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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE MEGAN LATHAM

PUBLIC HEARING

OPERATION RICCO

Reference: Operation E14/2586

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON MONDAY 7 MARCH 2016

AT 10.25AM

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.

THE COMMISSIONER: Yes, Mr Overall.

MR OVERALL: Good morning, Commissioner. Commissioner, my client is here today.

THE COMMISSIONER: Oh, right.

MR OVERALL: Mr Goodman.

10 THE COMMISSIONER: Yes.

MR OVERALL: He is to be assessed on Tuesday and Wednesday by his orthopaedic surgeon.

THE COMMISSIONER: You mean tomorrow?

MR OVERALL: Yes, tomorrow and Wednesday. What happens after that is in the lap of the gods and the orthopaedic surgeon.

20 THE COMMISSIONER: All right. Well, we'll see how we go. Thank you.

MR OVERALL: Thank you.

THE COMMISSIONER: Yes, Mr Thangaraj.

MR THANGARAJ: Just a couple of things – I'm sorry for that delay, I was speaking to a witness. Mr Sham and Mr Gander were on today's list, we've taken the view that they didn't have anything to add in light of the  
30 admissions that have been made during the end of last week and none of the parties require either of those witnesses so - - -

THE COMMISSIONER: Thank you.

MR THANGARAJ: - - - it will be a short day today and the first witness I don't have any questions of, but Mr Moses wants to ask him some questions, so unless there's something else I can ask Mr Gligorov to come forward.

40 THE COMMISSIONER: Mr Gligorov.

MR OATES: Commissioner, you've granted me leave to appear for Mr Gligorov.

THE COMMISSIONER: Yes, I have, thank you, Mr Oates.

MR OATES: He seeks the declaration if you please and will take an oath.

THE COMMISSIONER: Thank you.

Just take a seat, Mr Gligorov. Could I just make sure that you appreciate that the order protects you from the use of your answers against you in any future civil or criminal proceedings but does not protect you if it should be found you've given false or misleading evidence in the Commission hearings. Do you understand that?

MR GLIGOROV: Yes.

10

THE COMMISSIONER: 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 COMMISSIONER: Do you wish to be sworn or affirmed, Mr Gligorov?

MR GLIGOROV: Sworn.

THE COMMISSIONER: Sworn, thank you.

MR THANGARAJ: Mr Gligorov, can you give the Commission your full name?---Jovan Gligorov.

And is your father-in-law Alex Subeski?---Yes.

Right. Nothing further.

10

THE COMMISSIONER: Yes, Mr Moses.

MR MOSES: Yes, thank you, Commissioner.

Sir, you are the director and secretary of a company called Jovane Pty Limited?---Yes.

And if the witness could be shown the document at volume 14, page 3. Sir, that company, that document tells us, was registered on 5 July, 2010.

20

Correct?---Yes, yep.

Did you do that?---Yes.

Did you arrange for it to be registered?---Yes.

And its registered address is [REDACTED]?---Correct.

And is that where you reside?---Yes, yes, it is.

30

And who owns that property?---My wife and my mother-in-law.

And the, do you know that the address, [REDACTED], is also the registered address of three other companies?---No, I did not know that.

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

MR OATES: Your Honour – sorry to interrupt, Mr Moses. Can that address be suppressed, if you please?

40

THE COMMISSIONER: Yes, that address is prohibited from publication under section 112.

**WITNESSES ADDRESS TO BE SUPPRESSED**

THE COMMISSIONER: Yes, go on.

MR MOSES: Thank you, Commissioner.

Now, Jovane Pty Limited, why did you set that company up?

---To do some telecommunications work. I became a contractor or a subcontractor.

Okay. And did your father-in-law, Alex Subeski, play any role in setting up the company?---No, he did not.

10

And what work has that company done since 5 July, 2010?

---Telecommunications.

What does that involve? That means nothing to me, what does that involve?---Okay. Just linesman work, fibre optic work.

How many - - -?--- Just doing connections.

I'm sorry?---Doing connections.

20

Okay. And how many employees does it have?---Just myself.

Do you have subcontractors?---No.

No. And who have you performed that work for through the company?---  
What do you mean by that like - - -

Well, you said you - - -?--- - - - which, which companies or - - -

30 Jovane?---Yes.

Only you talking about that company?---Yeah.

Who have you done the work for?---For another, another contractor company.

Called?---Telcom.

Telcom?---Yes.

40

And where have you provided those services?---The CBD and surrounding suburbs.

Do you still perform that work?---Yes.

And do you know that Jovane Pty Ltd invoiced the City of Botany Bay Council for approximately \$1.8 million for the period November, 2014 to September, 2015?---I found that out after I read the transcript.

You weren't aware of that beforehand?---No.

When did you father-in-law tell you that he had been questioned about these matters for ICAC?---After – I found that out again after I read the transcript. He didn't tell me.

10 Your father-in-law gave evidence that he told you that he had been issuing fraudulent invoices using your company prior to him giving evidence. Were you aware of that?---No. He didn't tell me.

Well when did you first find out that your father-in-law had used your company to issue invoices to the City of Botany Bay Council?---After reading the transcript, after his interview.

After his interview here?---Yes.

20 So you don't agree with your father-in-law's evidence that he told you at an earlier time about this issue, correct?---No.

Okay. Can the witness be shown volume 14, page 20. That invoice that's up on the screen is one of the invoices issued to Botany Bay Council and is it your evidence that you weren't aware that that invoice had been issued to the Council?---No.

And is that a tax invoice that your company uses usually for the conduct of its business, that is the format?---That's the format, yes.

30 And how – can you help us with how your father-in-law would've got access to that tax invoice format?---I gave him a template, a blank template.

Why?---He asked me to.

Did you not think that was strange?---Not at all.

So why would you give your father a blank template of your business invoice?---He asked me to. He said it's to do some work.

40 Yeah. But you just told the Commission that you're the only person doing the work for Jovane, correct?---Yes.

So are you saying that your father-in-law used that company to do work as well?---From what I understood, from what he asked that was, that was my understanding.

Well, what – well can you help us with this? When did you ask you for the invoice template?---I can't remember the date.

Well help us with the year?---2015, last year.

And can you recall what he said to you?---I'm going, I'm going to do some work for a friend and I need to use your company and it will - - -

That's what he said to you?---Yes. It will benefit you because it will help you get your name out there.

10 Okay. Now can the witness be shown volume 14, page 276. You're about to be shown the bank account statement for Jovane. Can you help us with these questions. Who were the signatories to the account, the bank account for Jovane?---Myself and my wife.

Did your father-in-law have access to that account?---Possibly.

No, no. What do you mean possibly?---I think he might've, I - - -

20 What do you mean, you think he might've? Why are you saying you think he may have had access to that account?---We, we share everything like - - -

You share everything?---Yeah.

Okay?---There's no, no secrets at home, so - - -

No secrets?---No.

Except the fact that he used your invoices, your company invoices to commit a fraud on the Council?---Oh, well I was unaware of that.

30 Did he tell you that secret, that dirty secret?---I was unaware of that.

You weren't aware of it?---Yes.

But you share all the other secrets. Is that right?---There's no, there's no secrets.

No secrets?---Well, from what I know.

40 From what you know. Well, you know of at least one now don't you?  
---Yes.

So you share everything, the money gets - - -?---Yes.

- - - all mixed up?---No.

No?---We don't - - -

Okay?--- - - - don't share each other's money but - - -

No. Well, why would you, why do you think your father-in-law probably had access to your bank account?---To transfer money.

Okay. If it can just come back up on the screen. I'm sorry to the Commission staff, just put that back up on. You see money is coming into the bank account. When you were getting – can we go to the next page, page 277, 278 and 279. Apologise. Yeah. So do you see money coming into that account from Botany Council?---Yeah.

10

And do you see then money being withdrawn from that account, transfers coming out of the account?---Okay. Yeah, I see that.

Did you receive your bank account statements?---No. I would have but I don't, I don't look at that.

You don't look at it?---No.

20 Did you think it was odd that there were huge amounts of money going into the bank from Botany Council?---I don't look at the bank account.

But you said you would have looked at some bank account statements? ---No.

Is it your evidence that you never looked at a bank account statement issued by the bank to your company?---No.

Is that your evidence?---Yes.

30 Okay. When is the last time that company put a tax return in?---I wouldn't know.

But it's your company?---I'd have to ask my accountant.

Well, who is your accountant?---His name is Steve or Slav.

Yeah. What's his surname?---I can't remember.

You can't remember?---No.

40

When is the last time you put a tax return in, I'm going to ask you the question again, for the company?---I don't know. He would've done it last year.

He would have done it last year?---I'd – from what I know, yes.

Well, how do you know that?---I submit all my paperwork and he does what he does. When he does it I, I'm not sure.

So did you submit all your bank account statements to him?---Yes.  
Everything would have been - - -

You did?---Paperwork and everything would have been submitted.

And did you go through the bank account statements?---No.

You didn't?---No.

10

No. Do you know whether your business paid tax last year?---I don't know.

You don't know?---Again, my accountant would know that.

Okay. Well, what I'm going to ask is – through the Commissioner is if you can be directed to provide the name of your accountant - - -?---Yeah.

- - - to the Commission solicitor?---Yeah.

20

You can do that?---Yes.

Okay. Now is it your evidence on oath that you weren't aware that there was money going into the bank account of your company from Botany Council?---Correct.

That's your evidence?---Yes.

Okay. Now can we go to then – can I just ask you this questions, did you withdraw cash for your father-in-law?---Yes.

30

From the bank account?---Yes.

Yeah?---From my bank account?

Yeah?---Not for him, no.

No. Okay. Can we have the transcript page 255, line 15 come up from 2 March, is that possible? Not possible. Okay. So your father-in-law has said that you would withdraw cash from him – withdraw cash for him and you did. Did you withdraw cash for your father-in-law?---No, not, not for him.

40

No. Did he ask you to withdraw cash?---Yes.

Yeah. And where did you withdraw the cash from?---Jerrabomberra. We were in Canberra.

Say that again?---We were in Canberra.

Yeah?---There's a suburb called Jerrabomberra.

Yeah. Where - - -?---If that's what you're referring to.

And where did you withdraw the cash from?---A ATM.

How much?---I think it was \$3,000 at the time.

10 From what bank account?---ANZ.

Jovane's bank account?---Yes.

And when you took the money out did you – were you surprised that there was a lot of money sitting in that bank account?---Because it came out of the company account. It doesn't come up with whatever other accounts you have in the - - -

20 Okay?--- - - - listed.

Now your father-in-law has given evidence that you would withdraw cash and that you would at times give it to Gary Goodman?---Correct.

Is that correct?---Yes.

Where were you withdrawing the cash from to give to Gary Goodman? This – sorry, Commissioner, this is transcript 255 for the record?---At one time it was in Canberra.

30 Ah hmm?---And another twice or three times from memory it was the local bank in Minto.

Okay. And you would take the cash out of the Jovane bank account?---Yes.

And you would give it to Mr Goodman?---Yes.

And do you know why you were doing that?---I was asked to.

40 By whom?---Alex.

So you didn't ask him at all why that, why that was happening?---No, not at all.

You took money out of the company account to give to somebody who your father-in-law asked you to. Correct?---Yes, correct, yes.

Do you know who Mr Gary Goodman is?---Yes.

And when did you first meet him?---Last year at some point.

Do you know what job he had?---No.

And did your father-in-law say anything to you about him - - -?---No.

- - - as to why you were giving the money to him?---Not at all.

No. Seriously?---Seriously.

10

Mmm. Okay. Did he tell you that the money that you were giving to Mr Goodman came from the Council?---No.

No. Did he tell you that Mr Goodman owed him money?---No.

Did he say to you that it would be good for people to see that you were working for Council?---He said it will be good to, to get my company name out there and help to secure another contract.

20

But did he say, did he say that it was being used to allegedly work for the Council?---No, he didn't say that.

No. That's transcript page 252, line 40, Commissioner.

Did you meet Marny Baccam - - -?---No.

- - - through your father-in-law?---Don't know who that is.

Have you met Zoran Gajic?---No, again.

30

Sam Alexander?---No.

Now, just tell me about the property at [REDACTED]. You live there with your wife and your mother-in-law - - -?---Yep.

- - - and your father-in-law?---Yes.

Yep?---And the younger daughter, youngest daughter.

40

And in terms of that property being in the name of your wife and your mother-in-law - - -?---Yes.

- - - do you know how that came about?---Well, I couldn't get a loan - - -

You couldn't get a loan?--- - - - so my wife had to do it through her name.

And the money that you earned through your work has gone to pay off the mortgage?---No, it's gone to pay company bills.

And what about the money, have you used any of that money to pay off the home?---What money?

The money from Jovane. Because I think you've told us that you would access your bank account. Correct?---Yes.

Let's just walk through this. So you would take money out of that bank account and use it. Correct?---Not myself, but yes.

10

Not – well, who was using the money from the bank account, you see, because - - -?---My wife does the finance.

So your wife had access to this bank account?---Yes, most definitely.

And so as far as you were aware, she would take money out of this bank account to use on personal expenses?---No.

No. Okay. Does your wife have a job?---Yes um, till late last year.

20

Okay?---She was on, she's on maternity leave.

Where was she working, where was she working?---In BDO. It's an accounting firm.

So is your wife an accountant?---No, she does, oh, she worked in liquidation.

She worked in liquidation?---She never did accounting. Yes.

30

Okay. So the money – so your wife had access to this account?---Yes.

And she would take money out of it?---Yes.

And do you know what she was using the money for?---Pay bills.

Pay bills?---Yep.

Home bills too?---No. Oh - - -

40

Well, how were you living then?---I don't know.

Are you saying you were working in a business and you weren't using any of it to live on?---No, we, I - - -

Are you seriously asking the Commissioner to believe that?---No. From the company I'd get paid into a trust fund - - -

Yeah?--- - - - and that would be my money to live off.

Okay?---And the rest went on company bills and whatnot.

Do you know how much money you pulled out of the company into the trust fund for your income?

10 MR OATES: Commissioner, I rise to object on the basis that I can't see how this goes to the scope and purpose of the, of the inquiry, how it's relevant.

MR MOSES: Oh, it's relevant.

THE COMMISSIONER: Well - - -

MR OATES: This might concern some other matter but it doesn't concern this matter.

20 THE COMMISSIONER: It seems to concern another matter, I accept that, Mr Oates.

MR OATES: Mmm.

THE COMMISSIONER: But I mean I think it needs to be, it needs to be tidied up, Mr Moses. I think we can, we can get there can't we, a bit more quickly than this?

MR MOSES: I'm going to get to it very quickly.

30 THE COMMISSIONER: All right. Well, just indulge Mr Moses for a bit longer, Mr Oates.

MR MOSES: I don't ask to be indulged, I just ask to be allowed to do my job, and I will, I will get to it. So I just want to ask you this question in respect of where the money was going that was coming out of the account. Can the witness be shown again page 276, volume 14. There is an account number that appears on that page. There's an account where money is being transferred on a regular basis from your bank account, your company's bank account, it's account number [REDACTED]. Do you know who owns that bank account?---Not by those numbers, no.

