

SCANIAPUB00815  
07/09/2016

SCANIA  
pp 00815-00847

PUBLIC  
HEARING

COPYRIGHT

INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE REGINALD BLANCH AM QC

PUBLIC HEARING

OPERATION SCANIA

Reference: Operation E15/0978

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON WEDNESDAY 7 SEPTEMBER, 2016

AT 2.05PM

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 plan to interpose Taleb Taleb. I don't plan to be long with him. So if Taleb Taleb could come to the witness stand.

ASSISTANT COMMISSIONER: Thank you. Mr Taleb, are you going to take an oath or an affirmation?

MR TALEB: (not transcribable)

10

ASSISTANT COMMISSIONER: Sorry?

MR TALEB: (not transcribable) affirmation.

ASSISTANT COMMISSIONER: Affirmation?

MR TALEB: Yeah.

20 <TALEB TALEB, affirmed

[2.07pm]

ASSISTANT COMMISSIONER: You're not represented?---No.

Now, in the course of answering questions today - - ----Mmm.

- - - you could possibly leave yourself open to a criminal or civil liability. I can protect you against that by making an order. Do you want me to make that order?---Yeah.

30

All right, 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.

40 **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.**

ASSISTANT COMMISSIONER: Now, that does give you the protection.  
---Yeah.

Now, the law is that you must answer the questions here that are put to you.  
---Ah hmm.

10

The order that I've made protecting you does not protect you if you tell lies  
having taken the affirmation to tell the truth. Do you understand?---Yeah.  
Yes, I understand.

Okay. Thank you. Yes, Mr Mack.

MR MACK: Mr Taleb, can you tell the Commission your full name?---My  
name is Taleb Taleb.

20

How do you spell - - -?---T-a-l-e-b T-a-l-e-b.

Thank you. And is your father Nosir Kabite?---Yeah.

And do you have an older brother called Ali Taleb?---Yes, I do.

And a younger brother called Mohamad?---Yeah.

Have you ever done any work for your father?---As in work for him, under  
him or - - -

30

Yes.---Oh, no, I've been there a couple of times. I'm a student. So - - -

You're a student currently, are you?---I don't really work with him much.

All right. And when you say "been there", are you referring to Bandon  
Road? Are you familiar with the site - - -?---Oh, yeah, Riverstone, yeah.

Sorry?---Riverstone, yeah.

40

Riverstone.---Mmm.

I'll show you a picture. Volume 18, page 23. Are you familiar with the yard  
that's depicted in this picture?---Yes, I am.

Yes. And how many times have you been there?---Probably twice, maybe.

Probably twice. And have you talked to anybody about giving evidence  
today?---Well, other than my father, no.

When did you talk to your father?---Sorry?

When did you talk to your father?---Just this morning.

What did you say about your evidence today?---Well, I asked him why I was being called and stuff like that.

10 What did he say?---He just said tell them what you saw and why you were there and everything.

You haven't talked to Mohamad Taleb have you?---No.

Haven't talked to your brother Ali?---I don't see him much.

Can you drive an excavator?---No, I can't.

Are you trying to learn how to drive an excavator?---No.

20 Have you ever tried to learn how to drive an excavator?---No.

Have you ever tried to drive an excavator?---No.

Have you ever operated a machine at the Bandon Road yard?---No.

Have you ever tried to operate a machine at the Bandon Road yard?---No.

30 What were you doing at the Bandon Road yard on the two occasions you went there?---Oh well, I went up for my cousin Mohamad at the time. Well, my days off TAFE and stuff I like to go up there just to see what's going on, what they're doing and stuff like that.

So does your cousin Mohamad take you out there or do you drive out yourself?---Oh well, the two times I've been there I didn't have a licence so Mohamad picked me up and stuff.

40 And you say you've been there two times. Can you recall how long there was between the first visit and the second visit?---I don't know. I don't really remember.

How long would you stay out there for?---Maybe a couple of hours.

What did you do out there?---Well, we just see what's going on, hang out a bit, you know.

Do you know what your dad, what your dad did at Bandon Road?---Well, yeah, from my understanding he was levelling the ground so he can open up a skip bin business, to put the shed on.

And who told you that?---Well, my old man, my father.

When:?---The times I went up there.

So has your dad been there every time you've been there?---Once when I was up there he was. The second time he wasn't.

10 Can you recall what month the first time it was when you went up there?  
---No, I can't really remember.

Was it this year or last year?---Probably towards the end of last year.

Before Christmas?---Yeah.

Where do you live, sir?---I live in Wentworthville.

Wentworthville.---Yeah.

20 Is it possible that you – or have you ever used your cousin Mohamad's phone?---Possibly.

Why would you use your cousin Mohamad's phone instead of your own phone?---Maybe I was out of credit or the battery died or something.

Would you ever answer his phone?---Possibly.

Would you ring your dad on his phone?---Yeah, possibly.

30 Do you know somebody called Craig?---Yeah, I met him once.

When did you meet him?---The second time I went to Riverstone.

Has your dad ever talked about Craig?---No, not to me.

Not to you?---No. I'm not really that close with my dad.

So you've only met Craig once?---Yeah, at the yard, yeah.

40 At the yard. Do you know why he was at the yard?---Well, no. He came asking for my dad so I gave my dad a call and he told me to tell Craig to come back later so - - -

And what was Mohamad doing at the yard?---Oh, Mohamad took off. He left me there.

He left you there?---Yeah.

So who else was with you?---I was alone at the time.

You were alone at the time at the yard?---Yeah. That was when Craig showed up I was alone, yeah.

So you were hanging out by yourself?---No. Well, Mohamad dropped me off and then he had to go and - - -

10 Where did he have to go?---I don't really know. I can't really remember but.

Did he come back?---Yeah, of course.

Did he come back in his car?---No, in his truck.

Was the truck full of anything?---No.

20 How long before Craig arrived did Mohamad leave?---I can't really remember.

Were you there long by yourself before Craig arrived?---Probably, I don't know, half an hour maybe.

Half an hour?---Yeah.

