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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE REGINALD BLANCH AM QC

PUBLIC HEARING

OPERATION SCANIA

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON TUESDAY 6 SEPTEMBER, 2016

AT 2.00PM

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

ASSISTANT COMMISSIONER: Now, Mr Kabite, you're still under the same oath to tell the truth.---Yes, sir.

Yes, Mr Mack.

10 MR MACK: Mr Kabite, do you recall – first of all, were you in the hearing room when Mr Kolovos gave his evidence?---Yes.

And do you recall him giving evidence in relation to a phone call he had with Mr Izzard?---Yes.

Do you recall there being two phone calls?---Yes.

And do you recall Mr Kolovos saying that he received a phone call after one of the phone calls with Mr Izzard when somebody rang him up - - -?---Yes.

20 - - - with a very deep voice?---Yeah.

Was that you that rang him up?---Yes.

And what did you say to him?---Because he was saying something to Craig about money or something like that.

ASSISTANT COMMISSIONER: Sorry?---Money – he was saying something to Craig about money or something.

30 MR MACK: And what did you say?---I remember saying to him who gave you the number or who told you to ring him or something like that.

Because he wasn't meant to ring Craig was he?---Yeah.

You're agreeing with me, he was not meant to ring Mr Izzard?---Well, I guess so. I agree.

40 ASSISTANT COMMISSIONER: When you said about money what did you mean?---Because the guy rang Craig and he was saying something about fixing up the DA and something like that. He like – he fixing it up, taking money, things like that.

No, I'm sorry, I don't understand. Could you be a bit more specific so I can.---The guy rang – Mr Nick rang Craig and he said – he mentioned something about the DA and Craig fixing it and taking money.

About Craig taking money?---Yes. That's – I got it that way. Then I rang the guy from I think - - -

So how did you know that?---From – I think from Beydoun.

Yes. Sorry, Mr - - ----I'm not sure from who but somebody told me. I rang the guy. I said do you want me to call - - -

MR MACK: So somebody told you that Nick had rang Craig in relation to money?---Yeah, something like that, yeah.

10 Was Mr Izzard upset at being called by Nick?---Sort of.

Why?---I don't know. I don't know.

I'm going to play you a call from 13 November, 2015. It's call 2-0-0-9 and it's from Mr Izzard to you.

AUDIO RECORDING PLAYED

[2.06pm]

20

MR MACK: Page 3 of that phone call Mr Izzard asks you, "Do you know what I'm saying on the phone".---Yeah.

Do you know why he said, "Do you know what I'm saying on the phone"?
---Just want to make sure that I understand, that I got the message.

Right. So you didn't have – because there might be some things you want to talk about when you're not on the phone. Is that why?---Yes.

30 Was Mr Izzard indicating to you when he's saying do you know what I'm saying on the phone, that you shouldn't talk about - - -?---Yes.

You shouldn't talk about - - -?---Talk about this situation, yes.

- - - the situation on the phone?---(No Audible Reply)

Why do you think Mr Izzard didn't want to talk about the situation on the phone?---I don't know. Too obvious, like he doesn't want no one to know.

40

He doesn't want what, sorry?---He doesn't want no one to know.

To - - -?---Or to hear or - - -

He doesn't want nobody to know about what?---About whatever he was saying.

He doesn't want anybody to know on the phone that might be listening that somebody has been contacting him that wasn't meant to contact him. Is that right?---Yes.

Would Mr Izzard ever say one thing on the phone and then say something completely different to you off the phone in case somebody was listening on the phone? Did that question make sense?---It does but, no, I don't think so.

10 You're just going to have to move your hand away.---Sorry. No, I said I don't think so.

I'll play you call 2-0-1-7, also from 13 November. This is at 12.01.

AUDIO RECORDING PLAYED

[2.11pm]

MR MACK: So I take it from that conversation that you are on your way out to see Mr Ibrahim and Abdul and tell them what had happened in relation to Mr Kolovos, Nick, calling Mr Izzard?---Yes.

And did you go out there and have that conversation with them?---Yes.

And what did you say to them?---I did ask who, who told the guy to ring Craig. I mean the council guy, because I never mention his name. And he said – they rang him in front of me. They spoke about something and - - -

30 They rang Mr Kolovos whilst you were at Wallgrove?---Yeah. I think at the time I spoke to him.

You spoke to Mr Kolovos?---Yes.

And what did you say to Mr Kolovos?---I said, "Why are you asking to call this guy," this and that. Don't do it.

Was that in the deep voice? Or was this a different call?---No, normal voice.

40 Normal voice.---Probably somebody else. If you play the recording, I can tell.

Sorry?---Probably it was somebody else, not me.

Who called him in the deep voice?---Yes. Wasn't me at all. I spoke to him in front of them.

Okay.---Even from, I reckon from Abdul number. Because when he was speaking to them, he deny that he calls Craig. Then I took the phone, I suppose, and I said, “No, you did,” this and that.

So Mr Ibrahim and Abdul rang Nick?---Nick.

And chatted to him and then - - -?---Yeah. “You called the council guy? Did you do this? Did you do that?” And he deny it.

10 And then you got on the phone with - - -?---Yes.

- - - Mr Ibrahim and Abdul there?---That’s right.

And told Nick that you had spoken to the council guy?---Yes, yes, yes.

I need you to be clear about this next answer. Before when I asked you if you rang Mr Kolovos in a deep voice and you said yes, did you do that as well - - -?---No, no, no. That was only one time I spoke to him.

20 And did you identify yourself to Mr Kolovos?---No, no, no.

Did you threaten Mr Kolovos?---No. That’s why I’m asking if you’ve got any recording. I’ll be able to say if it’s me or not. But I never threaten him on the phone. I spoke to him in front of these people.

Going to play you call 2-0-2-6 now, from 13 November, 2015. It’s about 25 minutes after the call I just played you.

30 **AUDIO RECORDING PLAYED** **[2.16pm]**

THE WITNESS: Yeah, that’s the one.

MR MACK: That’s the one. So when Mr Izzard says, “As long as they know, as long as they find out and know as well, but I don’t, I don’t work like that, so,” what did you understand Mr Izzard meant by that?---He doesn’t want the guy to take an idea he’s doing something.