40

No. Were there regular transfers coming out of this account?---I wouldn't know.

Okay. I'm going to put a number of propositions to you and see whether you agree with me, okay?---Yeah.

The Jovane bank account, you were the signatory to it together with your wife, correct?---Correct, yes.

You've told the Commission that you probably think that your father-in-law also had access to that bank account?---Yes.

You used that bank account to take money out of and give to Mr Goodman?---Yes.

10 You used that money to take money out of and use for your own personal expenses, correct?---Yes.

Yes?---Yes.

And your wife took money out of that account to use for personal expenses, correct?---Yes.

20 And you don't know, sitting here today, is that correct, whether any part of that money was used to go into the [REDACTED] property, correct? You don't know? Your wife would be best placed to tell us that, correct?---Correct. Some of the money I dare say would've been used to pay the mortgage.

Yeah?---From, from the trust fund.

Yeah. You just don't know, correct?---Yes.

How much was used, correct?---Yes. I wouldn't know.

30 No. Do you know what the mortgage is left on that property?---I would have no idea.

Yeah. Is it a quarter acre block?---Five acre.

Five acres?---Yes.

Quite a big property?---I don't know.

Sorry?---I don't know if you'd call it big or just it's a property.

40 Yeah. And you say that you only learnt about this fraud when you read the transcript?---Correct.

And so your father-in-law should we assume, when he gave evidence earlier that he told you about this after an examination that he had a private examination, that that was not right, correct?---Yes.

Okay. Thank you. I have no further questions of the witness.

THE COMMISSIONER: Mr Gligorov, when you say that you thought your father-in-law had access to the account, was he a signatory to the account or - - -?---No.

He wasn't?---No.

So when you say he had access, he had access through either your wife or your mother-in-law?---To the company account you mean?

10

Yes, the company account?---Yes.

Who were the signatories to the company account?---Myself and my wife.

Just the two of you?---Yes.

So if your father had access to the account it was either through you or your wife?---Correct, yes.

20

Right. Thank you. Yes, anyone else have any questions of Mr Gilgorov?

MR OVERALL: Mr Gilgorov, you said that you gave money to Mr Goodman?---Yes.

Was that in cash?---Yes.

I have no further questions.

30

THE COMMISSIONER: Yes, thank you, Mr Gilgorov. You can stand down, you're excused?---Thank you.

**WITNESS EXCUSED**

**[10.48am]**

MR THANGARAJ: Robert Floudas.

MR KORN: Commissioner, I seek leave to appear for Mr Floudas. My name is Korn, K-o-r-n.

40

THE COMMISSIONER: Yes. Yes, Mr Korn, that leave is granted.

MR KORN: I believe Mr Floudas is outside, your Honour.

THE COMMISSIONER: All right.

MR KORN: Commissioner, may I step outside?

THE COMMISSIONER: Yes, certainly. Mr Korn, do you want to come up closer to the witness box. Just come in and take a seat, Mr Floudas. I take it Mr Floudas wants the benefit of the section 38 order?

MR KORN: That's correct, Commissioner.

10 THE COMMISSIONER: Mr Floudas, take a seat. You need to understand that the order protects you from the use of your answers against you in any future civil or criminal proceedings but the order doesn't protect you if it should be found that you've given false or misleading evidence before the Commission. Do you understand that?

MR FLOUDAS: I do, your Honour.

20 THE COMMISSIONER: 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.

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THE COMMISSIONER: Do you wish to be sworn or affirmed?

40 MR FLOUDAS: Affirmed, please.

THE COMMISSIONER: Just before we swear the witness, Mr Oates, did you have anything you wanted to add?

MR OATES: No. No, Commissioner. I'm just having a brief chat to my colleague. I beg your pardon.

THE COMMISSIONER: Thank you.

THE COMMISSIONER: Take a seat. Thank you. Yes, Mr Thangaraj.

MR THANGARAJ: Mr Floudas, could you give the Commission your full name please?---Robert Floudas, F-l-o-u-d-a-s.

10 And you had a – you have a company called Gardens2envy?---I do.

And your business partner's name is?---Lyndal Marshall.

And how long has that company been operating for roughly?---Roughly five to six, six years, seven.

All right?---Yeah.

20 And at some point you started doing work for Botany Bay Council?---Yes, we did.

And can you tell us how you first got work at the Council?---Yeah. It was through Paul Cole introduced me to Malcolm Foo.

All right. And who then gave you work?---All the work – majority came through Malcolm, yes.

All right. Do you know someone by the name of Marny Baccam?---Yes, I do.

30 Did you do any work at her house?---Yes, we did.

Can you tell us what work you did?---Gardening, laid some turf, some landscaping, gardening work.

All right. And how did it – how did you meet her?---Oh, well, Malcolm introduced me to her as our – the girl to go to for our invoices and our – the girl that does our pays. The invoices apparently have to go to her and then they were taken in so we were introduced.

40 All right. And who first asked you to do work at her house?---Malcolm asked me to – when he went up there she goes she likes your work, can you do some work for her at her house. I said, “Yes, we can.” He goes, “Oh, make sure you look after her because she does your, your pays. Ha, ha, ha.” It was a joke sort of thing so I said yes.

Sorry, he said make sure you look after her, she does your pays?---Yeah. Don't charge, you know, too much at that stage.

All right. So the first time you went there did you send a bill to anyone?  
---No. The first two times we actually – she paid us directly.

Right?---We got paid for that, for the work done there, yes.

All right. And then did a point – and you kept doing work at her house did you?---We went – to my knowledge I was – I went another probably two, three times, four and my business partner went there on three occasions.

10 And she did work there, Lyndal did work there?---She did.

Right. And when you went and did jobs such as this one did you have other people with you?---Yes, I did. My workers. We had workers with us.

All right. And apart from doing work at Ms Baccam's house did you also provide any materials?---Yes. At that stage there we, we did some grass, some plants, rock, because we did do landscaping at the back. On the, on the third occasion, fourth, yeah, we supplied a few materials.

20 All right. And did she keep paying you for all the work that you did herself?---No. After that time it wasn't – no, she didn't pay us. It went - - -

We'll just do it step by step?---It wasn't, no, sorry.

So she didn't pay?---No.

Were you asking to be paid?---Yeah, on a number of occasions I asked are we going to get paid, we need to get paid.

30 And was there some urgency for you generally to be paid?---Oh, a big urgency as we survived weekly. To pay the wages, the materials and pay for people - - -

How many - - -?--- - - - yes, we have to get paid.

How many people did you have working for you?---At any one time it could go anywhere from eight to nine boys and girls to four or five boys and girls. We just got staff as we needed them.

40 And did they need to be paid every week?---Well, that – some of the boys were young boys living at alone, rent. Yes, they – whether we took money out of our own pockets to pay them we had to pay them because it was just not fair of them. They had to get paid.

All right. So the time when you had to keep asking her – ask Ms Baccam to be paid was there a solution to getting paid?---Well, the solution came up then that it was – they wanted to put it in the bank account, that's how it started, and they said it's going to be – we can put an invoice in. I didn't

know what they meant at that stage. I said I don't deal with that side of it. My business partner does that.

Yeah?---I only do the work. If it's anything to do with electronic transactions and anything like that, that has to go through Lyndal.

All right?---Yeah. So Lyndal was going to transfer it but – apparently, yeah.

10 All right. I'll come back to that in a moment. Did you keep then doing work at Ms Baccam's house, the company?---No, we stopped for a, we stopped after that the work, but we were getting harassed to do some more, but the only times, it was over a period of – the work only was over a period of eight months and like I said, I went there three or four times and Lyndal three times and maybe I sent a worker there once, but - - -

All right?--- - - - I couldn't tell you that dates or times.

20 And so what ended up happening was that you were asked to put in an invoice to Botany Bay Council to cover that work?---That, that's correct. I was asked to tell Lyndal and then she came in and arranged it with, with Marny and Malcolm to put in an invoice and just get paid for it. They said don't worry, just put it in. I don't know how it transpired, I don't get involved in that one.

All right. Well, your business partner's coming later in the week to give evidence, there are questions we can ask her?---That's correct.

30 Right. And so what then happened was, Ms Baccam paid for the first couple of times by herself and then after that the work that Gardens2envy did for her privately ended up being paid by Council through false invoicing?---That's correct.

All right. Did a point come where you gave cash to any employee of Botany Bay Council?---Yes, there was.

Right. Let's start with – well, you tell us one of the people and we'll start with that person?---The only two we gave to was only Marny and Malcolm.

40 Right. Well, let's keep going then with Ms Baccam. How did that arise that you ended up giving cash to Ms Baccam?---She – I think it was – don't quote me, oh, well, you've got to quote me, was it Malcolm came up and said, oh, Marny needs some money, can we organise it, and I said, well, I don't deal with the money, I don't know if there's any money in there, and got asked about two or three times and I said, look, I'll ask Lyndal if there is and then Lyndal goes, well, what do they want the money for, something about loans, paying back some loans or something or the other, and then once again something was arranged with Lyndal and, and, and Malcolm or

and Marny or somebody, like I said, I don't like to get involved in that side of it um, that an invoice would go in and then we'd get paid for the work done there.

All right. Well, let's just go step by step. You were asked to give some money to Ms Baccam?---Correct.

You raised it with your business partner, Lyndal, who dealt with the invoicing and the money?---Correct.

10

Did you, were you given any cash by your business partner?---To give to Marny, yes.

Yes. All right. So Lyndal gave you some cash and you gave it to Marny, did you?---Correct.

How many times did that happen do you think?---Numerous times. I mean enough that it pissed me off a bit, but - - -

20

All right. Do you remember over what sort of period of time that happened? ---Could have been a year or two or – it's one of those things where you just want to shut up and don't think about it, I mean it's just - - -

All right. Now, your understanding is Lyndal can help us with the detail of - - -?---She can help you with a lot of that stuff, anything to do with invoices and anything else and dates and times and - - -

30

Right. Well, okay, well, I'll go that detail with her, but you understood from your discussions with Lyndal that the moneys you were – the moneys that you gave to Ms Baccam came back to you through false invoicing of Council?---So Lyndal told me, yes.

All right. So Gardens2envy didn't lose any money, Council effectively then got paid money to Ms Baccam?---Well, the conversations I've had with Lyndal, we did lose money a lot of the times but I can't speculate - - -

No, sorry, I'm talking about the money, the cash, sorry, I'm only talking at the moment - - -?---Oh, sorry, yeah, no, apparently not, no.

40

So we'll just clarify that?---Sorry, yes.

With respect to the cash that you gave Marny Baccam, you got all that back through Council?---Correct.

Okay. And did you give any money to anyone else, any cash to anyone else?---Just to Malcom.

All right. How did that come about?---Oh, he approached me oh, well, I think it was, they was, they were together first and he's asked money after that, that he needed some money for Mark, he wanted to borrow some money for Mark, can we help him and it will be good for us if we, you know, we help. It's just like he said with Marny, oh, it's good, but I just told Lyndal and left it in her hands. So he approached, he goes, can you speak to Lyndal, and I said I will, but not my decision to make, but if she makes that decision to give you some money then that's, that's fine.

10 All right. Now you don't need to go so close to the microphone.  
Apparently - - -?---I'm sorry.

- - - the people listening to it are - - -?---I'm sorry.

All right. So, all right, so with respect to then to Mark with this Mr Goodman money that Mr Foo had spoken about was some money then provided to Mr Foo by you?---Yes, it was. I was passing it over, yes.

20 Why is that you agreed to do this?---A number of reasons. One, I was told it will look good for us to, to look after them because then we get more work and if we don't we're not going to get anymore work because, you know, there's other people that can do your job and can come here and do the work. So - - -

Did he give you an example of someone who could take over your work?  
---Yeah. My nemesis, Zoran, whoever that is.

30 All right. Do you remember his surname?---No. I only heard Zoran mentioned a few times.

All right. Did you know that he had previously done work for Council?  
---Well, I inherited one of his workers so apparently he did. I, I speculate that, I don't know.

All right. Now the money that you advanced to Mr Foo, was there some arrangement to be repaid that money?---Lyndal had an arrangement there. I don't know, well I do know now but - - -

40 All right. What do you know?---There was an arrangement that well an invoice would go into repay it.

All right. And so your understanding is that the Gardens2envy was repaid that money by a false invoice?---Correct.

All right. And were you part of that discussion between Malcolm Foo and Lyndal or not?---No. Because they - I don't know what invoices were put in because I wasn't involved in that side of it. I didn't deal with the financial side of it.

All right. Well we'll ask Lyndal - - -?---Yeah.

- - - about the detail of that. But that's what you understood had happened?  
---That's correct.

All right. How much time of the week were you spending doing Council of Botany Bay work?---Seven days a week, six days a week, four or five people a day and night would - - -

10

Does that mean that it's obvious you could not afford to lose that work?  
---No way. He was really good to me. I mean it was good because also he kept me going because I'm diabetic too and I like working and I spent a lot of time there, a lot of work.

At one point did Lyndal refuse to provide cash as requested?---She did on a number of occasions but it had consequences.

And did something happen - - -?---Invoices weren't going to go in.

20

Did something happen one day when she refused?---Yes, it did.

What happened?---Well, we weren't – our invoices were not going through to, to get paid so it would go two, three weeks. Because I remember Lyndal telling me we're not getting paid here, you know, we're using our own money to pay the boys. We weren't getting any money.

And did you take that up with anyone?---I did. I took it up with, with Mal and I took it up with Marny too. But there was always an excuse and whatever you know. I think it was a bit of power play to tell you the truth.

30

Who was the person or persons that told you that you would lose work at Council if you stopped providing the cash?---It was if we didn't want to do it, the words were "If you don't want to do it let somebody else do it", was Malcolm would tell me on a number of occasions, there's other people here. And he used to brag about it in front of the boys too, in front of his workers when he didn't, you know - - -

Was there ever any occasion where Gardens2envy paid for goods for Mr Goodman, Mr Gary Goodman?---Only, only on - - -

40

Just sit back, just sit back a little bit?---Sorry.

- - - from the microphone?---Look, with Gary I don't know. It's just what Malcolm was telling me. He just said - - -

What did he tell you?---He just said they needed some pots and he said it was for Gary. Now, you know whether it was or wasn't, I can't say. But

then again a lot of things were said, you know like, it's for him, it's for that, it's for Marny, I didn't know what to believe.

Did you order some pots from Flower Power?---I did, yes.

And some materials?---Yes, we did.

10 And were they delivered to a particular address?---On one occasion I think Lyndal, she said we had to deliver them. If you ask me the address I don't know, I really, truly, truly can't - - -

No, no, that's okay. But did you, did you have some suspicion because of the address?---Well, I did because it went out – it wasn't in Botany it was going somewhere else so - - -

A long way from Botany?---Yeah.