30 So what were you doing by yourself?---Like I said I like to go up and see what's going on. Me and Mohamad were going up there. He's just showing me. That was the second time and showing me like what they've done and when they're opening things up and stuff and Mohamad had to go I think probably fill up his truck. I can't really remember at the time so - - -

So was his truck there when you arrived?---No. I came with Mohamad.

In his truck?---Yeah.

Did he tip the truck when you arrived?---No. It was empty.

It was empty. Do you know if he's tipped the truck before there?---No.

40 I'll take you to a phone call. I want you to listen carefully to it.---Yeah.

And I want you to listen for two things. First of all, I want you to tell the Commission if it's you on the phone.---Yeah.

Then I'll ask you a couple of other questions.---All right.

It's call 4-1-6-4. And it's part of Exhibit 24.

**AUDIO RECORDING PLAYED**

**[2.15pm]**

MR MACK: Was that you on the phone?---Yeah.

And you were calling your dad?---Yeah.

Is that Craig's voice in English in the background?---Yeah.

10

And when you say, "The machine, no, I was fixing it. I was trying to learn on it," what did you mean by that?---Yeah, I was trying to (not transcribable) an excavator. I didn't know how to start it or move around or  
- - -

And could you hear a – was Craig in a car or was he outside the car or - - -?  
---He was in a car.

20

He was in a car? So he came to the front of the property or did he drive in the property?---Just into the driveway.

And what did he say to you when he arrived?---He asked if my dad was here. I said no. So I gave my dad a call, told him Craig was here. And told him to come back later. What my dad told me.

And then is your reference to your dad, "I haven't been able to cover the load," is that because you haven't been able to start the excavator?---Yeah, operate the, yeah.

30

And what load were you trying to cover?---There was a load of dirt and sand, couple of bricks on top. And I moved some tyres I took off my car, put them next to the load, so. And I was trying to get on the machine to turn it on, to cover that load, but - - -

Why were you trying to cover the load?---Just to move it out of the way. 'Cause it was, when you come in on the driveway it was right there, so - - -

So were you trying to move the load out of the way or cover it?---Yeah, yeah. Move it.

40

You said cover it here.---Well, yeah, cover it, move it. Trying to move the machine that way to move the load, spread it. But didn't have, I had trouble starting the machine.

And you said you've been out there another time. Was that before or after this occasion?---That was before.

And who was out there on the occasion before?---It was my old man and my brother and Mohamad.

So did Craig, do you know why Craig wanted to see your dad?---I didn't ask.

You didn't ask? And did you tell – did Craig leave immediately after?  
---Yeah.

10 Thank you, Mr Taleb. They're all the questions I have.

ASSISTANT COMMISSIONER: Just stay there for a second.---All right.

Does anyone else want to ask any questions, apart from Mr Patterson, if Mr Patterson wants to ask any questions?

MR PATTERSON: Thank you, Commissioner. I have no questions.

20 ASSISTANT COMMISSIONER: Thank you. Thank you. Then you're excused. You can leave. Thank you.---Thanks.

**THE WITNESS EXCUSED**

**[2.18pm]**

ASSISTANT COMMISSIONER: Yes, Mr Mack.

MR MACK: Commissioner, I call Mr Kabite.

30 ASSISTANT COMMISSIONER: Thank you. How are you feeling today?

MR KABITE: I'm good, Your Honour.

ASSISTANT COMMISSIONER: You're good?

MR KABITE: Mmm.

ASSISTANT COMMISSIONER: Okay. Now, you're still on the same affirmation that you took to tell the truth yesterday.

ASSISTANT COMMISSIONER: Sit down. Because you're unrepresented, now, I want you to understand, as I explained to you before, because I made that order, nothing that you say here can be used as evidence against you anywhere else. So, for example, if you said you were tipping or receiving material at Bandon Road that shouldn't have been received there, that can't be used against you in any other proceedings. Do you understand?---Yes.

10

But the thing that you must understand is this, that the thing that you have to do is to tell the truth, because if you don't tell the truth then you can be prosecuted for that, and the penalty for that is five years' imprisonment, or up to five years' imprisonment. So the only danger you're in, in relation to these proceedings, is if you do not tell the truth. Do you understand?---Yes.

Okay. Thank you. Yes, Mr Mack.

MR MACK: Mr Kabite, I'm going to ask my first set of questions in relation to Bandon Road and then I might move on – shift back to Bellfield and then Willowdene.---No problem.

20

I want to take you back to before you signed the contract for Bandon Road and your discussions with Mr Izzard at the time and I'm going to play you a phone call from 25 September, 2015 and just while that's getting loaded up, it's phone call 5-2-3. Yesterday you gave evidence to the effect that you used certain code words when you had conversations with people. Do you recall giving that evidence?---Yes.

30 And you said that chocolate was a code word for - - ----No, not chocolate. A coffee or - - -

Chocolate was a code word for asbestos for example and then - - ----A word in Arabic (not transcribable)

Did you ever use a code word firewood?---No.

No. Firewood is not a code word?---No. It's real, real things.

40 Sorry?---It's not a code, no, it's real. Firewood.

It's real. So you have a firewood business?---Yeah.

Do you have a – you do have a - - -?---No, no, no. Just keep going.

Are you involved in the firewood industry?---Yes. Not industry. I took like a couple of loads on – a couple of utes of firewood to Craig.

You've taken firewood to Craig?---A couple of times, yeah.

And did Craig pay you for that?---No.

No.---He try but I didn't take the money.

Do you know how – well, did you sell the firewood to anybody else besides  
- - -?---No, no, no.

10 No. You never sold firewood?---I bought that.

You bought that?---Yeah.

How much did you pay for a load of firewood?---Not, not much. It was  
\$100, 120. Can't remember.

All right. I'll play you the call 5-2-3 now.

20 **AUDIO RECORDING PLAYED** **[2.23pm]**

MR MACK: Did you send your son around to Mr Izzard's place with  
firewood after this conversation?---Think so. I'm not sure it wasn't my son  
or my nephew.

The references to smashing it hard out at the Windsor area, is that a  
reference to people dumping a lot of material out at the Windsor area, at a  
particular site?---No, that was at the yard.

