you're lying.---Mate, you're telling me, “You're lying to your uncle.” It's not your job to ask me that.

You just told the Commission that you're lying to your uncle.---No, I said I told him yes, yes, I'll do it. But I didn't do it.

20

And then you told the Commission that you didn't do it.---Yeah, I didn't do it, yeah, sorry.

So are you telling lies to your uncle?---Yeah, that's right. Mate, I just want to, Your Honour, just a quick question. This, this bald-headed bloke over there, every time I speak, he laughs. I don't know why he's laughing. I've got mental issue. I'm taking medication. 'Cause I'm fucking sick of this shit, okay? And I'm giving all, all what I, that's all that I know. Next time don't laugh when I talk. Look at me. Okay?

30

ASSISTANT COMMISSIONER: Just answer the questions.---No, I'm answering the question. I have mental issues. I'm taking medication. And I'm sick of this shit.

MR MACK: Okay. All right.---All right? I'm telling the truth now. But why is he laughing at me? Am I lying? Do you know me, mate? Do you know me from before?

Look, if you just look at me - - ----Have you ever met me?

40

- - - when I ask you the questions.---Not you. Him.

I understand that.---I'm telling you, I'm on medication. I've got mental issue. I can't take this shit anymore. All right? Every time you put me in this box here I'm going crazy, every time.

All right. Well, we'll just take it slowly. You won't be there for much longer. If you want to have a break for five minutes to recompose yourself, that's fine. Would you like the matter adjourned just for five minutes?
---No, man.

Glass of water, and we come back in.---No, no. No.

Going to play you another phone call. The same day, 18 December, 2015.
This is phone call 6-1-2-1.

10

AUDIO RECORDING PLAYED

[12.43pm]

MR MACK: Did you give any money to Nosir?---Mate, we're family. I can't remember if I give him or not.

Well, did you get there by 3 o'clock on 18 December to give him money?
---I can't remember.

20

So it's a possibility?---No, I – because we always, I always, we always give money to each other, as I told you yesterday. We're family, man.

Why did he need it by 3 o'clock? This phone call was made at 20 past 1.00.
---Mate, I didn't give him.

And he needs it - - .---I didn't have.

Just wait for the question. This phone call was at 20 past 1.00.---Yeah.

30

He need the money by 3 o'clock.---Yeah.

Did you get him the money by 3 o'clock?---No. No.

Is it usual for him to ask for money - - -?---Yeah, yeah.

- - - within a time period of less than two hours?---Yes, yes.

It is usual?---Yeah.

40

And have you ever - - -?---He's never asked for more than maybe \$100, \$200, no more than that.

So this was unusual because he was asking for \$2,000?---Yeah.

So you found this one unusual?---No, no. It's not unusual. But he always ask me, sometimes he ask me for \$4,000, \$3,000, \$1,000. But I didn't have the money at that time, at that stage.

Okay. And when he kept making these requests for money, were they one-off requests for money?---What do you mean by that?

Well, if somebody wanted money from a person, so let's take an example of Andrew.---Yeah.

If Andrew wanted money would Andrew need it regularly?---I can't give you an answer of that. I don't know.

10

Were there many payments that Nosir required on a weekly basis?---From me?

Yes.---No.

Was there any payments that Nosir needed to make on a weekly basis? ---No. I can't remember. I can't, I can't give an answer of that because I don't know. I don't know if he – I don't know. I didn't go to him and ask him about his finance.

20

Well, before, before you said that he usually asked for \$100 and you thought it was unusual because he was asking for \$2,000 here. Is that correct?

---Not, not exactly. Sometimes – mate, I can't remember how much he asked me. Sometimes he asked me – I ask him sometimes as well. So you know what I mean?

No, I don't know what you mean. Did he – when he asked you for money was it usually less than \$1,000?---No, sometimes he asked me for more than two grand.

30

Was it usually less than \$1,000?---Most of the time, yeah.

Was it usually less than \$500?---I can't remember.

Did he usually ask you for money - - -?---(not transcribable)

- - - because he had to pay somebody every Friday?---Mate, I, I don't know anything about that.