All right?---Only on one occasion, yes.

20 And Malcolm Foo told you that that was for Gary Goodman?---Yes.

But that's all, that's - - -?---That's all he said.

All right?---I mean he said you've got to get some stuff and that was it. But that was on a couple of occasions.

Who's Anmol, or you might know him as Amal?---I do know him as Adam, yeah, sorry.

30 Okay, or Adam. All right?---Shall we say Adam, because it confuses me on that one.

How did that come about?---When we started working there, I can't remember the date, Malcolm told me that Adam can't work for Zoran anymore do you want a worker, to work for you. I said "We always want workers, we take kids all the time, of course". So I agreed to take him on as one of our workers.

40 All right. And he started doing work for Gardens2envy?---Well he wasn't - - -

At the very beginning he started doing - - -?---Yeah. He did. Not much because he wasn't the best worker. I couldn't use him for gardening outside of Botany because he wasn't good at lawn mowing and stuff like that. And most of my workers, you've got to get the production out we can't work on, it's go, go, go and he wasn't good enough for out there but - - -

All right?---When Botany, when they wanted, when there's work at Botany then I'd use him there whenever I needed an extra person.

And how was – did he – he was being paid by Gardens2envy?---Yes, he was, yes.

And he was – did the point come where he was being paid for work that he was not doing at Gardens2envy?---Yeah, for Botany Council you mean?

10 Yes?---He was working at Botany, yes. So the question is, sorry?

So?---We were paying his wages, yes, we were.

Now - - -?---For everything he did.

- - - was he – you would bill Botany Bay Council for work that Anmol had done?---We would.

20 Did a point come where you were billing Council for work that Anmol was doing for someone other than Gardens2envy?---I was not aware of that. No, I'm not sure of that. As far as we knew or as far as Lyndal knew because she did his pays, all the work that he did was for Botany, that's what - - -

Sorry?--- - - - she was told.

Sorry. That's my fault for not being clear. Anmol's hours were on the Gardens2envy invoices to Council?---Correct.

30 Were all those hours work that he had done for Gardens2envy?---I can't tell you that because we were told they were, that was work for us because he was working - okay, we'll have to go back a bit because - - -

Yeah?---We were just told that he did work at Botany and we had the bill the pay him because he was ringing us or Lyndal and emailing, oh, you owe 36 hours, you owe me 60 hours, blah, blah, blah. And Lyndal would say to him "Where do I owe you the 60 hours from"? "Because I was working at Botany and it was for you". So then when Lyndal got to the bottom of it and then I rang around it was – he was given hours to work there by, by Malcolm directly.

40

So Malcolm was directing Adam to do work?---Correct.

Not being directed – and there was – so there was work that was going on the invoice for work that Mal was directing Adam to do as opposed to Gardens2envy directing him for work to do?---About 80 per cent of it, yes.

Okay. And you don't know what that work was?---Well it's only what Malcolm would tell Lyndal we knew but it's not – I only ever – I've seen

him there two, three times maybe at the airport and I'd say "What are you doing here"? He goes "I'm working for you". And I said "Oh, this is a surprise, thanks for telling me". Beautiful, love it.

Okay. So by the end of it did you understand that Malcolm was using Gardens2 invoice to put Adam's hours through?---Well that's what it was. I mean he was, he was telling Lyndal, Adam, Anmol do this many hours but there was an occasion where there was a dispute where Lyndal didn't pay Adam because no one could tell Lyndal where it was. And I only know that  
10 because she showed me the email that she got from Anmol, Adam.

All right. And you paid Adam by electronic funds transfer?---Lyndal would pay all the wages, even my own through the bank and everything went into their bank accounts unless a boy, one of the other boys had a different deal or whatever, but everybody from Botany that did work at Botany, yes. And Lyndal would pay them into their bank accounts.

Right. And do you have any idea roughly of how much cash you provided to either Marny Baccam or Malcolm Foo or both?---Personally no, but I  
20 know from speaking to Lyndal now that she had records and she's got the records and she can sort it with you, really good with that sort of stuff.

All right. Were there times where you were directed to do work that you were not allowed to bill for specifically? So for example, you might be told to go somewhere and said well you can't bill to say that you did this work?  
---Yes. On a few - - -

So how, how would that - - -?---A few, a lot of occasions.

30 What happened?---Well we would come in – it all – we were never given a roster for, only unless we billed the work. It was always, ah, we need four people in today, as an example. Or we'd get a phone call, I need four of your boys in today to come and do some work at (not transcribable) or T1 or T2 or whatever. But when we'd get there and the boys will be sent somewhere else to do some work. Like you know, maybe Cooks River, T1 or T2 picking up cigarette butts or doing that and that and I said "But that's not what we were called in for". Because the boys would ring me and (not transcribable) or I would go in. Let's just use me for example. I would go  
40 in and say look, I was brought in to do this, why are we doing that? And I knew we were doing it because it hadn't been done. Which was probably part of Botany's work.

All right. And were you allowed – so let's say you went, you were called in to place A but directed then to go to place B?  
---Correct.

Were you allowed to put on your bill that you had done work B?

---From Lyndal I was told that no, she wasn't, because I remember she told me at a conversation that we have at night, because we never caught up much, she said to me, oh, you told me you were working such and such a place, why am I billing here? I said, how do I know, Lyndal, I said, you - - -

And so you did get paid for the work but it got described as - - -?---We got paid for the work but it's described differently.

10 Okay. It was described for what you were called out to do, not what you ended up doing?---Correct.

All right.

Nothing further.

THE COMMISSIONER: Anyone has any questions of Mr Floudas?

MR MOSES: I do, Commissioner.

20

THE COMMISSIONER: Yes, Mr Moses.

MOSES: Sir, you've mentioned Mr Foo - - - ?---Correct.

- - - from time to time – sorry, I act for Botany Council?---Sorry, yes.

I apologise. I think you mentioned that Mr Foo from time to time approached you to provide him with money in order that it be given to Mark Goodman. Correct?---Well, that what he had told me it was for.

30

No, that's okay?---Yeah.

Just that's what he told you?---Yes.

Okay. Apart from collecting money from you to give to Mr Goodman, Mark Goodman, did he approach you to collect money for himself?---He, he never told me that - - -

Okay?--- - - - so I can't say that he said that.

40

Okay?---Whether it went there or whether it didn't - - -

Okay. And apart from providing money to Mr Foo to, on his statement to you, to give to Mark Goodman, did you give money to any other employee of Council?---Marny.

Marny Baccam?---Yes.

Okay. And she would approach you directly for that money?---Oh, she would just ask me, yeah, she would, can you speak to Lyndal, I need some money, blah blah blah, and then I would tell Lyndal, I said, Lyndal, your girlfriend is asking again - - -

Okay?--- - - - sort it out.

10 And the way in which the money would be provided - - -?---Was cash.  
- - - would be cash?---Cash.

Okay. Can I just ask that the witness be shown page 41 of volume 36. This is a bank account of Mr Baccam but it shows at page 41 that there's a, there's a cash deposit Gardens2envy for \$1,000. Would that be for some amounts it would be paid by way of a cash cheque or just given in cash? ---No, that would have been ah, Lyndal probably would have done it cash for her.

20 Okay?---But like I said, I've spoken to her since because I was asked this question before - - -

Yes?--- - - -and I knew nothing about it but - - -

Okay?--- - - - Lyndal apparently told me she transferred money in there, yes.

Okay. And when money was given to Mr Foo to give to Mark Goodman, that is he had asked - - -?---Yes.

30 Would you give it to him?---Yes, I would.

Okay. And do you recall giving him the sum of \$10,000 to give to Mr Goodman?---No, I don't think, we weren't giving that much amount. Could have been.

Would you give him amounts of money over time to give to Mr Goodman - - -?---Yes.

40 - - - that may have reached that level?---Yeah, it would have been that much, but over a period of time, yeah.

Okay, okay?---Oh, yeah, definitely would have went to that.

Would it have been more over time?---Probably, look, it could have been.

Okay?---Yeah um, because it was a few times, so yeah, it could have been, yes.

Okay. And the way in which your company would compensate itself for having given these moneys to Mr Foo to give to Mr Goodman or to Ms Baccam would be to put in false invoices?---That's the way they were doing it, correct.

And who told you to do that?---Well, I didn't do it but - - -

No?--- - - - Malcolm was doing it with Lyndal, they were catching up and doing it.

10

Okay?---Yes, you asked me about invoices and I, sorry, but I can't answer you anything on that, I actually don't know what happened or what invoices happened.

Okay. And would you – see there are some emails, and I can show them to you if you'd like, where - - -?---You can, but I don't read emails.

Okay?---I wouldn't know what they are or - - -

20

Okay?--- - - - who they're from.

Well, I'll ask, I'll ask Lyndal?---You'll have to ask anything about emailing, sorry I'm not being rude, but - - -

No, you're not?--- - - - anything about email or electronic stuff like that, you'd have to ask Lyndal because I just had no dealings with it whatsoever.

30

So when for instance invoices were being sent to Marny Baccam that say, from Lyndal, "As discussed with Robert," and then she attaches invoices - - -?---Well, she would have probably meant there that Marny told me what she wanted and I would tell Linda. I said, "Linda, your girlfriend wants money."

Okay. So Marny, Marny would tell you what money - - -?---She wanted.

- - - she wanted?---And I just said to - - -

40

Okay?---I said, look, and on many many occasions I said, "Look, there is no money, we can't do it."

Okay?---"And I will talk to her, if she wants to do it for you and she wants to do it - - -

Okay?--- - - - she's responsible for finances, I'm not responsible for the finances."

Okay. So, so where she would send an email to Ms Baccam it would say, "Additional invoice as discussed with Robert," and she sends it to Marny,

we can assume that that would have been an occasion where extra money would have been requested from Ms Baccam for herself?---Probably.

Okay?---Probably yes.

Just as an example, Commissioner, I don't need to take the witness to this, I'll ask his business partner, it's volume 9, page 59 and 60. There's an example there of quite a few of those emails in ICAC's possession. Another one appears at volume 9, page 61.

10

And in relation to Malcolm Foo, is this what you were told by him, correct me if I'm wrong. Did Mr Foo say to you that if you don't pay this money or give us this money so I can give it to Mr Goodman, there are other people who we could get to do the work? Is that what Mr Foo said to you?  
---He, well, the words, or if you want to - - -

The reason I want to be careful about this is - - -?---Yeah, that's fine, that's fine.

20

- - - just, the reason I want to be careful about this is - - -?---No, I understand, I understand.

- - - is that, is that Mr Foo is currently suspended from his employment with the Council but if it turns out that what you said is correct, then he will be terminated, so we want to be sure what he said to you. So can you just tell us what, what he said to you?---Yeah. To my best recollection - - -

30

Please?--- - - - the words were that, "If you don't want to do this for us and help or do, then there's other people that can do this job, it's not only you."  
We were demoralised like that quite a few times I suppose, but - - -

Okay?--- - - - we were told many times on, on different - - -

And was that in the context of Mr Foo asking you for money to give to Mr Goodman?---On, on two occasions, yes.

40

Okay. Thank you. Now, I just want to ask you just this. When you first started doing work through Gardens2envy for Council, I think it was 2011/2012?---I think you know better than me.

Correct?---I didn't know, sorry.

And in that first year there was about \$4,000 worth of work done. I just want to take you through the figures. In 2012/2013 there was \$42,493 worth of work done and then - - -?---Yep.

- - - and then in 2013/2014 it goes up all of a sudden - - -?---That would be about right, yeah.

- - - to \$321,875. So in that big jump in that next year, what was the, what was the difference, what was the difference in the work that was being undertaken?---Well, that's the things you see. Like I said, when we started there, we started and we just, oh, I think they were just testing us, we didn't have much work, we didn't know anybody, they didn't know what we could do, what, what our, workwise how good we were.

10 Yeah?---But then what happened was, the Airport started liking us too and started requesting for us too because they knew our work, so we did a lot of quoted big jobs in there. We did a \$50,000 job, we did a \$45,000 job.

Ah hmm?---We did some big quoted jobs which is the ones that we were chasing to do and that was my whole - - -

Okay?--- - - - thing was to get some big jobs.

20 And then, and then in the following year, being 2014/2015, it went up to just under half a million dollars. Now, what I want to ask you is this. In that period 2013 to 2015, how many employees did your company have?---At that stage maybe over 10, 11, 12.

Okay?---I mean we were bringing them in all the time. Yeah, we had quite a few, yeah.

Okay. And are you – and sitting here today - - -?---Yeah.

30 - - - you're not in a position to say – I think to be fair to you, you said this to the Commissioner, how much money was given to Ms Baccam and to Mr Goodman through Mr Foo. Lyndal would know because she kept a record of it?---You'd have to ask Lyndal that one because I honestly truthfully don't know.

Okay?---I don't keep - - -

No, okay?---I'm sorry, I just can't answer that one.

40 So of the amounts that, of the amounts that Council paid on invoices, Lyndal would be the best person to ask as to how much was given to - - - 100 per, 100 per cent.

- - - Mr Foo to give to Mr Goodman and to Ms Baccam?---100 per cent she'll know all about it.

Okay?---100 per cent she'll tell you.

Okay. And she'll be able to help us with the false invoices- - -?---100 per cent.

- - - because she's the one who did it?---100 per cent Lyndal will be, will help you.

Okay?---That's my business partner, yes.

Thank you. And just two final questions?---Yeah.

10 Did you do work at the home of Gary Goodman?---No, and that's – no.

Thank you?---No.

Did you work at the home of Marny Baccam?---Yes.

And just related to that question, was Council charged for that work?  
---After the fourth or fifth time, yes.

20 Okay. And do you know what year we're talking about?---No. Look, Lyndal would have all that.

Lyndal would know?---And she would – honestly would tell you all that.

Okay?---So, yes.

Thank you, sir. Okay. I have no further questions.

THE COMMISSIONER: Thank you. Any other questions of Mr Floudas?

30 MR HICKEY: Yes, Commissioner.

THE COMMISSIONER: Yes.

MR HICKEY: Mr Floudas, I appear on behalf of Mr Foo?---Hi.

If I could just ask you a few questions?---Of course you can.

40 When Mr Foo – I think your evidence was that he approached you in relation to a loan to Mr Goodman. Is that correct?---Sorry, I can't – I really can't hear you that well. Sorry.

Mr Foo - - -?---Yeah.

- - - when he first approached you in relation to Mr Goodman it was in relation to a loan. Is that correct?---That's what the words were used, yes.

So Mr Foo had said to you that he was approaching you specifically for a loan between yourself and Mr Goodman?---He wanted some money for Mr – for Mark, yes.

Okay. But it was a - - -?---And that he was going to pay it back personally or something, yeah.

10 Who was going to pay it back personally?---Malcolm or somebody was going to pay it but - - -

Someone was going to pay it but you didn't think to ask who was going to repay the money?---No, because like I said I don't deal with that side of it. It was up to Lyndal to give the money.