30 Oh, that was your yard?---Yeah.

In Windsor?---Not Windsor. Riverstone. But we used to call in Windsor  
before.

Used to call it Windsor? So you don't have one yard at Windsor and one  
yard at - - -?---No, no, no.

40 What did you mean, this is page 4, "Well, I'm just come up this morning at  
two places, what they call it, Windsor area"?---That when we was looking  
for a yard.

So you had, there was one place at Windsor and one place at Riverstone or -  
- -?---No, that was before even we took the yard, but I reckon it was, we  
paid deposit or something.

You paid a deposit? So they say two places.---Yeah, we, it was two places  
but we took one.

So both those places were at - - -?---Windsor area.

At the Windsor area?---Mmm.

At the Riverstone site? Or are they different?---Different. One at Riverstone there.

10 Yeah.---Bandon Road. And another one was a bit further down.

So - - -?---But we didn't take it, so - - -

What did you mean by people were smashing it? “They smashing it hard. It’s going to be big.” Who’s “they” and what do you mean by “smashing”?  
---That means they take a lot of loads.

To the other place at Windsor or Bandon - - -?---To the other, I'm not sure, to be honest, what was that about.

20 This is before the lease at Bandon Road was signed?---Yes.

And were you bringing in truckloads before the lease was signed?---No, no.

So it must be in relation to another - - -?---Maybe another people or something. But it wasn't me, for sure.

30 And what do you mean by smashing it hard?---When you say “smashing it hard”, that means, like, a lot of loads. There were too many trucks, this and that.

So somebody else was taking a lot of - - -?---A lot of loads, yeah.

Into another site?---Another property, yes.

That you didn't operate?---No.

Why were you telling Craig about it?---I don't know. I just did, as usual. I used to ask many, every time I'm going to do something, I just ask.

40 You just ask him every time - - -

MR PATTERSON: Commissioner, I'm sorry. I can't hear the witness. If he could sit closer to the microphone.

THE WITNESS: Yeah. I used to ask him, yeah.

MR MACK: You used to ask - - -?---Craig.

Every time what?---Not every time, every time. If something, like, signed a lease or something about cancel or something about - - -

So were you looking into buying another property in Windsor, were you?  
---Not buying, no.

Leasing?---Leasing.

10 And you wanted to talk to Craig about it before you leased it?---Something like that. Which council, this one, or something like that.

What did you understand Mr Izzard meant at the bottom of page 3 when he said, "Yeah, but, listen, as I said, I look after that area there so should be all right. We all right there, you know"?---Probably was with the DA or something.

Is that a reference to Mr Izzard covering for you?---No.

20 Covering up your illegal dumping activities?---Mr Mack, wasn't illegal dumping. Wasn't. The place got DA. I told you that.

Well, why is he saying, "We're all right, you know," as in you and him?  
---Probably was the DA or something. Something like that. But it's not relating to the (not transcribable) or loads or anything.

30 On page 2, this is in relation to taking something to council, and you said, "I ring no-one. What I'm going to do, I'm going to get the lease done first, which is Monday morning. Then I go to council myself. No need to ring them. I'll go there. Okay, righto. Okay." Then Mr Izzard says, "I'm going to spin past there later on this afternoon, because I'm going to try and see if the boss is there, just to get, I won't say too much. I'll just say, you know, I'll just ask him what the story is and how the stuff is." Who was Mr Izzard's boss?---Well, he mentioned that, but I don't know, to be honest.

You don't know who the boss was? Did you understand that as a reference to someone at Blacktown Council?---No, at the time we were talking about the, to get an application and which one we're going to pick up, which the right one to (not transcribable).

40 So is that comment a reference to Mr Izzard having a boss in Blacktown Council? Is that how you understood it?---Yeah.

Why didn't you want Mr Izzard to see the boss in Blacktown Council until after you'd signed the lease? I'll put that another way. Why did you want to sign the lease first before Mr Izzard went to the council?---Because we have to take the place first.

I'll play you another phone call now, from 6 October, 2015. It's Mr Izzard calling you. It's call 7-9-7.

**AUDIO RECORDING PLAYED**

**[2.33pm]**

10 MR MACK: Did you ever tell Mr McVay that you were going to start dumping over, or up to 2,000 loads of soil at the Bandon Road yard?---Mr who?

Mr McVay, Angus McVay.---No.

No. Did you tell - - -?---We – he – we spoke about it but I didn't mention 2,000.

Why not?---Because I didn't.

20 How much – how many did you mention?---I said I'm going to bring some loads here and fix the place. He said no problem. Then we said we're going to start doing - - -

Sorry, you really have to – it's important that - - -.---Then I said we're going to start doing skip bin, maybe bring some rubbish here. He said whatever. Even my brother said probably it's going to be a mountain.

30 Your brother said it was going to be a mountain?---Yeah, for Angus. He said as long as you take responsibility for it no problem. And that's every yard do that.

But you needed a development application before you started - - -.---Yes.

- - - bringing in loads and you're talking to Mr Izzard here on 6/10 and at that stage you didn't have a development application but you're still going to bring in loads. Is that correct?---Yeah, loads to level the place.

Yes. But you didn't have approval to do that did you?---But the owner have.

40 You didn't have approval from council did you?---The owner have approval from the council.

The owner had approval from council did they?---Yeah.

How do you know that?---He told me.

Well if he had approval from council why did you need Craig's help in relation to the development application?---The application was for a skip

bin business not delivering. And the words 2,000 that mean like just the words.

They're just words are they?---Yeah. With this place I'm - - -

So what did you really mean when you said 2,000?---Four thousand square metres doesn't fit even a 1,000 loads, not 2,000. Just the words to say, you know, like a million times. I call you a million times, it doesn't mean I call a million times.

10

So what did you mean by 2,000 loads? Did you mean 4,000 loads?---Like if I call my brother, for example, he doesn't answer, I see him I say, I call you a million times, you didn't answer. It doesn't mean I called him a million times. Because if you take a look at it the place doesn't fit 2,000 loads.

Well I'm going to play you a few calls in relation to what type of loads did go in there?---Yep.