40 Why not?---I don’t know. That’s what I understood. I don’t know if I’m wrong.

But if Mr Izzard wasn’t doing anything wrong, why would he care?
---Because (not transcribable) someone on the phone to call your number and say, “Listen, do this, do that.” It’s someone you don’t know, you know what I mean?

But what - - -?---If I was him, I'd do the same. Or even you or anyone. If someone you don't know call your number and start saying things about - - -

Mr Beydoun gave evidence that he wanted somebody to push the application.---That's right.

And by push what he meant was - - -?---To help.

10 To help.---Not whatever, not everything he says is correct. He tell lies about a few things.

All right. By help, do you understand that there's legitimate processes in relation to a development application and then there might be another way around that's illegitimate? Do you understand that?---Yes.

20 So when Mr Beydoun wanted somebody to push the application, he wanted somebody to take the illegitimate road. That's right, isn't it?---Uh-uh. It wasn't the situation. What happened was, because the council, they'd been through his yard a few times. And last time they gave him 20 days, 40 days or whatever to (not transcribable). So he wants to do it before this date. And I been introduced to him by his cousin and we spoke about it. That is what happened.

So the normal amount of time was going to be too long for Mr Beydoun. Is that correct?---Yes. Not normal but six to eight weeks or something and he hasn't got that much of the time – that much time.

30 And so everybody else that submits a development application to council would have to wait six to eight weeks. Is that correct?---Yes, as far as I know.

But he was paying you money so you could get it done in under six to eight weeks?---No, no, I didn't promise any time at the beginning. I said well, see what can we do.

40 And so you thought that Mr Izzard would be able to speed up the process. Is that correct?---Well, it's not like that exactly but I guess maybe Craig knows some way you can put the application and get it done quicker but I didn't know he's got someone in there or something because obviously he doesn't. If he does he would have get it.

You thought that Mr Izzard knew somebody who could, do you know what I mean when I say the word expedite, do you know what that word means? ---No.

Okay. Did you think that Mr Izzard knew somebody in council who could hurry things along - - -?---Yeah.

- - - for Mr Beydoun?---Yes.

And was it your understanding that without Mr Izzard's involvement things wouldn't have been hurried along?---I don't know – that was my opinion but probably I was wrong.

That was your opinion?---Yeah. Probably I was wrong.

10 So why did you have that opinion that Mr Izzard could hurry things along at council?---Because he work for the council and he probably knows someone in there. That's what I saw.

So is it your evidence that if you work for council you can hurry along an application?---Usually yes.

So it's about who you know. Is that correct?---Sorry?

It's about who you know in council?---Yes.

20 Can you think of any other ways Mr Beydoun and Abdul would have been able to hurry along their application without going through somebody in council?---Well, they, they've tried already and they've been decline or something.

So they tried to go through - - -?---Yeah.

- - - the normal processes. Is that - - -?---They, they've tried twice then third time they go around it, through me.

30 So they try to go around it through you. Is that correct?---Yes.

And to get around it you had to go through Mr Izzard. Is that correct?---That's right.

So you wanted Mr Izzard to go around it?---Mr Izzard advices not, you know what I mean, because he's, he's got no one in there actually. Just him, just if he can help somehow.

40 So you were getting paid money to use your friendship with Mr Izzard to get around the normal council processes. Is that correct?---Yes.

And that could not have been achieved unless Mr Izzard also got around normal council processes?---No, he didn't.

He didn't. Well, if Mr - - -?---Because he - - -

If Mr Izzard can go through them why couldn't Mr Beydoun and Abdul go through them?---No, no, it's not the point. The point is Mr Izzard he

doesn't – he didn't take any application and just give it to me, I will fix it up, no. He only help fill them out and give us advices. Third time I'm going, me and this guy, Beydoun whatever his name, to the council we spend there maybe two hours I go on about the application then we lodge it. They took it and said they'll get back. That was quick. They reply in about four days which is decline.

10 So what did Mr Izzard do in that process?---Mr Izzard didn't do nothing at the time. Just I was telling him what's going on, I was asked, and he used to give advices. Like, probably "You do this better, you do this better." But he didn't do anything in, like, particular, like he spoke to someone or he said, "Go to this guy," or, no. We just went there normal on the desk, we lodged the application, that's it.

So were you trying to get around or were you trying to go through?---Trying to go through, not around.

20 Well, that's not what you said before. You said you're trying to go around before.---Not me. Them.

They're trying to go around through you.---Through me, which is if I know someone or something.

So you're trying to go around as well.---How?

30 What were you trying to do, then?---Just I try to put the application in because they probably didn't understand or they missed something in the application or they didn't put the right word to the application, and that's what happened. Even me and Craig, we were, um, they, um, he rang me. We're talking about how to put words wrong, words instead (not transcribable) whatever, blah, blah, put the other words. And Craig was on the phone. I was on the phone with the guy and Craig was next to me, giving me advice on what to do. Then he said bring the application and we'll fill it out.

I'm going to play you call 2-0-3-6, from 13 November.

40 **AUDIO RECORDING PLAYED** **[2.27pm]**

MR MACK: So did you fill out the application with Mr Izzard?---Yes.

And he told you to put development – tell you to put transfer station on the development application?---Yes.

And is that how you think it would get through council? Would it get hurried along if it went through council that way?---That's what I thought at the time, yeah.

And you were getting paid \$10,000?---Yes.

Did you tell Craig you were getting paid \$10,000?---No, never.

10 Why does Mr Beydoun say you were getting paid \$40,000?---I need to ask him this question. Do you want me to give you an answer?

Yes.---Mr Beydoun reckon because of me he lost the place and he lost over \$80,000 or something. Because I didn't keep my promise to him. And he's been telling everybody, even I've got a witness for that. He will make me pay triple. But whatever I got off him was \$10,000 only.

He says he took out a personal loan for - - ----That's not true.

20 It's not true? You don't think he took out a personal loan?---He got a personal loan but not even under his name. And he got - - -

Whose name did he get it under?---I think his brother-in-law or his own brother. I don't know. I'm not sure. But it wasn't under his name. That's what I've been told by Abdul. And the money, can you imagine, like, I go up to someone and say, "Give me 40,000, I get you a DA"? That business a really small business. Even wasn't worth that much. Whatever they've got there, equipment, it wasn't worth 40 or 50,000.

