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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE MEGAN LATHAM

PUBLIC HEARING

OPERATION RICCO

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON TUESDAY 7 JUNE 2016

AT 2.15PM

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THE COMMISSIONER: Yes.

MS GERACE: Thank you. Mr Thompson, in answer to a question about co-signing a cheque, your answer was that the purpose of co-signing a cheque was just to verify that the correct amount had been entered on the cheque, and the name of the payee. Was that right? Was that your
10 evidence?---That's correct, yes.

You've been in finance for a very long time, so perhaps you might assist me to make this very quick. You understand now and have always understood that the purpose of having two people co-sign a cheque is to have two people checking that all appropriate processes have been followed. You accept that, don't you?---Yes.

And that would include having two people verify that a valid purchase order or invoice has been received, agreed?---Not for the signing of a cheque, no.
20

All right. Right, so you've agreed with the first proposition. It's just in relation to the second that you're having some trouble?---Ah hmm.

Wasn't it the case at Botany Council, and I would be surprised if it wasn't the case anywhere else, that in fact you had a regular day for payment of cheques, correct?---Yes, that's right.

And the correct process was that a bundle of cheques would be put together for signature by the appropriate signatories, correct?---Yes.
30

And the bundle of documents put together for the signatories included the substantiating documents, a list of who was being paid, what for, and that it had been checked by the appropriate person, correct?---Yes.

So whilst it might not be the case that the second signatory actually sighted, or may or may not have sighted all the substantiating material, in fact the person signing, whoever it was, whether they signed first or second, was required to check that detail before applying their signature to the cheque. You agree with that, don't you?---Yes.
40

And that's the reason why the Council had a system for two people signing, not just one, correct?---That's right.

Because you acted as a check on the other person who was signing the cheques, correct?---True.

So to prevent one person being able to unilaterally pay themselves money, correct?---Yes, that would be right.

All right. Now, it was the same system in relation to processing of payments for EFT. You needed to have two people enter a code, did you not, for the payments of money by EFT?---Yes, that's right.

10 All right. So, in respect of the people who had those codes, was it the same people that we've spoken about or was it just you – sorry, I'll withdraw that. In terms of possession of the codes for processing of EFT payments, is it fair to say that the following three people had that authority? Yourself, firstly. You had a code, didn't you?---Yes.

Now, was that provided by a token?---Yes, that's right.

Right. And so did you, when you authorised EFT payments, enter in details of whatever number was up on the token? Is that correct?---Yes, that's right.

20 Right. Now, the co-authoriser similarly had to do the same thing, correct? ---Yes, that's right.

Now, were there other people who had that code? Mr Goodman?---Yes.

And Barry Byrnes?---That's right.

And as far as you're aware, no-one else?---No.

Right? So just the three of you had those codes.---Yes, that's right.

30 So in terms of any payments by EFT, they would have had to have been authorised by yourself or Mr Goodman or Mr Byrnes or some combination of?---Yes.

Okay. All right. And you understood that the reason for that system was the same reason for co-signing cheques, so there would be two people authorising any payment, correct?---Yes.

And ensuring that any payments that were processed by EFT, similarly, appropriate processes had been followed, correct?---Yes.

40 And you were each checking on the other? Correct?---True.

So that not one person could unilaterally make an EFT payment. Now, you've given some evidence that you became aware of monies going – sorry, firstly, before I go to that. In terms of MB Consulting, the evidence so far suggests that no invoices exist for MB Consulting, correct?---I believe I did see some at some stage.

Ah hmm. But you accept that so far the evidence suggests otherwise?

---Yes.

All right. So to the extent that you co-signed any cheque for which there was no invoice, you accept, do you not, that in effect it had no difference to you co-signing a blank cheque?---If there was no invoice, there would have been a cheque requisition.

10 Ah hmm. And absent that, do you accept that if you do not do your job, you do not sight an invoice, you do not sight an authority, you do not sight an approval, it is in effect the same thing as signing a blank cheque?

MR MAHENDRA: I object. This witness has given evidence that there was cheque requisition on if not all occasions then certainly close to all occasions.

THE COMMISSIONER: Yes.

20 MR MAHENDRA: Is the question being put as a hypothetical or based on this witness's evidence?

THE COMMISSIONER: Well, I don't know. Is it being put - - -

MS GERACE: It was put as a hypothetical.

THE COMMISSIONER: All right. Well - - -

MR MAHENDRA: And what's the purpose of it?

30 MS GERACE: Well, there is a purpose.

THE COMMISSIONER: Well, I mean the answer is only as good as the hypothetical being made concrete. But anyway, go on. It may not amount to much in the end.

MS GERACE: Yes, I understand that, Commissioner. It will depend on the evidence. I accept that. The cheque requisition – I'll come – maybe I'll do it this way. The cheque requisition itself, what data should that have contained?---It'd contain the creditor's name.

40 Ah hmm.---The amount.

Ah hmm.---Description, costing number.

Ah hmm.---And authorising signature.

And that costing number was – we've heard some evidence that you set up costings. Is that accurate?---Yes.

Did anyone else have authority to set up costings?---Most cases, no.

Right. So you see what I want to raise about the MB Consulting, to the extent there was a cheque requisition for MB Consulting that contained a costing you set that up yourself. Is that right?---I created job numbers – costing numbers in the general ledger.

Yeah. Yes, that's not quite – I understand that's your evidence.---Ah hmm.

10 But given the evidence you've said that you set up costings, given the evidence you've said that you did that no one else, if there was a costing on any cheque requisition for MB Consulting you set it up yourself?---I'm not quite sure I understand.

THE COMMISSIONER: Sorry, could you just repeat that question. I'm sorry.

MS GERACE: Yes. So - - -

20 THE COMMISSIONER: Set up what?

MS GERACE: The costing on the, on the authority system. The witness has given evidence that there was a – should have been a cheque requisition and on that would have been recorded a costing. The witness has given evidence that he sets up costings and now I'm just – and no one else and so I'm just taking it step by step. So, Mr Thompson, to the extent there was a costing on a cheque requisition for MB Consulting you would have set up that costing?---I would have at some stage, yes.

30 And I assume because I wasn't in the department when you set up a costing it's based on some instruction. Correct?---Based on the Council resolution of the yearly budget.

Oh, I see. So did you just set up general costings?---No, I wouldn't say that, no.

No. Because isn't it also the case that when you set up a costing if there had been as direction or an approval given for the expenditure on say a task and a budget set you would set up a specific costing for a job for instance.

40 Yes?---Yes, that's right.

And the reason that was done was so that invoices raised against a job could be checked against that costing. Correct?---Yes, that's right.

Right. So now coming back to MB Consulting, if there was a costing number unique to that job you would have set that up. Correct?---Wouldn't be unique to MB Consulting.

I'll deal with that.---It would be - - -

All right.--- - - - a general consultant's number.