Play you call 1-7-4-9 from 23 November.

20

**AUDIO RECORDING PLAYED**

**[2.43pm]**

MR MACK: So you were quite happy to let people dump asbestos at Bandon Road yard weren't you?---Pieces of asbestos.

Pieces of asbestos, that was perfectly acceptable in your view?---Yeah, if they were (not transcribable) or not.

30

Who was Larry?---I don't know. A guy who's got a truck. I don't know his surname.

I'll play you another call from 4 December, 2015. Call 3-7-6-0.

**AUDIO RECORDING PLAYED**

**[2.45pm]**

40 MR MACK: Why didn't you want to take a cheque?---Has it got something to do with what we're here for?

Sorry?---I don't know. I just said I don't want a cheque.

It has got something to do with what we're here for. The Commission is making inquiries into the operations at Bandon Road yard.---Okay. Sorry for that.

So why didn't you take a cheque?---Because I don't know the guy. It was first time.

It was Joe's first time was it?---A lot of people think every cheque, you know, cheque bounce and never show up again.

He was going to transfer it to your account though.---Transfer?

10 Yeah.---See if you don't know the guy you don't trust if he's going to transfer or give a cheque. It's still the same.

He'd already – Joe had already dumped material at Bandon yard at that time so you trusted him enough to give him some credit.---Well, he's been introduced to me by someone I know.

Is that George?---George, yeah.

20 Did you ever take any cheques or bank transfers for Bandon Road?---Yeah. Too many.

Yes?---Yes.

So you would accept payment by Internet transfer for people - - ?---Yes, from people I know.

From people you know. Well, at the start, at page 1 of this transcript at the bottom of the page you say you're not interested in clean fill. Why not? ---Yes, I said that.

30 Why weren't you interested in clean fill if you were just levelling off your yard?---Because when – no, nearly finished levelling. A clean fill dam no good. Too level. You need something with hard stuff in it.

You can't charge as much for clean fill though can you?---Yes.

You can charge as much?---No, you're right, you can't.

So it was in your interest to take dirty loads. That's correct?---Yeah, true.

40 There's discussion of GST in this conversation. Did you charge anybody GST when they tipped at Bandon Road yard?---Well, if you're going to give me a cheque I have to charge you GST don't I because I have to pay the - - -

If they paid in cash would you charge them GST?---Excuse me?

If they paid in cash would you charge GST?---No.

No. Would you report any of the money that you received – I withdraw that. I'll play you another phone call from 10 December, 2015. It's phone call 4-7-6-1.

**AUDIO RECORDING PLAYED**

**[2.54pm]**

10 THE WITNESS: It was the same guy from yesterday.

MR MACK: Same guy that you said four or five thousand dollars to yesterday?---Yeah, that's the one, yeah.

So it's fifteen hundred?---Just to get rid of him.

So 1,500 was still exaggeration?---Yeah, if you've got, like, one load dirt or some piece of asbestos in it, just a few, yeah, it's too much for it.

20 It's still - - -?---Fifteen hundred is too much for it, yeah.

Too much for it. Are you aware that even small parts of asbestos can be very dangerous to someone's health?---Yes.

And are you aware that asbestos dust can travel from one property to another property?---No, not really.

30 No.---But that's if we say truckloads of asbestos. But a couple of pieces, every load's got a couple of pieces. Not even one load in the world clean hundred per cent.

Have you ever taken a truckload of asbestos?---No.

Why not?---No way.

Why not?---It's too dangerous.

So how much asbestos – when does it become too dangerous?---It's plenty of them, a truckload, half a truck, something like that.

40 I'll take you to phone call 4-9-3-2 from 11 December.

**AUDIO RECORDING PLAYED**

**[2.58pm]**

MR MACK: Can you recall that conversation?---Yes.

Well, when the caller says, “Yes, they are coming back after one load of topsoil, now today they have dumped three truck and dog asbestos and one bogie asbestos” - - -?---Ah hmm.

- - - does that mean that the truck and dog was full of asbestos?---No.

Well - - -?---It means it’s got some pieces of it. That’s why, how you say, asbestos.

10 So if it’s got little bits of asbestos in it you refer to it as asbestos?---Yeah, yeah, asbestos.

Why do they have to tell you that?---Just for the record.

Because you charge more for asbestos?---Yeah.

Does it cost more to dump it at other places, is that why?---Of course. It costs a lot of money to dumping - - -

20 Why do you think it costs a lot of money?---Because it’s asbestos. That’s how they do it.

Because why?---Because how they do it.

Because of how they dispose of it?---No, because asbestos it’s big money. Everybody knows that.

Do you know why it costs a lot of money to dump asbestos?---Correct.

30 You do know why? Because it’s dangerous?---It dangerous, yes.

And you know that there are certain laws and regulations relating to asbestos?---Not really.

About how you can dump it?---It doesn’t – you don’t have to dump it like under the ground, just if you do it they would have, no problem.

Sorry?---But I agree I took some loads that’s got asbestos on it, which is - - -

40 Do you accept that you shouldn’t have taken loads of asbestos?---I shouldn’t, yes.

Because it’s against the law?---Against the law, yeah. And I will clean the place up.

You’re going to clean the place up?---Yes.

When are you going to clean the place up?---Well I spoke to the EPA yesterday, we're having meeting with them soon?

And how do you propose to clean it up? You're just going to take the material - -?---The people who bring the stuff they should take it back.

So you've got records of everybody that came?---Yes, of course.

10 Are you going to give them their money back?---I'm going to give them the money back?

Are you going to give them their money back?---Yeah, I'm going to help, yeah.

Do you still have that money?---Sort of.

What do you mean by sort of?---Not all of it. No, I didn't make millions.

20 Well you made hundreds of thousands?---Yeah, 107,000 all up.

\$107,000 all up that's all you made?---Yes.

You said before in the previous conversation that you accepted cheques from George for hundreds of thousands?---Just saying.

Just saying?---I say, if I know you I'll accept cheque for a million dollars. That's the words.

30 And you say you only made \$107,000?---Yeah.

How much – did you have to pay any of that to anybody else?---Like who?