30 So what did you do with the \$10,000?---I took it.

What did you do with it?---Just spent it here and there.

What on? What did you spend it on?---Car.

A car?---I bought a car, yeah.

Did you offer to repay the money?---No.

40 Why not?---Because he doesn't deserve it.

Doesn't deserve it? He paid you \$10,000 so you would help him get his development application through. It didn't go through and he's lost \$10,000.---The guy cause big problem for me and my family and every, you know what I mean?

No, I don't.---Just, okay. He cause me a problem. That's why I will return his money but not now. Whenever I've got it.

Do you know why he paid you the money up front?---Because I did ask for it.

Do you often ask for money before - - -?---The deal was - - -

- - - before you do the job?---You want the truth, the whole truth, or you want me to make it?

I want the whole truth.---Okay.

10

I don't want you to make any of it up.---But you've got to believe me on this. I'm telling that in front of the Commissioner. This guy, he promise me \$80,000. Not me, he promise his cousin. To give us \$80,000 if we got it approved for him.

So \$10,000 was a down payment, was it?---That's right. And after he start arguing and whinging and telling people that we took – he told some people we took 100,000, some other people we took 60,000. And finally he told you guys 40,000. No-one believed that. No-one give you, like, \$40,000.

20

It's a big money just because you promise him you're going to do something for him.

Well, how much do you usually charge for helping people with development applications?---Me?

Yeah.---Nothing. He's the only one.

He's the only one?---Yeah.

30

But it would be more fair if you charged him the money after you got the development application through, wouldn't it?---True.

It would be, yes?---I agree.

So you ask him for the money before he had any success?---We ask for some money. It just was like a test or something. These people, they going to pay or not? And it wasn't me asking for this money, it was his cousin. Because the deal was his cousin was the middleman between me and him at the beginning. Then after we start talking to each other straight, like, face-to-face, on the phone, this and that.

40

I want to play you call 3-5-5-9. 21 December.

AUDIO RECORDING PLAYED

[2.34pm]

MR MACK: So even Mr Izzard thought you shouldn't be taking any money from them before you got it approved. That's right isn't it?---That's right.

Yes?---Yes.

And you said before that Mr Izzard didn't know you were getting paid for it didn't you?---No, I – no. Doesn't know exactly but no one is stupid, you know.

10 Well, Mr Izzard says you, “have to be mindful about taking a drink, you know, especially where” – and then you cut in, “Yeah, yeah, we have to make the decision before we take a drink.” This is page 6.---That's right.

That's we, that's you and Mr Izzard taking a drink. That's what you said and then Mr Izzard says, “Yeah, yeah, that's right. Yeah, for sure.” You were both taking drinks from Mr Beydoun and Abdul weren't you?---I did but Craig didn't take any, no.

20 Why did you say, “We have to make the decision before we take a drink”?
---Because he – I told him that we helping these people and obviously he or you or anyone should know we're going to get something for it. But when I took the money Craig got no idea.

Craig what?---Doesn't have any idea about the money, like we took – I took the money.

30 Well, what does he mean when he says at page 5, when he says, “Well” – this is halfway down the page, “Well, I suppose you can't get any drink off them because you know what happens if they knock it back, the drink's got to go back”.---Yeah.

Did the drink go back?---No, I didn't give nothing back.

So this seems to infer that Mr Izzard thought that you might have already got some drink off them.---No.

He didn't know?---No. I make him understand I'm going to get something but - - -

40 But it's quite - - -?--- - - - not, not, not straightforward, just somehow.

It's quite clear that Mr Izzard knew precisely what you were doing. You were trying to get around the council laws. That's right isn't it?---It's not 100 per cent right, no.

Well - - -?---We, we were trying to go through the processing but different way, like you fill out the applications (not transcribable) if they knock it back you fill it out a different way but it's all legal. Nothing - - -

It's all what?---The application it's all legal.

It's all legal?---Yeah.

You told me before that a drink relates to a bribe. Bribes aren't legal.---I'm talking about the application when you lodge it to the council.

10 But if a drink relates to a bribe - - -?---There is a bribe.

It is a bribe?---Yes.

So Mr Beydoun was bribing - - -?---Me.

Bribing you?---It is a bribe. If you bribe - - -

What power did you have to be bribed, you weren't in a position of authority were you?---True. That's right.

20 So how on earth could you possibly be bribed?---Well, just giving – take the application and try to get it through somehow.

He wasn't bribing you was he, he was bribing Mr Izzard?---No. He doesn't know Mr Izzard. I'm not saying that defending Mr Izzard, no, but I'm telling the truth. Craig probably he does but like I'm going to take money from these people but he didn't took any money.

He didn't take any money from - - -?---No.

30 Did he take money from you?---Not from him, not from these people, nobody. Even these people they don't know Craig or Craig know them.

So your evidence is that they were bribing you and you say that - - -?---It wasn't – not, not bribing me. I make them understand, give me the, the money, I'll bribe the council officer.

You were going to bribe the council officer?---That's what I make them understand. And this is the truth this one.

40 For this one. Is there others where you have bribed a council officer?---No, no, no, just saying it.

So you lied about taking a bribe, you lied – sorry, you lied about bribing somebody to Mr Beydoun and Abdul?---Mr Mack, I didn't lie. I'm just probably - - -

No, you lied to Mr Beydoun and Abdul.---Yes, yes, yes. Sorry for that. Misunderstood. I make them understand that I know someone. I've got a

connection. I can do this, I can do that. Not only me, even their cousin as well.

So you lied to them to get \$10,000 from them and then you haven't paid it back?---True. Correct.

Can you understand why Mr Beydoun and Abdul might be a bit upset with you?---Yes. But we sort it out.

10 So what did you mean by, "Yeah, yeah, we have to make the decision before we take a drink"?---Because I wanted to make sure that something was going to be done about this application.

But we take a drink, that's you and Mr Izzard not just you.---You're right.

So you accept that Mr Izzard was going to take a drink?---I was going to offer him something.

20 You were going to offer him something but you didn't?---No, I didn't say that clearly.

Well, he says, "Yeah, yeah, that's right. Yeah, yeah, for sure." So he seemed to have understood what you were saying about it. He definitely didn't say, "No, thank you. I won't take your drink," did he?---Yes. He didn't take any money but I was going to offer him something.