Okay. So when this system existed for invoices to be checked with a cheque requisition and a costing number entered onto it, wasn't the purpose of the costing number to check that an invoice is properly raised against an item that had been costed?---Well, the purpose of a costing number is where it goes in the general ledger.

10

THE COMMISSIONER: I'm sorry, I didn't hear that. The purpose of?---A costing number is where it goes in the general ledger.

Earlier you said that there was a costing number that was used generally for consultancy services to Counsel.---That's right, yes.

So all those services went under that costing number?---Yes, depending on what department it was, yes.

20 All right.

MS GERACE: And so presumably there would have been when you set up a budget for – or a costing number for consultancy services there would have been some information provided to you in order to create that costing. Correct?---Yes, that's right.

And you should not have created any costing unless you had that information. Correct?---That's right.

30 All right. Well you see do you accept a proposition that to the extent you co-signed cheques for M B Consulting on the back of an email without any other documents. That was like you not taking any – sorry, that was you not taking any steps to carry out the function allocated to you to the extent you were permitted to be a co-signatory?---Mmm.

THE COMMISSIONER: Well Mr Thompson, it's been put to you that you weren't performing any function that was consistent with there being a co-signatory to those cheques. In other words you weren't doing anything that assured the integrity of that payment. Do you agree with that or disagree with that?---I suppose that's true.

40

MS GERACE: All right. Now you gave some evidence also about an answer to Mr Moses about how you came across or how you came to recognise that payments made to CND were going into Gas Motorsports account. Do you recall giving some evidence to that effect?---Yes.

Well I think it was in fact, your evidence was initially that you had access to some material that suggested that you recognised Mr Goodman's account

and on further questioning today you said, when it was put to you that that money went into a Gas Motorsports account, you said it was because you had a Gas Motorsport information somewhere near you and you recognised the account number or it seemed similar. Is that right?---Not Gas Motorsport specifically, I saw the account number, that's all.

Sorry, you just saw the account number for Gas Motorsports or – is that right?---No, I saw the same account number in two areas.

10 Right?---I didn't know who they were for.

Sorry, I thought your evidence this morning was that you had a document of some sort that you saw. Is that not accurate?---Yes. that's right.

All right. And can you tell us a little bit more information about what the nature of this document was that you saw?---It was the transfer of a payroll to the bank.

20 Sorry?---Transfer of a payroll to the bank, I usually just scan through just to make sure it looks O.K. and after that I saw invoices for CND Computing and I just saw the same – a number that looked familiar on there.

Right. And so you say that the – there was a similarity, is this your evidence, just so I can be clear, similarity between what the pay process through payroll to Mr Goodman went into an account and in the process of looking at that you recognised some other payment that you were processing for CND?---Yes, that's right.

30 All right. And you say this in or about 2009. Is that right?---Around about, yep.

Ah hmm. See it's difficult, but can I ask you to have a look at these things. Can I just ask the following? When a payee's advice is prepared would the payee's advice ordinarily contain the name of the person to whom the monies were being paid, firstly?---Yes.

40 The BSB and the account number into which it was being deposited if it was done by EFT?---Our current system doesn't do that. I can't recall if the previous one did.

Right. The current system, O.K., perhaps the witness might have a look at, it's Operation Ricco, volume 6 CND Computers and page 9. Sorry, thanks Mr Thompson. I think this, you were correct when you said this was the old system isn't it?---That's right.

There's some new different payee system has changed?---Yeah.

But if we can just have a look at this document. You accept this was a payees advice for CND?---Yes, that's right.

And the information on this document includes the amount being paid, yes?
---Yes.

To whom and the account number.---That's right.

And it also has a unique reference.---Yes, that's right.

10

See the reference document? That's the transaction process. That's right?
---Yes.

Does this document also tell us who processed it or authorised it? Are there user IDs on this document?---No.

No. Right. Did you have a unique - do you have a user ID that says when you've authorised something?---In the computer system?

20

Yes.---Everyone has their own user ID, yes.

Ah hmm. Okay. All right. But the payee's advice is what's produced after the payment or the proposed payment is processed in authority, correct?
---Yes.

And this number should reflect the account that it's paid into, correct?---
That's right, yes.

30

Right. And to the extent a deposit is made to an incorrect BSB, for instance if there's no account linked to a BSB, it's fair to say, isn't it, that the ordinary course would be that the bank would bounce back any proposed payment?---Yes, that's right.

Okay? Because you need to have an account number linked to the BSB.
---Yes.

40

Right? They both go together. All right. So, we've also heard some evidence from Karen Rowe, who gave evidence last week, that in her observations of Mr Goodman, he did not appear particularly computer literate. Did you hear Ms Rowe's evidence?---I did, yes.

Sorry?---I did.

All right. So she said in her statement that "Mr Goodman demonstrated an inability to interrogate the accounting system because he appeared to be not sufficiently computer literate to do so." This was evidenced through email communications, which you can't comment about. So firstly that first part.

Would you agree that Mr Goodman's ability to interrogate the accounting system was limited?---Yes, it was.

Ah hmm. And it was also fair to say that he relied quite heavily on you to produce and edit the majority of reports coming out of the finance division? Is that correct? Or Barry Byrnes.---Yes, that's right.

Right. So it was either you or Barry Byrnes who prepared those reports for him?---Yes.

10

All right. If you could have a look at CND invoice number 10, page 10, sorry, of the bundle that I've just taken the witness to, which is again volume 6. CND Computers. We can see from this invoice that in fact the CND invoice itself contained no details about where the money was to be paid. You agree with that?---Yes, that's right.

20

And to the extent this was paid into an account belonging to Mr Goodman, and accepting the evidence of CND, that this work was not done by them, someone entered into the authority system the details of where this account was to be paid. Do you agree with that?---Yes, that'd be right.

And given the evidence we've already heard, that was unlikely to have been Mr Goodman. Do you agree with that?---True.

And is it likely to have been either yourself or Mr Byrnes, if he had that authority?---No, any of those sort of things were done by accounts payable.

Right.

30

THE COMMISSIONER: Done by accounts payable?---Accounts payable.

And who was in accounts payable?---Sharon Dale.

Sharon Dale? Anyone else?---Tien Luk.

Tien Luk?---Yes, those two people.

40

So anyone could have given them instructions to do such a thing?---Yes, that's right.

MS GERACE: Would your authority system tell you who had entered the details and when?---It shows you the last time it was maintained.

Ah hmm. So it should be able to get a log to see - - ?---Yes.

All right. Terrific. All right. So just moving quickly, I note, I note the time, I won't be long. But on page 10, this is a payment of 25,300 an invoice raised for that amount. There's no details here. And if we go back

to page 9, this was the payee advice and do you see here that it appears to have been paid to an account number 1-1-2-8-7-9, the account number, sorry, the BSB 1-1-2-8-7-9. The account has been redacted. Do you see that?---Yes.

