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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE REGINALD BLANCH AM QC

PUBLIC HEARING

OPERATION SCANIA

Reference: Operation E15/0978

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON THURSDAY 25 AUGUST, 2016

AT 2.00PM

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: You're back?---I'm back.

MR MACK: Commissioner, during the luncheon adjournment Mr Patterson indicated that he'd like Mr Bono recalled for the purposes of asking one question. I don't have a problem with that.

ASSISTANT COMMISSIONER: All right. Yes, certainly and you're still on the same oath.

10

<FRANK BONO, on former oath

[2.02pm]

MR PATTERSON: Thank you, Commissioner. With your leave perhaps too. Mr Bono, if you could have a look at paragraph 122 of your statement. If you could just read that to yourself. You see there where you say, "Izzard informed me that he had just attended 30 Belfield Avenue, Rossmore after his work colleague Eric Ryffel had received an anonymous complaint about illegal dumping"?---Yes.

20

I want to suggest to you that in fact it was Mr Izzard who received the complaint not Mr Ryffel?---What was told to me during that phone conversation was, I believe I wrote it in my notebook, Craig said to me that he received a phone call from Eric who received an anonymous phone call about a complaint.

Do you accept that you might be mistaken about that?---No.

30

I want to suggest to you that Mr – the conversation went something along these lines. Mr Izzard said, "Are you looking after this property"? And your answer was "Yes."?---Yes, that's correct.

And he then said, "Just letting you know me and another RID officer attended there for a report of waste and the landowner stated you rangers are looking after it"?---What are you asking me? I don't understand. Can you repeat it?

40

I'm putting to you that Mr Izzard said to you words to the effect, "Just letting you know me and another RID officer attended there for a report of waste and the landowner stated you rangers are looking after it"?---Craig did say that he attended that property.

Yes?---But he said that it was from an informant, a phone call from an informant to Eric and so he went out there with Eric. And yes, he did say that he spoke to Mr Kolovos and Mr Kolovos did say that the rangers have already been there.

I'm putting to you that the – what was said to you by Mr Izzard is as I just described to you?---Word for word I couldn't say 100 percent. But it was definitely that Eric received the anonymous phone call.

All right. Thank you. Nothing further.

ASSISTANT COMMISSIONER: Thank you. Anything arising? All right. Thank you. I think you can go now and I'd go quickly.---Thank you.

10

THE WITNESS EXCUSED

[2.05pm]

MR MACK: I call Antonio Barillaro.

ASSISTANT COMMISSIONER: Mr Barillaro, will you take an oath or an affirmation?

MR BARILLARO: Oath.

20

ASSISTANT COMMISSIONER: Thank you.

ASSISTANT COMMISSIONER: Mr Barillaro, in the course of being asked questions and answering it's possible that something may come up that would cause a problem for you as to either criminal or civil liability. I can make an order to protect you from that. Would you like me to make that order?---Yes.

10 Then 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.

20 **THEN 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**

30 ASSISTANT COMMISSIONER: That gives you the protection.---Thank you.

Thank you. Yes, Mr Mack.

MR MACK: Mr Barillaro, do you live at 100 Martin Road, Badgerys Creek?---Sorry, say that again.

40 Do you live at 100 Martin Road, Badgerys Creek?---110.

110?---That's correct. No, I don't.

So you don't – you currently live at 110 Martins Road and do you have an interest in 100 Martin Road, Badgerys Creek?---Yes, I do.

And what's that interest?---Own the property.

Right. And when you say you own the property, do you own the property personally or does a company own the property?---The company trust owns it.

And what is that company called?---Marbar.

Marbar. And you're a – you own Marbar?---Director.

That's correct, sorry?---Director.

10

I'm going to show you a picture of a different property. This property is 405 Willowdene Avenue, Luddenham. It will come up on the screen in a second. Do you recognise this picture and the property depicted in there if I tell you that the road is Willowdene Avenue?---Which property are you looking at?

See where the mouse cursor is?---Ah hmm.

20

That's the property I want you to identify. Are you familiar with that property?---The only reason because I own the property in front of it or next to it.

Next to it. All right. So where the mouse cursor is now there's what appears to be some black which could be tar around the house.---Concrete.

Concrete. All right. And you own that property?---I used to.

30

You used to. And what's the address of that property?---I think it's 395 Willowdene.

All right. And when you say you used to own it, did you used to own it personally or did - - -?---No.

- - - your company?---The company.

And the property next door I want you to assume is 405 Willowdene Avenue.---Ah hmm.

40

Do you know who lives at that property?---No, don't know who owns it.

All right. So you don't – how long did you live at that property for?---I'd say I'll be there for about five years, six years. I can't - - -

Between what period, when did you move out of there?---From 2005-2014 I think.

Okay. So that's nine years.---Yeah.

All right. And at any stage in that nine years did you meet maybe not the owner but somebody who occupied that house next door?---Yes.

Yes? And do you know what their names were?---Reuben, as far as I remember.

Reuben. And do you know if Reuben's surname was Matthews?---No, I don't.

10 All right. And you've been sitting in the back of the court today. Do you recognise anybody in this court room as Reuben?---Yes, I did.

Yes, okay. All right. When you moved out of that property, which you think was – I think you said it was 395 Willowdene?---I think. I can't remember exactly if it's 375 and 395.

Is there a reason for the confusion? Is there a lot next door that you had an interest in or you're just not sure?---No, no. Just - - -

20 All right. Did you move from there to 110 Martin Road?---Yes.

All right. And why did you move from - - -?---Sold.

You sold it. All right. And at the time you, and then did you purchase 110 Martin Road soon after you sold 395?---I can't remember exactly. And on the settlements it could have been.

All right. But did you purchase 110 Martin Road and 100 Martin Road at the same time?---No, no. No.

30 No.---I only owned 100 Martin Road. I lived at 110.

Okay. All right. And so when did you first buy 100 Martin Road?---2013, maybe 2014.

All right.---I can't recall exact dates of settlement.

All right. And have you lodged a development application in relation to 100 Martin Road?---Yes, I have.

40 And what were you seeking to achieve?---A warehouse, a shed. A garden shed. A shed.

Okay. And can you recall when you lodged that development application?---I'd say 2013.

All right. Was it long after you bought the - - -?---Yeah, once I purchased it, yes.

All right. Do you know Mr Craig Izzard?---Only by phone.

Only by phone. You've never met him face to face?---No, I haven't, actually. I thought I did, but I haven't.

When you say you thought you did - - -?---Mmm?

10 - - - what do you mean by that?---Just preceding that I actually may have seen him previously but only through TV.

All right. And do you know if Mr Izzard's ever been to your property at 100 Martin Road?---Yes, I do.

And do you know how many times he's been out to 100 Martin Road?---No, I don't.

Is it more than once?---I could only say once.

20 You can only say once. And do you know why he was out at 100 Martin?
---He perceived that I was doing illegal dumping.

All right. And do you know around about when he made that visit?---I'd say 2015. Between end of 2014 to 2015.

30 Can the witness be shown volume 7, page 7. And I'll just walk you through this document, Mr Barillaro. There's two emails. The first email is from Mr Izzard to Mr Bono. And it says, "Vince and I started on sit," and I assume that's meant to be site, "this morning in Martin Road at 6.00am to properties identified, one between 90 and 100, and also 140." And that's dated 26 November, 2014. Would around that time be when you think Mr Izzard went to your property. It's end of November 2014.---I can't recall the exact date.

Can't recall. Okay. If the witness can be shown page 11 of volume 7. If that could just zoom out. Do you recognise what's depicted in that photo?
---No.

40 No. All right. Can the witness be shown page 12. That photo?---No.

Page 13?---No.

14?---No.

15?---No.

16?---No.

17?---No.

18?---No. What's it referring to?

It's what I'm asking you, sir?---Oh, right.

If you, you don't recognise those photos? They're not photos of a property that you own?---Not that I know of, no.

10 And how do you know that Mr Izzard visited 100 Martin Road on one occasion?---Because I got a phone call from, I got a phone call from Craig, yeah.

A couple of phone calls?---No. I can only recall one.

All right. And what did to the best of your recollection, what did Mr Izzard say?---That was if I was proceeding to dump material on the site or illegal dumping and I said no it's not. I'm actually clearing the site as I've got a DA application for a garden shed or a warehouse or a factory. And all I've
20 done was scrape back the material and stockpile it.

All right. And what did Mr Izzard say in reply to that?---He said he doesn't, he doesn't believe that that was the case. And I said to him, do what you've got to do. I said, I've done nothing wrong. And that was it.

All right. Can I take you to – did you, were you in the court room this morning when Mr Bono gave his evidence?---I was here by about 11 o'clock.

30 11 o'clock. O.K. Well Mr Bono gave evidence earlier today of a conversation that he had with you and Mr Luna was also there. And do you know Mr Luna?---Yes, only by knowing him in the court room, yeah.