Well, had you offered him any money at the time of this phone call, on 21 December?---No.

30 Why were you going to offer him some money?---What do you mean?

Why were you going to offer Mr Izzard some money?---If he got the application approved, you mean? Or - - -

Well, you just said you were going to offer Mr Izzard some money but you didn't.---Only if he got the application done. Not offer him some money just like that.

40 But because Mr Izzard didn't get the application done, you didn't offer him any money, is that what you're telling the Commission?---Not exactly. Because that was his job, just I was taking information off him how to fill it up, how to do this, how to do that. And why they didn't accept it, why, something like that. Just information. Because he worked for the council. He knows better than me or anyone. That was his job. But back then I was going to give him some money if we get it done only.

But you didn't get it done so you didn't give him any money.---True.

So instead of not getting it done, you kept all the money. You didn't give any to Mr Izzard.---I had the money, I had the money even two weeks before.

Sorry?---I got the money from these people two weeks before, but I didn't tell Craig or anyone.

How soon after, when you got the money, did you buy yourself a car?
---Yeah, it was, like, a \$3,000 car.

10

Yes. How soon after? How long did it take after Mr - - -?---Not straightaway. Not straightaway, no.

Well, how long?---Probably after two months. I kept the money for two months.

Kept the money for two months?---Yeah. And I was going to return the money, but when they start causing me a problem here and there, with my family, friends, talking behind my back - - -

20

So was the money given to you in cash?---Yes.

So you kept \$10,000 in cash aside for two months?---Yeah, no, my son account. The business account.

So you put it in a bank?---In a business account, yeah. My son put it there.

So you took the \$10,000 in cash and put it in a business account?---Yeah.

30 And didn't touch it for two months?---We had money in the account. I normally do.

Are you agreeing with me?---Sorry?

Are you agreeing with me? You took \$10,000 in cash.---Ah hmm.

Deposited the whole \$10,000 in cash in a bank account.---Ah hmm.

40 And didn't touch it for two months.---Yes. On top of that, we had money in the bank, so no need to touch it. We had probably \$80,000 or something in the bank.

Why did you need \$10,000 from Mr Beydoun and Abdul if you already had \$80,000 in the bank? That's pretty good for somebody without a job.---Mr Mack, you're asking a question which is – I gave you an answer for it. I said to you if you've got a million dollars and you can make another hundred thousand, why not? And I wasn't stealing their money, just - - -

You just lied to them to get \$10,000 from them and didn't give it back, and you don't call that stealing?---I lie to them by saying I've got someone in the council. That's the only part I lie to them. But whatever else, no. I didn't lie to anyone.

I'll play you phone call 3-5-7-8, from 21 December, 2015.

AUDIO RECORDING PLAYED

[2.49pm]

10

MR MACK: Mr Izzard thought it was pretty hard to get a drink early but you've managed to do it. Why didn't you tell Mr Izzard on 21 December that you already the \$10,000 in your bank account?---I don't know, I just didn't.

Just didn't?---Just thought we'd get it done first.

20

Why did – Mr Izzard was happy to help you get a drink. Is that right?---Sort of.

Sort of. What do you mean by "sort of"?---As I said before no one is stupid like.

No one is stupid?---Yeah.

What did – why was Mr Izzard helping you get drinks?---Why?

30

Yeah?---Like because we are friends.

So he must've known what you were doing wasn't legitimate?---Well in, in what way?

Well he was helping you get a drink, he's helping you get - - -?---As I said to you before, we didn't say, I didn't say that clearly to him. I'm getting money from this guy or this one now. I said – we're talking about you know just, I don't know.

40

I think you do know but you're not telling the Commission what you know?--Look, first I walk in this morning and I decide to tell the truth as much as I can. I'm not going to tell something that's not true or it's not right. We never spoke me and this guy about getting money from this guy, getting money from this guy like money, bribing or something. I used to do things, I used to look after him here and there, that's it. But we never spoke straight in face, money 10,000, 20,000, blah, blah, whatever no.

What do you mean you used to do things for him here and there?---I used to do something like this stuff here but didn't work.

What do you mean by this stuff here?---The application.

You used to try and - - -?---For by doing it. I tried hard. Probably it was not telling the truth I mean Craig, I ring these people, I spoke to this guy, I see, I check.

10 Didn't you say you tried to look after him, him and there, here and there?---
Like, yeah. Get him a phone or small things like no bribing, giving money
in hands, no.

Free rubbish disposal?---For example.

iPhones?---Yeah.

Just not money?---(No Audible Reply)

No money ever?---(No Audible Reply)

20 ASSISTANT COMMISSIONER: Is that what you're saying?---Yes, sir.

MR MACK: I still don't understand why Mr Izzard and you both set out to get you a drink from Mr Beydoun and Abdul? I'm not saying the money went to Mr Izzard but he definitely helped you get a drink?

MR PATTERSON: Commissioner, I object to that question. Counsel Assisting has put that Mr Izzard and this witness set out to obtain a drink from the gentleman. That hasn't been established.

30 ASSISTANT COMMISSIONER: If it's being put that that's the interpretation of the telephone intercept, then I think that's legitimate, and Mr Kabite can comment on it as to whether he accepts or not.

THE WITNESS: Yeah. Can you say again, please?

MR MACK: Did you and Mr Izzard both set out to get a drink from Mr Beydoun and Abdul?---I did.

40 You intended to get a drink and did in fact get a drink?---Yes.

Did Mr Izzard intend to get a drink but did not in fact get a drink?---You can ask him, but in my opinion I'm doing something, he should know about it, but he didn't ask or he didn't – but I had the intention to give him something if we got it through.

You had to get him something if it got through?---True.

And when you say had to get him something, was there an - - -?---No, I have the intention, or whatever they call it, to give him something if I got it through.

Was there an understanding that if it went through Mr Izzard would get some money?---Sorry?

Was there an understanding that if the application got through, Mr Izzard would get some money?---Yes.

10

And was that an understanding that you shared with Mr Izzard?---I shared with him?

Was that what your common understanding was?---If we got it through, yeah, I was going to give him something, yes.

