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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 8 MARCH 2016

AT 10.10AM

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

THE COMMISSIONER: Yes, Mr Thangaraj.

MR THANGARAJ: Barry Byrnes, Commissioner.

MR FAGIR: Commissioner, I appear for Mr Byrnes.

THE COMMISSIONER: Yes, thank you.

10 MR LEAVER: Commissioner, if I can mention my appearance. My name is Leaver. I seek leave to appear for Ms Dickey who is on the witness list for today.

THE COMMISSIONER: Yes. Sorry, what was the name?

MR LEAVER: Ms Dickey I'm appearing for. My name is Leaver, L-e-a-v-e-r.

20 THE COMMISSIONER: Thank you, Mr Leaver. Yes, leave is granted for your appearance.

MR LEAVER: Thank you, Commissioner.

THE COMMISSIONER: Yes.

MR THANGARAJ: Yes, Mr Byrnes.

THE COMMISSIONER: Is Mr Byrnes coming? Come forward, Mr Byrnes. Just take a seat. Mr Fagir is it? Sorry, where is - - -

30 MR FAGIR: Yes.

THE COMMISSIONER: Yes. Sorry, Mr Fagir. Has Mr Byrnes been advised about the effect of a section 38 order?

MR FAGIR: Yes, Commissioner.

THE COMMISSIONER: And he seeks the protection of that order?

40 MR FAGIR: He does.

THE COMMISSIONER: Mr Byrnes, can I explain something to you. The order that I am about to make protects you from the use of your answers against you in any future civil or criminal proceedings. However it doesn't protect you if it should be found that you have given false or deliberately misleading evidence to the Commission. If you do that, then your answers can be used against you to prosecute you for an offence under the Act. Do you understand that?

MR BYRNES: Yes, I do.

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.

10

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

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

MR BYRNES: Sworn please.

THE COMMISSIONER: Can we have the witness sworn, thank you.

MR THANGARAJ: Could you give the Commission your full name please?---Barry Lloyd Byrnes.

And when did you start working at Botany Council?---Approximately 1994. I started as a contractor for a short time and became permanent in May of 1995.

10

And you recently left Council?---Yes, I have.

What was your last role at the Council?---I was Acting CFO after Gary Goodman left.

All right. Before – when Mr Goodman was there what was your role? ---Financial Accountant.

And does that mean you were second in charge of the Finance team?---Yes. Basically, yes.

20

Prior to becoming aware of the ICAC investigation were you aware of any issues that had been raised by the external auditors?---Oh, the auditors raised general issues each year but – so there would be a lot of them, issues that have been raised by the auditors over time.

Yeah, but do you read any reports or documentation from the external auditors, does that find its way to you?---It may on some occasions but not always.

30

Right. And – all right. Were you aware of issues raised by the auditors with respect to reconciliations not being done in a timely way?---(No Audible Reply)

I'm only – at the moment I'm only - - -?---Yeah, sure.

- - - asking whether you knew - - -?---Certainly. Yeah, I understand.

- - - about the external auditors not - - -?---Yeah.

40

Yeah?---Yeah. That, look, without – it could have been, yes. I could have been aware of them. I can't specifically say I was aware of them.

Right?---And I don't know what reconciliations you're talking about exactly.

All right. Were you aware of a concern about the lack of role segregation within the account payable section?

MR MOSES: If I can just have Counsel clarify concern by whom?

MR THANGARAJ: Sorry, all these questions are about from the external auditors.

MR MOSES: Thank you.

10 THE WITNESS: I understand. Accounts payable, well, we had a, we had a creditor's clerk doing accounts payable and sometimes other people would assist but it was basically the job of one person.

MR THANGARAJ: Right. Were you aware of any concern about that being raised by the external auditors?---No, not - - -

All right. And how about any concern from them as to whether or not Mr Thompson had too much control of the finance system?---No, it was never discussed with me like with the external auditors, no.

20 Okay. And you weren't aware from anyone else that the auditors had raised this as an issue?---No, I don't believe so.

All right. And what about any concern about a lack of documentation supporting payments?---No.

All right?---Sorry.

30 What was the process by which the division budgets, and I'm not including Finance, but the other division budgets were determined every year?---I wasn't involved in budget preparation.

All right?---Or reporting to Council. I was involved in external reporting and I didn't have anything to do with budget preparation except I may have had some input in regards to rating income and, you know, income items not for rates because - - -

40 All right. So even though you did not have any role in it, do you know what the process was for those budgets to be determined or how they were determined?---Well I just, I know that it was prepared by Gary Goodman with the assistance of Mark Thompson. That's really all - - -

That's all you knew?---Yeah, basically.

Do you know whether or not the division managers were able to view their budgets and expenditures in the system?---No.

You don't know whether they were or not?---I don't know whether they were.

Okay. Did you have a view as to whether or not the Business Unit was making a profit or a loss?---Yes.

What was your view?---I thought it was making a loss.

And did you raise that with anybody at the time?---A number of times, yes.

10 And who did you raise it with?---Well, I had general discussions with people about it but I, in particular, I raised it with the internal auditor at one stage. His name was Sion, his first name, I just can't remember his surname.

All right. What level of access did you have to the finance system?---Just inquiry.

Okay. Does that mean – Mark Thompson reported to you, did he?---He did.

20 Does that mean that he had more access to the finance system that you did?  
---Yes.

All right. Did you need to rely on Mr Thompson to provide you with information from the finance system?---I did.

All right. And was there any process that permitted checks to be performed on whether or not Mr Thompson's work was being done correctly?---No. Not that I'm aware of.

So when you relied upon him you - - -?---I relied upon him, yes.

30 All right. I understand?---Yeah.

All right. Were there occasions between say 2007 and last year, including last year when you noticed some suspicious activity?---Yes. Yes.

And I just want to ask you about those. Was there a concern some time ago in about 2007 about checks not being properly completed?---Yes, there was.

40 And what was that concern?---The concern was that Gary Goodman obtained blank cheques signed by one signature by Mark Thompson and he was able to complete the cheque and sign it and countersign it. And the concern was whether the documentation was supplied for those cheques matched the actual details on the cheque, the payee.

Right. Sorry, could you just speak up - - -?---Yeah, sorry.

- - - or speak a little bit closer to the microphone?---Yeah. So there was some concern about those cheques. So cheques were being given to – well Mark Thompson reported to me that he had been giving cheques to Gary

Goodman. They were blank cheques but Mark had signed them. Gary Goodman was then able to complete the cheque and countersign it. And the information on the cheque didn't always match the information on the invoice or voucher that had been given to Mark.

Right. And did you - - -

10 MR MOSES: Can my learned friend, can my learned friend just clarify with the witness as to whether that concern was raised with him by Mr Thompson?

MR THANGARAJ: Yeah. That's what he said.

THE WITNESS: It was.

MR MOSES: Thank you.

20 MR THANGARAJ: And after Mr Thompson raised that with you, did you raise it with anyone else?---Yes. I raised it with the Deputy General Manager.

Ms Cullinane?---Yes.

All right. And what happened, what did you tell her?---I told - - -

Sorry, sorry, when you met with her who was there?---Initially just myself and her.

30 Yes?---And I explained the situation to her and what Mark had told me. I just told her verbally, I didn't have any documents with me.

Yes?---Because Mark Thompson appeared to have all those and I think she understood what was happening and she was going to look into for me.

All right. And did you – do you know whether or not anything happened as a result of that?---Yes. At a later stage, and I think it was the same day or the next day, I had a discussion with Lorraine Cullinane and Gary Goodman along the lines of what I've just explained.

40 Yes?---And that Mark Thompson had told me this.

Yes?---And Gary didn't deny that that was the case and he didn't quite explain it completely to me, but yes, we did have that discussion.

Right. And was there ever a discussion with you and Ms Cullinane which included Mr Thompson about this?---Never.

All right. And then did Ms Cullinane take any steps with respect to that problem?---At one stage, and I think it was when, as a result of that problem, she did issue an email saying that Mark Thompson and Gary Goodman weren't to countersign cheques together.

Right.

THE COMMISSIONER: So were not to?---Not to.

10 We're not to countersign cheques?---Yeah, yep.

MR THANGARAJ: And did this problem involve one credit or more than one creditor?---I was never given the full information, I was just told that this is what was happening and I just took it upon myself to do something about it. I didn't actually discuss it with Mark, what I was doing, I just did it.

Okay. All right. I want to go to another incident.