All right?---I've only met him once.

Okay. And how many times have you met Mr Bono?---Once.

Once. And if I suggested to you that that meeting occurred on 18 May, 2015 - - -?---Ah hmm.

40 - - - would that accord with your recollection?---Not the exact date but yeah, I did meet with him, yeah.

Okay. And do you recall then coming out to your property at 100 Martin Road?---Yes, I do.

And do you recall saying words to the effect of, "You guys aren't from the bloody RID squad are you"?---No. What I did say was, if they were part of the dumping police.

All right. And do you recall a reply to the effect of, No they're not part of the dumping police but they were in fact from council?---That's correct.

All right. And did you ask them if they were associated with Mr Izzard?---I can't recall. I may have at the beginning I thought they were part of the dumping police but they said no, they were from the council.

10 All right. And do you recall being agitated or angry at that conversation with Mr Luna and Mr Bono?---Agitated or angry? More like frustrated.

Frustrated. And why were you frustrated?---Because I had a DA sitting in council for the last, well I don't know how long, it'd had been more than six to eight months I presume where I've deemed to comply to all the, all the DA conditions and I still haven't got an actual approval for my, my shed.

All right. And why, why did you think you haven't got approval for that shed? First, before you answer that, when did you hear of the refusal to or when was the last you heard information about the Development
20 Application?---Look I can't recall exactly but it would have been I'd say a month before they came out. I made a phone call to council to ask the reason why I haven't had an approval and I can't remember if they said to me there's a reason being it's been reported for illegal dumping on my, on my property.

Right?---Which then I said well can I have someone come out and inspect the property and tell me where, what I have or what I've done wrong.

30 All right. And what was the reply to that request to have somebody come out to the property?---He said one of the council guys will come out and inspect it and see you.

All right. And did you think that it was Mr Izzard who had told the council that you had been illegally dumping at 100 Martins Road?---No, not at that time, no.

40 What time did you think that Mr Izzard had told the council about the illegal dumping?---It was only at the time of the meeting when I said to them, "Where did you get this report?" and they said from the dumping police.

All right. And when you said, "Where did you get this report?" - - -?--- Where did you get, you know, where did this information of my site being transactions of illegal dumping.

And what did they say?---They said that this had come from the dumping police.

All right. And did you then suspect that it might have been Mr Izzard who had reported your place for - - -?---Oh, yeah. I would have suspected it because he was the only one that I spoke to at the time.

And you were frustrated at this time of the conversation with the council officers? That was your evidence just before.---I was frustrated with the council, yeah, that they have made a decision.

10 All right. And do you recall saying words – do you recall describing Mr Izzard as a cunt to the - - -?---No.

No? You didn't use those words?---No.

Do you agree that having a conversation with Mr Bono and Mr Luna where you said you met Craig out the front of your property and Craig said, “I know you're bringing landfill in. If you give me ten grand, I can make it go away”?---No.

20 You don't recall having that - - -?---No.

- - - conversation at all?---No. Not in the words of money or anything of the sort.

30 All right. But do you recall Craig Izzard coming to your property and in exchange for making problems go away – sorry, I'll start that again. Do you recall Mr Izzard coming to your property and requesting money to make the problems go away?---I don't know about money, but he did say he could make it go away, and that's when I remember telling him, I shut him down straightaway and I said, “Do what you've got to do. I've done nothing wrong. Report it, whatever you've got to do.”

All right. And what did you understand Mr Izzard meant by “make it go away”?---I didn't want to actually think. I just hung up on him after that.

All right. Could it have been in reference to your development application? ---In what sense?

40 Well, if you were having problems with your development application, and that was a problem, Mr Izzard could make that problem go away in exchange for money.---Not that I know of, no.

All right. Was the problem illegal dumping that he could make go away? ---I didn't do any illegal dumping.

All right. In your opinion, did Mr Izzard solicit money from you in exchange for making a problem go away?---No. He did say he can make the problem go away, like I said before. And I just said to him, “Do what you've got to do, report it to the council, because I've done nothing wrong.”

Would you describe what Mr Izzard did as a bribe?---At the time of the conversation, possibly.

And this was a conversation you were having on the phone?---That's correct.

Around about late 2014? Is that an accurate description?---Honestly, I can't recall.

10

All right. So do you now consider it a bribe?---Sorry?

You said at the time you might have considered it a bribe, that he was after a bribe.---At that time, possibly, yeah.

Yes. And have you spoken to Mr Izzard since?---No.

And so you would still consider it a bribe. Is that correct?---No. At the time I possibly would have but not now.

20

And why don't you consider it a bribe now?---Because I just don't. There was no bribe.

All right. I just want to explore that a little bit more. Why did – at the time you considered it was a bribe but now you don't?---Well at the possibly I would have considered it as a bribe when he said to me make it go away.

All right. But you haven't spoken to him since then have you?---No.

30

So why do you not consider that he was trying to get you to bribe him?
---I've never thought of it until now, until you presented it to me.

All right. Commissioner, I have an application in relation to some previous evidence that Mr Barillaro has given and I ask that the suppression order be lifted in relation to just this point in time, page 9 of that compulsory examination held on 18 July, 2016.

ASSISTANT COMMISSIONER: Could I see it?

40

MR MACK: I'm requesting a variation to that suppression order under section 112 of the ICAC Act in relation to page 9 of that compulsory examination. And in particular lines zero to line 10.

ASSISTANT COMMISSIONER: Yes, well I'll lift the suppression order from line 39 on page 8 to line 10 on page 9. Do you need this back?

MR MACK: Yes, Commissioner. I might need to go through that process again, but for the time being that should suffice. Just waiting for that to

come up on the screen. Mr Barillaro, what you see on the screen - - -?---Ah
hmm.

- - - is a transcript of an examination that you attended on 18 July, 2016. I
wasn't present but as you know the Assistant Commissioner was present
and so was Mr Bartlett and you will see that at page 9 Mr Bartlett says to
you, "Is that the extent of the conversation"? And you say, "Yeah. That's
pretty much it. I was pretty, I was pretty pissed off." And then Mr Bartlett
10 says, "Mmm, you've just been hit up for a, a, sorry, yeah. To your mind
what was Mr Izzard doing in that conversation"? And you answered, "A
bribe." Do you see that?---No.

No. All right.---What line?

I'll take that, that you through that again. If you look at the screen at page
9. I'll just get the screen to zoom in a little bit. Page 9. And at the top of
page 9 there, can you see that there now or are you having trouble seeing
it?---Was it next to item 10, 20, 30?

20 At the top where it says Mr Bartlett.---Ah hmm. I don't know who
Mr Bartlett was, no.

All right. Well, there was somebody asking you – there was two – there
was three people in that - - -?---That's correct.

- - - compulsory examination. You recall that?---Yes.

One of them was you.---Ah hmm.

30 One of them was the Commissioner and one of them was somebody else
and what I'm suggesting to you is that that somebody else said to you, "Is
that the extent of your conversation?" And then you said, "Yeah, yeah,
that's pretty much it. I was pretty, I was pretty pissed off." And then
somebody says to you, "You've just been hit up for a ... ?" "Sorry, yeah."
And then the questioner says, "To your mind what was Mr, Mr Izzard doing
in that conversation?" And you say, "A bribe." Do you recall saying those
words?---Yes. Like I said - - -

All right.--- - - - at that time of my conversation.

40 You also just said that you haven't thought about it since the time of May,
2015 - - -.---Ah hmm.

- - - until today.---Oh, until these proceedings.

All right. So - - -.---Maybe July or what it may be.

All right. So is your evidence that when – this compulsory examination was held on 18 July, 2016.---Ah hmm.

Did you consider that what was on offer was a bribe from Mr Izzard, that's on 18 July, 2016?---The previous conversation in 2015?

Yes. At that time did you consider it a bribe?---Again, yes, at that time I did, yeah.

10 All right. Let's just be particular about the time. On 18 July, 2016 when you had this exchange with the Commissioner and Mr Bartlett, did you consider that on May, 2015 when you had a conversation with Mr Izzard - - -?---Yeah.

- - - that you were being offered a bribe, you were being asked to bribe Mr Izzard?---If I was going to bribe Mr Izzard?

Yes.---No, not me.

20 That you were being asked to bribe – sorry.---Not me.

Did Mr Izzard ask for a bribe when you spoke to him?---No. He come across and said he'd make it go away.

All right. And you considered that a bribe when he said that didn't you? ---At the time, yes, I did.

All right. And did you consider it a bribe on 18 July, 2016 which was - - -? ---No, I don't. I still, I still don't.

30 All right.---If you put it in the contents of 2015, yes, I do. If you put it now, no, I don't, but at the time like I said in my previous examination I was pissed off at the time and I would have considered it as a bribe.

All right. In your previous examination you also said that you met Mr Izzard once. Do you accept that?---Actually I, I don't. I didn't actually meet him.