Mr Izzard?---No.

Did you pay any of it to Mr Izzard?---No.

Did, did your brother make money in addition to the \$107,000 you made? ---No, no. All of us.

40 All of us together?---Yeah. (not transcribable) belong to my brother in the first place, anyway.

Do you recall me telling you yesterday that Mr McVay told the Commission it's going to cost \$9M to clean up?---Well he can say whatever. It's not his problem anyway. If I get the permission from the EPA for cleaning up we'll clean it up. And they can come up and check.

Do you recall in evidence yesterday a phone call between yourself and Mr Izzard and Mr Izzard mentioned somebody by the name of Roy Ykmour?  
---Roy, yeah.

Roy – do you know Roy?---Yeah, I know Roy.

Have you met him before?---Yes.

10 How do you know Roy?---Well he bought a machine off me.

Right. Have you ever spoken to Roy?---What do you mean, like - - -

On the phone?---Probably.

Do you know if – have you ever spoken to Mr Izzard about Roy?---I think so.

Do you know if Mr Izzard’s ever called Roy?---Mr Izzard what, sorry?

20 Do you know if Mr Izzard’s ever called Roy?---I think so.

You think so. Can you recall being with Mr Izzard when he called Roy?  
---Not really.

Do you recall having a conversation with Mr Izzard about Roy moving to a place at Prestons?---No.

Do you recall or did you tell Mr Izzard to call Roy?---I did.

30 And did Mr Izzard do that?---I think so.

Can you recall if there was much time between the time when you told Mr Izzard – did you do it on the spot is what I’m asking you?---I don’t really remember.

Can you recall being in the same room as Mr Izzard when he called Roy?---I’m not sure, honestly.

40 Not sure. Well I’ll play you a call and see if it refreshes your memory and see if you’ve heard Mr Izzard say these words before. This is a call between Mr Izzard and Roy Ykmour on 18 December, 2015. And it’s call 3473.

**AUDIO RECORDING PLAYED**

**[3.10pm]**

MR MACK: Have you heard Mr Izzard have that conversation before?---I don’t think so.

You don't think so?---I'm not sure.

Is it possible?---Possible.

Do you remember – does that refresh your memory about the types of conversation you were having with Mr Izzard about Roy?---Roy, yeah. Yeah.

10 And what did you discuss?---Probably was, probably about the DA or something.

So it's possible that you were with Mr Izzard when that phone call was made?---Honestly, I don't remember.

You don't remember. I'm going to take you to a call from the day before on 17<sup>th</sup> of the 12<sup>th</sup>, 2015. This call is already in evidence. Part of Exhibit 27. And it's call 5998.

20

**AUDIO RECORDING PLAYED**

**[3.20pm]**

THE WITNESS: I heard that conversation. I heard it before.

MR MACK: You said you've heard this before?---Yeah.

Were you in court when it was played were you?---Yes.

30 Well, what did you mean by, "Anyway Craig's weekly payment, Craig's weekly payment is on you. It's \$2,000 this week you understand"?---Okay, I'll tell you. This guy was my nephew.

This guy was what?---My nephew.

Yes.---Most of the time he doesn't pay - - -

Right.--- - - - for his loads so I make it up just to get the money off him, that I'm paying the council guy.

40

That's a lie isn't it?---It's not a lie. That's what happened.

Why did you use Craig's name?---Because Craig is the one who come to the farm all the time.

Craig's the one that comes to the farm?---He's the one who come to the farm all the time but honestly that's the truth. Craig didn't get any money off me for this one.

So you told your nephew that you needed \$2,000 - - -.---To pay Craig.

- - - to pay Craig?---Yes. Just I make, I make it up to get the money.

Why didn't you say you owe me \$2,000, please give me \$2,000?---Because I, I said to them it's – without Craig we can't operate.

Without Craig you can't operate?---Yes. That's the truth, Mr Mack.

10

So you were lying to your nephew Atef?---Both of them, not only one. My other nephew as well.

Mohamad?---Yeah.

You were lying to both of them, that's – you want the Commission to believe?---Well, that's the truth because did I give Craig eight phones or something? Yes, I did. Did I give firewood? Yes, I did. But money I didn't give him for this one or try to get money from other people yes, but  
20 for this one no. That's the truth, Mr Mack, and you've got to believe me.

ASSISTANT COMMISSIONER: Why did you say that without Craig you couldn't operate?---That's why I make them understand, Your Honour.

But why, why couldn't you operate without Craig?---Because you have to say – come up with a reason so they can make them believe because we – at the time no DA for us and whatever we're bringing there it's dirty loads and stuff. They knew because they're in the game. They're in the industry.

30 MR MACK: So did you need Craig to operate?---Operate?

Yeah. Was that a lie or did you need Craig?---(No Audible Reply)

You said you told them you needed Craig to operate.---I said without Craig we can't operate. That mean we can't work, we can't bring any loads. Not operate the machine or - - -

Yeah, I understand.---Yeah.

40 But is that in fact true or is that just what you told to your nephews?---I just told my nephews and half of it in my opinion is true, half of it.

So why did, why did you refer to it as a weekly payment?---That's what I said to them.

Yes, why a weekly payment?---What else I'm going to say?

Well I want \$2,000, you owe me \$2,000, can I have \$2,000, please?---  
They're my nephews, we're families and they - - -

So you lie to your family?---Sorry?

You lie to your family?---Yes.

Why didn't you just ask them for \$2,000?---They won't give you.

10 Well would they give it to you if you said - - -?---Yeah, if I said - - -

If you said monthly payment would they give it to you?---Monthly?

Yeah?---I never said monthly.

20 Well that's what I – if you said monthly what would their reaction be?---No,  
no, it doesn't matter what you said, monthly or weekly or what, the problem  
is they, they, because we're family they, they won't pay. If they pay, they  
dump 10 loads they pay for one. I make them understand which is  
something spent on this one because the rent which eight thousand  
something, we've got this guy here, this guy there. Things like that.

So they knew who, so they knew who Craig was though didn't they?  
---Sorry?

Atef must have known who Craig was?---Yeah, of course.