20 So it's your evidence then that Lyndal was the person who was dealing with the terms of the repayment. Is that correct?---Anything to do about the repayments or to the money it was Lyndal. I was told the amount that was needed on different dates and times and then I would pass that information back onto Lyndal.

But you weren't involved of any – in any of the electronic transfers or any of the invoices?---I, I don't deal with the, the - putting out the money with – the cash amounts. Any finances I let Lyndal deal with all that, yes.

30 So your knowledge is limited to the first arrangement, that is that Mr Foo asked you for a loan for Mr Goodman?---That's how it started but after that it was just oh, Mark needs the money for his wife, he needs it for something, he needs it for this, he needs it for every other reason under the sun.

Sorry, who needs the money?---Mark needed the money. That was the - - -

Mark need the money?---Yeah, that's what he said.

Thank you. No further questions.

THE COMMISSIONER: Any other questions for Mr Floudas? No. Nothing arising, Mr Thangaraj?

40 MR THANGARAJ: No. No, Commissioner.

THE COMMISSIONER: No. Thank you, Mr Floudas. You may step down. You're excused?---Thank you very much.

**THE WITNESS EXCUSED**

**[11.22am]**

MR THANGARAJ: Malcolm Foo.

THE COMMISSIONER: Mr Hickey, do you want to come forward to the – closer to – or are you happy to stay there?

MR HICKEY: I'm happy to be here, Commissioner.

10 THE COMMISSIONER: All right. Thank you. Yes, come forward, Mr Foo. Just take a seat. I take it Mr Foo has been told about the effect of a section 38 order?

MR HICKEY: Yes, Commissioner.

THE COMMISSIONER: Thank you.

MR HICKEY: He will also take an oath.

20 THE COMMISSIONER: Mr Foo, it's important that you understand that the order that I'm about to make protects you from the use of your answers against you in civil or criminal proceedings but it doesn't protect you if it should be found that you have given false or misleading evidence to the Commission because if that were the case, your answers could nonetheless be used against you to prosecute you for an offence under the Act. Do you understand that?

MR FOO: I understand that.

30 THE COMMISSIONER: 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**

THE COMMISSIONER: Can we have the witness sworn please.

THE COMMISSIONER: Yes, Mr Thangaraj.

MR THANGARAJ: Mr Foo, can you give the commission your full name please?---My name is Malcolm Foo.

10 And until recently you were employed at – sorry, you’re suspended from Botany Council?---Yes.

And what was your most recent position?---I’m a – actually under my, my, my, my agreement I’m a team leader.

Of what?---Of the Business Unit.

Okay. Now have you been here for all of the evidence of Mr Floudas this morning?---Yes, I heard it all.

20 All right. Do you agree that you were part of a process to put false invoices through Council?---No.

You don’t?---No.

All right. You don’t agree therefore that you helped Marny Baccam’s renovation – sorry, landscaping work be paid by Council?---No, that was, that would be deal with, with, with Robert Floudas.

30 Sorry, what was that?---He was dealing with Robert Floudas directly.

Who was?

THE COMMISSIONER: Who?---Marny.

MR THANGARAJ: All right. Did you know Marny Baccam was doing – was having work done at her house by Gardens2envy?---Yes, I heard, I heard from the boys.

40 Which boys?---My crew.

So are you saying that you never spoke to Robert Floudas about Marny Baccam’s private work?---No. I never ask him to go there to do it.

All right?---Because - - -

Did you - - -?---Sorry, say again.

Did you speak to Malcolm Foo or Lyndal about Gardens2envy doing work for Marny Baccam?---No.

All right. Did you speak to Robert Floudas or Lyndal Marshall about cash going to Marny Baccam?---Whatever cash they bill it doesn't come from me.

All right?---Because I don't believe in, in, in dealing with cash.

10 Okay. Did you speak to Robert Floudas or Lyndal Marshall about cash going to Marny Baccam?---No.

Did you speak to Marny – to Robert Floudas or Lyndal Marshall about cash going to Mark Goodman?---As for that Mark did ask me that he wanted a loan at first.

Yes?---And, and then I, and I spoke to, and I spoke to Robert and ask him whether he can help out and, and Robert says well, he don't mind helping out.

20

So did he help out?---Yeah, he help out definite.

What, what did he do?---Oh, he just – it's not much. Maybe, you know, every fortnight 500 to \$1,000.

Right?---And - - -

THE COMMISSIONER: Did you say every fortnight?---Yeah, every fortnight because - - -

30

And for how long did this go on, how many fortnights?---I think this not – it's not always. When it started in, it started in, in 2014, late, late 2014.

MR THANGARAJ: Right. And how, and how was he getting the money to Mr Goodman?---Can you repeat again please.

You were saying that every fortnight this was happening?---Yes.

40 What, what was happening?---Oh, sometimes, sometimes when Mark's, when, when, when Mark's office is unlocked I just put the envelope on his table.

What was in the envelope?---At first I didn't know. I thought it was invoices.

Yeah?---Then after that I gradually started, you know (not transcribable) and I could hear it's a type of money.

Right?---Is, is the money so I did ask, I did ask Robert. I said is that money for – he says don't worry. He says since, since, since Mark is giving us some work we have to look after him.

Right. So Robert was giving you cash to give to Mark Goodman was he?  
---Off and on.

Right. But I thought you said you didn't believe in dealing in cash?---No, at first Mark says - - -

10

Well, isn't that what you just said a minute ago?---Yeah. Sorry, sorry.

Well, what did you mean by that?---At first I thought it was a loan.

No, no, forget about whether it was a loan or not. You said you didn't deal with cash. So forget about whether it was a loan or a bribe, forget about that?---Ah hmm.

20

You said you didn't believe in cash?---Yes.

And the very next topic I've spoken to you about you've agreed you gave cash to the Acting Business Unit Manager - - -?---At first - - -

- - - from a contractor. Is that right?---Yes. At first I did - - -

All right. So you did believe in dealing with cash when you wanted to?  
---I'm not very sure about that.

30

Well, did you or not, did you provide cash to Mr Goodman from a contractor or not?---Yes, I did.

Okay. So you did – right?---Yes.

All right. So you tell us how that came about?---That came about when, when, when – because Mark, Mark Goodman he's – from what I know he's very financially – he needs money because he, he, he, he would borrow from me personally so - - -

40

Right?---But not much, like \$400, \$800.

Yeah?---But he did pay it back. Then after that it came up again. He wanted the money. I said, "Mark, I can't lend you money because," I said, "I've got my family to support."

Yeah?---You know, I said, "You'll, you'll have to look elsewhere."

Whose idea was it to ask money from a contractor?---It was his idea.

Whose idea?---Mark's idea.

Did he say which contractor?---We had, we had a couple of contractors but the most I deal is with – I'm dealing with, directly with 2envygarden because it come under landside.

All right?---And I don't, I don't know other contractors which he, he has been dealing with.

10 So you're saying Gardens2envy was doing work for the Business Unit?  
---Yes, definitely.

So the head of the Business Unit wanted some money and you say, you facilitated a loan from a contractor working in the Business Unit - - -?---  
Yes.

- - - for the head of the Business Unit?---Say again.

20 You facilitated a loan from a contractor who was working for the Business  
Unit - - -?---Yes.

- - - for the head of the Business Unit?---That's right.

Did you think there was a conflict of interest by doing that?---Yeah, I think it's (not transcribable) I think it's a conflict of interested.

30 By did you do there?---The reason I did it was because my Mark always pester me and just that I wanted to help him because at first he, at first he indicated me he wanted a loan and then it became, he started carrying on.

So you realised it wasn't a loan?---It wasn't a loan 'cause he didn't pay back, no.

You realised it was not a loan and even after you realised it was not a loan you kept facilitating money going from a contractor to the head of the Business Unit?--Yes.

So if it wasn't a loan, what was it?---Um, I, I won't have a clue on that.

40 Well, a contactor - you say, this is your version and I'll tell you Mr Foo, I don't accept your version - - -?---Yes.

- - - but I'm asking you about your version. You're saying that a contractor was giving cash to the Business Unit Manager - - -?---Yes.

- - - and you can't describe it?---Yes.

Well, if it wasn't what Mr Floudas was saying, then it could only have been a bribe?---Well, I think, I think - - -

Do you agree with that or not?---I don't think it was that.

So you, the person who said I don't believe in dealing with cash.---Yes.

You were facilitating bribes from a contractor to the head of the Business Unit were you?---Yes.

10

Right. Now I assume you didn't tell anyone that the head of the Business Unit was getting a loan from a contractor at the time that you say you believed it was a loan, you didn't tell anyone that?---No, I didn't tell no one that.

20

Okay. And you prepared with, who was Sinc Solutions, you know who Sinc Solutions are, don't you?---Sinc Solutions is the one, yeah, Sinc Solution is the one who came to investigate and to make a report and I think so, I think I went up to Sinc Solution one half month ago, explained all this and then we got report, did make a report on that.

Well, I'm going to take you to your statement now.---Yes.

You've prepared a ten page statement and you signed every page.---Yes.

You understood that the purpose of the statement was to look at things that were going wrong at Botany Bay Council.---Yes.

30

And clearly what you've just given evidence about would fall within that wouldn't it?---Yes.

Did you tell Botany Bay Council that you were facilitating bribes of the Acting Business Unit Manager?---No.

All right. So at the end of the statement when you say, paragraph 144, when you say, "I've read this statement and I have nothing further to add or alter," that wasn't truthful was it?---Say again please.

40

Well, you've agreed you did not tell, there's nothing in your statement to say anything about this bribe, this bribe being facilitated by you, right, do you agree with that?---Yeah, I agree with that.

You knew what the purpose of taking the statement was.---Yes.

And you say in your statement, I've read the statement and I have nothing further to add or alter.---Yeah.

So you weren't being frank with the people who put the statement together were you?---Yeah, yeah, I think I, at that time when I was with them I (not transcribable) forgot to tell them this.

You forgot to tell them - - -?---Yes, yes.

You forgot to tell an investigator who was looking into misconduct at Botany Bay Council, you forgot to tell them that you were facilitating a bribe?---Actually, I didn't take any bribes, all right.

10

I didn't, I specifically used the word facilitate, I specifically and I described that, you said, we've been through it, I'm not going to go over the questions again.---Sure.

But I'm just asking you that when you provided this ten page detailed statement to Sinc Solutions - - -?---Yes.

- - - how long did you spend with them?---I think I spend with them for nearly four/five hours because - - -

20

Right. So you forgot that for four or five hours did you?---Yeah, I forgot that bit.

And then afterwards you didn't think, oh better tell them about that as well.--Yeah, I forgot about it.

You forgot about it.---Yes.

So until I asked you the questions you'd forgotten about that had you?---Yeah, you see, as for me - - -

30

Did you or not?---Yes.

Were you here with Mark Goodman gave evidence?---No, I was not here.

Did you read his transcript?---I read a bit here and there.

Sorry?---I read bit in there.

40

When did you read that?---I read that last week.

Okay. So last week you knew, didn't you, that Mr Goodman had spoken about this \$10,000 loan?---Yes.

Which had come through you - - -?---Yes.

- - - from Gardens2envy?---Yes.

So you knew that last week?---Yes.

And you didn't think that you needed to update your statement?---No, didn't think no.

All right. Now, when you had this meeting with Sinc Solutions, who else was there?---I think the GM was there.

10 And why was she there?---I think she, she was there, she wanted to know more about that.

Did you ask her to be there?---No, I didn't ask her to be there.

You say in your statement that you some time ago knew or believed that Marny Baccam was forging your signature.---Yes.

20 What did you do about it at the time?---Well, it start this, money went to Mitre 10 and then one of my workers John (not transcribable) you better question Marny, she forged my signature and I went straight to Marny. I said, "Marny, why did you forge my signature?" He said, "Don't worry about it."

All right. So Marny said, "Don't worry about."---Don't worry about it, he said it had been approved by Gary Goodman.

Been approved by Gary Goodman.---Yes.

30 So did you go and speak to Gary Goodman about it?---No, I, at that time I was not close to Gary Goodman I was, because Mark was my boss and I spoke with Mark.

Yes. What did he say?---And Mark, Mark he rang Gary and he blasted Gary Goodman.

How do you know that?---Because I was there for two/three minutes and the phone call was then.

40 What did he say, what could you hear him saying on the phone?---He said, "Look Gary, how come you send the money to buy things for your house?" It is not the Business Unit.

So what you understood was, Marny Baccam had forged your signature so she could buy good for Gary Goodman?---That's right. Not for Gary, for Marny's house.

Sorry, for Marny's house.---Yes.

So what you understood was a Council employee was stealing from Council  
- - -?---Yes.

- - - and forging your signature?---Yes.

And you reported it to your boss?---Yes.

Who you say spoke to Gary Goodman?---Yes.

10 And what then happened?---He just said, he said that Gary from, it won't  
happen again.

Right. So did you understand that nothing was going to happen to Marny  
Baccam about that?---Because Marny Baccam was very, very well  
protected.

All right. By who?---By Gary Goodman because yeah, they, they, they are  
really close to each other.

20 When you say she's protected by him, in what way?---In many ways um,  
getting her a Council cars, letting her go to Officeworks and going to Cash  
and Carry - - -

Well, none of that is protecting, that's allowing her to do things wrong.  
What do you mean by she's protected?---Whatever anyone question her she  
been protected by Gary.

In what way?---In many ways.

30 Well, you keep saying that but you haven't given us a single example?---  
Well, it's just an example that she was not given any warning letters.

All right. Okay. Yes, that's consistent with what you're saying.---And,  
and, and, Mark Goodman used to tell Marny, "Please stop doing this bloody  
thing, you have to stop it."

Okay.---And that's why Mark he can't do anything because Gary and Mark  
are brothers.

40 Okay. All right. So you understood that Gary Goodman was allowing  
Marny Baccam to do these things that were wrong?---Yes.

Including personally profiting from Council money?---Yes.

You knew that, you believed or knew that she had forged your signature so  
that Mitre 10 would - - -?---Yes.

- - - the going on the Botany account. Is that right?---Yes.

You complained to the person that's protecting her.---Yes.

And you complained to the brother of the person that's protecting her and you believe he wouldn't do anything because he's Gary brother.---Yes.

Well, did you then complain above their heads to someone?---No, I been warned before I had a boss his name is Peter Fitzgerald and every time you have a meeting he used to tell us, what's this, what happens to (not  
10 transcribable) and not to be reported to anybody.

Right.---Because I'm a casual right, they can dismiss me anytime.

Okay. So you're saying that you didn't want to complain because you might be sacked?---Yes, that's right.

But you did complain to Mr Goodman?---I did complain to Mr Goodman.

If you were worried about being sacked why did you complain?---I thought  
20 that Mr Goodman was going to take the action but he didn't take the action.

Okay. Well if you're – so you were prepared to make a complaint even if you might be sacked if you thought someone would do something about it?--Yeah.