40 All right. Do you accept that - - -?---I thought I did.

- - - on 18 July, 2016 that you told the Commissioner and Mr Bartlett that you did meet Mr Izzard. Do you accept that?---I accept saying that, yes, but it's incorrect.

All right. But your evidence now is that you never met him?---No. Looking at Mr Izzard, no, I've never met him.

And do you recall saying in your compulsory examination that you had in fact had two interactions with Mr Izzard?---Conversations, yes.

Two conversations?---Yeah, one for what happened at Willowdene.

All right. Can you explain – when I say two conversations, it was one conversation when at the time you thought - - -?---He was taking, yeah.

Taking a bribe.---Mmm.

10

Trying to get a bribe. And then there was a second time in relation to Willowdene, you just said. Is that correct?---Yes.

All right. And what happened on the second time?---The second time was at the time when I spoke to him about, like, 100 Martin Road. That was the second time. The previous time was at Willowdene.

All right. And on the second time was Mr Izzard, did you speak to Mr Izzard in person?---I can't recall.

20

So was it on the phone?---It was definitely on the phone, yes.

All right. And the first time was when he was at Willowdene or when you were at Willowdene?---I think when he was at Willowdene.

And where were you on the first time?---Working. Not sure where.

All right. And the first time is when the bribe occurred, is that correct?---No. That was the second conversation.

30

That was the second time, all right. Well, where were you working on the first time?---2015. That was last year. Would have been either at Greystanes on a job site.

Okay. So you can recall where you were when you - - -?---I have about four job sites. I'm presuming Greystanes.

Okay. But you can recall a conversation from Mr Izzard, and Mr Izzard identified that he was at a property in Willowdene, is that correct?---That's correct.

40

And do you know what property in Willowdene he was calling from?---He was talking about my property at 395.

Okay. And what did Mr Izzard say?---Again the same contents, that possible illegal dumping's being carried on. I said to him, "Do what you've got to do. I've done nothing wrong. Do the test, examinations and give me the test results so I can confer."

All right. And was a bribe offered in that conversation?---No, nothing was offered at all.

Are you sure about that?---Yes.

Did he ask you for money?---No, no.

10 Did he ask you for anything else besides money?---He asked if he can go on the site and I said by all means. He did mention that he was on the site at 405.

So he was on the site at 405. And was he telling you that he could see over to your property at 395? Is that the context of the conversation?--- Yes. Yeah, I'd say so, yeah.

All right. And - - -?---Because I had front gates on. They were locked. So, yeah.

20 And can you recall around what point in time this conversation took place? ---No, I can't. Honestly I can't.

Do you know how he got your phone number?---No, I don't. No, I don't.

I'm going to explore again with you the second conversation now.---Yeah.

When I say second conversation, you know what I'm referring to?---Yes.

30 The second time that Mr Izzard called you.---Yes, that's correct.

And he solicited a bribe from you. That's what I'm referring to. That's the second conversation. We can deal with the language in a second, but I want to now explore with you the second conversation. How long was there between the first conversation and the second conversation?---I'd say three months. I'm guessing three months. I had sold that property at the end of December. End of December 2014. That's correct, yeah. December. At the end of December 2014 I sold that property.

40 You sold 395 Willowdene?---The property at 395, yes.

And the second conversation was - - -?---When he was at 100 Martin Road.

All right. And when he rang you the second time, did he know that you'd changed addresses from - sorry, I'll start that again. When Mr Izzard spoke to you the second time, did he know that you no longer owned the property at 395 Willowdene?---I don't know.

Did he know that you'd submitted a Development Application on 100 Martin Road?---I wouldn't know if he knew.

You said earlier that you know Reuben?---Ah hmm.

And he was your neighbour when you lived at 395 Willowdene?---Yep.

10 And are you aware that Mr Bono gave evidence earlier today that when him and Mr Luna came to your property you told them that your neighbour had paid a bribe to Mr Izzard. Are you aware that he's given that evidence?
---No, not at all. I don't recall that. What I do recall is Reuben saying that the council were there or the dumping police or something in that vicinity, yeah, nothing in the, nothing in the contents of money was given. Not that I recall.

So you never recall Mr Matthews saying to you that he had paid Mr Izzard a bribe?---No, no. I don't recall that at all, no.

20 Have you ever heard rumours about Mr Izzard receiving bribes?---Mmm.
No, no I don't.

Never, never heard any rumours about Mr Izzard receiving bribes?---No, no.

All right. Had you ever heard anything through the grapevine that your neighbours had paid Mr Izzard money in the context of a bribe?---No.

30 All right. Commissioner, I have an application in relation to the balance of that compulsory examination transcript and I ask that the suppression order in relation to it be lifted for the whole of the transcript.

ASSISTANT COMMISSIONER: Can you be a bit more specific as to the reason for that?

MR MACK: Well there are numerous inconsistencies in the account that is being given today. And I can perhaps identify the particular lines for you, Commissioner.

ASSISTANT COMMISSIONER: Yes, if you wouldn't mind.

40 MR MACK: Page 6 about point 45, final line.

ASSISTANT COMMISSIONER: Yes.

MR MACK: And over the page to page 7.

ASSISTANT COMMISSIONER: Yes.

MR MACK: Followed down with particular emphasis at line 39.

ASSISTANT COMMISSIONER: Yes.

MR MACK: Over to page 8 with particular emphasis on the first line and the last three words, well final sentence.

ASSISTANT COMMISSIONER: Yes. Yes, I do make an order - - -

MR MACK: All right.

10

ASSISTANT COMMISSIONER: - - - at lifting the restriction

MR MACK: Mr Barillaro, what I'm about to do with you is traverse some previous evidence you gave because the evidence that you have just given is inconsistent with the evidence you've given previously.---Ah hmm.

20

And I need to know what your evidence is now and whether you stand by your previous evidence. So I'll ask that the witness first of all be shown page 6 of the CE transcript. And you will see on the screen there down towards the bottom of the page it says, "Well, has anyone". Can you see that on the left-hand side, "Well, has anyone"?---Yeah.

"I'll ask the question again, has anybody dumped landfill on your property at 100 Martin Road, Badgerys Creek?" And you say, "No".---Ah hmm.

30

And then you say, "Do you know a person called Craig Izzard?" And you said, "Met him once. Yes, I do." And then over the page the question is put to you, "Well, how do you know Mr Izzard?" And your answer is, "He approached me out to my site at 110 – at 100 Martin Road".---Ah hmm.

40

And then the question is, "What took place then?" "Was questioning about the material that was on site which I then went forward and explained to him that I have a DA, a DA approved for cut and fill where he presented it as if it was dumped material. I said you're more than welcome to take tests. Pretty much turned up and said if I pay a certain amount of money. I told him straight up no and told him to get off my site." Questions, "Have you met Mr Izzard prior to that occasion?" "No, not that I know of." Pausing there. When you gave evidence before that you never met Mr Izzard, and when I say before I mean earlier today, was that a truthful statement?---Yes. Looking at Mr Izzard now I don't recall actually meeting him.

Okay. Well, who was the person that approached you at 100 Martin Road and started questioning you about material onsite?---No, it was actually a conversation on the phone that I had with Mr Izzard. That's definite.

Okay. So you had the conversation on the phone?---Yes.

And is your evidence today that during that conversation he pretty much turned around and said if I pay a certain amount of money and I told him straight up no and told him to get off and told, and told him no?---I can't recall if he said an amount of money but he did say he'd make it go away where I've told him no.

Okay. And so when you said told him to get up, told him get off my site that couldn't have happened because he wasn't there. Is that correct?---No, he was there.

10

He was there. Okay.---From the phone conversation he was on my site.

Okay. All right. Can I take you now to page 7, line 44. How do you explain this evidence if you've never met Mr Izzard. And Mr Izzard attended onsite. Was he with anyone else? And you answered, "No." And you haven't met him before I take it (not transcribable) how did he introduce himself to you? And you said, "He introduced himself as Craig Izzard from the dumping police." And the question is, "From where, sorry?" And you said, "Craig Izzard from the dumping police." And then
20 you say, "Yeah, he handed over a business card. I don't have it." Do you recall meeting Mr Izzard and Mr Izzard handing you a business card?---(No Audible Reply)

ASSISTANT COMMISSIONER: Mr Barillaro, can I just remind you that, as I think I did during the course of the hearing previously - - ----Yeah.

- - - that you can be prosecuted for perjury arising out of the previous matter as - well, for this matter. We want you to simply be frank and truthful.
---Mmm.

30

Was the evidence you gave on 18 July correct, that you met Mr Izzard, he gave you his card, he introduced himself as Craig Izzard, was that evidence correct?---It was correct but I can't - if that's Mr Izzard there I don't think I've ever met him. And that's the truth.

What was on the card you got?---It actually, it was Craig Izzard from the dumping police, I presume.

40 MR MACK: So is your evidence that somebody other than Mr Izzard gave you a business card with Mr Izzard's name on it?---That could be correct.