20 THE COMMISSIONER: Just before – sorry, Mr Thangaraj, just before we leave that. Mr Byrnes, you said that you raised the view that you had that the Business Unit was making a loss on several occasions and you said on one occasion it was with the internal auditor?---Yes.

Do you recall who else you expressed that view to?---Oh, following that there was a meeting and I think it was in 2012, we had a meeting and my issue was that whether the Council should be subsidising that business down at the Airport and at that meeting there were a number of people present, Gary Goodman was there, the internal auditor, myself, the Business Unit  
30 manager, Peter, Peter John Fitzgerald, and John Patterson who was the overall manager. There could have been other people, but yes, we did have a discussion about it.

And your view in relation to the Business Unit making a loss was expressed at that meeting as well?---Yes.

Thank you.

40 MR THANGARAJ: In 2009 was there an issue that you raised, sorry, that was raised with you concerning bank account details?---Yes, there was.

And what, who, who came to you with this information?---Mark Thompson.

And what did he tell you?---He told me that the bank account numbers used by Gary Goodman in the payroll system were the same as the bank account numbers used for payment of a certain creditor, and that credit was CND Computers I believe.

Right. And this would obviously raise significant concerns if that was correct?---Yes.

Because Council would have understood that the bank account details related to the contractor - - -?---Yes.

- - - of course and not to an employee within Council?---Mmm.

10 Did you speak to – did you do anything about that being raised with you?  
---Yes.

What did you do?---I said to Mark Thompson, “We need to do something about this, we can’t, we’ve got to do something.” And I arranged a meeting with the Deputy General Manager, Lorraine Cullinane. Mark wanted to keep it a little bit low key so we went over to a room in the adjoining Town Hall and Mark had the information on a sheet of paper that he was claiming what the transactions were and, you know, and the value of them and he handed that over to the Deputy General Manager.

20 And did she say anything?---Nothing particular. I think she was shocked and wondered why this was happening. That’s, I, she didn’t say anything more than that.

And do you know whether or not anything happened as a result of that?  
---No, I was never interviewed about it or contacted about it, but I must say I didn’t have the actual information, Mark had the information, Mark Thompson.

30 And it would have been a very easy process, wouldn’t it, to cross-check the account details for all the contractors who were invoicing Council with Mr Goodman’s account?---Yes, I would have thought so, yes.

Probably would, probably would only have taken an hour or two?  
---Yes, on the computer, yes.

Given the allegation that was being made - - -?---Yes, on a computer, yep.

40 - - - that would have been the obvious step for Ms Cullinane or someone else - - -?---Well, someone had to establish the, yeah, the correctness of that.  
Yeah?---Yeah.

All right. And was that raised again to your knowledge after 2009 by anyone else, whether it was Ms Cullinane or Mr Thompson?---Not with me but whether it was raised elsewhere I don’t know but not with me.

Right. Yeah. Okay. All right. Now, you’ve mentioned the name Peter John Fitzgerald. That’s Peter Fitzgerald Junior?---It is.

And he had a role in the Business Unit at one stage, didn't he?  
---He was the manager down there at one stage, yes.

Right. And he's the son of the former - - -?---General Manager - - -

Yeah, of Council - - -?--- - - - Peter Fitzgerald.

- - - Mr Peter Fitzgerald?---That's correct.

10

So was it, did you refer to Peter Fitzgerald Senior as Peter Fitzgerald and Peter Fitzgerald Junior as Peter John Fitzgerald?---I did.

Okay?---Yes.

In late 2011 or early 2012 was there some concern raised about a credit card being used by Mr Fitzgerald?---Yes, there was.

And which Mr Fitzgerald was that?---Mr Peter Fitzgerald Senior.

20

Okay. And what was the concern that was being raised?---The concern being raised that there were some entries on there that looked like they belonged to, well, I don't know if it's a company but something associated with Gary Goodman called Gas Motorsport.

Yeah?---And so, yeah, there was entries on there relating to Gas Motorsport.

So Peter Fitzgerald Senior had a credit card?---Yes, he had one or two I think.

30

And they were being paid for by Council?---They were.

And who realised that there might have been some improper use of it?  
---Mark Thompson.

Right. So he brought it to your attention?---He did.

And did you then, or between the two of you did you then look at some credit card statements for Mr Fitzgerald Senior?---Yes, we probably did.

40

And did you then try to work out or did you notice some things that looked anomalous?---Well, yeah, we could - well, the fact that - well, we knew Peter Fitzgerald Senior had left Council - - -

Yes?--- - - - so that was obviously an issue.

Of course?---And the name Gas Motorsport.

Right. And could you work out roughly how much or the average per month that was being spent on this credit card?---Oh, I don't know that offhand but the credit card might have had \$30,000 on it for the month.

For that month?---Yes.

All right. All right. Do you remember what, what card it was?---Yes, it was a CBA MasterCard, corporate MasterCard.

10 Okay. And do you know, did you – so Mr Thompson brought this to your attention and the two of you did what you've said. Did you or Mr Thompson to your knowledge speak to anyone about that problem?  
---I certainly did, I spoke to the Deputy General Manager about it.

Okay. And what did you tell her?---I told her that there was concern about these entries on the card, that they looked like they may have belonged to something to do with Gary Goodman.

20 And what did she say?---I can't recall what she said but I basically left it with her to make further investigations, and I'm not – I mean Mark Thompson may have spoken to her too, I'm not sure.

All right. We're now at the third incident at least of matters that you'd raised with Ms Cullinane?---Yes.

30 There's an obvious questions of course. 2007 you'd raised the problem with the cheques and to your knowledge the only thing that had happened was they weren't allowed to countersign, to your knowledge there hadn't been any chasing up of whether there had been stealing from Council. Then there was the 2009 very important issue of - - -?---Yep.

- - - money going to his account when it should have gone to contractors et cetera, if it was indeed a legitimate invoice – to your knowledge nothing happened as a result of that. We're now at 2011/2012 and you're making a complaint again to the same person?---Yes.

By this stage a number of important matters had not been taken care of by Ms Cullinane in the way that, as you're asserting, should have been?  
---Mmm, yeah.

40 Should you have done something differently or why didn't you do something differently if she wasn't doing what you thought she should do?  
---I had a belief that she was taking it further perhaps to a General Manager on each occasion, but I couldn't verify that, I could only, that's the belief I had.

Right. Well, they are certainly matters that should go to the General Manager, aren't they?---Yeah, yeah. And I would assume that's where they went, but I can't - - -

Well when you say that that's, you mean, I assume that you assume that she should've done that but you don't know whether she did do that?---No. I don't know specifically whether she did.

10 All right. Okay?---I just got the impression that the General Manager was aware of it. The other issue - - -

MR MOSES: Well. can I – I mean that's – can we have that please clarified in terms of he said he doesn't know, so we need to get to the bottom of that because these are serious issues that are being raised. So not interested in his impression, do we know how he knows that?

MR THANGARAJ: All right. Now, I'm firstly asking about your belief? ---Yes.

20 So it doesn't matter in fact whether or not the General Manager was – because I'm really interested at the moment as to why nothing else happened - - -?---Yeah.

- - - and then we'll come back to what I asked you before. Why did you feel that you did not need to take it any further than Ms Cullinane?---I don't – in the 2009 instance, I'd only reported him once before in 2007.

30 Yeah?---Secondly, I – my health isn't very good and I had discussed this with people outside of Council, a GP, a specialist and they suggested to me that my health wasn't very good and I should just make sure that I look after myself. Secondly, the evidence was with Mark Thompson and someone needed to get that information out of the computer system and I had read-only, I couldn't tell what the bank accounts were.

40 Yeah?---And also I guess I was a bit worried about reprisals because there has been a couple of instances over the years that, I don't know whether they're associated with any of this or not to do with vandalising a car at my place. And I'm just not sure whether it's coincidence now or whether it was actually some, something associated with this.

All right. Did you have an assumption that Ms Cullinane was doing something about these matters or that she had told someone about these matters?---I did.

And what was your assumption?---That she spoke the General Manager on each occasion.

All right. And - - -?---Sorry. On the 2009 occasion.

Yeah?---And on the occasion about the credit cards.

All right. And did you – obviously if you had told her this it was something that she should have investigated and then told the General Manager about?  
---Ah hmm.

10 Was your assumption based on anything more than what she should've done or did you have some – did she give you some reason to believe that she had done something further about it?---Well, with the, we'll talk about in the case of the credit cards I, arising out of that issue to do with Gary Goodman, I also believe a letter on account was issued to the previous General Manager asking for him to repay some money that was on that credit card. So on that basis I felt it had gone further and something was being done about it in that instance.