30 But do you know why he told the Commission he didn't know who Craig  
was?---I didn't know. Sorry, can you repeat the question?

Do you know why Atef told the Commission that he didn't know who Craig  
was?---Atef?

Yes?---Yeah, he knows.

Well he – that's not what his evidence to the Commission was?---Yeah, I  
was here I heard that.

40 He said he didn't know the guy?---Yeah, he knows Craig, but he never  
spoken to him over me, hi, bye.

Did you speak to Atef before he gave his evidence?---Never. I have spoke  
to him for the last five months.

So he's lying is he when he says he doesn't know Craig?---Probably. No,  
he does know Craig, but he doesn't know him in person, he never spoke to  
him or anything. And the reason I haven't spoke to him for long time, all of  
them were upset with me because of this.

Does Mohamad know Craig?---Yeah. Like Atef, hi, bye. That's it.

Because he's out at Bandon Road yard, is that why?---Yeah, that's right.

And why is he out at Bandon Road yard so often?---Mohamad?

Yeah?---He dumped there.

10 What about Atef?---He dump as well.

Did you charge them?---I told you, not for the whole loads. I try to get whatever I can from them.

Commissioner, we're just sorting out a technical issue. This his phone call 3-4-7-1 from 18 December.

**AUDIO RECORDING PLAYED**

**[3.28pm]**

20

MR MACK: So that's the call from 18 December, 3-4-7-1. Mr Izzard says, "Who's the car there?" And you say, "It's the shed, the office guy". Who's the office guy?---Well it was going to be the shed.

At Bandon Road?---Yes. And this guy from this company.

So Mr Izzard was at Bandon Road?---Yeah, he was.

30 On 18 December?---Yeah, he called me and said who's this car, I said it's the shed guy.

Do you know what he was doing there?---Probably just (not transcribable)

Well this call was made at 13 past 12.00 and the next call, well the call that I played you before to Ykmour was made 20 minutes later by Mr Izzard.

Does that refresh your memory about - - -?---Yes, yes.

40 Can you recall if Mr Izzard made the phone call to Mr - - -?---I think yeah, he made the call from the yard, yeah.

Can you recall what you discussed with him immediately prior - - -?---Just, just the guy (not transcribable) DA.

So on the 17<sup>th</sup> of the 12<sup>th</sup>, this is the call I just played you before with Atef. You say "Craig's weekly payment, Craig's payment is on you, it's \$2,000 this week, you understand"? And then say "At half past 8.00 he's going to

be here at the farm in the morning so you have to fix it now". So you're telling Atef, on the 17<sup>th</sup> - - -?---To get the money.

Because Craig's going to be there the next day?---No.

10 I'll take you to Exhibit 24. I won't play you the audio you've already heard it. I'll just show you the transcript. And this is transcript 6020. This is a call between you and your nephew, Mohamad. And down the bottom of page 2 on 17 December at 8.00pm you say "Craig wants \$2,000 at half past 8.00 where am I going to get it to him from"? And Mohamad says, "How do I know where to get it from"? And you've said to two people now on the 17<sup>th</sup> that Craig needs some money. You said to - - -?---Atef.

- - - Atef that you needed it at 8.30 in the morning because Craig's coming past and you've told Mohamad you needed it at 8.30?---That's right.

I'm going to take you through what happens on 18 December then. On 18 December at 11.38 you ring Atef, this is Exhibit 27, transcript 6096.

20 ASSISTANT COMMISSIONER: Were you telling Mohamad that you needed the \$2,000 for Craig because Mohamad owed you money as well?---That's right, your Honour.

It's the same reason?---Yeah. Same reason. Yeah. Both of my nephews they never pay.

MR MACK: And so 11.38 on 18 December, you say to Atef, "Did I tell you we have to pay the man's weekly payment today"?---Ah hmm.

30 No reference of \$2,000 just reference to a man's weekly payment. Do you see that?---Yes.

And then you say, "Well, there's something, and you can see here that nothing is happening. Very quiet, very quiet, like, there is no-one and no-one is coming here at 2 o'clock or 3 o'clock to take his weekly payment." There's no mention here of how much money you want from Atef. It's in relation to a weekly payment.---Weekly payment.

40 Yeah, a weekly payment.---That mean if he owes me money, then I have to say anything to get the money.

Well, over the page, at page 2, it says, "Our agreement with him is that every Friday he comes and takes \$2,000 and leaves."---Ah hmm.

"This week is on you. It's not the cost of your loads or anything. Anyway, the main thing is that the man has to take his weekly payment now, and I don't have any, and the other one with the gut is asleep. I don't talk to him and the work is dead. You can see that with your own eyes." So every

week there's an agreement that you'd pay somebody \$2,000. That's the case, isn't it?---Wasn't agreement, Mr Mack.

It's a drink. Every Friday you had to give a drink to Mr Izzard, didn't you?  
---No, no, no. Wasn't agreement. That's what I said to my nephews, to my cousins. That's what I said. I make them believe that just to get the money. Because each of them we are dumping, \$10, \$15 every week, and never pay. And I'm not lying about this one and I don't have to lie, because I admit it that I gave Craig something, so - - -

10

What did you give Craig?---The phones, firewood, rubbish, here and there.

And you also said yesterday that if Mr - - ----We try to get money from Mr Beydoun, yeah, me and him.

You tried to get money from him?---Yes.

But he didn't get any because - - -?---He didn't get any because it didn't work.

20

Well, how much were you going to give him if it did work?---Probably four or five thousand.

Four or five thousand?---Yes.

50/50? Is that how it works?---Why not? I was going to give, I didn't say that clearly for him and he never ask.

30

But that's - your evidence was that that was his understanding, though.---Of course. No-one is stupid.

So if you had have turned around and just given him \$1,000, what would have happened?---I can't comment on this because it never happened.

On 17 December, you tell Atef and Mohamad that they need to produce some money for 18 December because Craig's coming for his weekly payment. And what happens on 18 December? Craig comes around, doesn't he?---Craig comes around all the time, Mr Mack.