For 25,300 and this was a payment into, if you'll accept this from me, BSB 1-1-2-8-7-9, is a St George account. And I don't know if it's the same account, but at that stage Performance Service Centre, which was Mr Goodman's business had a St George account. Okay. And we can see that
10 on document number 8. Have a look at that. Now there's no entry in here of that amount, so I don't know whether it was paid to there, but I just wanted to point out the 1-1-2-8-7-9 is the same BSB number as Mr Goodman's Performance Service Centre. And this was a payment that came in on December, 2008. So I want to take you to the next payment on page 12, is the invoice raised and this is a payment for \$4,225. Do you see that?
---Yes.

MR MAHENDRA: Sorry, Commissioner, I might be missing something here, but I've just noticed the invoice my learned friend took Mr Thompson to on page 10 is actually an invoice for 360 Vision Pty Limited.
20

THE COMMISSIONER: Yes.

MR MAHENDRA: And I just wanted some clarity around that, because I, I fear I'm missing something.

THE COMMISSIONER: No, I don't, I'm not sure, is there a point to the 360 Vision invoice or it was just a question about systems?

30 MS GERACE: I understood that the evidence of CND, it was firstly a question about systems, I'm not making any point about the payment. But I did also understand the evidence that was given that they were ill-related names and that the matters being investigated, so Mr Goodman used all of those different things - - -

THE COMMISSIONER: All right.

MS GERACE: - - - different things to make payments through to him.

40 THE COMMISSIONER: All right. Yes. Go on.

MS GERACE: But in terms of this witness it was only to the systems to show the documentation.

MR MAHENDRA: Thank you.

MS GERACE: On page 12 and this is an invoice from, it appears to be from CND Computers in the amount of 4,225. Then in this invoice itself

contains no account details but does have an account ID, 2-3-1-1. Can you see that in the left hand side down the bottom?---Yes, I can.

All right. So that is not an account ID from council is it? That appears to be some external account ID. Is that right?---I'd say so;

Now this costing number down here 1-3-0-0-1-4-0-4 do you say that would be a specific costing for CND or a general costing?---No, a general costing.

10 All right. Now this document contains no details about where it's to be paid. Do you accept that?---Yes.

All right. And then if we look at page 8 again, which is the, sorry if we go, actually go to page 11, firstly, sorry. It's a process of the payment and the payee account is 1-1-2-8-7-9. Yes?---Yep.

And if we go to page 8 that money appears to have been paid into Performance Service Centre's account. Do you see the listing there, 4-2-2-5?---Yes, that's right.

20

All right. Now it was just to set up the process and the information. But if we look at another invoice, if we look at page 14, which is an invoice from CND in 24,200. Do you see that?---Yes.

Right. And we go to the payment – payee's advice on page 13, do you see the account number there is – the BSB is 0-8-2-7-7-8?
---Yes, I do.

30 It appears to be recording payment to 0-8-2-7-7-8 in the sum of 2-4-2-0-0?
---Yes.

That same amount of the invoice we've just seen. But if we look at Mr Goodman's account at page 135, the money has gone into his account it appears. See the top entry, the top credit?---Yes.

Which has a different BSB. Do you see the BSB on this document 0-1-2-3-4-5?---Ah hmm.

40 So the payment appears to have been raised within authority and a BSB number allocated to it but in fact when remitted to the bank it's paid into Mr Goodman's account.---Mmm.

Firstly, can you assist the Commission to understand how a payee's advice from your own system could record a BSB account that did not reflect the BSB account of the account into which the payment was made?---No idea.

But you would agree would you not that it's highly irregular?---Yes, it is.

And it would also obscure the identification of where moneys had been paid as an effect. Would you agree with that?---True.

Yes?---Yes.

Because if someone went back and checked that BSB number and the account it wouldn't show that payment would it?---No, that's right.

See - - -?---Are the dates the same?

10

Sorry?---Are the dates the same?

Well, I can, I can assist you in this way. If we have a look at the payee's advice on page 13 and you will see the date on 30 September, 2009.
---Ah hmm.

See the payment there being made on that day and do you see the reference number 7-4-2-7-2?---7-2, ah hmm.

20

But – and then at 3-0-2-5-4-7 and then if you go to 135 which is Mr Goodman's account. If we look at the entry payment is made on 30 September?---Yes.

Yes. And the unique reference number that I've just given you appears on his?---Yes.

So do you accept now that the payee advice that I took you to appears to record – have the same reference as the payment into Mr Goodman's account?---Yes, it does.

30

But all of the other detail on that payee advice, including the person to whom it was paid, the BSB and the account, appears to be, appears to obscure that payment?---Mmm, true.

Yeah. And the two – just those two, and I don't intend to do this for each one, but just those two also suggest does it not because I've taken you to an earlier payment into one account and this payment into another account that in fact someone else was assisting Mr Goodman either wittingly, unwittingly or knowingly to pay the moneys now not from the early account but into a different account. Do you accept that?---It seems that way, yes.

40

It does seem that way doesn't it. And I don't intend to, to take him through it but again, also might I say I will do this. There's just one more invoice. If we can have a look at page 16 and this was a payment of 5,500.
---Ah hmm.

Again, no details on this invoice about where it's to be paid but if we look at the payee's advice on page 15 just for the same payment a – trust me, I'd say there is a different BSB account. Do you see that?---Yes.

0-1-2-0-5-5?---Ah hmm.

We had been dealing with 0-8-2-7-7-8. The account number's been redacted. But if we look at - - -

10 MR THANGARAJ: Can I just, just to my friend. Sorry. My friend's, I think, working off the public website information. On the restricted website, which she has access to, it has all the proper details. So she can cross-check each one if she needs to.

MS GERACE: Yes, thank you.

MR THANGARAJ: One of the ones, I think the very first example, the BSB was the same but in fact the account numbers were different. Every other example has been fine. But I just wanted to let them know in case they - - -
20

MS GERACE: Thank you. I'm grateful. I won't pursue that further. Thank you to my learned friend. So I think, just excuse me for a minute. Now, there are just a few other matters. You were told by the deputy general manager not to co-sign cheques unless one of the other co-signatories was absent, correct?---Yes, I'd say so, yes.

You've already given that evidence, yes. And you contravene that direction, correct? Yes?---Like I said earlier, it was relaxed.
30

Ah hmm. Now, you were also aware that you were given power to enter a code authorising an EFT payment, correct?---Yes.

And you understood that that was a significant fiscal and financial obligation you had to Council, correct?---True.

And that you also understood that you were exercising that as a co-signatory, in effect, or a co-authority, as a second check to make sure EFT payments were made correctly, yes?---Yes.
40

You would understand from that, would you not, Mr Thompson, that you should not have had access to anyone else's code, correct?---True.

You shouldn't have used their code.---True.

And they shouldn't have used your code.---That's right.

But in fact you did use someone else's code, didn't you?---At times I had to, yes.