20 And how did you know that Mr Fitzgerald, Senior, had received a letter or been sent a letter about repayment?---I was asked to give a letter to his daughter to pass onto him.

Right?---His daughter works at the Council.

And did you do that?---I did.

And do you know whether or not there was repayment?---No. I don't know exactly whether there was. I believe there might've been partial repayment but I can't recall exactly.

30 All right. So is this the bottom line then with respect to whether or not you understood or the basis of which you understood that things had happened? Firstly, that there were some steps taken, such as Mr Thompson and Mr Goodman would no longer countersign cheques - - -?---Ah hmm.

- - - with each other. Mr Fitzgerald, Senior, was asked to repay some money from the credit card problem?---Ah hmm.

And you assumed that if Ms Cullinane was doing her job properly that the General Manager would be informed, is that right?---Yes.

40 So - - -

MR MOSES: Commissioner, can I just get this clarified. Because the current - - -

MR THANGARAJ: It might be better if I just - - -

MR MOSES: But just one moment. The current General Manager came on board in mid-2011. I want this to be crystal clear as to who we're talking

about in respect of time periods, because this raises serious issues in relation to matters that should've been brought to the attention of the General Manager by the Deputy General Manager. So we need to be very clear as to who we're talking about because we don't want generalised statements being made that can be then misreported so we want to be very clear.

10 THE COMMISSIONER: Well I understand that. But at this stage I understood the witness to be talking about two instances where he believed that action had been taken by referral to the General Manager. One was in relation to the countersigning of the cheques. Is that right, Mr Byrnes?  
---No. The use of the bank account numbers

Sorry, the use of the bank account numbers?---That's right.

That was where the - - -

MR MOSES: And that was in 2007?---2009.

2009.  
20

THE COMMISSIONER: 2009, and then the – and the subsequent occasion was to do with the credit card use by Mr Fitzgerald Senior?---Yes.

And that was - - -?---Which was after he left.

Which was after he left and we're talking about what, 2012?---'11/'12.

MR MOSES: 2012.

30 THE COMMISSIONER: Thank you?---'11/'12, late in '11 in - - -

MR MOSES: So there are two and he referred to a 2007 instance where - - - ?---Yes.

- - - the 2007 and 2009 relate to Mr Fitzgerald's tenure as General Manager?  
---Ah hmm.

40 And the 2012 issue which was the credit card issue resulted in a letter going to him in effect asking for repayment?---Yes, that's my recollection.

Thank you.

THE COMMISSIONER: At this stage we're just dealing with why it was that you believed that the General Manager had been told about this by Ms Cullinane, the respective General Managers - - -?---That's right.

- - - at the respective times?---Yes.

Right. Thank you. Go on.

MR THANGARAJ: And the – you understood that the General Manager changed from Mr Fitzgerald Senior to Ms Kirchner in 2011?---Yes.

Right?---Towards the end of 2011. I'm not sure of the exact dates but, yes.

All right. But with respect to the Peter Fitzgerald credit card problem the reason it was a problem was because he had left in part - - -?---Yes.

10

- - - plus the Gas Motorsports issue?---Yes.

All right. So do you – apart from what you've told us as to why you had a – why you assumed that the relevant General Managers were told or knew about it, did you actually speak to either of the General Managers?---No.

Did you have any reason to in fact believe that the General Managers had been spoken to – I withdraw that. Did anyone tell you that they'd spoken to the General Manager about this?---Not that I recall.

20

All right. And – all right. And did anyone else speak to you about this other than Mr Thompson or Ms Cullinane?---No, not that I recall.

Okay. All right. Then I want to move onto August, 2013. Was there an issue raised with respect to Cabcharges?---Yes, there was.

All right. Sorry, do you remember what year the Cabcharge problem was? --- (No Audible Reply)

30

Sorry, I said 2013. Was it 2013 or 2014 or you don't remember?---I can't be specific on the year.

All right. And what was the issue, was there, was there a Cabcharge problem?---Yes.

What happened there?---There was heavy use of a Cabcharge in the name of Gary Goodman and the amounts of the use were large, on hundreds of dollars for a single trip, and when it was brought to me I had a look at it and the - - -

40

Do you remember who brought it to you?---No, I can't but it could have been – it would have been one of three people and I know that there's a question someone's suggested it was them. That was Suman Mishra.

Yeah?---And I don't – it could have been her.

Okay?---It could have also been other people.

All right. And what did you understand or what were you brought – what was brought to you?---Well, I could see the heavy use of it. I could see the amounts of a single trip and I could see that the driver's number appeared to be the same number for the majority of the uses.

All right. And obviously if there's a Cabcharge payment of hundreds of dollars - - -?---Ah hmm.

- - - that's something worthy of raising some suspicion?---It was.

10

And what did you do about that, if anything?---Once again I seen the Deputy General Manager about it.

Yeah?---And I believed that the General Manager knew about that and - - -

And why do you believe that?---I believe – I just – perhaps the Deputy General Manager said something that the General Manager knew about it.

Right?---That's why I believed it.

20

Okay. And was any, was any step taken with respect to that, any - - -?  
---Well, not by me. I'd supplied the documentation initially to show what the issue was but after that I left it in their hands.

All right.

THE COMMISSIONER: Can we just clarify what year this is? What year was this?---Yeah, I'm having a little bit of trouble with the year. I did have some notes here and I might be able to – I think it was 2014.

30

Thank you.

MR THANGARAJ: Now, we know that Mr Goodman was asked - - -

MR MOSES: Commissioner, I just notice that Mr Byrnes is looking at a document. Do we know what that document is that he's answered the question from and if we - - -

THE COMMISSIONER: He said he, he said he had some notes.

40

THE WITNESS: Some notes.

THE COMMISSIONER: We can mark those - - -

MR MOSES: Can we have access to those notes?

THE COMMISSIONER: - - - in due course.

MR MOSES: Yeah. May we have access to those notes before we examine him?

THE COMMISSIONER: Well, yes, you may.

MR MOSES: Thank you.

THE COMMISSIONER: I take it, Mr Byrnes, that they're notes that you've made from your own records, are they?---They are.

10

All right. Well, we'll get to the end of that shortly.

MR MOSES: Thank you.

THE COMMISSIONER: Yes, go on.

MR THANGARAJ: Did you become aware that Mr Goodman was asked to repay money from excessive Cabcharge us?---I believe he was asked to, yes.

20

And do you know who put that step into place?---I heard that he was being asked to repay, to be repaid only from the Deputy General Manager but I don't know who put the step in place, but I did hear that he was being asked to repay it.

All right. And what would be the process if someone had to repay money like that, do you know?---Well, no, it is a bit unusual. Obviously, no, I'm not too sure. Perhaps you could raise a debtor account and issue it to him and keep a record of it but you'd obviously have to have some - - -

30

No, sorry, I was unclear. Who, who would have the authority to or who would decide that a senior Council employee had to repay money?---Oh - - -

Could the Deputy General Manager do that or would it have to go above? ---Well, she was his Director and so she, I would think she could.

All right?---She was above him and also the General Manager I would think.

40

All right. When someone has to repay money like that and they're still an employee, is there any reason why money wouldn't be garnished from the salary, or is that what happened?---I don't know anything about - I don't - payroll's got nothing to do with me so I can't answer the question.

All right. All right?---Yeah.

Was there another problem in 2014 with overseas phone calls being made? ---Yes, there was.

And what happened there?---It was reported to me that mobile phone account for someone, which I didn't know, I didn't have a list of who had what mobile phones or their number, had made a number of calls, and I think it was either Thailand or The Philippines and the monthly account come to a couple of thousand dollars, and I think that might have happened on two occasions.

Right. And how did that come to your attention?---I think I got that from the creditors' clerk, Sharon Dale.

10

Right?---She pointed it out to me.

And did you report that to anyone?---Yes, the Deputy General Manager.

Right. And do you know whether or not anything happened with respect to that?---No, I don't.

Okay. Now, do you know who – have you heard of the company, Teletec?  
---I have.

20

Was there a problem towards the end of last year, August/September last year with respect to a Teletec or Teletec reimbursements or a reimbursement?---Yes.

And what was the problem?---I seen the claim for reimbursement and I couldn't see any evidence that Teletec had actually paid on behalf of Council.

30

Sorry, what did you see, sorry?---I seen the claim from Teletec for payment.

Oh, right, they wanted reimbursement?---And they wanted reimbursement.