20

ASSISTANT COMMISSIONER: What you're being asked is did he know that? Did he understand that, that you were going to give him something if it went through?---Well, probably. I'm not sure, Your Honour, because – but in my opinion, yes. I don't know if I'm wrong but - - -

MR MACK: I'll play you a call from 25 January, 2016, call 4-7-2-1.

AUDIO RECORDING PLAYED

[3.01pm]

30

MR MACK: What did Mr Izzard mean by any drinks happening?---You should know.

Sorry?---You should know what that mean, Mr Mack.

Why should I – he didn't say it to me.---Because you did ask me a question a million times what's drink mean and I gave you an answer.

Any drinks happening, what is that meant to mean, does that mean - - -?
---Well, like - - -

40

- - - he's asking you if there's any money around, if he can be bribed?---
Yeah, any, any, yeah, any – no, any – but these people in particular not any – all the conversation was about these people this - - -

About Mr Beydoun and Abdul?---Yes.

Are you sure it's not about anybody else?---No. But this one, no.

So Mr Izzard is reading through all of this documentation trying to decide what regulation and help you out - - -?---True.

- - - because he's thinking that he might - - -?---Get something.

- - - get something out of it - - -?---Yes.

- - - once it goes through?---Yeah.

10 And for him to get something out of it if it went through he'd have to ask you for some money wouldn't he, he'd have to ask you for some drink then?---Obviously.

And if the application went through at Blacktown in relation to Bandon Road would have Mr Izzard got a drink then?---Probably.

Probably?---Mmm.

Who would have the drink come from, would have you paid him?---From me.

20 From you?---If.

If.---But nothing happened.

But nothing happened. But Mr Izzard tried to get that application through Blacktown Council didn't he?---No. No.

No?---He just gave me information, how to do it and I went there with my son. The guy just help filling out the application.

30 All right. Well, what about when the development application – in relation to Reuben's place did Mr Izzard get a drink in relation to that?---No, no, no, no. Nothing - - -

Are you sure about that?---100 per cent. Nothing happened there.

Mr Izzard didn't get any drinks in relation to - - -?---You can't just see a guy and – for the first time and say (not transcribable)

40 Well, that meeting took place in October, 2013.---That was first time I met him.

First time you met him.---Yeah.

Yeah. And then there was a lot of illegal dumping activity at Reuben's place right up until 2015.---Not a lot. Not a lot, no.

So there's plenty of other opportunities where you could have given a drink to Mr Izzard in relation to Reuben's place.---Well, Mr Izzard wasn't responsible for that area after that.

After what, after he got moved to Blacktown?---After he show up then he said you have to stop this and that. Then after Frank and Serge they show up and Anna whatever her name and they start – they took place.

They what?---They replace Craig. They were looking for the area.

10

Yeah. But between the time in October, 2013 when you first met Mr Izzard and the time when Frank and Serge came out to your place there's at least 18 months.---No, no, we wasn't, we wasn't there all the – the whole time. When they stopped us, Frank and Serge they were patrolling the area nearly every day.

Nearly every day?---Nearly and - - -

That was after they first came out. There's about – I can take you to - - -?
---No, it wasn't that. We went to a different property. We've done two other different properties.

20

All right. I'll take you back to Willowdene. Okay. I'll take you to volume 5, page 83 and this is the email. It says, "Hi Craig. You were talking to my dad this morning. Could you please let me know what I need to do for dad in regards to the DA." So that's October, 2013. And now I'll take you to volume 5 - - ----Excuse me.

Sorry. Actually I'll take you to Exhibit 10. Now this is a notebook. Can you see the date up there, 10 March, 2015, can you see that where the mouse is?---Yeah, yeah.

30

And this is the day when Frank and Serge went out to Reuben's place. And if you go to the final page of that exhibit, page 63. You can't see it on there, but Frank and Serge both signed that on 10 March, 2015. And that's when they went out there and had an interview with Mr Matthews and Mr Cannuli.---Yeah.

So there's a fairly significant time gap between when Mr Izzard first came out, on 21 October, 2013 and when Frank and Serge went out and interviewed Mr Matthews and Mr Cannuli on 10 March, 2015. Do you understand what I'm saying?---Yes.

40

There's over a year, roughly 18 months, between those two events. What I'm trying to explore with you is what happened in those 18 months.
---Nothing.

Between when Mr Izzard first came out and when Frank and Serge first came out. You were tipping material there, weren't you?---Nothing much happened on Reuben property. Only very few, very few. 'Cause we were doing another job.

Well, on 5 February, 2015 there was a complaint that around 40 to 60 trucks per day were going into Reuben's place. Is that true?---Wasn't for Reuben property. The one next to it.

10 The one next door?---Yes.

Whose property is that?---I don't know. Some guy.

Nothing to do with you?---Nothing to do with us.

Do you know Mr Barillaro?---I think so. Even Frank or Serge, they called me. (not transcribable) I said, no, it's not my trucks.

20 So the trucks were going into - - -?---Yes.

- - - the neighbouring property?---They went there and they spoke to that guy, Antonio or whatever his name. And after that he sold the property and he left.

So all the truck activity around Willowdene Avenue wasn't going to Reuben's place?---No. One hundred per cent.

30 Well, how often did you go to Reuben's place between the first time you met Mr Izzard? Was it weekly, daily, monthly?---Sometimes, like, three months I don't go.

Once every three months?---Yeah. Because I've got still some equipment there for me.

You left some equipment at Reuben's place?---Yeah, a (not transcribable) machine and trailer.

Did you ever see trucks go into the neighbouring property?---Yeah, I had.

40 How many?---A lot. That time, a lot. Too many trucks that guy used to bring in. And the council, they come. I don't know who came from the council.

Did he have a DA?---No, no, no.

He didn't have a DA?---They stopped him and they fined him, I reckon.

He was doing it illegally, was he?---Yeah.

Who caught him?---I'm not sure. I wasn't there when they come, but I was there when I saw the truck going in. Coincidence.

Did you tell Craig that there was trucks going into - - ?---I think so.

And he didn't do anything about it?---I'm not sure if it was him. No, they stop.

10 They stop?---Next day, I went there. They stop. But it wasn't him or somebody else, I'm not sure.

Do you recall having an interview with Serge?---(No Audible Reply)

Do you know who Serge is?---Sorry?

Do you know who I mean when I refer to Serge?---Yes.