Yes. And in fact when you gave evidence that you were called in on one Saturday to process a payment for Mr Goodman, do you recall that?---Yes.

You could not have authorised that payment unless you had Mr Goodman's or Mr Byrnes's details to process that payment, correct?---That payment wasn't sent on the Saturday.

10

Right. Okay. Well, let's deal with that. But if you had sent it on that Saturday, you would have needed two codes or two authorisations, correct? ---You would have, yes.

Yeah. And you've given evidence that you have on other occasions, though, used someone else's code, correct?---Correct.

Right. And you understood that to be a breach and irregular, yes?---I guess so, yes.

20

And improper. Do you accept that?---True.

Whose code did you also use?---Usually Gary Goodman's if I had to.

And how did you come to have Mr Goodman's?---He just kept it in his desk.

Did you use it with his permission?---Yes.

30

So is it the case, then, there are some payments that you processed when neither you nor he followed procedures or authorised or verified the things that needed to be verified before entering your codes? That's right, isn't it? ---I think most procedures were followed.

Because – and sorry the other thing about that is this was discovered was it not by the Deputy General Manager after Mr Goodman's departure?---I don't know.

40

All right. Were you spoken to about that process and told not to do it?---No.

No?---Not that I can recall.

Were you aware about whether Mr Byrne's had used his code to process those payments?---Yes, he does, yes.

Okay. All right. There's one further matter I just want to take this witness to. In 2007 a number of hours of long service leave were paid out. Are you aware of that?---Yes.

They were paid out via finance?---That's right.

And were they paid into accounts by EFT?---I think so, yes.

Ah hmm. And were you involved in the processing of those payments?---I think so.

10 Ah hmm. And did you as a result of the processing of those payments make entries into the payroll system as well?---Yes, that's right.

As administrator?---Yes.

Without discussing those matters with payroll?---Yes, I was directed by the General Manager to do that.

Ah hmm. And have you – did you subsequently to that delete the entries or reverse those entries?---No.

20 Now can I ask you this on another occasion in relation to the payroll system, did you make an entry into a payroll system as the administrator that was picked up and you were spoken to by the Deputy General Manager. Do you recall that? Does that assist?

MR MAHENDRA: Can that be clarified?

MS GERACE: Yes, yes.

30 MR MAHENDRA: Thank you.

MS GERACE: Do you recall the incident where the – you were directed by the Deputy General Manager in relation to an issue that you were not to enter into the payroll system and make any changes in relation to employees without written authority?---I don't recall that, no.

THE COMMISSIONER: Is there a time that is said to be referrable to this conversation?

40 MS GERACE: Yes, yes. In early 2016 were you spoken to in relation to an entry you'd made for an employee in the payroll system and as a result of which payroll had picked it up, but as a result of that situation a rule was put into place that you were unable to make any changes to the CHRIS payroll system unless there was a written instruction from the payroll manager?---No, I don't recall any of that.

It was either early 2015 or early 2016?---No.

You don't recall that. All right. So is the present situation this, from 2003, sorry 2004 onwards you continued to co-sign, you co-signed cheques for M B Consulting? Yes?---Yeah.

And this was – and if the evidence – and this is the period in which you say you became concerned about through this period a request for a blank cheque. Do you see that?---That's right.

10 Now, you see if the evidence ultimately is found by this Commission to be that there were in fact no invoices for MB Consulting and/or no cheque requisitions attached to them, you'd accept would you not that it would be inconsistent with that fact if you had been a party to that conduct for you to have any concern when Mr Goodman asked you to raise a blank cheque?

MR MAHENDRA: I object, Commissioner. That question was so utterly confusing.

THE COMMISSIONER: I'm not sure I understood it either.

20 MS GERACE: Thank you. I'm sorry, it was a bit difficult. Let me just put it this way.

THE COMMISSIONER: Are you putting to him that his evidence in relation to a concern arising from Mr Goodman's request to sign blank cheques that that's – that evidence is untrue?

30 MS GERACE: Yes. Well, no, sorry. I'm not saying that it's untrue because I don't have instructions on that. I don't know what Mr Goodman said to this witness. What I'm putting to this, and I'll be clearer, is that to the extent you have told this Commission that a conversation took place where Mr Goodman asked you to write a blank cheque firstly, you understand that's your evidence?---Yes.

And to the extent you told this Commission that that caused you to have some concern, that's also your evidence isn't it?---Yes, that's right.

40 So my point to you is if this – if the evidence – if the Commission ultimately comes to a finding that for several years beforehand you had been prepared to co-sign cheques without invoices, make cheques payable to cash, be aware of cash payments being handled, those, conversion of those cheques into the cash being handled by Mr Goodman, the suggestion that in 2007 if it occurred Mr Goodman asked you to write – to sign a blank cheque that it caused you any concern is inconsistent with your conduct?

MR THANGARAJ: I object. I don't think you can predicate a question on a finding of fact that the Commission might make.

THE COMMISSIONER: No, we haven't yet made.

MS GERACE: No. I only wanted to - - -

THE COMMISSIONER: I mean saying it's inconsistent is one thing. I mean I don't know ultimately what submission you're going to make about the reason for the inconsistency and lastly, I don't quite understand how that impacts upon your client but I think Mr Thompson has already been questioned in relation to the lack of any - - -

10 MS GERACE: Yes, I'll leave that.

THE COMMISSIONER: - - - explanation for why he continued to do this after knowing that Mr Goodman himself had been putting Council money into his own bank account.

MS GERACE: Yes. Thank you. I'll leave it on that point. I accept the Commission's – the issues raised by you, Commissioner. I just want to say the following, to the extent that you've told this Commission that you raised at any time a concern with the Deputy General Manager about blank
20 cheques being requested by Mr Goodman that was not true?---I didn't raise it with the General – Deputy General Manager.

And to the extent that you - - -?---I raised it with Barry Byrnes.

Thank you. To the extent that you suggested that in 2007 you raised with the Deputy General Manager a concern about moneys being paid into Mr Goodman's account through – in connection with the CND invoices that was not true?---Yes, it was.

30 Ah hmm.---But it was in 2009.

And you're unable to produce here today a copy of any document that you say that you gave Ms Cullinane. Correct?---That's right.

Right. And also in your significant years of experience you know very well how to prepare a report do you not?---Yes.

And you know very well how to send an email don't you?---Yeah.

40 And you know very well how to institute a complaint don't you?---I followed - - -

If you need to raise - - -?---I followed that path.

- - - this matter genuinely for consideration you knew how to do that didn't you?---Yes. I followed that path.

And you didn't do it?---Yes.

Didn't document it and it never occurred?---It was documented but Lorraine kept a copy of the documentation.

And none of those issues you say now in your evidence where you spoke to Ms Cullinane in fact occurred?---Yes, they did.

And they're inconsistent in fact with your involvement in the processing of payments to Mr Goodman?---No.