Yes?---This was after it was paid, and on that, on that claim I couldn't establish how, where Teletec showed any evidence they'd actually paid on behalf of Council.

Right. So you were concerned that Council was about to pay Teletec for something when - - -?---Well, when I seen it they already had.

40

Yeah?---Yeah.

So Council had paid it?---Yes, when I seen it.

Sorry, I understand that?---Yes.

So you saw that Council had paid Teletec some money?---Yep.

But you were concerned that there was no, or there was insufficient evidence as to whether or not that should have in fact been paid?---Yes.

All right. And did you speak to anyone about that?---Yes, I did.

And who was that?---Deputy, Deputy General Manager.

And what did you tell her?---I, I actually gave her a copy of the invoice.

10 All right. And you've told us what you've just told us, did you?---Yeah. I just, yeah.

And what did she say, if anything?---I think she was going to see Gary Goodman about it.

And do you know whether anything came of that?---Well, I think she's seen him about it, but I don't know what came of it.

20 Okay. All right. Now do you know David Goodman or do you know what he does?---He worked down at the Business Unit.

And did he work at the Golf Course?---Sorry, David. Sorry, I was thinking Mark.

Sorry, not Mark, David?---So, yeah, David Goodman works at the Golf Course.

And which Golf Course is it?---The Council Golf Course down at Banksmeadow. Botany Golf Course I think it's called.

30 Do you remember what his role was there?---There's a shop down there, they call it the Pro Shop and I think his role was to attend to that shop and also he may have other duties down there. And he'd probably collect money for use of the Golf Course, things like that.

All right. And was there – did you ever – were you ever asked to sign a timesheet for him or anything else?---Yes. I have on occasions been asked to sign timesheets for him.

40 And so what happened, sorry, who was supposed to sign the timesheets?---Gary Goodman.

And were you ever contacted by the HR Manager about signing a timesheet?---I was on occasions when Gary Goodman wasn't there to sign them and they need to get them signed. I - - -

Needed to get them signed for what reason?---So that those people could be paid.

Yes?---And they had to be processed on a Wednesday morning. I wasn't particularly happy about signing them because I knew nothing of the operation down there and the hours on those timesheets there was a lot of hours on there. And I don't know what the shifts are or the arrangements down there are and I don't, I didn't want to sign them.

All right. And did you sign them?---I have on the odd occasion, yes.

10 All right. And did you raise this with someone?---Yes. I raised it with the Deputy General Manager and said that I wasn't happy about signing these timesheets.

And did she take any steps as a result of that?---Yes. Well, I haven't been signing them anymore. She sometimes signed them.

Okay. So after you've raised it with her you weren't required to sign the timesheets anymore?---That's correct.

20 Okay. Was there ever an issue raised or come to your attention about fuel card use?---Yes.

And what was that?---It was an ongoing problem with the use of fuel cards with shop expenditure on them it was called, I think, shop. And that covered other things apart from fuel and there was an item, and that shop might've included, I don't know whether it was a separate item, but tobacco, like cigarettes.

30 All right. And did you raise that with the Deputy General Manager?---Yeah. She was aware of that issue.

Because you raised it with her?---(No Audible Reply)

Did you raise it with her?---Over time, it was ongoing that issue. It never – I didn't see it get resolved.

No, no. Sorry, not - just before the resolution of it or any resolution of it, did you raise it with her?---I would've, yes.

40 All right. You don't remember but you think you would've?---Yes.

Okay. Just going back to the Golf Shop. Why would Mr Goodman, and I'm not saying this came within your area of responsibility but why is it that Mr Goodman would be signing a timesheet for his brother?---I don't know. That was, that was the arrangement that was in place. I'm not sure – I don't know if Gary Goodman – he appeared to have some responsibility for that Pro Shop down there.

Right?---He, yeah, he seemed to sign also for purchases and whatnot down there as well.

All right. Did the current General Manager, Ms Kirchner and the Deputy General Manager meet regularly to your knowledge?---Yes.

And how regularly would they meet?---I would've thought daily.

10 All right. And did you have an impression of their working relationship from any observations that you had or discussions you had by speaking with them?---They appeared to get on together all right and work together all right. But that's the only – that was only an impression, I never had a discussion with anyone about it.

All right. Did Mr Thompson ever raise with you the possibility that creditors were being paid for goods being supplied to Mr Goodman as opposed to Council?---He did.

20 And what was that, what was raised?---Oh, that was some years ago, probably around 2009 the same time that that CND computer issue was raised. There seemed to be some concern that Council was paying for goods that belonged to – that were for Mr Goodman rather than Council.

All right. Was there an incident where your son was involved in a car accident in 2009 and the repairs were done by Joe Freitas?---Yes.

And so did you have to pay for – did you pay for that repair work?---No.

30 And how did that happen that you didn't, you did not have to pay for it? ---My son had the accident. I was at work. He rang me up and said that I've had an accident what will I do. I had had some – well, we haven't had many accidents. I had had experience a few years ago with a repairer on another vehicle I owned and it wasn't very good and I thought that Joe Freitas did reasonable work for the Council and I went in and seen Gary Goodman and said, "My son's had an accident. I was thinking of getting Joe Freitas to do the work." And he said, "Oh, yeah, he'll do it." And he rang him up. I said, "Look, it's an insurance job. I don't" – I hadn't seen the car. He ran into the back of another car. The other car wasn't damaged. It had left the scene. And he arranged to get the vehicle picked up and taken  
40 to Joe Freitas's workshop out at Wetherill Park and then that – then the next day when Gary Goodman came to work I asked him had he seen the car and what it was like because I knew he had a workshop around that complex somewhere and he said, "Oh, yeah. Look, Joe's already started work on it." And I said, "Well, wait on, you know, I wanted to put this through insurance." He said to me, "Oh, don't worry about it, you know, Joe likes – it's an easy job. Joe likes doing work about this." And that was – he said, "It'll be ready in a day or so." And that was all that happened about it. I

had responsibility for collecting information for ICAC to do with vouchers and invoices and whatnot.

For this investigation?---Yeah, for this investigation. When I was collecting them I noticed that invoice for that car and that's when I first became aware that Gary Goodman had put it through Council and I didn't know what to do about that. I sought some advice externally. I initially thought of coming in and seeing ICAC myself then I sought some advice from a solicitor about it and the solicitor didn't go along with that advice and so I didn't. I followed  
10 his advice. Then when I had to appear before the Commission here I had a different solicitor. I told him the same story, what had happened and he suggested it was better to raise the issue with ICAC which I'm happy to do.

All right. And which you have done now?---I have.

All right. And do you remember how much that was ?---It was about \$3,500 on the invoice from, from memory. I haven't got a copy of it or anything.

20 All right. I assume if – so firstly, the car was insured was it?---Yes, it was.

So it would have been covered by insurance but - - -?---It was fully insured, comprehensive.

There would have been - - -?---Oh, look - - -

- - - issues with that – there would have been no claim issues or whatever?  
---Oh, I might have had to pay some, you know - - -

30 Excess?--- - - - the excess of 500, \$1,000. I don't know.

All right?---But that wasn't – I mean I always intended that I'd pay that. That wasn't a problem.

All right. Can you tell us what car it was, what sort of car it was?---A Yaris, a Yaris, Toyota Yaris.

Do you remember the registration for that car?---I think it's B-B,  
40 B-B-J-1-4-Y.

All right. And at the time that Mr Goodman said don't worry about it, don't worry about paying Joe Freitas - - -?---Oh, he didn't actually say don't worry about paying Joe Freitas. It was along the lines of don't worry, this is – sort of gave the impression it was an easy job and I don't need to be concerned about it, yes.

All right. Well, at the time that that conversation happened you thought the work was going to be done for free did you?---No, I didn't – well, I really

didn't know because I told him I wanted to put it through insurance and I really didn't know what was going to happen about it but I got the impression after that conversation that it – yeah, basically it might have been getting just –he was just fixing it up, yes.

10 All right. Did you think there might have been something wrong with having a contractor do private work whether or not anyone was being paid or whether the insurer was being paid or – you were happy to use - - -? ---Yeah, look, I didn't have – well, I just – it was really because it was an urgent thing that happened on that day. I just thought that was the easier way to go about it.

All right?---I didn't have any particular concerns because I always intended it to go through insurance. I just thought it'd be a normal insurance job.

All right. All right. You've – have you read the evidence that Ms Mishra has given here about some complaints that she says - - -?---I've been informed of it, yes.