So why didn't you go above their heads to Lorraine Cullinane?  
---Well - - -

Well there's two options?---Yeah.  
30

No, no, you tell us?---I know.

Why didn't you?---What I heard is all the, all the GM's except Lara that they're, that they're really close to each other and if I make a complaint to her I might be, I might be targeted. So I was worried about my position.

Sorry. You were worried that Lorraine Cullinane would target you, were you, if you made a complaint to her?---Yes.

40 Why did you think that?---Well, as far as I know that Lorraine and Gary Goodman they are very close to each other too.

And what basis do you say that?---Very good friends.

All right. Do you understand whether or not they've had a relationship?  
---That I didn't see at all. I hear stories but I didn't see and I don't accept, I mean, just stories that they're very good friends and this and that.

All right. You know and every time when I go to the Council one of them will be in the garden having, having a smoke - - -

All right?--- - - - or a coffee.

10 Well let's go back then. Did you – why didn't you think, sorry. Did you think that if you complained to Lorraine Cullinane that she would do something about it or not?---Well, I was told by, I was told by my, my, my, my boss at that time it was Peter Fitzgerald that I shouldn't be making any complaint, I should be going straight to him.

Straight to Peter Fitzgerald?---Yes.

Right. So he wasn't there at the time of the Mitre 10 problem, was he?---He was still there.

As the GM?---No, no, no. He was just, he was just a worker at that time.

20 That's what I mean?---Yeah, yeah.

So the proper person, if neither of the Goodman's are doing anything then presumably the next person you are supposed to speak to is the Deputy GM, is that right?---That's right.

So I want to know, I'm asking you why is that you did not speak to her?  
---Well, as I said, I'd been warned by my manager - - -

30 But he wasn't the manager anymore?---No, no, no. I mean I've been warned by, by, by, Mal. Says that whatever, whatever you do you here stays here and not to be brought up to – he, he is the only one that can bring up this, this thing to, to Lorraine.

Well, have you seen other examples of Lorraine, well we'll go back a step. If you made a complaint to the Deputy General Manager?---Yeah.

- - - she should deal with it in a professional way according to the proper process?---Yeah.

40 You're saying that you did not have confidence that she would do that?  
---Yeah.

Is there some other occasion where you've seen her not to do that?---Well because I know, because you see like in the Council all the workers, staff, they, they do a lot of gossip, here and there.

Right?---They, they seem to know that and you know, everybody got something.

They what?---They seem to know that everybody got something.

They know something on everybody?---I mean everybody got someone to look after them there.

Okay. All right. So who was looking after Lorraine Cullinane, if that's the case?---I wouldn't have a clue on that. I think – from what I know that Gary and Lorraine they are best of friends. Because always when I go down there they have coffee - - -

10

All right. Did Gary ask Council staff to do any work at Marny Baccam's house?---As far as I'm concerned he didn't ask me.

Sorry?---He didn't ask me.

He did not?---He did not ask me.

He did not ask you to do that?---No, he did not ask me.

20 Well in your statement you say, has this been tendered? I'll tender that now.

THE COMMISSIONER: Yes, Exhibit R40.

**#EXHIBIT R40 - SINC SOLUTIONS STATEMENT FROM MALCOLM FOO**

30 MR THANGARAJ: Have you got your statement there?---Yeah. I've got the statement, yeah.

Just go to paragraph 53?---Is it the last page?

No, paragraph 53, page 3?---Oh, sorry, 53. Yeah, yeah. Yeah. Gary asked me one to get some.

So did he ask you or did he not ask you?---Yes. Yeah, sorry. I thought you're talking, yes, he did ask me but I said I won't do it.

40 All right. Now he wanted – when you say "Some of the contract staff", who does that mean? Does that mean staff directly - - -?---Contract staff, it can be Gardens2envy.

Right?---That's the only contractor that we use.

Right?---And sometimes it can be our, our workers that doesn't work on weekends.

All right. I'll come back to that. Did Marny Baccam ever ask you to borrow money?---Yes.

And did you organise a loan for her?---No, no. I, hold on, yes. She, she did borrow from me too.

Right. How much did she borrow from you?---I remember it was three or four years ago, she, she didn't only borrow from me, even she borrowed from the supervisor, Dave Wellington.

10

Yeah?---And she borrowed from me, she borrowed from me 2,000 too. And she, and she didn't and she didn't pay for six, seven months until one day she came back with a bundle of cash and she came and saw me and I was surprised. I said "Where you get the money"? "I went to the casino and I had a very, very good win".

Okay. So you got repaid in the end?---Yeah. I got repaid in the end.

20 Did Gary Goodman ever ask you to lend money to Marny Baccam?---Yes. That was, that was I think it was eight, eight to 10 months ago.

And did you - -?---Yeah. He, Marny, Marny rang me up and started crying on the phone and said I need, I need, I need \$10,000.

Yeah?---And I replied, I said "Marny, where do I have that type of money"?

30 Did she tell where she was?---Yeah. She was in Thailand at that time, yeah. So I said "Where do I have this type of money"? And then after that Gary rang me up and asked me. I said, "Gary, I don't have that type of money". Gary said, he said "Can you get it from anyone else"? I said I, I can't get. And then he did mention a couple of contractors that was doing some work but this contractor that was doing the work he, he, he did it in right channel, he, he applied the contract through the papers and, and he got a job with the Council and he did ask, he did ask, what's the name, Phil - - -

40 Phillip?---Yeah. Phillip, Filipoo, yeah. He did ask for, for 10,000 and then Phil asked me and I said Phil, I've got nothing to do with it. I've got nothing. If you want to give - and, and, and Phil felt sorry and, and I think Phil gave that - - -

Did Phillip to your knowledge know Marny Baccam?---Yes. He used to come there to the workshop there because he was doing work for Sydney Airport.

Right?---I mean not for us. So she met her, I mean, he met her once or twice.

Right. So he met her once or twice. Did his company do work for the Business Unit?---No. His company does work only for, for the Council.

Can you go to page 4?---Yes.

Paragraph 72. Can you see where he says, he works for Civilcraft? "Civilcraft does contract work for the Business Unit and Council"?---Page 4, number what?

10 Page 72. This is your statement?---Yes, yes. Also my friend's name is Phillip.

And he works for Civilcraft?---Yeah, yes.

"Civilcraft does contract work for the Business Unit and Council"?---Well, he was doing that, yes. Now I've got it now. He was doing for - - -

Well, is that correct or not?---Correct.

20 Is 72 correct?---Correct.

Okay?---Correct.

Forget about what he was doing, the point is you've heard Mr Freitas give evidence?---Yes.

That you organised a loan and I say that - - -?---Yes.

30 - - - in a particular way. That you organised money to go to a Council employee from a contractor, right. That's what he's given evidence about?--  
-Yes.

- - - and you've given a version of that?---Yes.

This is another example of a contractor giving money to a Council employee through you. Do you agree with that?---No. As for that, what I were, they gave him the money, I was not involved with that.

40 THE COMMISSIONER: Mr Foo, Mr Foo?---Yes.

But you see you were involved because when on these two occasions you've been asked to loan money and you say, "I don't have it,"  
- - -?---Yes.

- - - you're the one who's asked to find someone else to provide the money, aren't you?---Yes.

Well, why are you being asked to find someone to provide the money, why don't those people just go to other people without involving you?---No, because you see I've been working there very long time, 18 years, and, and, and they think that I've got the contacts.

MR THANGARAJ: Mr Foo, the reason that you were being asked was because you could threaten the contractors. Because you gave the contractors work - - -?---Yes.

10 - - - and you controlled whether they got the work?---Yes.

Right. So you were controlling the contractors. You decided whether they got work or not, didn't you?---No, I don't decide.

No, but if you wanted to cut a contractor off, if you wanted to cut off Gardens2envy and go back to Zoran Gajic, you could have?---No. Zoran Gajic is - - -

20 Okay, not Zoran Gajic. If you wanted to cut off Gardens2envy and go to another contractor - - -?---Yes.

- - - you could have?---No, I won't do that.

No, I'm not saying what you say you would or wouldn't have done, if you had decided we don't want to use Gardens2envy anymore - - -?---Yes.

30 - - - you could have – then they wouldn't have got any more work?---Well, the reason that I say that I wouldn't, because Gardens2envy, they are, they are the cheapest in town, \$28 an hour.

Forget about that. If you made a – if you did not want to use Gardens2envy, if you said to your bosses, they're not doing good work, they're doing this wrong, they're doing that wrong, or whatever you wanted to, you could have made sure that Gardens2envy got no more work, couldn't you?---Yes.

And you couldn't have made sure Civilcraft got no more work, couldn't you?---Well, as for - - -

40 Yes or no?---Yes for Gardens2envy, yes, but as for Civilcraft, they, they put up, they applied through the tender, a proper tender in the newspaper.

They may well have, that's got nothing to do with what I'm talking about?---Yeah.

You had the ability to get rid of a contractor if you wanted to, didn't you?---Well, if they don't perform the job, yes.

Yeah?---Yes.

But that's, whether they were or not is not the point?---Yeah, that's right, yeah.

Okay. So you could have got rid of Civilcraft legitimately or illegitimately if you wanted to, couldn't you?---Yes.

Right. Gary Goodman, Mark Goodman did not know Gardens2Envy or did not know Civilcraft personally, did they?---(No Audible Reply)

10

The personal relationship was yours?---Yes. It happened, all, it happened, okay. Gardens2envy came through one of my – and a team leader, his name is Paul Coles.

Yeah?---Right. Because he was cutting grass for Paul Coles' home and then Paul Coles came here and, and, and told me meet, meet Robert, his, his job is excellent in grass-cutting - - -

20 Forget about – Mr Foo, if I've cut you off and it's a legitimate answer to the question I'm sorry and you can, you can give it?---Yeah.

That's not what I asked you. We're not talking about how Gardens2envy came about, whether or not anyone else knew them. The fact is, you had a direct relationship with Gardens2envy and direct relationship with Civilcraft, didn't you?---Yes.

A much better relationship - - -?---Yes.

30 - - - than either Gary Goodman or Mark Goodman?---Yes.

So if anyone was going to threaten a contractor with losing work, it had to be you, it couldn't be one of the Goodmans?---Yes.

Right?---Right.

And that's what you did, both times?---Mmm.

You did it to Gardens2envy and you did it to Civilcraft?---Mmm.

40 Is that right?---Yes.

Okay. You told Gardens2envy, you told Robert Floudas, if you don't pay this cash you will lose work. Exactly what he's just given evidence on oath about?---No, I, I, I reject that, I didn't say that.

Right?---I didn't say that.

All right. Civilcraft came about because you rang, you put Gary Goodman in contact with them?---That's right.

So he was the one you say that spoke to them about the loaning?---Yes.

But you had conversations with Civilcraft directly about this as well, didn't you?---Yes.

10 I'll come back to false invoicing and things in a moment. There's a couple more things out of your statement. Go to paragraph 133 on page 7. What do you mean by the last sentence?---What paragraph is that?

I beg your pardon?---Under what paragraph?

133?---133.

Page 7?---Yes, I got it.

20 All right. What did you mean by the last sentence?---133. "The other supervisors don't complain it to me about anything but there are a couple of workers who are scared to talk."

So you're saying in that statement, in that sentence, sorry, there are a couple of workers who are scared to talk, but scared to talk about what?---Well, some of the contractors, they, they, they did, they did go to, they did go to um, Mark Goodman's house - - -

Yeah?--- - - - to do some work.

30 Yeah?---Of course I didn't know about that until two or three days they came and told me and I did question Mark, you know, and I say so don't worry about it, he's the boss, so he can, he can (not transcribable) anybody to work there. They were doing some cleaning of the rubbish, cleaning up of rubbish and cleaning of the swimming pool and when I heard about it I approach him and after one or two days they, they, they stop doing the work.

Right. And when you say they're scared to talk?---Yes.

40 What do you mean, they didn't want to report that to anybody?---Yeah, don't want to report 'cause, 'cause they, they, they are, they are scared that they, that they, that they will be sacked.

Okay. All right. I just have a couple of discreet questions before I come back to going through the false invoicing?---Yes.

Can I just – can we just bring up volume 5, page 43 please. Oh, sorry, no, that's all right, I'll come back to that.

When you received an invoice just generally, then I'll come to Gardens2envy, when you received an invoice that you were going to sign off on or approve payment, would you check the work?---Definitely.

Okay. So does that mean every invoice that you approved or every invoice you signed for you checked to make sure the work had been done first?

---Yes. It's not, it's not only me, it's been checked by the cycle supervisor too, his name is Glenn Carroll.

10

Okay?---So he, he will go with me and I say, "Glenn, are you happy with the job?" "Well, this is okay," but then he says but, then after that a couple of times he said no, I can't approve it until the jobs get done and I tell, and I told Gardens2envy, you make sure that that job get done or else we're going to hold your payment.

20

Okay. So every Gardens2envy invoice accurately reflected work that they did, did it?---Yes. They, you see, let me tell you, we got three type of things, like one is co works. Co works is under the contract 3194 that we have to supply workers, so if we don't have any workers we have to supply, and that is picked by Botany Council under co works. And then we have another one, is called cycle (not transcribable) hours which we will, which we will bill them and cycle (not transcribable) hours is when we do big jobs like Robert had done for us, three, four, five big jobs, mostly in airside, I mean two of them came from Paul Coles and two of them came to me at Burrows Road, but that's, that's all, that's all.

30

All right. So every single Gardens2envy invoice, the Gardens2envy came under your job, that was you were the supervisor for all of their work?

---Yeah.

So your evidence is that every single Gardens2envy invoice was perfectly legitimate?---Yes.

Because you checked the work?---I checked, I checked the work.

Not that you trusted them, but you actually checked?---I have to check.

40

Okay?---Because it's part of me because I've been there long so I want to make sure it's been done because I was - - -

No, that's okay, that's your evidence?---Yes.

When, when it's - if the invoice says something like supplied labour or supplied materials as directed, how would you check that?---No, 'cause that I don't sign.

Okay?---I don't sign that. That's why, that's why I pointed out, I said most of them are all false invoices because I'm very particular in all items.

Sorry, what did you say, most of them are false invoices?---No, I'm saying like supply materials and plants. I want to make sure that it's been really

---

Okay?--- - - -written there.

10 Well, given that Gardens2envy came within your area - - -?---Yeah.

- - - that means does it that all Gardens2 invoice – Gardens2envy invoices came through you?---Yes.

So you saw all of those invoices?---Yes, yes.

And sometimes you had to get more detail did you?---Yes. You see like Gardens2envy – I can give you example, right. Last year in December we, we did a job around 100,000 or 150,000 - - -

20

Could you just try to speak a little bit more slowly please?---Sorry.

Yeah, you did a big job, there was a big job?---Yeah, we did a big job last year. It was – I think the job was nearly one and a half months, one and a half months and, and I didn't quote the job Paul quoted the job and we were short of workers, we were short of workers and then Paul goes engage three of the Gardens2 envy just to do all the night works and they were there for nearly one and a half months doing night works.