10

MR MAHENDRA: I object. How does that follow, Commissioner?

THE COMMISSIONER: Well, he's refuted the proposition in any event, Mr Mahendra.

MR MAHENDRA: Thank you, Commissioner.

THE COMMISSIONER: Does anyone else have any questions of Mr Thompson?

20

MR LATHAM: Commissioner, there's one matter that's just arisen in one of the questions that's just been asked.

THE COMMISSIONER: Yes.

MR LATHAM: Could – we're just getting some instructions on the point.

THE COMMISSIONER: Yes.

30 MR LATHAM: Could the witness just not be excused for the moment and he might be recalled in 10 minutes if needs be.

THE COMMISSIONER: All right. Does anyone else have any questions of Mr Thompson? Anything arising, Mr Thangaraj?

MR THANGARAJ: I might just wait till Mr Latham's finished to - - -

THE COMMISSIONER: Yes. And then, of course, Mr Mahendra, do you have any questions, Mr Mahendra?

40

MR MAHENDRA: No, Commissioner.

THE COMMISSIONER: No.

MR LATHAM: Commissioner, can I just ask this?

THE COMMISSIONER: Yes.

MR LATHAM: We're having some difficulties getting instructions. You were just asked a question about the payment of long-service leave in 2007. ---Yes.

10 Whose long-service leave was that?---Gary Goodman, Barry Byrnes, Lorraine Cullinane, myself and I think there was one other person in community services, from memory.

THE COMMISSIONER: So, sorry - - -

MR LATHAM: Could I just repeat the previous request, then?

THE COMMISSIONER: Yes, go on.

MR LATHAM: Just to have this witness not excused for the moment.
20

THE COMMISSIONER: Yes, all right.

MR LATHAM: We'll get some instructions on the point.

THE COMMISSIONER: Just so I understand, Mr Thompson, in 2007 you say that the long-service leave entitlements to all of those people you've just named were paid out?---Yes, that's right.

30 And you were responsible for putting that through the system? Is that the position?---Yes, that's right.

And that was done through the creditors' system? Is that what you say?
---Yes, it was.

Right. And, sorry, and on whose instruction was it that that occurred? Was it Mr Goodman or someone else?---It came from the general manager through Gary Goodman.

40 Through Mr Goodman?---Yes.

When you say it came from the general manager through Mr Goodman, Mr Goodman told you to carry out that exercise?---Yes, that's right.

And he told you that he had received that instruction from Mr Fitzgerald?
---Yes, that's right.

Did you yourself ever speak directly to Mr Fitzgerald about it?---No.

All right. Could you just stand down briefly, Mr Thompson. You might need a bit of time.

MR LATHAM: We may not, given the questions that you have asked, Commissioner. That may have actually resolved the point.

THE COMMISSIONER: Well, I think - - -

10 MR LATHAM: But if he could just wait here.

THE COMMISSIONER: All right.

MR LATHAM: And perhaps we might interpose him at a later stage.

THE COMMISSIONER: All right. If you can stand down, Mr Thompson. Just take a seat at the back. But it'll be resolved before the end of the afternoon, in any event.

20 **THE WITNESS STOOD DOWN** **[3.02pm]**

THE COMMISSIONER: Yes, Mr Thangaraj.

MR THANGARAJ: Commissioner, Ms Baccam was next, but Mr Maton has been waiting all day - - -

THE COMMISSIONER: Yes, all right.

30 MR THANGARAJ: - - - as well, and he'll be quick.

THE COMMISSIONER: All right.

MR THANGARAJ: So could we just - - -

MR STEWART: Yes, good afternoon, Commissioner. Stewart, solicitor on behalf of Mr Maton.

40 THE COMMISSIONER: Yes. Yes, Mr Stewart.

MR STEWART: I've explained the section 38 declaration. He'll be seeking a declaration and he's willing to be affirmed.

THE COMMISSIONER: Thank you. Mr Maton, can you come forward, please? Yes, Mr Maton, just to reinforce the fact that the section 38 order doesn't protect you from the use of your answers against you if it should be found you've given false or misleading evidence. You understand that? 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.

10 **PURSUANT TO SECTION 38 OF THE INDEPENDENT
COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT
ALL ANSWERS GIVEN BY THIS WITNESS AND ALL
DOCUMENTS AND THINGS PRODUCED BY THIS WITNESS
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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 THE COMMISSIONER: Yes, can we have the witness affirmed, please.

MR THANGARAJ: Mr Maton, can you give us your full name, please?
---Excuse me. Kevin James Maton.

And Emu Alarms is your company?---Used to be my company.

Or was your company, I'm sorry.---Yeah.

10

I just want to ask you questions on two topics. The first one is some invoices and the second one is the alarm system that was installed at Ms Cullinane's house. Now, you can just assume from me that quite a few invoices have been put through under the name of Emu Alarms but with the bank account details of Mr Goodman. I just want you to assume that.
---Yeah, yeah. Sorry.

20

Now, were you aware of any invoices being sent to Botany Bay Council with Emu Alarms' name on it but the account details were for Mr Goodman?---No, I wasn't aware.

All right. Are you aware of any money from Emu Alarms invoices going to Mr Goodman?---No.

30

All right. We've given a copy, Commissioner, of the invoices, the amounts, et cetera, to Mr Goodman's lawyers. It amounts to in excess of \$300,000 and he can take instructions as to what he proposes to do in relation to that. All right. The second topic is Ms Cullinane's house. Did you install an alarm system there?---I did.

And do you remember roughly what that involved? What sort of hardware that involved?---So it was a combination, it was an alarm system and a camera system at the same time. Exact number of cameras, seven I think with a hard drive. One of the cameras was what we call a Pantel 2 camera.

Which means you can move it around?---Yeah, use a joy stick to move it around.

40

A joystick. All right. And roughly how much were each of the cameras worth?---Around the \$2,000 mark.

Do you remember what year this was – this work was carried out in?---I think it was around 2003.

All right. And what do you say was roughly the total value of the work, hardware and labour that was involved?---Just over about 20,000.

And do you remember how you were paid?---So I initially had a deposit because I had to buy some of the equipment upfront, being so expensive, cashflow.

Yes?---And then had a payment after that.

All right. So firstly how was the deposit paid?---Into the bank account most of the time.

10 By who?---Botany Council.

Okay. And who paid the balance of it?---Botany Council.

All right. Does that mean that Botany Council paid for all of it?---Correct.

And how did you invoice them?---Invoiced it through Botany Council.

Right. But did you, do you remember what details you put on the invoices?
20 ---Oh, not a hundred percent. I most probably would have put supply and installation of camera and alarm system at Lorraine's place or that address.

All right?---Yep.

Who asked you to do this work?---Instructed by Gary Goodman.

Gary?---Gary Goodman.

All right. All right. Now did Mr Haria do any work in relation to that? Mr
30 Haria who ultimately had seen the - - -?---Oh Raj, Raj, Raj.