20 Okay. So she's said that you've – said that she came to you with a number of problems and that you then took them to Ms Cullinane?---Right.

One of them was the Cabcharge but others – other matters include invoicing and false invoicing. Do you know whether or not Ms Mishra raised the issue – sorry, do you have a recollection of whether or not Ms Mishra raised the issue of false invoicing in the name of Jovane with you?---I don't recall her raising, her raising that issue with me, no.

30 All right. Were you responsible for toll notices?---No. Gary Goodman basically looked after that.

Did she raise anything with you about that?---Once again I didn't recall any of that, no.

All right. And what about – apart from the potential of the Cabcharge do you recollect her raising anything with you?---She may have said something about that telephone account to do with overseas telephone account but apart – not offhand I don't recall anything else.

40 All right?---But if it had have been of – been able to be substantiated I would have done something about it.

Okay. Commissioner, we've been given a statement for Mr Byrnes and we've been given it once he started his evidence so that it would be given – provided under protection.

THE COMMISSIONER: Yes.

MR THANGARAJ: Ms Colquhoun has read it. We don't – I don't need any time with it but we'd like to tender it and give it to the parties so that they can read it before - - -

THE COMMISSIONER: Yes.

MR THANGARAJ: I haven't read it yet but we're happy – I'm happy to tender it and distribute it.

10

THE COMMISSIONER: All right. We'll mark that Exhibit R48.

**#EXHIBIT R48 - STATEMENT FROM BARRY BYRNES**

MR THANGARAJ: And I have no further questions.

20 THE COMMISSIONER: And, Mr Byrnes, the notes that you have in front of you, is that the same document - - ?---It's exactly the same document.

- - - Mr Thangaraj or is it a different document?---No, it's the same document.

MR THANGARAJ: I don't know.

THE WITNESS: No, it's the same document.

30 MR THANGARAJ: Okay.

THE COMMISSIONER: It's the same document. All right. Well, that's now an exhibit and, and I'll stake a short 10 minute adjournment so that - - -

MR MOSES: That's fine. I can proceed, Commissioner.

THE COMMISSIONER: You can?

MR MOSES: Yeah.

40 THE COMMISSIONER: All right. Go ahead.

MR MOSES: Yeah . Thank you. Mr Byrnes, you were previously at Marrickville Council. Correct?---I was.

Yeah. And did you work there with Mr Goodman?---I did.

Yeah, Gary Goodman, and did you work there with Mr Thompson?---I did.

Yeah. And your role at Marrickville was Financial Accountant was it or Treasurer?---No, it was, it was called Treasurer.

Just remind us?---Yeah, it was called Treasurer.

Okay?---Yeah.

10 And you came across to Botany Council. Was that because Mr Goodman offered you a job there?---He contacted me.

Yeah?---Initially it was just to do some contract work.

Okay. And you've had a long and extensive experience in Local Government haven't you?---Yes.

Yeah. And you are an individual who knows how to read and write of course?---Yes.

20 Yes. And could the witness just be shown up on the screen volume 27 commencing at page 109, just so he gets his bearings right, as to the Council's Code of Conduct. And you're familiar with that document? ---Yes.

Yes. And you've seen of course previous Codes of Conduct. Correct? ---Yes.

30 Prior to this one. Can we go to page 112 3.1, clause 3.1, going over to page 113. These are obligations of course that you were aware of. Correct? ---Yes.

Yes. And if we then go to page 114, Conflicts of Interest. You're aware of that?---I am.

Ah hmm. And if we then go to page 122, part 7, I'd just like you to look at clause 7.8(c), 7.12 and 7.14. These are not a surprise to you, are they? ---Is that - - -

40 Use of Council Resources and the like, you understand that about the use of council resources?---I'm sorry, I'm reading Use of Council Information. What number was it, sorry?

So 7.12 page 124 and 7.14?---Yes, I can see that.

You're familiar with those, aren't you?---Yes.

Okay. Now, you're also aware of the Council's policies in respect of Procurement Procedures and Guidelines?---(No Audible Reply)

I mean I can show them to you if you want, they're an exhibit in these proceedings, but you are aware of - - -?---I know they exist.

- - - Procurement Procedures?---I know they exist.

Exhibit 24, yep?---Mmm.

10 And you attended training of course in respect of procurement?---Yes.

I mean I can show it to you?---Yes.

It's Volume 21 - - -?---Yes.

- - - page 43?---Yes.

And you also of course were aware of pecuniary interest obligations, that you had to declare them? I mean again I can show it to you?---Yes.

20 There's a document with your signature on it?---Yes, yep.

Yep. All good?---Yes, I agree.

You understand that. Okay. And you also were aware of a policy, weren't you, concerning prohibition on gifts and benefits?---Yes.

30 Yeah. That had been issued by the General Manager. This is at volume 21, page 80. Perhaps if the witness could be shown that. This is the new General Manager, Lara Kirchner?---Ah hmm.

So it's volume 21, page 80 of the ICAC brief. Do you have that in front of you, sir?---Just one moment, please.

Okay?---Oh, I do.

You have that in front of you?---Yes.

40 Yes. This is one of - I mean again I can take you to them, but this is one of many memorandums that the new General Manager issued - - -?---Yep, ah hmm.

- - - upon commencing her tenure as General Manager. Correct?---Yes.

Yep. That is, reminding employees as to their obligations in respect of not taking gifts or benefits from suppliers or individuals. Correct?---Correct.

And also implementing corruption training within the Council. Correct?---Correct.

Yeah. Correct?---Yes.

Yeah. And certainly would you agree that upon her employment as General Manager in mid-2011, she took on a greater profile in respect of these issues than had been the case previously?---I do.

10 Yeah. Now, in relation to the matter of CND Computers which Mr Thompson I think raised with you in relation to payments which appear to be made to CND Computers - - -?---Yes.

- - - that were going into the bank account which was also the bank account of Mr Goodman, you said that you raised that with the Deputy General Manager. Correct?---Correct.

And was that in 2009 or 2007?---2009.

20 Thank you. And would it surprise you to know that the last payment that was made to CND Computers that found its way into Mr Goodman's account was on 15 June, 2011, just before the appointment of the new General Manager? Would that surprise you to know that?---Well, it does.

I'm sorry?---It does.

Yeah, because you thought you had raised it with the Deputy General Manager and she had done something about it. Correct?---Correct.

Okay?---Could I just say something more?

30 Sure, sure?---In terms of the date of that raising it with the General Manager - - -

Yeah?--- - - - I formed that opinion, and I had difficulty with the years because a few years has gone by - - -

Ah hmm?--- - - - I formed that opinion from some notes I think that I got from my GP when I mentioned to him about the problem.

40 Okay?---But it was certainly 2010/2009.

So to be clear, in terms of the statement that you've prepared which is being circulated to the parties - - -?---Yes.

- - - that statement you've prepared in part from your memory, in part from consulting notes held by your GP. Correct?---Yes.

But I just want to be crystal clear about this, because this raises a serious issue - - -?---Mmm.

- - - concerning the Deputy General Manager - - -?---All right.

- - - which will need to be examined now?---Yes.

10 You're saying quite clearly that you informed the Deputy General Manager that you had been informed by Mr Mark Thompson that moneys were being transmitted into a bank account held by Mr Goodman in respect of payments for invoices to an entity known as CND Computers?---That's my understanding.

Well, but that's your recollection of what you told the Deputy?---Yeah, that's my recollection, yes.

20 Thank you. And do you recall Ms Cullinane saying anything to you in response to you stating that to her, that is did she say what she was going to do about it, did she say that she was aware of it, what occurred?---No, she didn't say that she was aware of it and she didn't indicate what she was going to do about it.

Okay?---Mark Thompson was also present - - -

Ah hmm?--- - - - and he may be able to assist you with - - -

That's okay. I'm just, just focussing on you at the moment?---Yeah.

30 Did you, did you subsequently follow this up with the Deputy General Manager, Ms Cullinane, that is what have you done about it, Lorraine, where are we up to?---No, I didn't.

Thank you. Now, in 2009 you've told us that your son's car had been repaired at Elias & Sons. Correct?---Correct.

And this had been facilitated for your son through Gary Goodman. Correct?---Yes.

And that Mr Goodman told you in effect not to worry about it because, what?---Well, that was the impression I got but - - -

40 No, no. What did he say to you?---He said, yeah, he said to me - - -

You're giving evidence?---Yeah.

Ah hmm?---He said to me when I asked him about it - - -

Ah hmm?---I initially told him it was an insurance matter.