20 Do you recall having an interview with Serge?---Yes. Serge and Frank (not transcribable)

Sorry?---Serge and Frank.

Serge and friend. I'm going to show you Exhibit 12. Can you see Exhibit 12 on the screen?---Yeah.

Sorry, Exhibit 15, my apologies. It says 4 March, 2015 at 4.26pm, there was an interview with you. Can you recall that interview?---Yeah, sort of.

30 Did you call Mr Izzard after that interview?---Maybe.

Why would you call Mr Izzard?---To let him know that these people come they interview me.

Why would Mr Izzard want to know that?---(No Audible Reply)

You need to speak for the purpose of the transcript?---I don't know, I just did. Probably to see what's going on or what was going to happen or something.

40

Sorry, you'll have to speak louder?---I said, just to find out what is going to happen and what's the next step or something.

How would Mr Izzard know what's going to happen?---Because he worked for the Council and he also was involved in this farm because he's been here before, I mean, the day before.

How many times did he go there before?---I know only once or twice I can't remember more than that.

Was Mr Izzard taking drinks off you in relation to Reuben's place?---No.

Do you know if Mr Izzard had ever asked for a drink from anybody else on Willowdene Avenue?---No.

10 All right. Have a look at Exhibit 10. This is an interview on 10 March, 2015 between Reuben Matthews and Serge and Frank. I'm not saying that you were there but Mr Cannuli was present but he wasn't in the interview?--
-That's right.

Do you recall – have you heard that evidence?---Yes.

Do you know where Mr Cannuli was during the interview?---Outside. Was at the farm but was outside.

20 Can you recall Mr Cannuli ringing you?---Yes.

What did he say to you?---He said Frank and Serge and they interviewing Reuben.

And did he express concern that they were investigating Reuben's place?---Yes.

Well, did you call Craig after that, after you heard?---I think so.

30 Why?---Just like before, to let him know – just to always try to find out what's going on or - - -

So you thought that Mr Izzard would be able to tell you what was happening at Reuben's place in relation to the investigation?---Yeah. Yes, yes.

Why would Mr Izzard care?---I don't know. I just thought so. That's what I thought.

Reuben's place was an illegal tip wasn't it?---No, it wasn't.

40 You used to use that to dump soil and you knew that there was no approval for it didn't you?---True.

True?---No, first we start we didn't know about that.

But you did know at one stage?---At one stage, yes.

And do you know – did you ever wonder why you weren't getting caught taking soil into Reuben's place?---Well, it wasn't, it wasn't a long time

taking soil there. I explained to you that when these people came and stopped it we stopped completely but we used to go there from time to another because we got some machines there and those council guys they used to come every two weeks, three weeks, sometimes two months to investigate or asking question or – and it wasn't like one million loads at Reuben place.

So you never – all right. I'll move back onto Bandon Road now.---Okay.

- 10 Because you recall that the evidence you gave before was the reason you took the place up at Bandon Road was because you could no longer tip at Reuben's place. Do you recall giving that evidence?---I didn't say that. I said we're going to – the reason that we move we're going to start a legit business, skip bin business.

All right. I'll ask you to be played call 3-7-2-3 from 4 December, 2015. Sorry, we might go to one earlier in time first. Call 1-7-4-0 from 23 November, 2015.

20

AUDIO RECORDING PLAYED

[3.24pm]

MR MACK: This call was in November. You accept that Bandon Road yard was for the sole purpose of bringing in waste soils, yes?---Yes.

And you would bury dirty waste with clean waste?---Yeah, dirty waste at the bottom, yeah.

- 30 Dirty waste at the bottom and then clean stuff on top - - -?---Yes.

- - - so it doesn't look like there's dirty waste everywhere, is that correct?
---Yeah, you could say another way, just to make the ground hard, so not soft. You have to put, like, dirty stuff, bricks and things, under the bottom.

You didn't have approval to bring in dirty loads, did you?---Yes, I did.

Who from?---From the owner. My brother got it from the owner.

- 40 Well, before you told us that you didn't discuss fees, and it was your brother's job.---Not with every – with Fred, I didn't. But, like, this guy, he's, like, a hog. Once every blue moon (not transcribable).

Who's a hog?---This guy, the one who (not transcribable).

Mohamad?---Yeah, Mohamad.

What's his surname?---I don't know. I forgot.

You're not related to him, though, are you?---No, no, no, no.

It's not Mohamad Taleb?---It's Beyrouti. Mohamad Beyrouti.

So Bandon Road yard actually had nothing to do with building a dam. That was a lie, wasn't it?---Building a dam?

10 Yes, your evidence to the Commission before was that there was a lot of water around.---Yes, it was.

And you needed fill to stop the water pooling.---True. That was the idea, what we start. Then Fred and my brother couldn't stop. They went all the way.

They what, sorry?---They went all the way.

20 They went all the way. So it's their fault?---The deal was to bring 40, 50, maybe 100 loads to fix the ground, then we stop. Fred, the job he took was close, very close. So - - -

You say that the people involved in bringing the fill in were yourself, Fred and your brother, Uncle Ahmed. And that's who had an interest in what material was brought in?---Yes.

Did Mr Izzard have an interest in the material that was brought into the Bandon Road yard?---No.

30 No.---Every time he comes there, so everything covered. He never see anything. Only once he saw – I wasn't there, and (not transcribable) came and my son called me. He said the truck coming or something. And Craig came and they said it's all right. That's what they said to him. Probably he see it or didn't see it, I'm not sure. But my son told me he took pictures.

So do you know if Mr Izzard thought that the Bandon Road yard was important to him?---What do you mean by that?

40 Well, I'm asking you. Was the Bandon Road yard important to Mr Izzard? ---Important?

Did he have a financial interest in the operations at the Bandon Road yard? Did Mr Izzard in any way benefit from the operations at your Bandon Road yard?---No.

No. Did you ever discuss with Mr Izzard him benefiting financially from the operations at the Bandon Road yard?---Don't remember. Anyway, Bandon yard you don't need no-one, because the yard it's DA already. And

the owner, every second day he used to come there. Me and Craig, we used to sit there and talk about other stuff, yes, but not this yard.

So you and Mr Izzard would sit at the yard and talk about other stuff?---Yes. Like this application (not transcribable).