All right. Or is another possibility that you don't recognise Mr Izzard today because he's wearing a suit?---That's a possibility.

And if I was to show you a picture of Mr Izzard in a uniform, you might be able to say more clearly, when I say uniform, his work uniform, you might be able to say more clearly whether or not you have met Mr Izzard?---Okay.

Would that assist?---Possibly, yes.

All right. Well, I'll see what can be done about that. But in the meantime I want to take you to some other parts of – some other questions.

ASSISTANT COMMISSIONER: Just one other matter. Mr Barillaro, I notice that you're not represented. Arrangements can be made for representation from the - - -

10 MR MACK: I can indicate that the Commission has had some contact from a representative from the Legal – I can indicate that we have had some, the Commission has had correspondence with a legal representative for Mr Barillaro, but my understanding is that that representative's not here today, and I'm not sure if Mr Barillaro has retained lawyers. But - - -

ASSISTANT COMMISSIONER: But leaving that aside, there's an arrangement that can be made for Mr Barillaro to be represented by the Legal Representatives Office.

20 MR MACK: Legal Representation Office. That's correct, yes.

ASSISTANT COMMISSIONER: I'm just a bit concerned about your situation and about the fact that you might benefit from some legal advice. ---Ah hmm.

None of that could happen immediately. We'd have to stand it over but what do you want to do about it? Do you want to just go on or would you rather take up the offer of getting some lawyer for you?---Possibly getting a lawyer for it.

30 I think that's a fair thing for somebody who's unrepresented in the situation that he's in.

MR MACK: I agree, Commissioner. We can make provisions for Mr Barillaro to be first of all provided with the details for the Legal Representation Office. It might be incumbent upon Mr Barillaro to make those calls and we can assist where necessary as well.

40 ASSISTANT COMMISSIONER: That legal advice is provided free of charge, isn't it?

MR MACK: I'm instructed that it is, yes.

ASSISTANT COMMISSIONER: Yes. Okay. Then I think Mr Barillaro now sees that he might be well advised to get some advice. So I think, in fairness to him, we should stand the matter over to tomorrow. I don't mean the whole matter but I mean Mr Barillaro's evidence.

MR MACK: Yes.

ASSISTANT COMMISSIONER: To tomorrow.

MR MACK: Yes.

ASSISTANT COMMISSIONER: Is that feasible in terms of what can be arranged for him?

10 MR MACK: Short answer, yes. That is suitable. And if contact is made with the LRO and then they can communicate with the Commission. And subject to Mr Barillaro having the opportunity to be properly advised between now and tomorrow, I think that's an appropriate course.

ASSISTANT COMMISSIONER: All right. Then we'll, I'll stand you down now Mr Barillaro and come back again at 10.00 tomorrow. But in the meantime Mr Bartlett will talk to you and - - -?---Sweet.

20 - - - speak to the legal representation office and organise that for you?
---Okay.

<THE WITNESS STOOD DOWN

[2.55pm]

MR PATTERSON: Commissioner - - -

ASSISTANT COMMISSIONER: Yes.

30 MR PATTERSON: - - - if I may through you could I ask Counsel Assisting, given that the suppression order has now been lifted will the transcript of the compulsory examination be made available to the legal representatives?

ASSISTANT COMMISSIONER: I assume it will be.

MR MACK: I'll have to take instructions on the logistics of that. My application would be that it's not made available on the public website.

40 ASSISTANT COMMISSIONER: Oh no, no, no. But it should be made available to Mr Patterson.

MR MACK: Yes, to Mr Patterson, yes, I can understand that.

ASSISTANT COMMISSIONER: Yes, yes.

MR RUSHTON: Can we seek access too?

MR MACK: I don't see, sorry, in response to that application I can't see the interest of the EPA in relation to this witness.

MR RUSHTON: Well can I just indicate what our interest is, we have a, in my respectful submission, I have vital interest ensuring that those involved in the regulation of the dumping of illegal waste are not corrupted and if they are that they be exposed. We have interest which is very, very similar conditions but we have an interest.

10

ASSISTANT COMMISSIONER: Yes, well I understand that, but I don't think access to the suppressed transcript is going to assist you in that. It will all come out again tomorrow. Yes, Mr - - -

MR DUNNE: Sorry, the name is Dunne, Commissioner and I appear for Mr Matthews in which there's been matters raised prior to the request for the suppression order, I'd also seek access.

20

ASSISTANT COMMISSIONER: No, I don't think it's appropriate for anyone else to have access to it between now and tomorrow morning. There's very little difference between now and tomorrow morning when it will become available.

MR DUNNE: Thank you.

ASSISTANT COMMISSIONER: Yes, Mr Mack.

MR MACK: I call John Kolosakas. Perhaps if he's called outside.

30

ASSISTANT COMMISSIONER: And the order for Mr Patterson's access extends to Mr Izzard of course because you all need to get instructions.

MR MACK: In relation to the parts on to today's transcript, perhaps if they're suppressed from publication of the transcript today until tomorrow.

ASSISTANT COMMISSIONER: What's the point in that? It's already out there, everybody's heard it.

40

MR MACK: (not transcribable) I think that would be a no appearance by Mr Kolosakas and I'll try my luck with Mr Luna Serge Gallegos. I call Serge Gallegos.

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

MR LUNA GALLEGOS: Oath.

ASSISTANT COMMISSIONER: Thank you.

ASSISTANT COMMISSIONER: Just take a seat there. Now in the course of giving evidence and answering questions it may be that something comes up that might cause you a problem in terms of civil or criminal liability. Would you like me to make an order protecting you against that?---I do.

10 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.

20 **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.**

30 THE WITNESS: Thank you.

ASSISTANT COMMISSIONER: Yes, Mr Mack.

MR MACK: Can you please tell the Commission your full name?---It's a bit long but it's Sergio Antonio Luna Gallegos.

All right. And what are you commonly referred to as?---Sergio, Serge.

All right. And if I call you Mr Luna, is that acceptable or - - -?---Yes.

40 All right. Mr Luna, you've sworn a statement for the purposes of this inquiry on 8 April, 2016. Is that correct?---Yes, I did.

And have you read that statement recently?---No, actually, I haven't had the time.

Mr Luna, can you tell the Commission your current role?---I am an illegal waste investigations officer for Liverpool City Council. But the city presentation section of council, which is one of the depots.

The what presentation, sorry?---It's called city presentation.

Okay.---And it's at 99 Rose Street, Liverpool.

Okay. And how long have you been in that role for?---Coming up to a year now. Probably about, probably about a month away from being a year.

10 Okay. And prior to that role, what was your position?---Ranger for the same, Liverpool City Council. But I was at the administration building back then.

Okay. And in November or around October-November 2015 you were an illegal waste investigations officer, is that correct?---Yes. That's correct.

All right. And did you work with Mr Frank Bono?---Yes, I've been working with Frank since December 2014.

20 Okay. And I just want to explore a few things in your statement with you in relation to some matters you investigated with Mr Bono. And I want to start with a property at 405 Willowdene Avenue. Are you familiar with that property?---Yes, I am.

And at paragraph 57 of your statement you say that you attended – sorry, paragraph 58 of your statement you say that you attended 455 Willowdene Avenue with Mr Bono to conduct an interview with Mr Matthews. Is that correct?---Sorry, which paragraph? 56 or 57?

30 Sorry, 58.---58. Yes.

All right. I just want to ask you a few questions in relation to that date and that interview. You say that Mr Cannuli was present but he left the premises whilst you conducted an interview with Mr Matthews?---Yeah, he didn't leave the premises. He left the dwelling, the house. He was still on the premises while the interview was conducted.

40 And how do you know he was still on the premises?---Because the back area of Mr Matthews's house has a sunroom, which is where the interview was conducted. Mr Matthews was facing us, away from the window. We were facing him towards the window. And we can clearly see where Mr Cannuli was sitting, which was in his car.

Okay.---The back of the property.

All right. And at paragraph 63 of your statement you make reference to your official notebook, which recorded the interview, or parts of the interview.---Ah hmm.

I'm going to show you that notebook now. Can the witness be shown Exhibit 10? Can I ask you to identify that handwriting on there, please, Mr Luna?---Unfortunately it's mine. Pretty shocking.

You don't need to apologise. And is this an extract from your official notebook that you reference in paragraph 63?---Yes, it is.

10 And I'll just – you can see it's been flicked through there. It concludes at page 62 and Reuben Matthews signs it and is that your signature on page 63?---Yes.

And that's Mr Bono's signature on - - -?---Yeah.

And the interview concluded at 1.50pm.---Yeah. I wrote down 1.49pm.

Okay. And if you go back to the start of the exhibit, it starts at 12.50pm so you were interviewing Mr Matthews for approximately an hour. Do you accept that?---Yes, I do.