Okay?---I then, because I hadn't seen the car - - -

Okay?--- - - - I seen him the next day and said, "What's that car like, what's happening about it?" He said, "Oh, they've already started working on it." I said, "What about the insurance?" His, his basic response was, "Don't worry about it, Joe loves doing work like this." I didn't know whether that meant I would be paying anything or, or what was to, what was to come of that.

10 Okay?---That was just, yeah.

Well, in this life, right - - -?---Yes.

- - - you understand that nothing is for free. Correct?---Correct.

Okay. So one of two things were either happening, okay?---Ah hmm.

20 Either you, sir, were well aware that you were going to get a benefit from Elias & Sons by them doing work for free or a mature and intelligent man was being compromised by Mr Goodman. So which one is it?---I think I was compromised.

You were compromised. So once you had been compromised, that is in effect corrupted, by what had occurred here, did that then limit your ability to raise issues concerning Mr Goodman and his misconduct, sir?---It didn't appear to.

Didn't appear to?---Because in 2009 I raised the issue of CND Computers.

30 Well, let's get the bearings right because I'm sure this will be the subject of questions in due course from those who act for the Deputy General Manager. Did you raise the issue concerning CND Computers with the Deputy General Manager before or after you in effect got this benefit or your son got this benefit from Elias & Sons? Bearing in mind your evidence earlier, you didn't know whether it was 2009, 2010, so just be careful when you answer that question, reminding yourself what you said earlier?---Yeah. Can I, can I also respond by - - -

No, no, answer the question, sir?---(No Audible Reply)

40 THE COMMISSIONER: Are you able to say whether the accident was before or after the conversation about CND Computers?---Just at this moment I'm not able to say that, but I could be able to supply that information later on.

All right.

MR MOSES: Okay. Now did you keep a file note of the discussion that you had with the Deputy General Manager concerning this issue?---I'll just relay to you about this issue. I accompanied Mark Thompson - - -

I'm asking the – listen, you have to focus on the question because you'll be here a lot longer than you have to be?---Okay.

Did you keep a file note of the discussion you had with Ms Cullinane?---No.

10 - - - about CND?---No.

Thank you. Now in relation to the position that you were in, just so we can understand this. In 2007, what was the position you held within the Council?---Financial Accountant.

Okay. And how many days a week did you work?---Five.

20 Five days a week. And by 2007, how many years had you been employed by the Council, going from memory?---Approximately 12 or 13 years.

Okay. And each year you would take your annual leave? I mean we can check annual leave records for you?---Yeah.

Yeah?---I took leave.

You'd take your standard four weeks off?---It might not be four weeks but I took leave, yeah.

30 Yeah. You took leave, yeah. And can you explain something to me if you could, and if you can't say so. Why were you given a cash payout in 2007 of \$23,848, sir, a leave cash payout, why did that happen?---Because I was approached by - - -

You were approached by whom?---Well, I believe and it's eight years or more ago - - -

Yeah. Don't worry, just do your best?---Yeah.

40 Go for it?---Well Lorraine Cullinane or Gary Goodman and said that they wanted to reduce leave entitlements.

Did they?---I had no reason to want to cash out leave. I've never done it before, I've never done it after.

No. And sitting here today in your long experience within Local Government, you would accept that that was unusual for that to occur?  
---(No Audible Reply)

I mean we can go through this step by step, if you want. But a matter for you?---Well, it was unusual for me, I've never done it before or after, yeah.

Yeah. Do you know whether there was ever – do you know whether was any legal basis for it, for that to occur?---No.

No?---No.

10 No. And had you done it for any other employee?---No.

No. So you took the money, you took the \$23,000?---Yes.

Yeah?---But I had the leave to cover it, I believe, didn't I?

I'm sorry?---Didn't I have the leave there to cover that?

No, no. Let's focus on the question. You took the money, did you?---Yes.

20 Yeah. Okay. And you didn't satisfy yourself as to whether or not you were entitled to it?---(No Audible Reply)

I'm just asking you the question?---No, I didn't.

You took it because, why?---I was requested. Well, it was a type of request that we wanted to reduce the leave entitlements on the books.

30 Okay. Will it surprise you to know that the only four employees at Council who this has occurred for has been yourself, Mr Goodman, Mr Thompson and Ms Cullinane, would that surprise you?---Yes. Yes, it would.

It would surprise you?---Yes, it would.

Okay. So you've paid cash out to others in terms of leave?---Not personally, no.

No. Did you process the payments to be made to Ms Cullinane?---No.

Did you process the payments to be paid to Mr Goodman?---No.

40 Did you process the payments to be made to Mr Thompson?---No.

No. And did Ms Cullinane recently give you a cheque?---She did.

Yeah. How much was that for?---\$80,000-odd I think. But I can't - - -

Yeah. Did she tell you what that money was for?---No.

She just gave you a cheque addressed to what?---I think it was a bank cheque.

Yeah. Addressed to whom?---Well, it would've been addressed to the Council because I paid it in through the cashier.

Yeah. Did she tell you why she was giving you the money?---No. I don't know what exactly the money was for.

10 You don't know?---No.

THE COMMISSIONER: Sorry. I just need to clarify this. When you say recently is that while you were still - - -?---Yes.

- - - working at Council?---Yes. I'd say, yes, just a matter of months within the last one or two months.

20 And so Ms Cullinane came to you in your capacity as the - - -?---And asked me to get this cheque receipted through the cashier.

And she gave you a cheque and it was made out to Botany Bay Council, was it?---I'm assuming it was.

Right?---Yeah. I didn't, I didn't read it that thorough.

MR MOSES: And she didn't say a word to you?---She said, yes, would you take this down and put it through the cashier.

30 And she didn't tell you what it was about?---No, she didn't give me the details of what the \$87,000 was for.

Did she tell you whether it was coming from her or from somebody else? ---No. It was a bank cheque, I think, from memory, it was a bank cheque.

So you didn't know whether it was coming from Donald Trump or from her?---No.

No. Okay?---But only, only that she handed it to me.

40 Okay. And did you record it somewhere?---(No Audible Reply)

Did you record the fact that you've just been given a substantial - - -?--- Well it was recorded - - -

- - - cheque - - -?---Yeah. It was recorded - - -

- - - from, from the Deputy General Manager?---Yeah. It was recorded in her name through the cashier on that day.

So you knew that the money was being paid in by her?---Yes.

Thank you. Now, and you say you don't know what's it about?---I'm not saying that, I'm saying that I don't know what that cheque, the value of that cheque made up. I don't know what it, no. That's what I'm saying.

And she didn't tell you what it was for?---No.

10 Okay. Now can I just go back to the 2009 Elias & Sons issue, if I could. Commissioner, I might at this stage just have the witness given the folder with materials just so that he can identify the document that appears behind tab 8, if that could be shown to him. No, it's behind tab 8. That's what I was asking you a question about previously in respect of the leave cash out document. Do you see that?---Yes.

And who was that authorised by, if you go to the second page?---It looks like Gary Goodman and Lorraine Cullinane countersigned it.

20 Okay. Thank you. And just keep that folder in front of you, if you can. In relation to the Elias & Sons issue, after you were told by Mr Goodman, don't worry about it, he likes doing this type of stuff?---Ah hmm.

Was the job completed on your son's car?---Yes, the job was completed.

Yeah. And who picked the car up?---I think Gary Goodman gave me a lift there that, whatever afternoon it was and I picked it up.

30 Okay. Did you speak to Mr Freitas when you arrived there?---I might've just said basically hello and, yes, I would've spoken to him.

I'm sorry, say that again?---Yeah. He was there and I spoke to him.

Yeah. And what did you say to him? Apart from saying hi, did you say - - - ?---No, I didn't say - - -

- - - g'day, my name's Mr Byrnes - - -?---No, I didn't - - -

- - - thanks for doing this and - - -?---No.

40

- - - how much do I owe you?---I knew him, I'd seen him before. He knew who I was, I knew - - -

Okay. Well did you go and fix up the bill?---There was no bill.

There was no bill. So who told you there was no bill?---Well, he never gave me one so - - -

Okay. So he never gave you one so you assumed he'd just done it for the love, is that right?---Well, he knew that I was trying to put this through insurance.

Yeah?---And I got - - -

He knew that you were trying to put it through insurance?---No. Gary Goodman knew when he rang Joe Freitas. I hadn't spoken to Joe Freitas before the day I went to pick the car up.

10

Okay?---So, I don't know why Gary decided not to put it through insurance.

Okay.