Raj Haria, did he have anything to do with the work done there?---No. At Lorraine's, not unless it was after I did work.

All right. Were you told or did you have any understanding as to why the alarm system was being installed?---I believe that she was having issues being harassed.

Right. And who told you that?---Gary, Mr Goodman.

40 Okay. All right. Now was there a monthly monitoring fee after that?
---There was.

And who did you invoice that to?---That was invoiced directly to Lorraine.

Okay. Now have you read the evidence that Mr Goodman gave about the installation of this system?---I, I have briefly, yes.

All right. And he said it was paid through false invoicing. Do you remember reading that, that he said that?---Yes, yep. yep.

Were you involved in any false invoicing aspect of - - -?---No. Everything I did I invoiced and most of the time it would have had a purchase order number of some sort, a reference number with it.

All right. Well you were probably here earlier today when I asked some questions pointing out that the invoices - - -?---Yes.

10

- - - weren't found. All right. Can I just show you a read out of some documents. Sorry, we can bring it up on the screen, sorry. If you can't read it properly off the screen let me know, I'll give you this copy. Now you've seen this document before haven't you?---I have, yes.

And you were asked to consider whether or not any of these payments related to Ms Cullinane's house?---Actually I don't – oh yeah, sorry, over here, yes.

20 Right. Do you remember being asked - - -?---Okay, so the 10,791.

Yes?---And the 9,500.

All right. I might tender that page as a separate exhibit.

THE COMMISSIONER: Yes. That will be Exhibit R91.

MR THANGARAJ: Oh sorry, it's already part of, it's already been part - - -

30 THE COMMISSIONER: It's part of - - -

MR THANGARAJ: Part of something else I think.

THE COMMISSIONER: Yes, all right.

MR THANGARAJ: No further questions.

THE COMMISSIONER: Yes. Does anyone have any questions of Mr Maton? No?

40

MS GERACE: No, Commissioner.

THE COMMISSIONER: All right. Mr Abboud, anything?

MR ABOUD: Commissioner, in relation to the entries made into Mr Goodman's account subject to the schedule provided to us by Counsel Assisting, Mr Goodman has made two concessions. I don't need to - - -

THE COMMISSIONER: So does this concern Mr Maton?

MR THANGARAJ: Yes.

MR ABBOUD: Yes, it does.

THE COMMISSIONER: All right. Well, could you just move the microphone so we can pick it up, Mr Abboud. Thank you.

10 MR ABBOUD: On instructions, Commissioner, Mr Goodman made two concessions. The first one is that the amounts did go into his account and the second that he was the sole person that created the false invoicing for those amounts.

THE COMMISSIONER: Thank you.

MR ABBOUD: Thank you, Commissioner.

THE COMMISSIONER: Can we excuse Mr Maton?

20

MR THANGARAJ: Yes.

MR ABBOUD: Yes.

THE COMMISSIONER: Mr Stewart, I take it you didn't want to ask Mr Maton any questions?

MR STEWART: No, I have no questions, Commissioner.

30 THE COMMISSIONER: Thank you, Mr Maton, you may step down. You're excused. Sorry to keep you waiting.---That's okay. Thank you.

THE WITNESS EXCUSED

[3.11pm]

MR LATHAM: Commissioner, might I just add we don't need to – sorry, keep going.

40 THE COMMISSIONER: You don't - - -

MR LATHAM: We don't need to ask any further questions of Mr Thompson.

THE COMMISSIONER: You don't need to recall Mr Thompson. Thank you. Mr Thompson is also excused. Yes, Mr Thangaraj.

MR THANGARAJ: Ms Baccam.

THE COMMISSIONER: Yes. Could Ms Baccam come forward please.

MR MOSES: Just while Ms Baccam is being called, Commissioner, could we tender the folder that we provided for Mr Thompson.

THE COMMISSIONER: Mr Thompson's folder. Yes.

MR MOSES: Thank you.

10 THE COMMISSIONER: Well, then, I'll make that Exhibit R91. Thank you.

#EXHIBIT R91 - FOLDER OF MARK THOMPSON DOCUMENTS

MR MOSES: If it please the Commission.

20 THE COMMISSIONER: Yes, take a seat, Ms Baccam.

MR JOHNSON: Commissioner, my name is Johnson. I seek leave to appear on behalf of - - -

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

MR JOHNSON: And my client would also seek the section 38 order.

30 THE COMMISSIONER: Thank you. Ms Baccam, may I remind you that a section 38 order does not protect you from the use of your answers against you if it should be found you've given deliberately false or misleading evidence to the Commission. You understand that?

MS BACCAM: Yes.

40 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.

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: Do you wish to be sworn or affirmed, Ms Baccam?

10

MS BACCAM: Sworn.

THE COMMISSIONER: Yes, could we have the witness sworn please.

THE COMMISSIONER: Yes, Mr Thangaraj.

MR THANGARAJ: Ms Baccam, I want to ask you questions about two matters, one is the Lexus and the second is gardens2nv. All right. Now, did you drive a Lexus that was bought for you by Council?---Yes.

10 All right. Can you just speak into the microphone and just speak a bit louder.---Yes.

Now, did you end up going to an auction house where the car was bought?
---Yes.

How did you end up at the auction?---Gary rang me that – ring me that – I wasn't sure that he pick me up or I come to the workshop that we going to have a look at your car and then when I go with him and Peter was there.

20 Sorry, Peter who?---Peter Fitzgerald was in the auction and his son and Leong Seng going with us, yeah.

All right. And were you told – ultimately a car was bought, a Lexus was bought?---Not yet. Just to have a look what car I want.

Right. And ultimately the car was bought?---Yes.

Right. All right. Now, tell us what happened when you got to the auction house?---We were look around and Peter was saying pick what you want so
30 then I picked that car.

What did you pick?---The Lexus, yeah.

All right. And how long did you drive that car for?---I can't remember. It's only for a short time I think because the car was going for service and then, then the guy from the garage what ring me up that the car broken down when he brought it back and then he said the car have to go back and fix a lot of thing and which is – then when it came back I wasn't sure that I drive the car again or not because I think – I heard that Gary was saying that Peter
40 want to sell that car so I was driving the small car, the white car after that.

All right.---And I don't really know what happened after that.

All right. Well, how long do you think you had the Lexus for?---Close to a year I think. Maybe seven, eight month, 10 month. I'm not sure, yeah.

All right. Now, do you – were you told who had approved the Council buying that car?---According to Gary, Peter's – had Peter approve it.

All right.

THE COMMISSIONER: Ms Baccam, you weren't entitled to a Council car I take it as part of your position?---I'm not really sure. I never knew where I stand in the work – at the work. I just listen for what they tell me what to do or they gave it to me so - - -

10 But had you been complaining about the fact that you didn't have a Council car and other people did have one?---No, I never did.