30 Okay. But the bottom line is you say if there was a general invoice that said something like supply materials as directed or supply labour as directed - - - ?---Yes.

- - - you took steps to satisfy yourself that the, that the work was actually done and you - - -?---It's all done, yes.

So even if there was a general description you chased it up and decided that the work had been done?---Yes.

40 - - - and the invoice was appropriate?---Yes.

Okay. Can we go to volume 5, page 43 please. You've seen this document before?---What's the page?

See that, that's an invoice, just for the record, Australian Landscape - - - ?  
---Yes, yes, yes.

- - - Creations, 18 September - - -?---Yeah, yeah.

- - - 2015?---Yes.

It has the name – has your name down there. Did you, did you write that?  
---No, that's not, that's not my signature.

Okay. And the writing “approved by” is that your writing?---No.

10 And who – do you know – recognise that writing?---Approve. Okay.

No, just see the words “approved, approved by” - - -?---By M Foo. Correct.

Beg your pardon?---It's approved by M Foo.

Yeah. I'm just asking do you – you've been at the Business Unit for 19  
years?---Yes.

20 The people that are allowed to – or have access to these documents are  
people that have worked with you for a long time?---Yeah.

So presumably you recognise the writing of people who are around you?  
---Yes.

Do you recognise who wrote the words “approved by”?---I think this one is  
Mark Goodman.

All right. So you recognise that writing do you ?---Yes, I recognise.

30 All right. All right. Another couple of discreet questions. You know  
someone by the name of Anmol Rajbhandari?---Yes, I know him.

Do you know whether or not he did any work for Gary Goodman privately?  
---Yes, I know he does only for Saturday and Sundays and, and Gary  
Goodman pay him cash.

All right. How do you know that he got paid cash by Mr Goodman?---He  
told me.

40 Who told you?---Anmol told me.

Okay. Do you know whether or not any of Mr Rajbhandari's hours got put  
onto Council invoices?---Only, only when there's a job given to him and I  
sign for it.

You mean a Council job?---Yeah, a Council job.

Okay?---Because sometimes we are so short of workers like - - -

No, I understand that he's needed?---Yeah, yeah.

Are you – therefore you're saying that all the Council moneys that were used to pay for Anmol were only for work he did for Council?---That's right.

10 All right. And when did he tell you that he was being paid cash by Mr Goodman?---He told me after working for a couple of months and not only he been paid cash and sometimes he, he gets \$50 and, and he, and he been supplied a car by Gary Goodman to use.

All right. So you were told this last year were you?---Yeah, last year.

All right. All right. I seek to vary the suppression order over the examination of Mr Foo, 5 February, lines 1 to 5.

THE COMMISSIONER: Yes. The suppression order is varied to the extent indicated by the reference to the transcript of 5 February, 2016.

20

**SUPPRESSION ORDER IS VARIED TO THE EXTENT INDICATED BY THE REFERENCE TO THE TRANSCRIPT OF MR FOO DATED 5 FEBRUARY 2016**

MR THANGARAJ: You were asked this, "You say that he was only working for Mr Goodman on the weekends"?---Yes.

30 And you said, "Weekends only." Then you were asked this, "Do you know how he was getting paid for that"?---On the weekends?

Yeah, you were asked how, do you know how he was getting paid for working for Mr Goodman privately?---Ah hmm.

Do you remember what answer you gave?---That he told me.

40 Well, the answer you gave was, "I wouldn't have a clue about that"?---Oh, sorry. Yeah, about Saturday and Sunday until he told me but he did tell me on a later stage.

Yeah. But I've already confirmed that with you. That was last year?---Yeah. Yeah.

You were asked this question a few weeks ago?---Mmm.

Now Mr Rajbhandari ended up being paid by Botany Bay Council to your knowledge for Mr Goodman's private work?---Well, say again.

You knew that Mr – that Anmol was being paid by Council for the work he was doing at Mr Goodman’s house didn’t you?---No, I didn’t know about that.

All right. But the answer you’ve given previously, only a few weeks ago - - -?---Yeah.

- - - was very different to the answer you just gave now wasn’t it?---Yes.

10 All right. And why was that?---Well, I think at that time I was not in – because you see for me at my age I, I, I, I sometimes lose my memories.

All right. Did you sit down with Lyndal Marshall to make sure that the invoices were done correctly?---Yes.

And you did that regularly?---Regularly. Because why, a couple of times they have put some invoice that’s, that the work has not been done.

20 Right?---And because the Airport the description of works have to be, have to be very perfect and the location where they work.

All right?---Either T1, T2 or Kiama Beach or, or the car parks.

If you were going to put in false invoices - - -?---Yes.

- - - they still had to get through the system didn’t they with the numbers? ---That’s from – that’s through Marny.

30 Beg your pardon?---Marny gives them - - -

No, no, no. When you say that you’ve got to be precise, you’ve got to say this, this, and this?---Yes.

The system needed certain numbers entered into the, into it didn’t it - - -? ---Yes.

- - - to pay an invoice?---Yes, yes.

40 So whether or not an invoice was being prepared by you and Lyndal that was legitimate or illegitimate - - -?---Yes.

- - - you still needed to have certain information on it didn’t you?---Correct.

And you said they sometimes put in some invoices that were for work that hadn’t been done?---Yes.

Well, you’ve heard what Mr Floudas has said about that haven’t you?---Yes.

All right. Well, I'll come back to that. When you were sitting down with Ms Marshall part of it was to make sure that the documentation was as precise as it could have been?---Yes.

So if she – if you're sitting down with her to put in an invoice and it had a general description - - -?---Yes.

- - - you could have made sure the invoice was – had more detail in it?  
---Yes.

10

So you could have said well, hang on, you can't just say supply labour or – you should say supply labour to Cooks River, supply labour to here, supply five men for four hours to T1. Correct?---Yes.

So did you ever tell her to put in more detail?---You see the supply - - -

Did you or not?---No. You see the supply labour was all done by Marny. It didn't, it didn't come to my attention.

20

By Marny?---Because Marny's the one that does most of the invoices.

No, no. We're not – I'm talking about the content of the invoices. You've agreed you sat down with Lyndal Marshall on a number of occasions to work out what would be putting into the invoices?---Yes.

Right?---Yes.

30

So therefore when there were general descriptions, if she had a general description you could have made it much more detailed?---Yes, I make it that much more detail. I ask her to, to, to resend me another invoice.

Right. And you would also know the detail yourself because you checked every single invoice that came across your desk you've told us?---Yes.  
Because - - -

And you – because these people were working under you?---Yeah.

40

All right?---Because some of the jobs I've, I've been given by other supervisors.

Yeah, but that doesn't make any difference about not finding out the detail does it?---Yeah. I, I always make sure that the detail is there.

Well, sometimes you even took another person with you to check the work you said?---That's Glenn Carroll.

Did you have a financial delegation?---Say again.

Did you have a level, did you have a level up to which you could authorise invoice payment?---No.

Were you allowed to authorise invoices?---No.

Did you ever authorise - - -?---No. It all has to go to Mark Goodman.

All right. Did you ever authorise invoices?---No.

10 Did you ever sign off for payment?---I will sign first and it has to go through Mark and Mark will send it to Gary Goodman.

Right. So let's deal with Gardens2envy for a moment then. The invoices would come to you first would they?---Yes.

How would you get them?---Normally she will email me and a couple of times the description was not there and I rang up and I said "From now on I want you to come every Saturday and I want to go through with you every detail".

20

Right. So if you, if Robert Floudas has given accurate evidence then you sitting down with Lyndal every Saturday would facilitate false invoices going through, wouldn't they?---Yes.

Do you understand what I just asked?---I understand.

Okay. So if you wanted to do the wrong thing, the best thing to do actually was to sit down with Lyndal every week and tell her what to put in the invoice?---Yes, that's what I do.

30

All right. Who did you understand could authorise or had the authority to approve payment?---I can't approve any payment. It's only Mark, Mark Goodman.

So Mark Goodman, all right?---Yes.

So did all your invoices go to Mark Goodman?---Yes.

40 And what did he, what was his level of authority?---He, he just check, he just check it and then he sign off and then he would send it to, to Gary Goodman.

Well, when you say he checked, what do you understood he checked?---He questioned me.

What he asked you, did he?---Yeah. He asked me whether this work's been done. I say "Yes". I say - - -

How often would he do that?---Nearly every fortnight.

Sorry. But I thought your practice was you would not send an invoice to him unless you had checked it?---I always send, sorry. I always checked the work first.

Yeah?---Like - - -

10 That's what I mean. You say that you, you say - - -?---Yeah, yeah. Sorry, sorry. Yeah. I always check the work first.

So if you checked it - - -?---Yes.

- - - you wouldn't send it to him before you checked it, is that right?---No, no. I checked first and then, and then (not transcribable) and then I send the invoice to him.

20 So why does he need to ask you so regularly whether the work had been done if that was your practice?---Well, because Mark, Mark Goodman and he was very particular with all, all, all invoice, it was not only me, it was (not transcribable) contractors, they go to him for, for (not transcribable) to send for payment.

Right. All right. And did you understand how much he could authorise, what level?---As far as I was concerned, as far as I'm concerned he, he could authorise 20 grand.

20,000?---Yeah, 20,000.

30 So what if you had a bill that was more than 20,000?---I would bill then because then goes to Gary Goodman.

So would you ever send invoices that you had checked straight to Gary Goodman because they were worth more than \$20,000?---Yeah. I checked the job. I checked the job.

No, no. I didn't ask that. If you had an invoice for 30,000?---Yes.

40 You checked it?---Yes.

And once you checked it who would send that to?---To Mark Goodman first.

Okay. First?---Yes.

Would you do something more with that invoice afterwards?---No.

Okay. So what did you assume he's sent it to someone else?---Yes. That's why - I didn't authorise, that all the invoices that my boss is Mark Goodman, he has to – he has to check all the invoices first before he sent out.

All right. Now I want to go back to Anmol. Do you agree that you introduced him to Gardens2envy?---Yes.

And that you were hoping that they would take him on?---Yes.

10 All right. And by this stage was he working for Gary Goodman on the weekends or privately?---No, he stop already.

He already stopped?---Yeah. He stopped two months ago.

No, no. Two months ago?---Yeah.

No, no. I'm talking about the time that you introduced him to Gardens2envy?---Yes.

20 Is he still doing work for - - -?---Gardens2envy.

No, no. Just - - -?---Say again?

The time that you introduced Anmol to Gardens2envy?---Yes.

Was he still doing work for Gary Goodman or not to your knowledge?---Yes.

He was?---He was.

30

Okay. All right. And I'm going to come back to this. But did you want or did Gary Goodman want Anmol working for Gardens2envy so that somebody else could pay Anmol for the work he was doing for Gary Goodman? Do you understand what I'm saying?---Yes. I understand.

All right. Did you want Anmol working for a contractor, so that the contractor could pay for the work that Gary Goodman should have been paying for?---No. The reason I took Anmol was because Anmol, he's one of the best labourers. He comes early and he does the job and he doesn't, and he doesn't go home early.

40

All right?---And he was, and he was a very, very good worker.

All right. When he was doing work for Gardens2envy you're saying that Gardens2envy told him what jobs to go on or some jobs to go on?---Yeah. That's right.

Did Gary Goodman have any role in dictating what work Anmol did for Council?---No.

All right. So apart from Gardens2envy telling Anmol where to go and do work, to your knowledge did anyone else direct him where to go?---When he just work for, for landside because I come under landside, I direct him where he go to.

10 All right. And how would that happen?---Well, sometimes when, when my staff takes their holidays - - -

Yeah?--- - - - so he replaced them to, to clean the terminals. And then if we get a lot of quoted works and we're short of staff and, and he goes in and help to, to carry on the job.

All right. And that's not Gardens2envy work then is it?---That job is, that job is under SACL Airport works.

20 It's under what?---SACL.

What does that mean?---Sydney Airport Works.

Okay?---A short form is, that's it, yeah.

Okay. All right. So that's SACL work?---Yeah. SACL work.

So it's not Gardens2envy work, it's SACL work?---Yes.

30 And you're directing Anmol to do that work?---Yes.

On some occasions?---Yes.

In fact on a lot of occasions?---Yes.

So how was Anmol paid for that work?---That has, that has been billed as "Approved quoted works" (not transcribable) the airport.

And who paid for that work?---We pay for, we pay, we pay Anmol's wages.

40 Who's we?---Sorry, the Council, the Business Unit.

Okay. So who would Anmol give his hours to for Business Unit work?---Anmol would give his hours to my (not transcribable)

Why would he give it him and not to you?---Because he works with, because he works night shift. He does it – it's night shift. Because I work - - -

But what's that, what's, sorry. What's that got to do with telling someone what hours you've done?---Because he has to report to the team leader.

Yeah. No, but you've told him what work to do?---Yes.

Right. Did Anmol tell you I've done 20 hours this week for the Business Unit?---Yes.

So he told you the hours?---Yes.

10

And how did you pay him?---Well, firstly - - -

You're not suggesting you paid him cash, are you?---No. No.

All right. So how did you pay Mr Anmol?---The Business Unit, the Business Unit pays for it.

How?---Through the - - -

20

Did he put it in a timesheet? Let's go step by step. Did Anmol put in a timesheet for work you directed him to do?---He normally would put a timesheet. He - - -

So he told you the hours he did. Let's say I did 20 hours this week?---Yes.

Malcolm, I've done 20 hours this week, how would he be paid, what was the process?---The process that I always make sure that he worked that night and he did the job.

30

Yeah. And then and I put in the hours and I charged to the Airport.

What do you mean by that?---The works which Anmol do for us is for SACL quoted work.

Okay. So are you saying you billed SACL for the work?---Yes.

Okay. And how would you describe the work Anmol did in the SACL bill?--Well, I just - - -

40

So don't forget you've told us you want all the invoices to be very precise?--Yes.

How did you tell - how did you bill SACL for Anmol's work?---Well, to, to help him to, to help him to have the crew to do the steam cleaning.

Right?---Or clear the bins, sorry, wash the drains.

Right?---Or - - -

So you would be quite particular, you would say you would group Anmol into particular work that he did?---Yeah.

So steam cleaning or bins or whatever it was?---Yeah, yeah.

And that would go off to the SACL bill?---Yes.

And then SACL would pay Council?---Yes.

10

How did Anmol get paid?---Anmol would get paid through the Council.

How?---Through – some we did through Mark Goodman.

So you sent Mark Goodman, you sent Mark Goodman the hours for Anmol?---Yes.

Why?---Because I - - -

20

Anmol's a labourer you're saying?---Yes.

Why does the Acting Business Unit Manager need to receive the hours of a labourer? How many labourers did you have?---You mean - - -

How many labourers did you have?---We have, I think we, we have all around 11 to 12.