20 Okay. But the whole of that interview is not recorded word for word in that notebook. Is that correct?---I don't believe – I don't think you can – everything or a whole interview can be recorded word for word. We obviously do try our best to actually record everything that's being said in the interview, that's related to the interview or to the investigation but sometimes people want to actually pause for whatever reason or other things happen but we do our best to try and record everything that, you know, that's being said.

30 Okay.---Hence the reason why we actually do get people to read the – what's been written and sign it afterwards.

Okay. At paragraph 65 of your statement you say that you were working with Mr Bono when he received a telephone call on his mobile. Mr Bono tapped you on the shoulder indicating that he wanted you to listen to the telephone call.---That's correct.

40 And that telephone call was from Mr Izzard. Why did Mr Bono tap you on the shoulder and want you to listen in on that phone call?---Besides the tap on my shoulder the sheer look on his face made me actually want to listen. I don't believe he liked what he was hearing so - - -

You don't believe he liked what he was hearing before he answered the phone call or during the phone call?---A few seconds into it I think.

Okay.---Or moments into it.

And when you started to listen to the phone call, did you understand why Mr Bono didn't like the sound of it?---Yes, I did.

Why was that?---(No Audible Reply)

It doesn't say in your statement but I'm asking you for why you didn't like the sound of what was being said.---Sorry, because there was a couple. One was a – originally came through as a text message to call or to give his phone number to – or for Anna to give – to obtain a phone number so she can give it to Craig.

10 I have – sorry.---I just don't remember which one but.

I did jump ahead in the chronology but the text message that you refer to is – you give evidence of that in paragraph 64 of your statement and at paragraph 64 you say, “A short time later probably only 10 to 15 minutes after leaving 405”, so this is on 10 March?---No, I remember this one and I remember where I was at the time as well.

So when you say this one, is that a reference to the text message or - - -?
---Yeah.

20

Okay. So I'll just take that back a bit.---Yeah.

You finished the interview with Mr Matthews - - -?---Ah hmm.

- - - at around 1.50pm?---Yeah.

You then leave 405 Willowdene Avenue and then a short time later, this is at paragraph 64 of your statement.---Ah hmm.

30 Only 10 to 15 minutes after leaving 405 Willowdene Avenue Mr Bono received a text message from ranger Anna Kypriotis.--- Yes.

And Mr Bono told you certain things about the text message that had just been received from Ms Kypriotis.---Yes.

And that she had just been contacted by Craig Izzard requesting Frank Bono's mobile telephone number.---Yes, I remember that.

40 You can recall that happening shortly after you left 405 Willowdene Avenue?---Yeah.

Okay. What I'm asking you about now is what happened two days later on 12 March when you were in Mr Bono's presence - - -.---Yes.

- - - and he tapped you on the shoulder and asked you to listen in to a telephone call and you said the reason he tapped you on the shoulder to listen in was because he didn't like the sound of what he was hearing.---Yes.

Do you know – and then I asked you do you know he didn't like the sound of what he was hearing.---Yes. Now I get – I remember why.

You can't remember why. Okay.---No, no, I remember why.

Oh, you remember why?---Yes, I do.

10 And can you tell the Commission why?---We were standing behind the area of Blackrose Café, which is a café behind the council building at number 33 Moore Street.

Yeah.---As we were walking up this little ramp, Frank received a phone call.

Right.---Seconds into it, or moments into it, he taps me on the shoulder and he wanted me to listen as he put it on loudspeaker. What concerned me the most was how would Mr Izzard know that we had, you know, what had happened at Mr Matthews's property (not transcribable) considering the only person that was present was, besides Mr Matthews, Mr Cannuli.

20 Okay.---And then the other fact was when he stated that he had run into Nosir.

Yes. We're investigating this 405 Willowdene and we find it hard to run into Nosir, so I don't know how anybody can run into him. And Nosir actually told him about a conversation that took place. But not even Nosir was present when this conversation took place.

30 All right.---So these are, well, for me, they were grounds for me to be quite concerned.

Okay. All right. I understand. Thank you. At paragraph 70, I'm now moving onto a different date. This is 23 March, so about 11 days after the conversation near the ramp at the back of the Blackrose Café. Page 70 it says that ranger Sustoni Fonmuden and you attempted to conduct a formal notebook interview with Mr Cannuli at the council's premises at level 2 of 33 Moore Street.---Yes.

40 And you say you made notes of your conversation with Mr Cannuli in your official notebook. I'm going to show you a document. And you'll see this is a 2-page document and there's a page titled 73 and there's a date 23 March, 2015. Is that your handwriting?---Yes, it is.

And are these the notes referred to in your conversation with Mr Cannuli on 23 March, 2015?---Yes, it is.

I tender that document, Commissioner.

ASSISTANT COMMISSIONER: Exhibit 12.

**#EXHIBIT 12 – HANDWRITTEN NOTES DATED 18, 23 AND 24
MARCH 2015**

MR MACK: And copies can be provided. Just want to take you to page 74 of your notes.---Yeah.

10 And about halfway down you say that Mr Cannuli had been occupying the property since 1972.---Yes.

Can you recall him saying that to you now, after refreshing your memory?
---Yes.

Yes. Okay. And over at page 75, at line 5 it starts. There's a word that says "he". Can you see that?---Yes.

20 "Described the fences". And what's the word that follows "he"?---"He informed".

"He informed us that him," that's Mr Cannuli, "and Mr Matthews came to an agreement that he would be allowed to use the land to build greenhouses. This was," what's the next word, sorry?---"Prior to Mr Nosir Kabite's involvement."

"And Mr," is that Mr Cannuli?---Yes.

30 "And Mr Matthews engaged the services of Mr Kabite."---Yeah.

"To," is that fill?---Yes.

"And level the land as the property was not good to use, so all fill was brought in for that."---Yes.

Have I read that correctly?---Yes.

40 Okay. Thank you. At page 76, it says at the final five lines, five lines from the bottom, it says, "He then stormed out of the interview room."---Yes, he did.

Is that what happened?---Yes, he did.

Do you know why he stormed out of the interview room?---He was quite angry about being there. And he was, he seemed agitated anyway when he first arrived from the beginning, so it was, it was only when I actually attempted to make the interview formal by getting to sign my notebook he

said, he realised that, well he didn't want to sign it. And yeah, he just wanted to leave.

Okay?---I wasn't going to keep him there if he didn't - - -

All right. But you had another interview with Mr Cannuli didn't you?
---Yes.

And that was on 8 April, 2015?---I think so, yes.

10

This is at paragraph 72 of your statement. Do you see that? Sorry?---Yes.

And at paragraph 73 it said you made a record of your conversation with Mr Cannuli in your official notebook on pages 88 to 91. Do you see that?
---Yes.

I'm going to show you a document now. And is this the – your notebook referred to at paragraph 73 of your statement?---Yes, it is.

20

I tender that document, Commissioner.

ASSISTANT COMMISSIONER: Exhibit 13.

#EXHIBIT 13 – HANDWRITTEN NOTES DATED 8 AND 9 APRIL 2015

30 MR MACK: And you can't see the page number, but on the second page you see Mr Cannuli's signature?---Yes.

Mr Cannuli signed this record as an accurate record. Correct?---Yes, he did.

Do you know why he signed this one and not the other one?---(No Audible Reply).

Did he seem less agitated?---Yeah, actually he was a lot calmer the second around.

40

Okay. Were you in the courtroom this morning when I took Mr Bono to a record of interview between some officers from the Commission and Mr Matthews?---Yes, I've been in the courtroom all, all day.

And do you recall me reading out some evidence of Mr Matthews and Mr Cannuli in relation to a meeting that took place between Mr Bono, yourself, Mr Matthews, Mr Cannuli and Mr Kabite?---Yes.

I'm going to put an account of a meeting that all five of you had to you and I want to see if you accept or reject what happened in that meeting?---Yep.

And do you recall Mr Bono saying that there were in fact two meetings?
---Yes, I do.

And do you agree that there was one meeting at the Blackrose Café in Liverpool and then there was a subsequent meeting at Carnes Hill?---Yes.

10 Okay. All right. And at paragraph 76 of your statement on 8 April, 2015 it says that Sergio Luna and I were requested to meet with Reuben Matthews. Should that be Frank Bono and I were requested - - -?---Yes, it should be.

All right. And do you know who made the request?---Yes. Nosir.

Nosir?---Yes.

20 And do you know why Nosir made the request?---He rang me personally asking for that meeting. I believe he was having problems with – all three parties were having problems understanding things. So he wanted, he requested the meeting.

And what were the things he was having trouble he was understanding?---I believe – from memory wanted us to explain what (not transcribable) – or what was happening with the investigation. I think that was sort of what the phone call was about. So he wanted us to explain things to all of them together.

30 So he knew that you were investigating 405 Willowdene?---Yes, yes.

And he knew that you were investigating - - -?---Yes. Because I actually caught him on site. The first time I ever met him was actually at 405 Willowdene. I caught him there with his nephew. They were dumping soil.