THE COMMISSIONER: Mr Byrnes, can I ask you, did you ever see the damage to the car?---No.

You didn't?---I never seen the car.

20

Right?---It was picked up and taken out there.

MR MOSES: Okay. You subsequently – so you didn't ask for a bill, correct?---That's correct.

And you subsequently then saw that invoices had been put in by Elias & Sons, correct?---Yeah. We were dealing with Elias all the time, yes.

Yeah. And you saw invoices – you saw an invoice come in which appeared to relate to the repair of your son's car?

30

THE COMMISSIONER: Well, I don't - - -?---No.

THE COMMISSIONER: No, I don't understand that to be his evidence. I thought his evidence - - -?---No.

- - - was that because he was given - - -?---I seen it - - -

40

THE COMMISSIONER: Just a minute, Mr Byrnes. Because he was given the job of collecting or reviewing invoices for this investigation he then saw the invoice so we're talking about sometime late last year are we, Mr Byrnes?---Yes, we are. About eight years later.

MR MOSES: Thank you. So eight years later you saw the bill that related to your son's car?---I did.

Okay. And up until that time you were not aware that in effect a false invoice had been submitted by Elias & Sons for work that was in fact not done for Council. Correct?---Correct.

Okay. Thank you. And when you saw that invoice when you were collecting it for the purpose of this matter - - -?---Ah hmm.

- - - who had told you to collect – to go through the invoices to start looking through them?---I believe it was Lorraine Cullinane sent me out there. I had two other people with me.

Yeah. Out to where?---I think it's called South Strathfield.

10

Okay?---It's a storage facility that Council keeps its records in.

And when you saw this invoice did you report that fact to anybody at Council?---No.

That fact that you'd just uncovered an invoice that related to a vehicle that you got a benefit from?---No.

You didn't?---No.

20

Okay. And is that one of the reasons why you decided not to attend an interview with the Council's investigators but instead resigned?

THE COMMISSIONER: Well, just a minute. Just a minute. This is tricky because the witness has said that he sought legal advice and he was given certain advice so - - -?---Yes.

- - -I don't know to what extent that might have played upon - - -

30 MR MOSES: That's okay.

THE COMMISSIONER: - - - subsequent decisions.

MR MOSES: That's fine, he can say that Commissioner, if he wants to say that.

THE COMMISSIONER: Yes, he can.

MR MOSES: Yeah.

40

THE COMMISSIONER: But he has to know that it's his privilege to waive in relation to what advice he was given.

MR MOSES: Yeah, but the problem is he already has. If we apply the legal principles on waiver he's actually - - -

THE COMMISSIONER: Well, no, no, no.

MR MOSES: Well, if I may finish. He actually, with respect, has already waived it in – I mean my friends can put any submissions they want but in effect the answer that he gave previously he has in effect waived it but one can fear not. I'm not going to go down that path. I'm not interested in dragging through what his lawyers may have told him but I want to ask him the question that is, you determined did you not - - -

10 MR FAGIR: I'm sorry, Commissioner. Before we continue, can I just point out that we totally dispute the proposition that privilege has been waived but I - - -

THE COMMISSIONER: Yes, I would understand that.

MR FAGIR: I may be able to obtain instructions about this.

20 THE COMMISSIONER: All I was trying to do was make Mr Byrnes aware that the privilege resides in him and he can choose to answer the question on the basis that he waives privilege or not. Mr Moses can argue about whether or not it's been waived but I understand the only waiver thus far has been that he took legal advice and the legal advice was a factor in his decision not to tell ICAC about the matter. I don't understand him to have said that it was anything to do with whether or not he attended a Council interview. I think that's where we're up to, Mr Moses.

MR MOSES: WE are.

THE COMMISSIONER: Right.

30 MR MOSES:. We are.

THE COMMISSIONER: Let's go.

MR MOSES: And you determined not to attend an interview with the Council's investigators. Correct?---I sought some advice and was given advice, yes.

Yeah, and you decided not to attend the interview. Correct?---That's correct.

40 Yeah, and are you saying that you determined not to tell the Council about the invoice that you had found from Elias & Sons – I'm not pointing the finger at Mr Fagir because he's your new lawyer I think you've said? ---Ah hmm.

Your previous lawyer, you took advice from them and you determined not to tell the Council this. Is that right?---That's correct.

I'm sorry?---That is correct at that instance.

Yeah. Okay?---Then in turn to the interview - - -

Yeah?--- - - - I took further advice about that.

About the interview with Council's investigators?---I did.

Not ICAC?---No.

10 Council's investigators?---The Council's investigators.

And you didn't attend an interview with Council's investigators?---That's correct.

Correct?---Yeah.

Okay. Thank you. And the first time that you're advising in effect Council about this false invoice from Elias & Sons that related to your son's car - - - ?---Ah hmm.

20

- - - is you sitting in the witness box today. Correct?---It is.

Thank you. And you're - I've taken you through the code of conduct. You were aware weren't you at the time that the car was fixed by Elias & Sons that they were doing work for Council. Correct?---Yes.

Yeah. And you knew that it was a breach of the code of conduct to take a gift or a benefit from a supplier. Correct? I mean we can go through this? ---Is that the same code of conduct now that was in force in 2009?

30

Yes. You understood, you understood it was a breach, that is you knew that it was not appropriate for you to take a gift or a benefit from a supplier that provided services to the Council?---Well, it was out of my control.

Because you're not saying to the Commissioner the reason you did that in, in terms of your vehicle in 2009, your son's vehicle, was because you thought it was okay, you're not saying that. You're saying that Mr Goodman - - -?---Took control.

40

- - - arranged this. Correct?---I'm saying Mr Goodman took control of it.

Yeah?---And that was a result of it.

Yeah?---And at that stage until I've seen that interview - - -

Yeah?--- - - - I didn't know that that was an issue for Council.

But you were getting something for nothing from a supplier. You must have known that that was a bad thing?---Well, it wasn't good. I wasn't happy about it.

No. And that – did that make you feel compromised then in relation to the way you carried out your work?---No.

Okay. Thank you. Now can I just ask you some questions about the external auditors of Council?---Ah hmm.

10

Did you have dealings with Gary Mottau?---On occasions.

M-o-t-t-a-u?---Yes.

And he was, he was the external – he was from the external auditors. Correct?---He was.

Yeah. And had you had dealings with him previously when he was the Chief Financial Officer of a Council?---What Council was that?

20

You've had no previous dealings with him?---No.

No. Okay?---No.

Now in relation to the external auditing, if we can just go through that if we can. A couple of questions I wanted to ask you. First of all, were you responsible for providing any information to the external auditors whilst you were employed by the Council?---Yes, I would have been.

30

Yeah. And how would you source the information to provide to the auditors?---Well, it would depend on what the information is, the type of information that I had to get.

Okay. So they would ask questions and you would then source the information?---That would be what would occur, yeah.

Okay. Now did you review the draft management letters that were provided to Council by the external auditors?---I was aware of them. I didn't review them. Gary Goodman basically put the responses together if that's what you're saying.

40

Okay. So the draft manager letters you said you're aware of them. Did you get copies of them?---No.

So Mr Goodman would receive them?---Mr Goodman or the General Manager. I'm not sure myself.

You don't know?---No, I don't know.

You don't know who would get them?---No, I don't know who got – who the letter was addressed to and who received it.

So the answer to the question is I don't know?---Ah hmm.

Is that right?---Yes.

10 Thank you. And in terms of the audit process undertaken by the external auditors are you in a position to tell the Commission what you understood to be the audit process undertaken by the external auditors?---I don't believe I am. I think that's a matter for the external auditors to explain.

Now about access to the records of Council, that is the data records, I think you've said you were at inquiry level. Is that right?---Yes, that's my understanding.

20 That means that you can't change records, you can only view them?---Yes, that's correct.

And Mr Thompson at that stage, at that stage, that is whilst you were employed – I mean that – I can inform the Commission that has now been suspended pending this inquiry – he had parameters. Correct? The highest level in the Council?---I'm not sure - - -

Is that what your understanding was?--- - - - of the term parameters.

30 Yeah?---But I would assume that he would have the highest level because he was the systems administrator, yes.

And that was with Mr Fred Saad, S-a-a-d?---That would be the other person, yes.

And what position did Mr Saad hold?---He was the IT manager.

Thank you. Okay. I'm just going to – do you have your statement in front of you. Do you want to grab that for me?---Ah hmm.

40 We've dealt with the issue that you've set out at paragraphs 12-16. In relation to paragraphs 17-19, this is the suspicious credit card transactions reported to you by Mark Thompson?--- Yes.