That's right. So you're saying that the Acting Business Unit Manager was given the hours for all of these labourers every week, was he?---Yes.

30

Right. And then what happened then, you've sent him what, did you send him an email or a - - -?---No, no. I just went and - - -

You went and told him, verbally?---No, no. Because we always have a meeting.

Right?---So you told him verbally in the meeting?---Yeah. I told him verbally. So, so, so, so, so Mark would ask me, Mark would ask me what works were carried out every day.

40

So okay. So he'd say how many hours did Anmol – this is in a meeting, how many hours did Anmol do this week. Is that right?---Yeah, 40 - - -

All right?---I'd say 30 or 40 hours.

And you would tell him?---Yes.

So you had this written down somewhere did you?---Yeah, yeah.

Then he'd say how many hours did Bob do this week?---Yes.

How many hours did Sharon do this week?---That's right.

So you verbally told the Acting Business Unit Manager the hours that 11 or 12 labourers did a week?---Yes. You see when we – when we - - -

10 How did they get paid?---Say again.

How did they get paid?---They get paid through the Business Unit.

So therefore there will be, there will be electronic records - - -?---Yes.

- - - of the Business Unit - - -?---Yes.

- - - paying each of these 11 people - - -?---Yes.

20 - - - every week?---That's right.

That's your evidence?---That's my evidence.

And it came through the Business Unit – the acting head of the Business Unit was telling data entry people how many hours labourers were doing every week?---Yes.

Why didn't you just tell the data entry person?---Well, that's how Mark practices.

30 That's your practice?---I mean that's how I do my job (not transcribable) - - -

Getting someone else to do menial tasks?---Yes. Because you see my, my - - -

40 Well, the other explanation, Mr Foo, is that you've been lying about all this and that Robert Floudas has told the truth. Anmol rings you and says I've done two hours for Gardens2envy. I've done 35 hours for Council. Then you sit down with Lyndal and Gardens2envy pays for all of it?---Well, you see what's Anmol's job is doing is all cycle variation works and - - -

Okay. Forget about what – it doesn't matter work he was doing. That's really not the point?---And (not transcribable)

Are you – therefore Gardens – the only money that Gardens2envy should have been giving to Anmol then - - -?---Yes.

- - - is for the limited work that they were directing him for?---Yes.

So therefore all the money that they've paid him is only related to Gardens2envy work?---Yes, yes.

And then the 80 per cent of his work is Council work - - -?---Yes.

- - - that's being paid through Mark Goodman somehow you say?---Yes.

10 Therefore about four times the amount of money that Gardens2envy have paid Anmol you say Council has paid him?---Council paid him the money so he can pay Anmol.

Sorry?---We pay Robert the money - - -

Yeah?--- - - - and Robert pays Anmol.

So which work?---For the work what he - - -

20 Yeah, I'm not talking about Gardens2envy work I'm talking about SACL work?---Yeah, SACL work, sorry.

So who paid for the SACL work?---SACL works is paid by SACL.

Okay. So not by Gardesn2envy?---No.

All right. I'm going to come back to that as well a bit later but I want to ask you now about Ari Landscape Solutions. Have you ever heard of that company?---Ari. No.

30 You've never heard of them?---No.

Did you think that they were doing roadworks with Botany Council at one stage?---Ari – because I, I haven't heard about that but I know a lot of other – because when I drive around I see a lot of other contractors doing roadworks.

40 Yeah, I know that but you've been asked about this before and you said that they were doing works, roadworks for Council. Was that a mistake or is that what your belief was?---I think that was my mistake.

Okay. When was the first time you heard the name Ari Landscape Solutions do you say?---I think I heard it when, when I was, when I was, when I was brought up to the meeting with, with, with this (not transcribable) they ask me.

SINC Solutions?---Yeah, SINC solutions.

Okay?---Because they, they, they brought up a lot of contractors.

Yeah?---I think he had trial contractors whom, whom I never knew any of them.

All right. So you're saying are you that you never heard the name Ari Landscape Solutions until you spoke to SINC Solutions?---Yes.

Okay. Does that mean you did not approve any invoices for them?---No.

10 Did Marny Baccam to your knowledge?---Yes, I think, I think he – Marny Baccam would have forged a couple of my invoices.

She did what?---She forged a couple of my invoices.

Right?---It was shown to me.

Yeah?---And, and, and they check my – and SINC Solution did check them and said that, that - - -

20 Don't worry about what you say they said. Did Marny Baccam – to your knowledge did Marny Baccam approve invoices for Ari Landscape Solutions?---Yes.

When did you find that out?---I found that out maybe a couple of weeks.

A couple of weeks?---Yes.

When, ago?---Yeah. No, it was brought to my attention when I was approached by SINC - - -

30 Okay. In that meeting?---In that meeting.

All right. When Anmol was working for Mr Gajic at Speedy Ceilings or was working for Mr Gajic - - -?---Yes.

- - - were you directing him as to work that you wanted done as opposed to work that Mr Gajic wanted done or were you both doing it?---No. What happened he supply us two workers and, and the two workers was, was useless and we were paying, and we were paying \$56 an hour.

40 Yeah?---And I brought attention to Mark Goodman and I said like – and even I said this is too much. I said as for Garden – at that time Garden just came in. I said as for Garden they are only charging \$28 an hour.

Yeah?---So me and Mark stop, stopped them from working.

All right. But I'm asking when they were doing work - - -?---Yeah.

- - - and Anmol was working for them - - -?---Yes.

- - - would you ever tell the workers where to work or would you - - -?  
---Yes.

Okay?---Yes.

10 So there were times there they – were there when Mr Gajic would tell them  
where to go and times when you would tell them where to go?---No. When  
Anmol worked with me I tell them where to go and told Mr Gajic he got – I  
said we got some work at Centennial Park.

Yeah?---And he will send them there.

All right. So when, when Mr Gajic's company was doing work for Council  
- - -?---Yes.

20 - - - at that – during that time were you telling Anmol to do particular  
works?---Yes. Anmol was doing mostly all, all quoted jobs for, for golf  
course.

Yeah, I'm not asking whether he's doing quoted jobs but during the time  
that Gajic was – Mr Gajic was doing work for Council - - -?---Yes.

- - - during that time were you also telling Anmol to do work for SACL or  
whatever else?---Yes.

Your direction?---My direction.

30 All right. And how was he being paid at that time?---Oh, we paid him  
through the Business Unit.

The same way you've told us about before?---Yes.

Okay. Did you receive any cash from Mr Gajic?---Only – I receive only,  
what is that, gift cards for Christmas.

Sorry?---Gift cards.

40 Gift cards?---Yes.

Okay. So apart – well, what was the value of that?---Normally he gives me  
\$250 but individual, is all, all \$50.

All right?---And then he says - - -

Five \$50 cards?---\$50 cards because – and then I give the boys and say this is for your Christmas, whether you want to buy a whisky or whether you want to go - - -

All right. No, we understand?---Yeah.

So apart from that did he give you anything?---Yes, at one stage he gave me a couple of hundred dollars and, and then we with that money because I, I buy for the boys breakfast - - -

10

Right?--- - - - drinks because – especially, you know, they work in the hot sun and even I buy them lunch because why once they work there and I don't want them to go all the way - - -

All right. Now apart from money to spend on that sort of thing did he give you any cash?---All the money is cash.

20

Did you, did you borrow any – was he lending any money – anyone money like Mr Goodman you've given us evidence about, was he lending anyone money through you?---No. Because why he, he, he bills - - -

Was he giving anyone – was he - - -?---When, when, when Mr Gajic comes he deals directly with Mark. He goes to Mark's office.

Okay. Do you know whether or not Mr Goodman, Mr Gary Goodman and Mr Gajic had any improper dealings?---What I heard that they, they, they were into the racing cars.

30

Yeah. Well, do you know whether any false invoicing went through Mr Gajic's company?---That I wouldn't have a clue.

Okay. Have you ever heard of a company called Highland?---No.

Highland Profiles?---No.

If they did work for the Business Unit, would you have known of that company?---No.

40

Sorry? If they did work for, if they did legitimate work for the Business Unit, would you have heard of that company?---No, I wouldn't have heard of the company.

Not necessarily?---No, not necessarily.

Okay. When was the last time that Mr Gajic did any work for Council that you know of?---When was the last time?

Yeah?---Oh, I think it was three years ago.

Do you know which company was being used?---For whom?

By Mr Gajic?---Oh, he, he normally ah, he normally bring his own workers.

Yeah, but do you know the name of the company that was being used?

---No, I wouldn't know.

10 Do you know whether or not any employees – sorry, I withdraw that. Do you know whether or not Mr Gajic was paying anyone using Council money who actually was not doing work for him?---No, I wouldn't know.

Now, you say that you became aware that Mr Goodman, Gary Goodman, was ordering pots or plants - - -?---Yes.

- - - on Council money?---Yes.

20 And that you took it up with someone?---Ah, you see ah, it was ah, Gary used to ring me up and say he wanted a particular plant or a pot, brown colour or white colour or thing, so I, I, I would go there and, and choose the plant and then he will send two workers and, and I did ask him, he says mostly these, these pots are for the Council but on the weekend, you know the depot is closed, so it was sent to his house.

I see. So you're saying that you knew that pots were being sent to Mr Goodman, Gary Goodman's house?---Yes.

You knew that?---Yes.

30 But you're saying that they were Council property and coming back to Council?---Yes.

And the reason that it couldn't be delivered to Council was because Council is closed on the weekend?---On a weekend, yes.

So where were you buying these pots from?---Flower Power.

Where?---At, at Mascot.

40 So they went from Mascot to where?---To Gary's house.

Yeah, where?---Ah, Wetherill Park.

Wetherill Park?---Yes.

They went from Mascot to Wetherill Park - - -?---Yes.

- - - to come back to Mascot?---Yes. That was not my, my decision.

We don't believe – Mr Foo, that's, that evidence is, you know. And you say you took up, you saw an invoice that had – but you say that you had, you saw an invoice that had pots that were meant for Gary Goodman?---That's right.

So if you saw an invoice that was saying they were meant for Gary Goodman - - -?---Mmm.

10 - - - why would you take it up with Mark Goodman?---Because everything I have to, everything I have to report to Mark Goodman.

No, but if the – you reported to Mark Goodman that you'd seen an invoice - - -?---Yes.

- - - that Council was supposed to pay for - - -?---Yes.

- - - that had goods that Gary Goodman wanted for himself?---Yes.

20 And you complained to Mark Goodman about it?---Yes.

Well, that can't be goods that have gone to Wetherill Park and back?---Yes.

They're separate?---Yes.

So you knew that Gary Goodman was using Council money to pay for private goods?---Yes.

30 And you say you took it up with Mark Goodman, do you?---Yes.

And what happened?---I brought it to the attention so I, I, because they are both brothers.

Yeah, well?---Because as far as I know that Mark always have a big, a big argument with, with Gary Goodman.

All right. Well, when did you realise that any pots that were being – and plants and materials, any of that material that was being sent to Gary Goodman's house - - -?---Mmm.

40 - - - was in fact for him and not for Council?---Well, I, I organised the transport for Gary and it went to his house and (not transcribable) he delivered it to council.

Are you saying that at the time you organised the transport you thought it was Council property?---That's right.

And there is no Council business that's open on the weekend, isn't there?

---All the, all the gates are shut.

Why was it that they had to be delivered on the weekend and not on Monday back to – surely you're not saying that Flower Power said we are only delivering this this weekend - - -?---Yes.

- - - and you have to give us a place to deliver it?---Yes.

10 That's surely not what you're saying?---No, no, they don't deliver, Gary use our boys to go and deliver to his house.

I beg your pardon?---He use our labourers to deliver.

Okay. So but you're saying that when you organised this you believed it was coming back to Council on the Monday. Is that what you're saying?  
---Yeah, that's what I was - - -

20 But why wouldn't, why wouldn't you just, why wouldn't you just buy it from Flower Power on the Monday and get it delivered on the Tuesday?  
---I don't know. He just - - -

But Mr Foo, this goes directly to the honesty of your evidence?---I know is honesty, that's why - - -

It's not, it's not the dollars we're talking about?---Monday to Fridays I'm, I'm, I'm, I'm, I'm really occupied with, with big other jobs.

Yes?---It's only on the weekends - - -

30 That's got nothing to do with what I'm talking about. If Flower Power insisted on delivering goods on the weekend - - -?---Mmm.

- - - why weren't the just bought on the Monday?---That's, yeah, that's right.

But you had Council pay labourers and vehicles to take property from Mascot to Wetherill Park and what, who was going to pay for it to come back the next day, Council?---Yeah.

40 So did you organise for pots and things – you organised, we know you organised them to go to Gary Goodman's house?---Mmm.

Did you organise and pay for them to come back?---No, no.

But you said that it was all coming back within 24 hours or 48 hours?  
---That's what, that's what Gary told me.

Well, you can't just take the opportunity to blame Gary Goodman for everything, Mr Foo, it's ridiculous that he could have suggested what you've just said and then it not go back within a day or two. Do you understand that?---I understand that.

All right. Do you have knowledge of cars being misused?---Yes.

Which is what, who do you say had a car that they shouldn't have had?  
---Well, like, all the supervisors, we're entitled for a car.

10

Who had a car they should not have had?---Marny.

Right. Marny. Who else?---Ah, as far as I know it's only Marny that, that, that is misuse.

Did you speak to anyone about that?---Yeah, I brought it up, I brought up to the Mark Goodman.

Anyone else?---No.

20

Did you speak to Peter Fitzgerald Junior about it?---Ah, Peter, Peter Fitzgerald was in and out.

Did you speak to him about it?---No, I didn't speak to him about it.

Do you know whether or not Anmol was given a Council car to use?  
---Well, as for me, Anmol told me that the reason he gets paid, he gets paid \$100 and sometimes he don't get paid and, and, and, and Gary give him, Gary gave him his own car and not the Council car.

30

All right. So your answer is you don't know of Anmol having access to a Council car?---No, no, no.

All right. All right. Now, I want to ask in some detail about Ari Landscape Solutions. Did you, have you read or heard the evidence that Marny Baccam gave about Ari Landscape Solutions?---Yes.

You read her evidence from last week about that?---Yes, yes.

40

And do you remember that her evidence was basically the idea of setting up a company to tender for a lucrative contract, that that was your idea?---No.

No, do you remember her saying that?---Yes, I remember her saying it.

Right. So we'll do it step by step. Did you suggest to Marny Baccam that she should try to tender for a contract at Centennial Park?---Yes. Look, what happened, when it came out I spoke to Mark Goodman. I said, Mark, I said, why don't the Business Unit tender for the, for the contract, you know.

And Mal said no, no, no, no, no, he says we (not transcribable) three or four months and lot of money to tender for Sydney Ports, also the gardens to look after and we, and we lost it because our price was too high.

Yeah?---Our price was too high. And then Marny was in the office and he heard it and Marny asked me, oh, can we tender. I said, Marny, where you got the money? You can borrow money from everybody. I said no, no way, I said, if you want to do it, it's not my business, it's not my business.