40 And when was that?---Prior to all this. It was, it was before this – it was after we actually had, we had been given the job to investigate it. And just on a random patrol I actually was out there with another, a female officer and saw, as I was driving on the road I saw a truck tipping inside 405 Willowdene and it happened to be Nosir's nephew. And Nosir then come out and met me on site.

And who's Nosir's nephew?---I, honestly I can't remember his name. But, (not transcribable) called him Mohamad – I can't - - -

Mohamad?---Yeah.

All right. Then who was - - -?---His surname I can't really remember it.

Who was the female officer?---Toni Moore.

Toni Moore?---Female Toni Moore, yes.

And did you make mention of this in your statement?---I'd be lying if I say I can remember, I can't.

All right. So I just want to take you back to 8 April, 2015?---Ah hmm.

10 And your evidence was that Mr Matthews rang you and requested, sorry - - -
?---No, Nosir.

- - - Mr Kabite, Nosir, rang you and requested a meeting with you?---Yeah.

Did he request a meeting with Mr Bono as well?---Yeah. For, for us to be present, both of us to be present.

Because you were – he knew that both of you were investigating - - -?---
Yes.

20

- - - 405 Willowdene?---Yeah.

And how far had the investigations progressed at that stage to the best of your recollection, this is 8 April, 2015 and you had the initial interview - - -
?---Probably three months into the investigation from memory or - - -

Well this is – you had - - -?---No, less than that.

30 The interview with Mr Bono where you went out there was on 10 March,
2015?---Yeah.

And then on 8 April, 2015 you say that Mr Matthews had called you, Mr Kabite had called you?---Nosir, yeah.

So I'm trying to establish what happened in terms of investigations between 10 March, 2015 and 8 April, 2015. Had you been in contact with Mr Kabite in that time period?---Yes. Because that's when – between that time period is where I actually caught him out on site.

40 I understand, okay?---Yeah. So, yeah. And which is the reason I think now, now I understand why he called me more often than he called Frank.

Okay. So there was an incident between that initial interview on 10 March and this phone call in April on 8 April where you interacted with Mr Kabite in relation to a dump at 405 Willowdene, is that correct?---Yes. I don't remember the exact date but I know it took place.

But it was between – it was after the interview on 10 March, 2015 where you received a text message where Mr Bono received a text message from Miss Kypriotis, it was after that or you can't be sure?---No, I'm not sure.

You're not sure, okay?---No.

So can you remember having any conversations with Mr Kabite after 10 March, 2015, when you interviewed Mr Matthews?---Yes.

10 And were those conversations on the phone?---Well both. We had, we had those meetings and had those two meetings, we also found him on site and he also called us on the phone.

So he rings you on 8 April, 2015 and you arrange on the same day to have a meeting at the Blackrose Café in Liverpool, is that correct?---Yeah. That's what he wanted to do.

20 And at this stage had they been served with court attendance notices? When I say they I mean Mr Matthews, Mr Cannuli and Mr Kabite or Nosir?---(No Audible Reply).

If you can't remember, that's fine?---No, I'm just trying to, I'm struggling to remember the dates themselves but I don't, no I can't remember which is, which took place first. I know what happened at both those meetings.

30 All right. Well what happened at the first meeting at the Blackrose Café?
---It was, it was an informal meeting at – I was asked, well I think we were both, Frank and myself were both asked not to record anything really, of what was said.

Were you asked to keep your hands on the table?---No, no, no. Not in such a way. But he was more like whatever was said at the meeting not to sort of be disclosed to anybody else.

And did you agree not to disclose it to anybody else?---I don't remember agreeing to it.

40 And can you recall who asked you, who made the request that you don't disclose it to anybody?---Yeah, Nosir.

Nosir said it?---Yep.

So it wasn't Mr Cannuli and it wasn't Mr Matthews?---No, no. Nosir said it first.

Okay?---And then as the sort of the conversation proceeded, it kept on going I think Andy then said it differently but he asked the same thing.

Can you recall responding to Andy's request?---I acknowledged it, yeah.

So you've said you'd kept the conversation confidential. Is that correct to Andy?---At the time, yes.

And did other people hear you say that?---Well there was five of us, so I'm sure somebody else did.

10 Okay. And you give evidence of Mr Cannuli saying to you or words to the effect, "Everyone has to eat"?---Yes.

Do you recall him saying that?---Yes, he said it more than once.

All right. And was that after he'd requested you to keep the conversation confidential?---Yeah, because when he said that it was towards the latter part of the conversation, towards the latter part of that little meeting. Because then after that they really didn't want to talk about that any more.

20 After what sorry?---After he said that, Nosir sort of stopped him from saying anything else and he didn't really want to talk about that particular subject any more.

And when you say Nosir stopped him from talking about that, is that a reference to Nosir saying don't worry about it, don't worry about it, leave it alone but it was a lot?---Yes.

And what did you understand that Nosir meant by when he said it was a lot?---That it cost them a lot financially.

30 What cost him a lot?---Well the conversation went on about how much, how much it had cost one of them financially and Nosir sort of wanted to hush everybody.

But what was costing Nosir, what was costing Nosir financially?---I don't believe it was just, it was costing him. He didn't say who, he didn't say it was costing him. But he did say that it was, it was a very cryptic conversation. They were talking, they were speaking, they were trying to let us know something without basically coming out and saying it.

40 Okay?---For lack of better words.

And when Nosir said it was costing him a lot did you understand that to mean - - -?---Financially.

- - - financially in terms of fuel or trucking costs or - - -?---Oh no, no. Not in those words.

What was the nature of the expenses?---Now I don't remember who actually brought the name up, but they didn't want to speak about the, this particular person. The name Craig Izzard did come up in the conversation and the five of us were, out of the five of us that were there I can't remember who actually brought up the name, but when the name was brought up, Nosir didn't want to speak about it. He tried several times well for the conversation not to, not to continue. But it got to the point where he said and they were sort of talking to us and then talking amongst themselves at the same time, mostly between Nosir and Andy, not so much Mr Matthews,
10 that they didn't really want to talk about this subject, to drop it and to leave it alone. But whatever it cost them, it was a lot.

And was that a reference to what Nosir had to pay to Mr Izzard to your understanding?---I understood it that way, yes.

Okay.---Yeah. I understood it that it was a payment.

Was everyone speaking English at this conversation?---Yeah.

20 Yes. All right.---Yeah.

And who was asking – were you asking any questions?---I think I asked – may have asked a couple of questions but Frank was actually on this occasion was doing most of the talking with all of them. Nosir did refer to me a few times as he, as he used to but he was mainly the, the person that most, that wanted, that wanted this conversation sort of to end.

Okay. And did you get the impression that Mr Cannuli would have said more if Nosir didn't try and shut him down?---Possibly both parties would
30 have said more if neither of them were there.

If neither?---If neither of them were there.

All right.---Yeah.

But Mr Cannuli certainly didn't say anything about Mr Izzard in the interviews that you had with him prior to that?---No.

And at this meeting at the Blackrose Café in Liverpool did you have
40 envelopes with you containing court attendance notices?---No, no, no. No.

And can you recall another meeting when you did have court attendance notices?---Yes. Yes. Now, the date again, I can't remember the exact date of it but I can even remember it was actually nice and sunny and we were actually having - we were in the Carnes Hill area.

Yes.---Where it was decided that we would meet up with all three parties at a café in the Carnes Hill, I think it's, it's like a, like a shopping complex and when Frank and I arrived Nosir was pretty much there at the same time.

All right. And can you recall how long this incident occurred at Carnes Hill, or this meeting occurred at Carnes Hill after - - -?---We spoke for quite a few minutes, yeah.

10 No, I'll ask that question again. After the meeting at the Blackrose Café in Liverpool how long was it until the meeting at Carnes Hill, weeks, months, days?---No, I can't recall exactly. I don't believe it would have been months, no.

You didn't mention a second meeting at Carnes Hill in your statement did you?---I don't recall, no.

20 And did you take notes of the meeting at Carnes Hill in your notebook?---No, I don't recall that. I remember having the envelopes in my hand and handing them over and also explaining what was in them.

And when you explained what was in them what did you say?---I addressed all three parties mostly and Nosir, because Nosir happened to be right in front of me and I explained to them what was in the envelopes and when they opened them up and I explained to them that it was a court attendance notice and what it was for. At the same time Frank was right next to me and he was actually trying to explain to them exactly the same thing.

30 So Frank was also trying to explain to them that it was a court attendance notice?---Yeah.

Okay. And are you aware that Mr Cannuli – well, I'll put it to you more directly. Mr Cannuli alleges that you said the following, "You will probably get a small fine but don't worry about it." Do you recall saying that?---To Mr Cannuli, no.

Or to anybody at the meeting at Carnes Hill.---No.

40 And do you recall Mr Cannuli saying, "Do we need, do we need a barrister, solicitor or something"?---I don't recall that but I, I do recall telling, telling them that they may want to seek legal representation.