40

What happened when Craig came around? He called Roy and then what happened?---I don't remember him calling this guy. They said something after Christmas or - - -

So what happened when Craig left?---I don't really remember.

All right. Maybe this will refresh your memory.---Okay.

This is at 12.42. It's phone call 6-1-1-7 from 18 December.

**AUDIO RECORDING PLAYED**

**[3.41pm]**

MR MACK: So you're telling Mohamad to call Craig aren't you?---Yeah.

Why?---But I don't know why. Seriously I don't remember this call.  
Probably I, I mean Fred not Craig.

10 Who did you want to call Craig?---No, I want Mohamad to call Fred but  
probably I said Craig accidentally or something.

You wanted Mohamad to pay Craig didn't you?---No, no.

Because you didn't have any money for Craig when he arrived on  
18 December.---No, no. No, Mr Mack, no. If you play the things again I'm  
– if you read it again you'll know that accidentally I said Craig. Mohamad  
doesn't know how to speak English even. How he's going to talk to Craig?  
Probably accidentally I said - - -

20 Well, you said, "Craig is here and I spoke with that Fred".---Yeah.

You mentioned two people.---Yeah, that's it, that's it. Yeah, Fred.

So Fred is here?---Who, Fred?

All right. I'll take you back to the transcript.---Okay.

30 Page 1, "Hello Craig. Craig is here. Hello. Yes. Craig is here and I spoke  
with that Fred and he said yes to me and now I am calling him and he's not  
answering the phone". Was Fred going to pay Craig?---No, no. No.

And then Mohamad says, "Did you tell him send me \$2,000?" What's that  
a reference to?---Mohamad said. Well, he was asking if - - -

Do you need to listen to the call again?---No, no, no. Just when I said  
2,000, like I said before Mohamad always doesn't pay. Probably was - - -

40 Craig is there or he's just been there and you're talking about Craig - - -  
---Probably - - -

- - - to Mohamad.---No, no, no. Probably I was just – I make it up just to –  
it was a promise to get money or something. I'm not sure. But believe me  
Mohamad has got nothing to do with Craig and he doesn't, doesn't know  
even how to speak English.

I'm going to play you a call, it's already been exhibited, Exhibit 27. Call  
6121. I'm just going to show you the transcript from this call. If you need  
to listen to it let me know?---Yeah.

But this is at 1.23 on 18 December. "Hello I'm still waiting for the man from work. He's not giving me the money he said to me". And then you say "Atef, the man who's going to be here at 3 o'clock"? And then Atef says "But yesterday I had 10,000 and I don't have a cent now". Then you say "Listen". Atef says, "Yeah. The man is going to be here at 3 o'clock. Can you bring me \$2,000, can't you"? So Craig arrives and then leaves and then you call Atef telling him that Craig's going to be back at 3.00pm for some more money. Do you recall if Craig came back at 3.00pm?---No. That was only excuses, Mr Mack. (not transcribable) the other one, my nephew's just to get the money. I used to call and say that every, nearly every day to them.

Did you ever arrange for Mr Izzard to have a massage?---Massage?

Massage?---I'm not sure. We spoke a lot about a lot of things but I don't remember this one.

Is massage a code for anything?---Massage what?  
20

Is massage a code word?---No, no.

Was Mr Izzard covering for you at Bandon Road yard by letting you tip material when you shouldn't have been?---Not straightforward, no.

All right. I'll play you a call from 29 October, 2015?---Okay.

Call 1548?---Is that in Arabic or something?

30 No, it's in English?---Okay.

Between you and Mr Izzard.

**AUDIO RECORDING PLAYED**

**[3.50pm]**

40 MR MACK: Did you ever go out for a massage with Mr Izzard?---No with him.

You didn't?---No. We just talking about.

Sorry?---We're just talking.

You're just talking. You're smiling at the moment. Why are you smiling?  
---I don't know.

Did you use to go out for massages together?---No, never happen.

You didn't arrange for a massage for Mr Izzard?---I did once but we didn't go for some reason.

When did you arrange for that to happen? Was it around at the time of this?---Yeah, something like that, yeah.

Were you going to pay for it?---Of course.

10 You were going to pay for a massage for Mr Izzard?---Yes.

Why?---Because we're friends, we looking after each other. What do you want me to say?

Sorry?---What do you want me to say anything in particular. I want you to say the truth. I want you to tell me now - - -That's the truth, yeah.

20 - - - why did Mr Izzard pretend that he'd been out to your place? This is page 2 of the phone call. Mr Izzard says, "Yeah, we, we got a phone, I got a phone call from the bloke from council to say that, to have a look at the increased trucks in Bandon Road". And you say, "Okay." And then he says, "Yes, so he sent me, he sent it to me so I pretended that I've gone out there and I've told him I've had a look at it"?---Yeah, he used to say that - - -

Why did he have to pretend that he'd been out there?---(No Audible Reply).

He was covering for you wasn't he?---Yeah, in real life, yes.

30 In real life he was covering for you?---But not like taking money (not transcribable)

Just the occasional he'd expect you to pay for a massage?---Something like that.

And he'd expect you to get iPhone's for him?---Yes.

40 And by covering you understand that what Mr Izzard was doing was illegal?---It was illegal because - - -

He was covering up for you.---Mr Mack, it wasn't illegal because you're not allowed to bring or do any earthwork on this place, no. Illegal because it was a - it wasn't good stuff, I mean clean stuff. That's it.

Mr Izzard was covering for you when he shouldn't have been.---Covering for me like if I (not transcribable)

He wasn't, he wasn't investigating the material you were bringing onto the property was he?---No, was actually.

He was investigating?---Most of the time, yeah, but I never left anything not clean on, on the top. I used to cover all the time.

But he says he - - -?---But - - -

10 - - - he pretended he went out there and by covering – sorry, let's be clear about the language I'm using. I don't mean covering as in physically covering.---Yes, yes, I know what it mean.

I mean he's got your back so you don't get in trouble.---You're right.

That's what he was doing wasn't he?---Yes.

20 He was making sure that you weren't getting investigated for bringing that material onto the Bandon Road yard.---Well, he can't, he can't stop that. If, if the council wants to come and investigate the place he can't stop them. His job just to check on stuff, if any dirty stuff or any – something like that.