40

I'm not your mate. You need to answer my questions.---I don't know anything about that, if he need to pay someone. Did anyone call you and ask you need to pay someone on Friday or not. It's not my job. It's not my business. Why should I ask him that.

Did Nosir ask you regularly for a payment on a Friday of \$2,000?---No way.

Do you know why he needed \$2,000 on a weekly basis?---I don't know. Maybe.

You don't know, maybe. What is it, maybe you do know?---Know what?

Do you know why Nosir needed \$2,000?---How should I know, man. How should I know.

Do you know?---No.

All right.---Maybe he needs to go clubbing with \$2,000.

10

Maybe he needs to go clubbing?---Yeah, or something. I don't know.

Can you answer these questions seriously.---I'm just saying, you know, how should I know what does he need the money for.

I'll play you another phone call. This is phone call 7-0-4-9 from 23 December, 2015.

20 **AUDIO RECORDING PLAYED**

[12.47pm]

MR MACK: At the end there where you say, "Speak to him and get back to me," that's speaking to Craig, isn't it?---No, speaking to what's-his-name, the guy for the iPhone 6.

The person that wanted the iPhone 6?---Yeah.

And where you waiting for Nosir?---Mate - - -

30

"I'm waiting for you." What did you mean by that? You're waiting for him to get back to you?---I'm waiting to call me back for the phone.

Did you ever get him a phone?---No.

Do you know who the phone was for?---My phone, it was for me. I went overseas. I was going to take it to my uncle overseas.

40

Did you know why Nosir wanted a phone?---Wanted a phone? What for? He doesn't want the phone. I wanted the phone. Just repeat it, I wanted the phone, not him.

You wanted the phone?---Yeah. I wanted the phone.

You wanted the phone from Nosir?---I asked him, "Do you know anyone who sells phone?" 'Cause I need an iPhone to take it with me overseas as a gift for my uncle overseas.

Do you know where Nosir got the iPhone from?---Mate, excuse me, but that's a stupid question because I have nothing to do with it.

I don't need you to characterise what type of questions I'm asking you.
---Okay.

And I'm not your mate.---I'm telling you I don't know. I told you I don't know. You're asking me a question and I have no answer, man.

10 Well, just say, "I don't know." There's no need to keep calling me mate and telling me what my questions are like.---Okay. You're not my mate.

Okay? I ask the questions and you just give an answer.---You're not my mate. That's all right. That's all right. You're not my mate.

I'll take you to page 1 of the transcript. I want you to think very carefully about the answers you give to these questions. You say, "Did the man get back to you at all?" Who's the man?---I can't remember.

20 "Yeah, he did get back to me. I forgot to talk to you. He was at my farm today."---Maybe a driver or someone. I don't know.

You don't know, don't you? But you're not telling us.---Mate, I swear, I don't know.

I'm not your mate. Do you know who the man was?---I don't know. I don't know. I can't remember. I don't know.

30 Do you know why Nosir was telling you to not be soft?---Because - - -

Were you going soft on someone?---Yeah, I'm softie. Sometimes I'm softie.

Well, who were you going soft on?---I don't know.

You don't know. You said sometimes you're a softie.---Yeah.

You were being softie on 23 December. Who were you being a softie to?
---Mate, if I knew, I would have told you, but I can't remember.

40 So did you call him back and speak to him with strength, like Nosir told you to?---Who?

Nosir says, page 2, bottom of page 2, "Speak to them with strength." He's telling you to go back and talk to somebody more forcefully.---Mate, you've got all my recordings. If you know that, maybe you would have got it.

"Speak to him with strength."---With who?

That's what I'm asking you. With who?---I can't remember, to be honest.

Is this in relation to the truck that overturned on 23 November?---Yes.

It is in relation to that?---Yeah.

Well, how does it relate to that?---I can't remember.

10 Does it relate to who was driving that truck that tipped over - - -?---No.

- - - full of asbestos?---Full of asbestos?

Or full of waste.---Waste? What waste? Concrete.

So there was no asbestos in the truck that tipped over?---No.

But it was full of waste?---What do you mean, waste?

20 The truck that tipped over was full of waste.---No, it was concrete.
Concrete.

It was concrete?---Yeah.