You didn't say that they don't need legal representation?---No, I never said that.

That's what Mr Cannuli says that you said. But you reject that, that's correct?---Yes, I do. It's not just in that meeting. Any meeting for any offender, I've never once said that.

And can you recall Mr Bono saying any words to that effect?---No, he didn't say that.

Sorry, just bear with me. Commissioner, I have an application to make, just housekeeping issue in terms of order of witnesses. I'm at a point in my questions of Mr Luna where it would be convenient to stop and if possible I'd like to transpose another witness and for Mr Luna to come back tomorrow, just because the witness, Mr Kolosakas, is here. And whilst he's here I would like to ask him a few short questions before the end of today.

10

ASSISTANT COMMISSIONER: Yes, all right. Well, I think Mr Luna is coming back anyway. So if you come back at 10 o'clock tomorrow morning. Thank you.---Thank you.

THE WITNESS STOOD DOWN

[3.37pm]

MR MACK: I call John Kolosakas.

20

ASSISTANT COMMISSIONER: Mr Kolosakas, will you take an oath or an affirmation?

MR KOLOSAKAS: Sorry?

ASSISTANT COMMISSIONER: Will you take an oath or an affirmation?

MR KOLOSAKAS: I don't understand exactly what you - - -

30

ASSISTANT COMMISSIONER: An oath on the Bible or an affirmation?

MR KOLOSAKAS: Koran.

ASSISTANT COMMISSIONER: Koran. Thank you.

ASSISTANT COMMISSIONER: Thank you, Mr Kolosakas. In the course of giving evidence, you may give an answer that could possibly lead to criminal or civil problems for you. Would you like me to make an order protecting you from any action taken in respect of any evidence that you give?---So what I want to say, I can try to tell you what I know.

10 Okay. But I'll make an order to protect you from that.---Yes.

But you must tell the truth.---Of course.

Okay? So if you don't tell the truth, then you can be prosecuted. 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
20 of any particular answer given or document or thing produced.

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

ASSISTANT COMMISSIONER: Okay? Yes, Mr Mack.

MR MACK: Mr Kolosakas, my name's Mr Mack. I'm Counsel Assisting the inquiry. If you don't understand what I'm saying to you or you struggle with English, let me know and I will try and rephrase the question.---I know
40 that.

Okay. Can the witness be shown a map of Bandon Road? Mr Kolosakas, are you familiar with this site? Can you identify that from the picture?
---That's probably down in - - -

Sorry, you'll have to lean, I know it's going to be hard if you're trying to look at the screen at the same time. But you've got to direct your speech

towards the microphone?---That, that look like close to Vineyard or Riverstone site somewhere, Vineyard.

And if you look on the right-hand side you can see some train tracks?---
Correct, yeah.

And I suggest that the road near that's Riverstone Road and then the road running across the other diagonal that's Bandon Road?---That's right.

10 All right. And are you familiar with that site?---Yes.

And why are you familiar with that site?---So I've been operating the (not transcribable) a couple of times.

Been operating your what, sorry?---The excavator.

Excavator?---Yeah. Because Nosir called me.

20 Okay?---To operate the machine.

And who's Nosir?---Nosir is – as far as I know is the man, is the, is the one, is the boss who's got the contract to fill up the site.

Okay?---So - - -

And so you would operate an excavator at that site?---That's right. His, his excavator.

30 His excavator?---That's right.

And would he pay for - - -?---Yes.

- - - the work you did?---Yes.

And how much did he pay you per day?---\$200 a day.

All right. And was he a good payer, did he - - -?---No.

40 Does he owe you any money now?---Yes.

How much?---Not much. Probably about three or four days work.

And what were you excavating at that site?---Not excavate, the only thing I done – the trucks they'd bring some soil, I have to level.

I understand?---That's (not transcribable).

Did you ever bring trucks to this site?---Yes.

Okay. How – all right. So you're a truck driver?---I'm a truck driver and operator.

All right. What licence do you have?---Class 3.

Class 3?---Would you like to have a look?

10 No, no, it's fine. What's the biggest truck you're allowed to drive on that licence?---Bogie with a trailer.

And what's the maximum amount of tonnage you could fit on that truck?---About 48.

48?---Or 52.

Okay. And how often – well did you ever take a load of – a full load in your truck to that site?---Yes.

20 And how often?---When sometimes I got a job myself I asked Nosir can I bring the soil here, he say no problem and I pay.

All right. And what was in, what were the contents of your truck when you went to the site, what was your load?---So sometimes I take the bogie, only the truck.

Yes?---And sometimes I take the truck and the trailer.

30 Yes. And what was inside the bogie?---Soil, soil.

Clean soil?---Yeah, clean.

Was it ever mixed with construction waste?---No.

It was always clean?---Maybe sometimes a brick here and there.

And how many times did you take loads to this site approximately?---On this site?

40 Yes?---I'd take – there was a job on Riverstone they done sort of detention tank for townhouses.

Yes?---And I done about 20, 20 bogies.

20 bogies. And how much is a bogie, how much, sorry, I'll ask the question again. How many tonnes is a bogie typically?---So they carry 12 tonnes.

12 tonnes?---Yeah.

Okay. And did anybody make a record of when you came into the site and dumped?---Yeah. Always, always his son.

Yes?---Or himself they book it in and at the end of the day they told me.

10 Okay?---Or even other trucks that are coming in, somebody was there and just started saying no and they book it in, coming in. You know what I mean, the rego number or whatever you know and they – but when I operate the machine nothing to do with bookings who brings soil.

Okay. And how much would Mr, how much would Nosir charge you to bring a bogie in?---Sometimes they charge \$50 sometimes they charge me \$100, you know - - -

Did you consider that?--- - - - for tipping it.

Was that cheap for you?---Yeah, yeah.

20 If you were to take it to a waste facility do you know how much that would cost you?---So if you take to the waste to the tip is different, is a different, how can I say, different material, different price. So if it's a clean fill sometimes we pay \$40, \$50. If it's contaminated material they charge \$250 a tonne.

And is that - I just want to break that down?---Yeah.

30 When you said it cost \$40 to \$50 was that in relation to Bandon Road or was that in relation to another site?---Another site.

All right. And was that other site a – did it have a weighbridge?---Yes.

And so it was an official dumping site. Is that - - -?---That's right.

And did you understand, was there a weighbridge at Bandon Road?---Is not, is not weighbridge.

40 So it wasn't an official site. Is that - - -?---Not as far as Nosir (not transcribable)

Okay. So if it would cost you 40 to \$50 - - -?---No, no, no, not on Nosir site.

Yeah. How much was it on Nosir's site?---Sometimes he would charge me \$50 a bogie, sometimes he charge me \$100 a bogie depends.

So it was about the same price as a site with a weighbridge. Is that correct?

---So the weighbridge – sometimes depends the job too. If the job was closer so sometimes if you pay a little bit extra and closer you finish the job quicker.

Okay.---Yeah.

ASSISTANT COMMISSIONER: And the weighbridge – was the weighbridge – did they charge per tonne or per bogie?---Per tonne.

10 Per tonne?---That's right.

So you had 12 tonne on the bogie?---That's right.

And if they charge 40 or \$50 a tonne then it was \$480 or over \$500 for the bogie?---That's right. Correct

MR MACK: Thank you, Commissioner. So it was a lot cheaper for you to dump at Bandon Road. Is that correct?---Correct.

20 And you said before that if the waste was contaminated it would cost more than 40 or \$50?---Exactly.

And you said it would cost around \$200. Is that correct?---A tonne. That's ---

A tonne.---That's they charge.

Okay.---The other tips.

30 And did you ever take contaminated waste to Bandon Road?---No.

And when you were working there at Bandon Road on the excavator did you see other truckloads come in with contaminated waste?---No. The only thing soil sometimes got a brick here and there, that's all. When I leave, sometimes I leave 2 o'clock, sometimes I leave 3 o'clock. After this I don't know what's happen.

All right. Did you ever see – do you know what asbestos is?---Yeah, I know.

40

And did you ever see what you thought was asbestos at Bandon Road? ---No.

Can the witness me shown a picture of 405 Willowdene.

ASSISTANT COMMISSIONER: Who were you working for when you drove the trucks?---Now I drive my truck, our truck.

Now you do, what about then?---Before I work for private companies, you know, sometimes a week here, one week, one day, you know, because my job it was for the casual job.

MR MACK: Did you have a certificate or a licence to carry soil from one place to another place?---You don't need.

Don't need. All right. Can you have a look at the picture on the screen, please.---Yes.

10

Are you – first of all, have you heard of Willowdene Avenue before? It's in Luddenham.---Yes, yes.

Do you recognise this property from this shot?---Yeah, I've been working on this property.

You've worked at this property?---Yeah, operate the machine there this time.

20

And who were you working for at this property?---Nosir. Nosir call me.