So he'd be there frequently?---No, no. (not transcribable)

10 Do you have a shop? Do you have a shop?---Shop?

Yes.---No.

Does Mr Izzard have a shop?---No. As far as I know. I don't know. I'm not sure. He never told me.

I'll play you a phone call, 1-3-8-4. This is from 26 October, 2015.

20 **AUDIO RECORDING PLAYED** **[3.34pm]**

MR MACK: Why was Blacktown important, why was it important for Mr Izzard to remain in Blacktown?---I don't know.

Why was it important for you and Mr Izzard, for Mr Izzard to remain in Blacktown?---Why for me?

30 Well that's what I'm asking. He says it's important for us, for you and him that he remains in Blacktown?---I never said Blacktown important for me.

No, I'm not saying you did. I'm saying Mr Izzard - - -?---He was saying - - -

- - - said it's important for us?---He was saying but most of the time you can't hear properly because it's keep cutting out (not transcribable).

40 That doesn't answer my question. Why is – you know when I refer to Blacktown that's the area that Mr Izzard's being assigned to?---Mr Mack, you asked me a question I don't know the answer. Because he was saying that not me.

ASSISTANT COMMISSIONER: And the question is, did you understand what he meant when he said that?---Not, not really, a 100 per cent really, your Honour.

Do you - - -?---He was saying that then I would say, yeah, yeah.

So you don't know why he would say it was important for us?---No. I didn't get it a 100 per cent but I got something like about Blacktown

Council important you know. Probably it was because it was next to his, where he lives or something.

MR MACK: I'll play you phone call 1847 from 6 November, 2015.

AUDIO RECORDING PLAYED

[3.37pm]

10 THE WITNESS: Yeah. The coffee shop.

MR MACK: The coffee shop. All Right, thank you. What coffee shop is that?---It's on Riverstone Parade near the train station.

So did you meet Mr Izzard there very often?---Yeah. A few times.

Weekly, daily, monthly?---I don't remember but we, sometimes when I'm not there he's frightened or something. Meet me at the shop, so - - -

20 So you met up with him weekly?---No, no. It doesn't have to be weekly or daily or monthly, whenever.

So there's a few locations where you met up with Mr Izzard. One is the Bandon Road yard?---Yeah.

One is at the coffee shop, are there any other places where you'd catch up with Mr Izzard?---No.

30 No. I'll take you to a call from 10 December, 2015. Call 4777.

AUDIO RECORDING PLAYED

[3.40pm]

MR MACK: Did you ever charge somebody in excess of \$4,000 to dump asbestos at Bandon Road?---No. I tell you something about this game.

40 This game?---Yeah. I mean this industry. If you got a load and I don't want to take your load I give you a high price see.

So who was this person you're speaking to?---I know his voice but - he's one of my friends but I don't know which one, probably him or his brother.

So how much would you charge for a load full of asbestos?---You can't take a load full of asbestos. When I say full of asbestos that mean the load got asbestos in it, like pieces or something but you make it big for them, just making excuses so you don't take it.

Why didn't you want to take it?---Because I don't want to take it.

What's the most you ever charge for a load at the Bandon Road yard?
---\$1,000.

\$1,000. For a truck and dog - - -?---Yes.

- - - or for a bogie? \$1,000?---Yes. 500 each. It was Fred (not transcribable) rubbish.

10

I'm going to fast forward now until February this year and play you a few phone calls in relation to Bandon Road from February this year and ask you a couple of questions in relation to them.---No problem.

I'll play you call 5-0-1-5 from 3 February, 2016.

AUDIO RECORDING PLAYED

[3.43pm]

20

MR MACK: Why were you so concerned about another council guy coming around to Bandon Road yard?---I wasn't concerned.

Were you agitated?---A guy show up and he said – he was driving a white ute, doesn't look like a government car or something. And he said, "I'm Illegal Dumping Squad." He wasn't even wearing uniform or something.

Why would that matter, though, if - - -?---It was a trick from someone, I found out later.

30

Why would it matter if somebody from the Illegal Dumping Squad was at the Bandon Road yard?---He wasn't in the Illegal Dumping Squad. It was somebody - - -

You thought it was at the time. Why would it matter if it was - - -?---I said he walked in, like, on the driveway and he got out of the car like he wants to fight or something.

40

Why didn't you say to him - - -?---What are you doing here? I want to check - - -

Why didn't you say to him, "We've got approval for what we're doing here, go away."---No. I said to him, "Who are you?" I said, "Show me ID." After he was – when that start, I was nice to him. Then when I found out, like, something going on, then I'm (not transcribable) try to bash him and he run. Because I knew it's trick. Somebody playing games on me.

So you bashed him?---Yeah, because the guy was every second word f-word, this and that. And - - -

So why did you call Craig?---I did call him because Craig looking after this area.

Just like you called Craig when Frank and Serge came round at Reuben's place?---Yes.

10 So whenever there's a problem with the place you're at, you call Craig, is that right?---Yes, right.

And why would it matter if Mr Izzard came around?---What do you mean?

Well, what did you want Mr Izzard to do about it?---Just to (not transcribable) ask him who is he and – because he was looking after this area.

Did he hit you?---Hit me?

20

Yeah, the guy that came to your place and told you he was from the - - -? ---No.

So it was a one-way fight, was it?---No, no. The guy was, like, saying – I can't say it. This and that. I said, "Who are you?" He said, "I'm Illegal Dumping Squad independent." I said, "Give me your card or your ID. Show me something." Then he knew that I found out something going on and was like that. Got in the car and left.

30 So did he land a blow on you?---No.

Why didn't you call the police?---Well, just small things.

Small things? When somebody comes up and impersonates somebody from the dumping squad and you bash them, that's something small, is it?---No, the guy didn't try to bash me.

I said you tried to bash him.---I tried to, yeah. That's what happened.

40 And that's small, is it? That's a small thing?---It happen all the time in this industry, Mr Mack.

Well, why was, do you agree that Mr Izzard seemed a bit agitated about the news?---Yes.

Why was he agitated?---I don't know.

You don't know?---Because I said to him, this guy's saying he's council.

You didn't mention to Mr Izzard that you bashed the guy, on the phone, did you?---No, I didn't bash - - -

Why not?---Just didn't.

I'll play you call 5-0-3-2 from 3 February, 2016.