He's in charge of that area.---Yes, he is.

So if somebody else had a complaint he could ring them up and say that's my area. Do you understand that?---Yes.

Do you understand that that type of behaviour from someone in Mr Izzard's position is wrong?---(not transcribable)

30 It's improper.---Yes.

You appreciate that?---Appreciate what?

You appreciate that what Mr Izzard was doing was improper?---Can you say it in a different way please.

What Mr Izzard was doing was not proper was it?---No.

40 It wasn't proper. You're agreeing with me?---I agree with you.

And he was exposing himself to a lot of trouble by doing it wasn't he?  
---Well, he knows better

Sorry?---I said he knows better.

He knows better. He knows better - - -?---Better than me I mean.

Mr Izzard was in charge of investigating tipping at Bandon Road yard. You and him both knew that you were taking material in there that wasn't approved didn't you, you both knew that?---From my side I think it was, it was illegal because you're not allowed to bring dirty material to the, to the place or - - -

Do you think Fred would have let you bring that material in?---Who?

10 Frank, sorry. Do you think Frank would have let you bring that material in?---Who is Frank?

Frank, the other council guy you knew.---No.

Do you think Serge would have let you do it?---No.

But Craig did.---But he doesn't know about it. Only maybe last - - -

If Frank knew about it would have he let you do it?---I don't know.

20 Would have Serge let you do it?---I don't know. I guess not.

So anybody in council would have let you bring that material on?---I don't think so.

You and Mr Izzard had a special relationship didn't you?---Special, what do you mean by special?

30 Well, he would give you favours by pretending that he'd gone out to investigate Bandon Road yard when in fact he hadn't investigated Bandon Road yard.---That's the only time we spoke about this. He mentioned something about increasing truck on Bandon Road and - - -

He said he pretended that he went out there. So he's telling somebody else in council who is concerned about all of the dumping at Bandon Road yard, he's telling them that he's gone out there and he's investigating it when he's not.---That's what he said but I'm not sure if he does that.

40 He's pretending to do, he's pretending to do his job. That's what he says isn't it?---Yes. That's what he says, yes.

So he's not doing his job he's pretending to do it.---Yeah.

Do you understand that there might be some problems associated with doing - pretending to do your job?---Yes.

And you might get in trouble for pretending to do your job?---I agree with you.

Why would Mr Izzard expose himself to get into all of that kind of trouble for no return, for a massage and an iPhone, there's something else in it isn't there?---No, not for this here.

He needed a weekly payment from you, didn't he?---No, Mr Mack. He didn't take any money from me. But we were doing something, like this guy, Beydoun guy or other guy or something like that. But he never asked for this money, he asked for iPhone, yes. Asked for favours, yes. Asked for rubbish removed, yes.

10

Massages?---Massages as well.

And that's all he wanted in return for exposing himself to all of this trouble he could be in. It's pretty generous, isn't it?---Mr Mack, we have been there for maybe three months or less maybe and then that's it. We haven't been there for years like. And all I was telling Craig, I'm doing - - -

Well you made \$107,000 in three months, that's a fair amount of money, isn't it?---Yes.

20

If you did that over a year you'd make almost half a million bucks?---That's right.

So you can make a lot of money very quickly, can't you?---Yeah.

So it makes sense if somebody is pretending to do their job?---But as I said to you it's, it's not a farm and not you dump it on the road. It's a yard and it's got DA.

30 It doesn't have a DA?---It does, sir.

It does not?---Angus said it does have DA.

Angus didn't say that, you're just making that up so you can blame Angus, aren't you?---No. No. He said - - -

You agreed to blame Angus for all of this, didn't you?---He said that, he said that to me and to my brother and to my son (not transcribable).

40 You're making that up. He never said that - - -?---Angus - - -

- - - and you agreed with Craig to blame Angus if any of this ever came to light, didn't you?---Angus said to the three of us he had DA for the place. That's what he said.

Did you agree with Mr Izzard to blame Angus in case you ever got in any trouble?---No.

Think about that answer carefully. Did you ever have a discussion with Mr Izzard about blaming Angus if this ever came to light?---Okay, Mr Mack, you're asking me a question, I'm going to ask you a question can I?

No, you can answer that question. Did you ever have a discussion - - -?  
---Before I answer that – we'll get to that, just let me ask you a question.  
(not transcribable) that's it.

10 I'm not answering your question. Answer my question first?---Okay.

Did you ever have a conversation with Mr Izzard about blaming Angus for the illegal dumping at Bandon Road yard?---No.

No?---If, if Angus not happy with that why he didn't come and stop, stop us. And he used to come to the yard every two, three days maximum. Just that's the question, my question, just if you're not happy why he didn't stop us? Easy to say stop, that's it. He said do whatever as long as I get a (not transcribable) from the council.

20 Commissioner, there's – I note the time, I am at a certain point where I can keep going for another ten minutes or resume tomorrow. I'm in the Commission's hands.

ASSISTANT COMMISSIONER: Well in ten, well that probably won't finish Mr Kabite - - -

MR MACK: No, I'll, I'll leave it - - -

30 - - - in any event because he'll need to be cross-examined. If we could have finished for you this afternoon Mr Kabite, I'd sit until 10 past 4.00, but there's no point because you're going to have to come back to be cross-examined?---No worries.

40 Can you just explain this to me while we're talking about Bandon Road and talking about this issue of what should and shouldn't be there and you've, you have been frank about saying that there's been illegal material put there, dirty material. Can you tell me what the dirty material is? What is dirty material?---Dirty material it's like a dirt mixed with brick and some maybe roof tile or plastic or something like that.

So dirt mixed with anything solid like - - -?---Anything solid, yes.

So a truck load of concrete for example, broken up concrete?---Yes, yes, yes.

That would be dirty material?---Yes.

Okay. Thank you. We'll resume tomorrow at 10.00.

**THE WITNESS STOOD DOWN**

**[4.04pm]**

**AT 4.04PM THE MATTER WAS ADJOURNED ACCORDINGLY**

**[4.04PM]**