10 Right?---So I, I, I don't know what after he, he, she try to do.

Okay. So do you know whether or not she in fact did set up a company through someone?---That's what I heard.

When did you hear that?---Oh, I heard it ah, oh, I think so it, it was, it was one year ago, if I'm not mistaken.

20 So did you tell her that if she wanted to set up a company and go for the tender that was a matter for her?---It's a matter for her.

Well, did Council allow employees to tender for work?---No, that's not the practice.

It's what, you're not allowed to?---Not allowed to.

So why did you tell - - -?---Unless the Council (not transcribable) the Business Unit yes, we can, you have to get approval from the Manager to tender.

30 Sorry, who needs approval?---No, no, if the Business Unit want to tender - - -

I'm not talking about the Business Unit.---Yes.

I'm talking about Marny Baccam, a Council employee - - -?---Yes.

- - - if she wanted to go for a tender, was she allowed to do that as a private employee?---No.

40 So why did you tell her, it's a matter for her if she wanted to do it? ---She told me she was going to resign.

She was going to resign?---Yes.

If she got the contract?---If she got the contract.

All right. So you had some, did you have some detail discussions about obtaining this work?---No, because she ask me, she ask me (not

transcribable) I said, "Marny, you're wasting my time," I said. Firstly I see you don't have the money I said. You've been borrow money and secondly I said you don't have experience because you need a landscaper, you need a good gardeners and this was, you got to buy at least \$50,000 of equipment to start and what about cars, trucks, that's forget it, I said you - she said, ah don't worry. And then after that she, she, she refused to talk to me, she ignored me and that was it and she didn't speak for six to eight months.

10 Okay. So this was the first, did you have one conversation about this or more than one conversation?---I think we had twice, twice.

Right. And how soon after the first one was the second one, do you think?  
---After next week, week after next.

So within a week you've had two discussions about.---Yeah, yeah.

20 And you made it abundantly clear, did you, that she had no prospect of getting that contract?---No prospect, no prospect and she was pestering me and I said, "Marny you're not capable to do it."

All right. Mr Foo, can I suggest this, with respect to this evidence Marny Baccam was telling the truth - - -?---Yes.

- - - that is you told her to set up a company and set up Ari Landscape, it doesn't matter what the name of it. You told her to set up the company and that what ultimately happened was almost \$200,000 of false invoicing went through that company.---Ah hmm.

30 I suggest that you wanted her to set up a company - - -?---No.

- - - to facilitate false invoicing going through that company?---No, I never.

Did you speak to Mr Goodman about Marny Baccam setting up a company?---I can't remember I, I did speak to Mark Goodman but not Gary Goodman.

Not Mark Goodman - oh you spoke to Mark Goodman about it did you?---Yeah.

40 And why would you speak to him about it?---Because we, we wanted to tender first and then Mark said no, we're not going to tender, we're not going to waste time, we don't have the experience, we don't have the equipment.

All right. And did you know that Marny Baccam was putting invoices through the company that was set up as a result of the conversation about the tender?---No, I didn't, no.

Isn't it the case, just going back to Anmol for a moment, isn't it the case that the way that Gary Goodman paid Anmol for the work that he owed him, that he organised with you for false invoices to be paid through Gardens2envy?  
---No, he did not organise with me.

Did you have any knowledge of false invoices being put through by Gardens2envy?---No.

10 Right. I want to play you this phone call 11347. Now, Mr Foo, there are a number of phone calls recorded between you and Mr Goodman, all right. I want to ask you some - - -?---Mark Goodman or Gary Goodman.

Gary Goodman.---Yes.

**AUDIO RECORDING PLAYED**

**[12.45PM]**

20 MR THANGARAJ: All right. Do you want to change any evidence you've given about Anmol being paid?---Say again.

Do you want to change any of the evidence you have given about the way about Anmol was paid?---That as far as I know when Anmol does work for us the Business Unit pays him.

All right. So you don't want to change any evidence?---No.

Now you've told us that when Anmol did work for Council he was paid by Council?---Yes.

30 When he did work for Gary Goodman he was paid cash by Gary Goodman.--That's right.

When he did work for Gardens2envy he was paid by Gardens2envy.---That's right.

So to your knowledge, on the evidence you've given us, everyone who paid Anmol did only because he did work directly for them?---That's right.

40 No one paid Anmol for work that somebody else had the benefit of?---That's right.

Sorry, can that just be brought back up on the screen please. Now you're having a - this is you talking to Gary Goodman right - now look at the screen, the screen in front of you, you see where he says, "That bloke your mate .." and you said, "Yeah, yeah." So you know who he's talking about.  
---Yes.

Who's he talking about?---Well, hi Gary, how are you going Mal, good, that bloke (not transcribable) that bloke with the money, the bloke he owe me, yeah, yeah, he paid Anmol - - -

Who was he talking about?---(No audible reply)

He's talking about your mate, you're engaging with him?---No, no, he's a Gardens2envy.

10 Okay. So he's talking about Robert Floudas, that's your mate that he says, you're mate.---That's right, that's right he says your mate, he, he, he likes to call everybody mates.

Okay. That's fine. We're talking about Robert Floudas which is what I was asking you about before.---Yes.

And he says, Mr Goodman says to you, "He hasn't paid Anmol yet."  
---Mmm, yes.

20 So what are you suggesting is happening there, what do you understand to be the conversation?---What I think, what I, I reckon is that maybe Anmol did, Anmol text, texting the hours.

Sorry?---Because Anmol has to tax his hours to - - -

Has to text his hours?---Yes, because he whatever works he does he always text to, to, who's the girls' name, I forgot her name.

Lyndall.---Yeah, Lyndall, yeah. He always text.

30 So what are you saying this conversation was saying?---(No audible reply)

When he said he hasn't paid, when he's saying Robert hasn't paid Anmol yet - - -?---Yes.

He just said he'll give Anmol a little bit, what does that mean?---Ah, that means he work, he will, in fact, because if it about to me that he text him that day and the week after next he hasn't got paid and did Anmol, did he give you any money and he said no.

40 Okay. So you're saying that this is simply a conversation between the two of you about Gardens2envy not paying Anmol for Gardens2envy work?  
---That's right.

Okay. And why is Mr Goodman taking it up with you?---Because he thinks I'm very close to Gardens2envy.

Okay. So let's go down then to what you then said. "Because there is two for him and also two for, I mean, you know", what, what were the two things that were there for him?---There's one for, there's one for his, one for Anmol and one for his brother-in-law (not transcribable).

Well two what then?---They're, they're, they're two workers.

10 Yeah. But when you say "There is two for him and also two for", see, the second time, when you say "Also two for", what are you talking about?---I think this – I think I was talking about hours.

Well, maybe what you're actually saying was, there's 2,000 for Anmol and there's 2,000 for, before you got cut off"?---Two - - -

THE COMMISSIONER: Mr Foo, what was the problem with telling Mr Goodman what he wanted to know just because someone was with you?---Because there was another, another sales rep.

20 Yes, but what was the problem with giving Mr Goodman the information on that phone call, just because someone was with you?---Yeah.

Why? What was the problem with telling Mr Goodman what he wanted to know?---In fact after that I, I, I rang him up again.

When the other person was gone?---Yeah. That's it.

30 Was that because you didn't want the other person to hear what you were going to say to Mr Goodman?---Yeah. Because, because these people are salesman.

MR THANGARAJ: All right. Well we might come back to that. We'll play this one in the – I'll tender that.

THE COMMISSIONER: Exhibit R41.

**#EXHIBIT R41 - TRANSCRIPT SESSION 11347**

40 MR THANGARAJ: I'll play 11356.

**AUDIO RECORDING PLAYED**

**[12.52pm]**

MR THANGARAJ: Mr Foo?---Yes.

What happened was Mr Anmol was paid through Gardens2invoice (as said)?---Yes.

By false invoicing exactly how Robert Floudas has just given evidence of this morning?---Yes.

Do you agree with that?---Yeah. I agree with that.

So you're changing your evidence?---(No Audible Reply)

10

Well let's do it step by step. What these two calls show is that Mr Goodman owed Anmol money?---That's right.

And you had the figures there of how much were owed and you were trying to work out how much he was owed?---Yes.

You worked out how much he was owed?---Yes.

20

Now you said Gary Goodman paid Anmol cash for when he did his work?--  
-Yes.

He obviously hadn't paid the cash, had he, because he still owed him a couple of thousand dollars, at least?---Yes.

Do you agree with that?---I agree with that.

And the way that he was going to be paid was that Robert Floudas would be asked to put in a false invoice to cover that money?---Yes.

30

Do you agree with that?---Look, this money which - - -

Do you agree with that?---I agree with that.

Okay. And what was happening was the two of you had worked out how to get Anmol paid and you would get a false invoice. You were to speak to Robert Floudas to get the false invoice put through straight away so that the money could be paid straight away so that Anmol could be paid straight away. Do you agree with that?---I agree with that.

40

All right?---Yeah. Can I bring it up. This money was not, this money which, which Gary (not transcribable) Anmol was borrowed money from Anmol.

Sorry?---It's for working hours.

It's what?---Borrowed money.

Borrowed money?---Yes.

Who borrowed the money?---Gary borrowed from Anmol.

Okay. So it doesn't really help you though, does it? Because you knew that – did you know that Gary had borrowed that money from Anmol at the time of this phone call?---Yes.

10 Okay. So what you knew, what you were doing was getting Gardens2envy to bill Council for money that Anmol owed Gary Goodman, correct?---Yes.

And what would happen then was Gardens2envy would be putting in a false invoice, right?---Yes.

Which you would tell them what to do?---Mmm.

The money would come to Gardens2envy, Anmol would be repaid, Gary Goodman would no longer owe Anmol the money. Is that right?---Yes. But what Gary says that money is only a loan from Gardens2envy and - - -

20 It's a loan involving where the lender is the Council?---Yes. And - - -

The loan's the Council?---And Gary's going to put back the money.

To who?---Back to the Council.

So, well that's in the phone call, is it?---It's not in the phone call but - - -

When do you say that happened?---After that I went and saw him.

30 Right?---Yeah. So I said, I said, Gary, I said "I'm not comfortable - - -

Hang on, hang on Mr Foo. You didn't sound very – you didn't sound at all uncomfortable in either of these phone calls with Mr Goodman. You knew full well what you were both doing, didn't you?---Mmm.

You didn't raise one single, any concern whatsoever with Mr Goodman, right?---Mmm.

40 And this claim that you've said about he said he would repay Council, that's just what you say, is it?---Yes.

Is there any evidence, any other evidence about that?---No.

So what you're saying is, money would be stolen from the Council, is that right?---Yes.

By using a contractor to put in a misleading invoice, is that right?---Yes.

And that Mr Goodman would return the money to Botany Bay Council.  
And how would he – what would he do would he give them a cheque saying repaid stolen money?---That I wouldn't have a clue.

Well how would he have?---Yeah.

Well maybe he never said that to you?---Yeah. Maybe, no, he - - -

Maybe he never said that - - -?---Yeah.

10

- - - to you, Mr Foo and you're trying to minimise your involvement in what happened? You were right up to this, you knew exactly what was happening, didn't you?---Yeah.

Okay. You've lied about it before when you've been asked about this?---Ah  
hmm.

You've lied about it all this morning, right, correct?---What did I lie about?

20

Lying about the knowledge of false invoicing going through Gardens2envy?---Yes.

You agree now that you knew that false invoices were going through Gardens2envy for Council, didn't you?---Yes, I knew.

Yeah. But when I asked you that this morning before the telephone intercept was played you denied it, didn't you?---Yeah.

30

You lied about it this morning?---Yeah.

And you've lied about it before?---Yeah.

All right. Now Anmol was being paid that way?---Yeah.

Now do we want to go to – we'll go back to some of the other things that I've asked you about already?---Yes.

40

You knew Marny Baccam was getting cash from Gardens2envy, didn't you?---Getting cash, the one Robert told me.

Okay. Yeah. Robert told you. So you knew that?---Yeah. I knew that.

And you knew that work at her house was being paid through false invoicing with Gardens2envy?---Yes.

So Council was paying for work at her house?---Yes.

And you helped Lyndal put those invoices together?---Well, when (not transcribable)

You helped Lyndal put together false invoices to cover repayments to Marny Baccam for her house, didn't you?---I have, as far as I see, I haven't seen any invoices.

10 I'm not saying, you may not have seen the invoices but you had an arrangement with Lyndal Marshall with Gardens2envy that they would bill extra and that money would cover the work that they had done privately at Marny Baccam's house?---Well, see I'm very particular about invoicing.

Well, I don't think you are, Mr Foo, at all particular about it. The only particularity was to how to cover it up. Right. You knew Marny Baccam owed Gardens2envy money?---Ah hmm.

You knew that didn't you?---Yeah.

20 You'd spoken to Gary Goodman about that, had you?---Yes.

Okay. You knew that Marny Baccam had had work done privately by Gardens2envy?---Yes.

She didn't want to pay?---Mmm.

So you allowed Gardens2envy to clear that debt by making Council pay it? ---Yes.

30 And you helped put together the false invoice with Lyndal Marshall, didn't you?---Ah hmm.

On more than one occasion?---Well, what, whatever invoice I put in, it always go through the right channel.

THE COMMISSIONER: Mr Foo, Mr Foo, it's kind of not the point. If the document's false it doesn't matter what channel it goes through. You've helped create the false document. That's what's being put to you. Do you not understand that?---Yeah, I understand now.

40 MR THANGARAJ: All right. And you helped Lyndal and Robert, Robert and Lyndal clear their debt to Marny Baccam, a Council employee - - - ?---Yes.

- - - by Council paying for something they shouldn't have paid for? ---Yes.

Right. Similarly the \$10,000 or so that went to Mark Goodman - - - ? ---Mmm.

- - - you also covered that debt by false invoicing through Council?  
---Which \$10,000?

The money that Mark Goodman, that you say Mark Goodman borrowed  
- - -?---Yes.

- - - and you went and got it from Robert?---Yeah.

10 You received that money from Robert over time, didn't you?---Yes.

And that money was also repaid - - -?---Yes.

- - - to Gardens2envy by getting them to put in a false invoice or invoices to  
Council, exactly how Robert Floudas has described this morning?---Mmm.

That's right, isn't it?---It's ah - - -

That's right, isn't it?---Well, I think so.

20

Not you think so, you sat down with Lyndal and worked out how to inflate  
the invoices to cover that debt, didn't you?---(No Audible Reply)

Didn't you?---Yes.

All right.

Is that a convenient time? I tender that.

30 THE COMMISSIONER: Yes. That last call will be Exhibit R42.

**#EXHIBIT R42 - TRANSCRIPT SESSION 11356**

THE COMMISSIONER: We'll take an adjournment, resume at 2 o'clock.  
Thank you.

40 **LUNCHEON ADJOURNMENT**

**[1.02pm]**