10 **AUDIO RECORDING PLAYED** **[3.50pm]**

MR MACK: Did Mr Izzard come back shortly after that phone call?---I don't think so but I saw him the next day.

All right. But you understood after that phone call that if there was any problem in relation to illegal dumping Mr Izzard would know?---Yeah.

20 In the area. So he had control of the area in relation to illegal dumping?
---Yes.

I'll play you phone call 5-6-5-0 from 9 February, 2016.

AUDIO RECORDING PLAYED **[3.54pm]**

30 MR MACK: Did Mr Izzard know that you were dumping material at Bandon Road yard?---Yeah.

Did he know that you were dumping illegal material?---Illegal?

Illegal?---What do you mean by illegal?

Well he says he's in charge of illegal dumping?---Yeah.

40 So the - - -?---Illegal dumping that mean if you dump somewhere is out of the area or something. But this place is got DA. Was his job to check on material if it's clean or not.

All right. I'll play you one more call. Call 5889 from 11 February, 2016.

AUDIO RECORDING PLAYED **[3.57pm]**

MR MACK: What did Mr Izzard mean by shit on top?---A few days before that, before this call Angus show up and he said I don't see you bring any

skip bins here, skip bins and rubbish. So we had to call someone to bring, they bring a few and I just dump them there you know. It was on the top. And Craig he come and said no good like that because it's illegal.

It's illegal. So Mr McVay thought it was illegal?---Craig said.

Craig said it was illegal?---Yeah. Because it's illegal to leave like that. Because we don't have, we're DA approved for earthwork not for bring rubbish in or something.

10

So sorry, did Craig say it was legal or illegal?---Illegal.

Illegal?---Was illegal, yeah.

So he told you what you were doing - - -?---And he said if Angus get here (not transcribable) or something just fix it up.

Why didn't he issue you with an infringement notice if it was illegal?---I don't know.

20

You don't know. No idea?---No. An idea but you should know like better than me, Mr Mack.

Why should I know better than you?---Because I've done something I shouldn't do that he – to be honest he did ask me if I'd take it away. And Craig never see any rubbish, digging, or doing, never seen. Always the place clean - - -

30

But he knew it was there. Mr Izzard knew it was illegal, he told you it was illegal but he didn't give you a fine?---Because I said - - -

Why didn't he give you a fine?---Because Angus show up next day and I show him. He had no problem with that. Then after that we took it, took it away.

All right. Mr Kabite, I've got a fairly good idea of what's happening at Bandon Road yard.---Okay.

40

But you need to tell the Commission if you were paying Mr Izzard to not give you fines for dumping stuff there illegally. Were you doing that?---No.

Well - - ----See between me and, and Craig he doesn't show up just any time. If he's going to come there he'll call me and I used to fix the place. If anything there and then we used to fix it. Always good stuff on top.

Well, why, I mean if you covered it – if Craig would call you and then you'd cover it up - - -?---No. Craig – I never said – we never mention anything about covering me up or something like that. Every time he used

to come there a lot of people there, even the owner there. People next, next block they were working for Angus. It's a big company, maybe 20/30 people. That's what happened. There's nothing to be covered there. I mean no one to cover me because I've got DA I was doing there.

But Mr Izzard told you that there was some rubbish there that was illegal and you had to cover it up before Mr McVay arrived. That's true isn't it?
---Yes, true. He said that.

10 What I'm trying to figure out is why he didn't issue you with a fine or an infringement notice instead of telling you to cover up. You understand that he's in charge of the illegal dumping laws in that area.---Yes.

He's just told you that - - -.---Yes.

- - - there's been material - - -.---Yes.

- - - illegally dumped on your site.---You're right about this but I don't know why.

20

You don't know why, no idea?---What do you want me to say.

Well, I want you to tell the Commission the truth.---He didn't. That's the truth.

He just didn't do it because he's a nice guy. Is that why?---No, probably
- - -

30

Because you're his friend?---Probably.

Because you bought him iPhones?---Maybe.

Because you used to pick up rubbish from his house for free. Is that why?
---Yeah, something like that.

ASSISTANT COMMISSIONER: I notice the time, Mr Mack.

40

MR MACK: Thank you, Commissioner. Commissioner, if this witness could be stood down until 2.00pm tomorrow.

ASSISTANT COMMISSIONER: Yes. You can have a sleep in tomorrow morning, Mr Kabite, and come at 2.00.---2 o'clock?

2 o'clock. Thank you.

MR MACK: Commissioner, for the – to help other people here today perhaps it's worthwhile me tendering those calls today.

UNIDENTIFIED SPEAKER: Yes, please.

MR MACK: I'm reliably informed that there's around 32 of them.

THE WITNESS: Your Honour, I've got a question please.

ASSISTANT COMMISSIONER: Yes.---My son – someone called my son.

10 Taleb?---Yeah. Because Taleb is doing a TAFE, he's doing a course to get
builder licence.

Get a?---A building licence.

Building licence. Yes.---Yeah. If it's necessary to come – for Taleb to
come tomorrow?

MR MACK: Can he come - - -

20 ASSISTANT COMMISSIONER: Sorry, can he come?---If necessary for
him to come tomorrow?

MR MACK: He's scheduled to come tomorrow, Taleb Taleb.

ASSISTANT COMMISSIONER: Does that create a big problem for him?
---I don't know. I'm not sure.

Okay. Well, if it doesn't cause a problem for him he should come.---Okay.

30 Okay.---No worries.

MR MACK: Commissioner, I might ask that all the - - -

ASSISTANT COMMISSIONER: Exhibit 30 I think.

**#EXHIBIT 30 - TRANSCRIPT SESSIONS 3128, 885, 912, 913, 6889,
2575, 138, 179, 932, 939, 977, 970, 1085, 1660, 1662, 1663, 1664, 1670,
1675, 1714, 1757, 2009, 2017, 2026, 2036, 3559, 3578, 4721, 1740, 1384,
1847, 4777, 5015, 5032, 5650 and 5889**

40 MR MACK: Thank you.

ASSISTANT COMMISSIONER: And we'll adjourn until 2.00 tomorrow.

THE WITNESS STOOD DOWN [4.03pm]

**AT 4.03PM THE MATTER WAS ADJOURNED ACCORDINGLY
[4.03PM]**