So you didn't say anything to anyone about wanting a Council car?---No. Because what happened in the Airport always have spare car. I just been driving a different car all the time.

Yes, I appreciate that but what I'm asking you is you didn't say anything to anyone about wanting to have a Council car, this just came out of the blue this offer to you?---Yeah.

20 Is that what you say?---(No Audible Reply)

MR THANGARAJ: Now, when the – when you no longer had the car did you receive any money from the sale of the car if the car was sold?---No, nothing at all. I don't even know where the car gone.

All right. So you just - - -?---Or what, what - - -

You had use of it for the year or however long?---Mmm.

30 All right. Did you speak to Mr Fitzgerald – after he said to you pick what you want did you speak to him about anything to do with the car?---I can't remember. It's a while back.

All right. All right. I want to ask you some questions about gardens2nv. Have you read any evidence about the - - -?---Yes.

Have you read the evidence that Mr Floudas and Ms Marshall have given - - -?---Yes.

40 - - - to the Commission about you?---Yes.

All right.---Today, yes.

All right. Now, Mr Marshall – sorry, Mr Floudas says that he gave you cash in envelopes. Did that happen?---Yes.

And also that you gave them false invoices that they could use with respect to – sorry, blank Gas Motorsport invoices that you gave them - - -?---Yes.

- - - if they wanted to use. Did you do that?---Yes. Yes.

All right. And did you produce false invoices in relation to gardens2nv yourself without telling gardens2nv?---No. It was according to Robert. Robert tell me what to do. I was only deal with Robert not Lyndal.

10 All right. No. All right. Well, let's set aside Lyndal. Did you use the gardens2nv details to produce false invoices?---Yes. Some of them was sent by Lyndal by email. The blank, the blank, the blank invoice some of them were sent by Lyndal.

All right. Well, I just wanted you to confirm that you produced false invoices involving gardens2nv details?---Yes.

20 All right. Now, you've read that – sorry, you may not have read but according to Ms Marshall's diary entries at least \$65,000 was made in payments by cash to you and that's not all of it according to their evidence but do you agree that you received that sort of money over time in cash from gardens2nv?---No, not that much. Because Robert took the cut of the money. He would took 40 per cent every time he gave me the money.

How do you know it was 40 per cent?---Because I know by the invoice.

You know by the invoice?---Yeah.

30 All right. All right. Well, can I say do you have any – apart from your evidence about that is there any, any other document or support for that evidence that you've just given?---I'm not sure what you say.

Did you make any – we know that Ms Marshall made records about this. I suppose you did not make any records?---No, I don't make it, no. No.

40 All right. Well, Ms Baccam, I want you to understand clearly that unless something – some further evidence comes to light between now and the end of the inquiry I'll be making submissions to the Commissioner that you received money, et cetera, in the way that the gardens2nv witnesses have said and that Robert Floudas did not receive any part of it and that you received all of it. I just want you to understand that that's the - - -?---Yeah.

- - - current thinking at least from - - -?---Yeah.,

Right. Do you understand that?---Yeah.

Now, is there anything - - -?---Yeah.

Is there anything further you want to add in relation to gardens2nv?---No.

All right. Nothing further.

THE COMMISSIONER: Does anyone have any questions of Ms Baccam?

MR MOSES: Just one question, Commissioner.

THE COMMISSIONER: Yes, Mr Moses.

10

MR MOSES: In relation to the Lexus motor vehicle, Ms Baccam, did you have a direct conversation with Mr Fitzgerald about the purchase of the Lexus vehicle for you to drive or was the discussion between you and Mr Goodman?---Was discussed between me and Gary and then he took me to auction and to meet Peter at the auction, yeah.

Did you speak to Mr Fitzgerald at the auction?---Yes.

20

And did Mr Fitzgerald say anything to you about purchasing a car for you to use?---That one were talk between, between Peter and Gary. But Gary did say that pick the car you want and then after that Gary do the job.

So Mr Goodman asked you to pick the car you want?---No Peter Fitzgerald.

Mr Fitzgerald said that to you?---Yeah.

Have you met Mr Fitzgerald before?---Yes, we were friend. He got me a job at the council.

30

Mr Fitzgerald did?---Yep.

You're Mr Fitzgerald's friend?---Yes.

How did you meet Mr Fitzgerald?---Through Gary.

Through Gary?---Yes.

40

Through where? At Mounties or somewhere else?---No, Peter, Peter Fitzgerald used to come to Gary workshop all the time and I used to go there all the time when I was Gary's girlfriend. And he come - - -

So you know Mr Fitzgerald there?---Yeah.

Okay. And that's how you knew Mr Fitzgerald before you worked at the council?---Yep.

And Mr Fitzgerald got you the job at the council?---Yes.

Okay. And you were good friends with Mr Fitzgerald?---Yes. All the way, yes.
I'm sorry?---Yes.

Were you in a relationship with Mr Fitzgerald?---No.

Okay?---Never.

10 Thank you. No further questions.

THE COMMISSIONER: Yes, Mr Latham.

MR LATHAM: Commissioner, I've probably got about two or three questions but I'm just trying to get some instructions on them and I apologise for this.

THE COMMISSIONER: No, that's all right.

20 MR LATHAM: Could we have a five minute adjournment just so I can get those?

THE COMMISSIONER: Yes. Mr Abboud, do you have any questions of Ms Baccam?

MR ABBOUD: Not at this point.

THE COMMISSIONER: No. Does anyone else have any questions of Ms Baccam? No. All right. We'll take a five minute adjournment. Let me
30 know when you're ready, Mr Latham.

MR LATHAM: Thank you, Commissioner.

SHORT ADJOURNMENT

[3.22pm]

THE COMMISSIONER: Yes, Mr Latham.

40 MR LATHAM: Sorry, Ms Baccam. Just two, two or three quick questions. Your first job at Botany Council was at the Airport Business Unit wasn't it?---Yes.

And Mr Goodman got you that job didn't he?---No Peter approve for me to go there, yes.

Sorry, Peter?---Both of them, Peter and Gary took me to the airport and interview for the job. Through Mick Ryan which is Peter, he's the manager there, which is Peter's friend.

Who first told you about the job there?---Gary told me that I need a job and he talk, he talk to Peter.

Okay. Oh sorry, which Peter Fitzgerald?---The father.

10

Okay. I've got nothing further, Commissioner?---That day I don't know, I don't know Peter (not transcribable) that day I didn't know him yet until he become my boss a few years ago, yeah, a year later.

Nothing further Commissioner.

THE COMMISSIONER: Thank you. Nothing else? Thank you Ms Baccam. You may step down. You're excused?---Thank you.

20

<THE WITNESS EXCUSED

[3.30pm]

MR THANGARAJ: Commissioner, that only leaves Ms Cullinane. And could I just ask through you whether or not anyone has any questions for her before I say one thing?

THE COMMISSIONER: For?