All right. Well, how did this conversation relate to the truck that tipped over?---Mate, I can't, I can't remember. It was one year ago. And I'm telling you, my brain - - -

It wasn't a year ago.---Yeah, my brain - - -

30 It was nine months ago.---I'm telling you, man, I'm - - -

And you just told the Commission that it related to the truck that tipped over last November.---Mate, I'm telling you, but I can't - - -

Who was driving that truck?---Someone the police knows who was driving it.

Can you see the man that's sitting behind me?---Who, this man?

40 This man directly behind me?---Yeah.

You recognise him?---No.

Thank you, Commissioner. No further questions. Commissioner, I should tender those telephone calls. There was five in total. Two were played yesterday, 2368 on 26 November and 5998 from 17 December were played yesterday and the three that were played today were 6096 from 18 December, 6121 from 18 December and 7049 from 23 December.

ASSISTANT COMMISSIONER: They can be Exhibit 27.

#EXHIBIT S27 - TRANSCRIPT SESSIONS 2368, 5998, 6096, 6121 and 7049

10 ASSISTANT COMMISSIONER: Any questions? Mr Patterson.

MR PATTERSON: Thank you, Commissioner. Mr Fattah, have I pronounced that correctly?---Yes.

My name is Patterson and I represent Mr Izzard. Yesterday you told the Commission that you're currently unemployed, is that right?---Yes.

And that previously you were an excavator operator?---Yes.

20 And I think you said that you went to Bandon Road to construct a road, is that right?---That's correct, yeah.

Did you own the excavator?---Yeah.

Have you ever owned a truck?---Yeah. I have a truck so I put that excavator on it.

You didn't have any interest in the Bandon Road property, did you?---No. My uncle called me up to fix the driveway and I did.

30 And did you have any interest in your uncle's business?---No.

So when your uncle said to you - - -

MR MACK: Can you just clarify what uncle?

MR PATTERSON: Sorry, Mr Kabite, Nosir?---Yes.

40 When he said to you "Craig's weekly payment is on you", can you tell the Commission any reason why you would be paying money to Craig?---That's why I'm, that's why I'm shocked. I have nothing to do with it. I don't know who Craig is.

And you have no interest in your uncle's activities?---I have no interest at all, no.

So there would be no benefit to you in making any such payment?---No.

And so when your uncle, your Uncle Nosir said to you "Craig's weekly payment in on you", and your response was and I can take you to page 626 of the transcript at about line 42. Your response was "Yeah, okay. As if, okay, blah, blah"---Yes.

You didn't really think you had to pay any money to Craig somebody, did you?---And I didn't.

- 10 And I want to suggest to you that when your Uncle Nosir said to you "Craig's weekly payment is on you", you understood that to mean that your Uncle Nosir wanted some money?---Yes.

Isn't that correct?---Yes, correct.

So if I could take you to page 627 of the transcript, line 20. Could the witness be shown that. Page 627. I don't want to be offensive to you but you are able to read English aren't you?---Yeah, of course.

- 20 So page 627, line, about line 20 your answer is, "So the situation here someone asking you for money and you don't want to give him you make excuses, you know what I mean, and Nosir always rings me and says oh, Joe wants, I want, I want, I want to pay Joe, I want to pay Adam, I want to pay Isaac, I want to pay Craig, I want to pay, every day a different name, different name. He doesn't want to pay no one. He needs the money for himself, for himself." Do you see that?---Yeah.

That's the evidence you gave yesterday?---Yes, yeah, I said that yesterday.

- 30 And that's true isn't it?---That's the truth, yeah.

That's the truth. And the reason that your Uncle Nosir wanted the money for himself is because his business was very slow at that time isn't it?---Yes.

Thank you, Commissioner.

ASSISTANT COMMISSIONER: Is there anything arising, Mr Mack?

- 40 MR MACK: If your uncle wanted the money for himself because business was slow at that time, why did he need to tell you that he needed the money not for himself but for somebody else?---You can ask him that. I don't know why.

No further questions.

ASSISTANT COMMISSIONER: All right. Thank you. Thank you, Mr Fattah. You're excused now.---Just, just one more thing please. As I