And how often did you work at this property?---Not much. Maybe every month sometimes call me two or three times, sometimes nothing.

And was that in this year?---This year. Yeah, I think. I think this year.

And last year as well?---Probably, yes.

And in 2014?---I can't remember that far back.

30

Okay.---Yeah. I don't think so, no.

And when you worked here did you work on a excavator?---That's right.

And was that Nosir's excavator?---Yeah.

And did you ever bring truckloads of material into this site?---No.

Did you ever see other people bring truckloads of - - -?---Yes.

40

And how many truckloads did you see come in to this site?---Sometimes four or five trucks all day.

Four or five trucks on one day?---All day they came in. Sometimes that – each truck about four or five times because I never book her in. Somebody else book her in.

So there was somebody booking in every truck that came through?---
Exactly.

And did you recognise any bricks at this site?---So like I said before
sometimes in the soil have one brick here, another brick over there, that's
all.

Did you ever recognise any asbestos at this site?---No.

- 10 Do you recognise – I'll start again. Every day that you worked there was
there trucks coming into that site?---So Nosir call me to go there because
trucks they bring the (not transcribable) there just to level.

Okay?---That's the reason they call me to come to work.

Okay. Sorry, can I just get that put up for two seconds again, sorry. Do you
recognise the property next door to there? You see where the mouse cursor
is at the moment?---Ah hmm.

- 20 Do you recognise that property?---No.

Can you recall trucks ever coming on to the property next door?---So the
property next door what I can see the trucks with the name on it JCD
Concreting, whatever. That's all I saw it.

Sorry, can you just repeat that, that word?---JCD (not transcribable)

JC - - - CD Concreting I can't remember the concrete - - -

- 30 But you saw trucks on the other side – were they unloading rubbish?---No.

No. All right?---No, I don't see nothing. The only thing sometimes I saw a
truck empty with this name on it JCD Concreting or whatever.

All right. Thank you. I'm just seeing if the person on the computer can
bring up one more photo?---Yes.

And I'm going to ask you a few questions about?---Yes.

- 40 But before I do do you recognise Mr Craig Izzard, who's sitting behind me
here?---No.

No. Never seen him before?---No.

All right. Thank you. Did, you've mentioned two places where Nosir,
Nosir would get you to spread material?---Three places.

Three places?---That's right.

One was at - - -?---Vineyard, Vineyard, however I say it.

Yes, Vineyard, yes?---Riverstone, the other one is Wallacia.

Yes?---The one where (not transcribable) and there's another one in Wallacia. Okay. On Park Road.

Wallacia. On Park Road?---203 Park Road.

10

203 Park Road. And when was the last time you worked at Wallacia?
---First time I start, Nosir call me start work Park Road, 203 Park Road.

All right?---Is was just about (not transcribable) this job. I work a little bit there and after I start the other job on Wallacia, the one you show to me.

All right. So - - -?---And the last job is (not transcribable) Vineyard.

Okay. So the first job was Wallacia?---Park Road.

20

Park Road and the second job was - - -?---Wallacia, I don't know, Wallacia there or - - -

At Willowdene?---Yeah, whatever.

That was the second and then the third was Vineyard. Is that correct?
---Correct, exactly.

30

All right. And when was the last time you worked at Wallacia? Have you worked in Wallacia this year?---Not, not on Park Road. Wallacia I think I been working the second, the second property, the one you say to me.

All right. I just want to clear that up?---Yeah.

Have you worked at – when you say Park Road, do you mean Wallacia?--- That's right. 203 Park Road I think in Wallacia.

Okay?---The second property I was thinking is Wallacia too.

40

But it's not?---It is not, but - - -

And that was the one I just showed you a picture of?---That's right.

Yes. Okay?---Yeah, that's the, that's, that's the last time I work there. I work this year.

Okay. All right. So did you work in two – did you work last year in Park Road, Wallacia?---That's right, yeah I work.

And how often would you work at Park Road?---Not much, not much. Maybe like I said every month maybe one time or two times. Sometimes I work four times, sometimes, you know - - -

And can you recall – out of, out of the three sites which was the busiest in terms of trucks? Which site had the most trucks coming through?---So for me it goes the same.

10 The same. Okay?---The same. When I work. When I was not there, the days I'm not working I don't know what's, what's happen there.

And at Park Road, Wallacia did you ever see any bricks or cement?---So the material on the three sites it was just (not transcribable) the same. The three of them a little bricks here, a little bit, sorry, a little concrete there, so - - -

All right. Thank you Mr Kolosakas. They are the questions I have for you. Thank you for coming in?---Okay. Thanks very much. Thank you.

20 ASSISTANT COMMISSIONER: Yes, Mr Dunne.

THE WITNESS: I'm free to go?

MR DUNNE: Mr Kolosakas, my name is Dunne and I represent Mr Matthews?---Who is Matthews?

I'll come to that in just a moment?---Okay, okay.

30 Your English isn't the best. Is that, is that right? You do your best but your English isn't - - -?---I think my English okay.

You think your English is okay?---Yeah.

And - - -?---If I no understand any word I can tell you and you explain to me.

No, that's okay. I just wanted to clarify that point. And when you go to a job you're told a street address. Is that how to know to get there?---Exactly, correct.

40 So you'll be told a street number and the street name. Is that right?
---Exactly.

And you wouldn't – you were shown a photo of Willowdene Avenue, Luddenham from above?---Yes.

Do you recall that?---(No Audible Reply).

Would you have seen that view before the photo was shown to you today?
---I never see it from the top.

You would never have seen it from that angle?---No, only today.

Do you recall being – giving an interview to the solicitors for the
Commission in the middle of March, on 15 March this year?---Yeah, I been
10 with the two guys.

Mr Kane was asking you questions. Is that right?---Mr Wayne.
You remember that do you?---Yeah, yeah.

And if I could ask that volume 14, page 290 be shown to the witness?
There'll be something coming up on your screen?---Ah hmm.

Now can I take you to – you see there's some – number 16, Mr Kane asks
you, "Have you ever been to an address to 405 Willowdene Avenue,
20 Luddenham?" "What's the address?" 405 Willowdene Avenue,
Luddenham?" And then it's asked what is it a place? You say, well it's a
place, it's a property in Badgerys Creek. And your answer is, "No, no." Do
you see that?---Yeah, yeah. I never been, I never been this property.

You've never been to 405 Willowdene Avenue, Luddenham. Is that what
you say, is that what you're telling the Commission?---No, no, no. Probably
is a mix up. Is a mix up.

Yes.---I been on three properties, Park Road.
30

Yeah.---From Northern Road I can't remember there. If you turn right to
Park Road the first street on the left and you go all the way. I don't know
what's the name of the street. That's the property I been there and on
Vineyard.

I asked you some questions before about how you knew to get to a
particular property and you told me that you would know the street address.
Do you recall that earlier?---So maybe mixed up because he's got another
property.
40

You may be mixed up?---Yeah. Because he got - - -

Can I ask you if you – the photo you were shown - - -.---Yeah.

- - - the aerial photo.---Yeah.

You were shown that photo and I think you've agreed you've never seen the
view from above - - -?---Exactly.

- - - other than from that photo?---That's right.

How did that photo help you identify that you had been to that property, how did that help you know you'd been to that that address?---Because I can, I can see the house from the top. When you look from the top and the bottom you can see the house, how they look like. You can, you can put the picture together.

10 So I'm sorry, Commissioner, I think the witness has given evidence that if you go off a road off - - -

ASSISTANT COMMISSIONER: Don't make speeches, just ask questions.

MR DUNNE: So you can't tell the Commission whether or not you've actually been to 405 Willowdene Avenue, Luddenham?---The, the, the place you're talking about now – because Nosir before he tell me he's got another property and he like me to go there and I refuse. Probably I mix it up with this one on Elizabeth Drive. Probably I mix it up with this one but the, the property I saw in the picture that's the property – that's the second property
20 I work for Nosir. Is it Park Road. This property I was thinking still Park Road, Wallacia not Luddenham. Probably that's why I make a mistake. Now I ask the solicitor before this property the address is, is not Luddenham. Is a different suburb.

You know it as a different suburb?---I just find out now. But through the picture what I can see I know the property and I was thinking this property is Wallacia but it's not. I just find out now.

I have no further questions.
30

ASSISTANT COMMISSIONER: Thank you. Any other questions?

MR DUNNE: I have no questions, Commissioner.

ASSISTANT COMMISSIONER: Thank you. Anything arising? Thank you. Thank you, Mr Kolosakas you can step down?---I'm, I'm free to go?

You're free to go, you're excused?---Okay. Thanks very much.

40 Thank you for coming?---I apologise to court.

It's not a problem?---I understand something wrong.

No problem. No problem?---Okay. Thank you.

THE WITNESS EXCUSED

[4.01pm]

AT 4.01PM THE MATTER WAS ADJOURNED ACCORDINGLY
[4.01PM]