30 MR THANGARAJ: For Ms Cullinane.

THE COMMISSIONER: Does anyone have any questions for Ms Cullinane in light of what's occurred since the beginning of the week?

MR LATHAM: No, Commissioner.

THE COMMISSIONER: Any, no, nothing.

40 MR THANGARAJ: So there's only one issue which I've raised with her lawyers, which is that, and I want to put it on the record so they clearly understand, with the \$9,500 progress payment Mr Maton said that related to Ms Cullinane – he identified that on that most recent document.

THE COMMISSIONER: Yes.

MR THANGARAJ: Mr Byrne, Mr Thompson was shown that document which was found in his room.

THE COMMISSIONER: Yes.

MR THANGARAJ: He, he gave evidence that that was signed in part by Ms Cullinane.

THE COMMISSIONER: Yes, by her, yes.

10 MR THANGARAJ: So ultimately I'll be making submissions I anticipate in writing to the Commission that, that the alarm system was unjustified as far as being a council payment. I've made that clear in cross examination of Ms Cullinane. But in support of that I will also point to the evidence today, the absence of invoices that Mr Maton says he would have provided with – which detailed her address. The fact that she signed off on the \$9,500 document and the fact that Mr Maton identified it. Now if in those circumstances Ms Cullinane's representatives don't ask her to come forward and give evidence about it, they will be stuck with that evidence. That's a matter for them. But I have no questions – if they don't require me to put that – and I understand they don't require me to put that, I don't have any
20 questions for her. That's because she had some difficulties coming today, otherwise we would have just done it as normal. So - - -

THE COMMISSIONER: Well there's also the additional matters that Ms Cullinane's representative put to Mr Thompson about which there is no evidence in the light of Mr Thompson's denial. So that evidence stands as well.

MR THANGARAJ: Yes. So, so in those circumstances it's a matter for, in the unusual circumstances of her inability to come today, it's a matter for
30 Ms Cullinane's representatives to understand whether or not - - -

THE COMMISSIONER: Well I mean it is half past 3.00 and she may be unable to come today, but I don't know what her position is tomorrow. So - - -

MR THANGARAJ: That's right.

THE COMMISSIONER: - - - so what is, what is the position Ms Gerace? What do you propose to do?
40

MS GERACE: Commissioner, in relation to the evidence in terms of the alarms et cetera, I, I, we don't take any issue, certainly she won't be heard against not having had an opportunity to raise those matters at all. I indicated that to my learned friend. In relation Mr - - - - -

THE COMMISSIONER: Thompson.

MS GERACE: - - - Thompson, I understood – I hadn't really turned my mind to that to be honest. It's not that they're not connected at all in a sense that she is unwell and Commissioner I wonder if I could just – I mean I'm sorry to do this, and I appreciate – I accept responsibility in the sense that the inconvenience now, right now. But, but I didn't speak to her about that at all and clearly if she doesn't come back that's her responsibility if she doesn't wish to be heard on it, then she can elect not to be heard on it, Commissioner.

10 THE COMMISSIONER: Right.

MS GERACE: But - - -

THE COMMISSIONER: But you need to, you need to seek those instructions overnight and - - -

MS GERACE: Could I take instructions and - - -

20 THE COMMISSIONER: - - - and in particular I don't want Ms Cullinane to be under any misapprehension that Mr Thompson's present evidence is that he raised his concerns with Ms Cullinane in relation to the payment of monies into Mr Goodman's bank account.

MS GERACE: Yes.

THE COMMISSIONER: And she raised other things I think, sorry, he raised other things.

30 MR THANGARAJ: Well I think I put those to her when she was here last time.

MS GERACE: Yes.

MR THANGARAJ: So that's - - -

THE COMMISSIONER: So that's - - -

MR THANGARAJ: Yes.

40 THE COMMISSIONER: - - - that's been dealt with.

MR THANGARAJ: Yes.

MR MAHENDRA: And Commissioner, I think the evidence from Mr Thompson is that he raised certain issues with Mr Byrne and understood that those issues had been raised with Ms Cullinane as opposed to Mr Thompson raising issues directly with Ms Cullinane.

THE COMMISSIONER: No, there was - - -

MR MAHENDRA: I think there's certain issues that were raised that they did have a meeting with Ms Cullinane.

MR THANGARAJ: Yeah.

MR MAHENDRA: And there were other issues (not transcribable)

10 THE COMMISSIONER: Yes, I understand, I understand you. Some things he said only to Mr Byrne.

MR MAHENDRA: Thank you. Yes.

THE COMMISSIONER: But there were some things that he said directly to Ms Cullinane. And as long as Counsel Assisting is satisfied that those issues were put to her when she appeared on a prior occasion then - - -

MR MAHENDRA: Yes.

20

THE COMMISSIONER: - - - there's nothing further that she needs to respond to. But perhaps it's preferable if Ms Gerace seeks further instructions overnight and then in the event that Ms Cullinane needs to respond to some of those issues, she's got tomorrow to do that.

MS GERACE: Thank you, Commissioner.

THE COMMISSIONER: In the absence of Ms Cullinane, who do we have tomorrow, Mr Thangaraj?

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MR THANGARAJ: Tomorrow is Mr Fitzgerald and I'll take him through - he was stood over to go through the credit card details.

THE COMMISSIONER: Ah, yes.

MR THANGARAJ: I've got some credit card questions for him. And then Malcolm Foo because he gave evidence before gardens2nv so I should put things to him unless, sorry, he gave evidence before Lyndal Marshall I should say. Ms Marshall is on the list in the event that Mr Foo wants to question her. If he doesn't then that won't happen. And then Mr Byrnes left over from Friday. That's tomorrow.

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THE COMMISSIONER: All right. Thank you.

MR MOSES: Commissioner, just two procedural matters.

THE COMMISSIONER: Yes.

10 MR MOSES: I was just wondering whether we might get an idea some time tomorrow maybe as to the directions the Commission will be giving us to exchange of submissions just so that we can get our diaries aligned to prepare those, as to what, what timing we're looking at and secondly, in relation to Ms Kirchner, who's provided a statement to the Commission, she's due to give evidence on Thursday. We were going to ask the Commission whether the matter, whether she could not, whether she could give evidence say not before 10.45 on that day. There is another matter at court, a judgement that's being delivered at 9.30 that morning that she might be required to give some instructions on, depending on the result of that matter involving the council.

THE COMMISSIONER: I won't have a problem with that Mr Moses.

MR MOSES: Thank you, Commissioner. Thank you.

20 MR THANGARAJ: Just for my friends benefit, I'll be asking – my submissions are due on the 29th, which is a Wednesday, so a few weeks, three weeks or so. And then everyone will work after that.

THE COMMISSIONER: We'll work, we'll work from there. All right. All right. 10 o'clock tomorrow morning. Thank you.

**AT 3.37pm THE MATTER WAS ADJOURNED ACCORDINGLY
[3.37pm]**