And that he informed you that he saw transactions related to a company named Gas Motorsport in the name - - -?---Yes.

- - - of Peter Fitzgerald?---Yeah.

And that you reported this to the Deputy General Manager?---Ah hmm.

I just want to understand this. You gave some evidence earlier, but please correct me if I'm wrong, that a letter went to Mr Fitzgerald in 2012 in effect requesting repayment of moneys associated with use on the credit card. Do you recall giving that evidence earlier to the Commission?---I do.

10 Yeah. And if you go to paragraph 19 of your statement, should we read into that that the letter that you gave to Mr Fitzgerald's daughter or the details were the details of what Council wanted repaid?---That's my recollection of it, yes.

And was it a formal letter or was it a sheet?---I don't really recall but I think it was a formal letter.

Thank you. And were you aware that the Deputy General Manager cancelled the credit card of Mr Fitzgerald Senior on 16 April, 2012?  
---No.

20 Okay. And do you know – and you say you don't know if the money was in fact repaid by Mr Fitzgerald. Correct?---That's correct.

Thank you. Now, in relation to paragraph 20, you say there in the statement that you can't recall who informed you about the Cabcharge transactions involving Mr Goodman?---Yes.

Who was responsible within Council for reviewing Cabcharge transactions of employees?---Mr Goodman was signing those.

30 Okay. And you can't recall who informed you of this issue in August 2014?  
---Not the exact staff member but it may have been – I think it was a more, I think it occurred on more than one month's worth of Cabcharges.

Okay?---So it may have been – it would probably be, I can name three staff members and it's probably one of those.

Okay?---But I can't say exactly who it was.

40 Okay. Well, do you want to tell us who they are?---Yeah, it would have been either Mark Thompson - - -

Yep?--- - - - Sharon Dale - - -

Thank you?--- - - - or Suman Mishra.

Thank you. But you don't know which one?---No, not - - -

Okay. And the point that was being made was that there were large amounts being used for Cabcharge that had, that seemed to have the same taxi driver - - -?---Well, yeah.

- - - in receipt of them. Correct?---I identified that it was the same, it appeared to be the same taxi driver number yes, when I seen it after it was given to me, yes.

10 Thank you. I mean we've got the records for this and it's clear that there seems to be one taxi driver coming up all the time- - -?---Well, that's what I seen when I seen them, yes.

- - - for most of these expenditures. Okay. And you raised this with the Deputy General Manager?---I did.

20 What did you say to the Deputy General Manager? You say in paragraph 20, the last sentence, "I passed on the report to Ms Cullinane." Can you recall when you raised it with her and what you said?---I think I had the actual invoice for Cabcharge and I can't recall what I said, but it was obviously along the lines of there's this, all these payments on this Cabcharge, but I can't recall the exact words, no.

Okay. And what did the Deputy General Manager say to you, what did Ms Cullinane say to you?---I - - -

Did she say she was going to look into it, did she say she was aware of it, what did - did she say anything?---(No Audible Reply)

30 Just trying to understand?---Okay, I, I can't recall that.

You can't?---I wouldn't like to quote what she said, no, because I can't recall.

Okay. And then if we go to paragraph 21, these are the calls to Thailand and The Philippines - - -?---Mmm, but I'm not sure whether it was Thailand, that's the recollection of the country.

That's okay?---Yeah.

40 And who did you relay that information to, did you say?---Lorraine Cullinane, Deputy General Manager.

And when did you do that?---Shortly after I was given the information by one of the staff members who was processing the payments.

And was anybody present when you raised this with Ms Cullinane?  
---Probably not.

Okay. When you say probably not, you just don't know - - -?---That's correct.

- - - sitting here today?---Yeah.

And can you recall what she said to you?---Once again, no, sorry. I don't want to quote her and be - - -

Okay. Can I just go back to the Cabcharges issue?---Yes.

10

Did the Cabcharge usage stop after the report that you made to Ms Cullinane?---Yes, it did stop.

Yeah. Okay. In relation to the issue relating to the telephone calls to Thailand or The Philippines - - -?---Ah hmm.

- - - did that stop after you raised it with Ms Cullinane?---Well, it never got reported to me again, that's right.

20

Okay?---I think it was two occasions it happened and then it didn't happen again.

Okay, thank you. Now, paragraph 22 is Teletec. That reference there is to the - can you explain that to me? You asked Ms Dale to obtain copies for you - - -?---Yeah.

- - - of payments made by Council to Teletec - - -?---Yes.

- - - for telephone accounts belonging to Council?---Ah hmm.

30

And you provided them to the Deputy GM. Can you explain to my why you asked for them?---Because I was concerned about Teletec.

Why were you, why were you concerned about Teletec?---Well, I thought it was strange that we would, he would be paying telephone accounts on our behalf.

Sorry, say that again?---I thought it was strange that he would be paying telephone accounts on behalf of Council.

40

And you, that's Mr Sam Alexander?---I believe so, yes.

Had you met Sam Alexander?---I had seen him around the place, yes.

Okay. And you raised that with the Deputy General Manager?---I did.

And do you recall what you said to her?---No, but I said we're still paying, we've got this, along the lines of, got this invoice and we've paid for, Sam

for telephone accounts. I can't recall the exact words but I gave her the actual copy of the invoice.

Say it again?---I gave her the actual copy of the invoice?---Okay.

And did Council continue to receive accounts from Teletec after you reported this to the Deputy General Manager?---I'm not fully familiar with the creditor but I don't know that we got any more. I'm not aware that we got any more for payment of telephone accounts, but I could be wrong.

10

Okay. Thank you. And then if we go to the pro shop issue?---Yes.

Again at paragraph 25 you say that you told Ms Cullinane what happened? ---Yes.

And that you didn't want to sign timesheets in the future?---Yes.

When did you say that to Ms Cullinane?---When she got in that morning.

20 When?---Oh, well - - -

Give us, give us some assistance in terms of - - -?---Sorry.

- - - are we talking about 2012, 2013, 2014, 2015?

MR THANGARAJ: It's paragraph 23.

MR MOSES: Yeah, I see that, but I need, I want the - - -?---Yes, look, sorry, I can't be any more specific than I've been there.

30

Okay?---I'm sorry.

So you raised it with the Deputy General Manager. What did you say to her?---I said basically what I'd said to the HR Manager, I've got - - -

Which is?---"I've got no idea what these hours on these timesheets relate to and I'm not happy about signing them."

40

And you said that to the Deputy General Manager?---I did.

And what did she say in response to you?---"Well, send them round here."

Send what around here?---The timesheets, to her.

Send them to her?---Yeah.

She said that to you?---Well, I believe so.

Did you send the timesheets to her?---She's been – I haven't been signing them since Gary Goodman left.

Thank you. In paragraph 26 you've made that statement there. You said that you've outlined a variety of suspicious activities that had come to your attention over the years. Apart from the matters that have been identified in your evidence to date, is there anything else that you wish to tell the Commission in respect of other suspicious activities that have come to your attention?---I, I think I've outlined the main ones that I had any particular, any solid evidence about or anything like that.

Okay. Thank you. Including your own conduct. Correct?---(No Audible Reply)

That is apart from what you've told us about your conduct concerning Elias & Sons, do you want to tell us anything else about what you have done, if you've done anything, that may have been suspicious or corrupt. Is there anything here you want to unburden yourself with?---No, I can't recall any particular incident that I'd like to mention here, no.

Okay. Now is this the position, that in preparing this statement you have obtained a copy of your GP's treating notes?---That was part of the process, yes.

Yeah. And the reason you did that was to refresh your memory as to dates and - - -?---Attempt to, yes.

Attempt to. And, go head?---It was more in relation to the older issues. These, these other issues I'm more familiar with.

Okay. Now you say that you were struggling with the need to report the issues to Ms Cullinane?---I wasn't struggling with, yes, I was struggling because it was a difficult situation reporting on people. And I was - - -

But you were struggling with the need to report the issues to Ms Cullinane?--Inasmuch as it wasn't, it's not a pleasant thing to do and I wasn't enjoying it at all.

No. Is that why you were struggling to report it to Ms Cullinane?

MR FAGIR: I object. That's not the evidence (not transcribable) - - -

MR MOSES: Paragraph 28, paragraph - - -

MR FAGIR: - - - (not transcribable) reporting.

MR MOSES: Paragraph 28, paragraph 28.

THE COMMISSIONER: Struggling with reporting is what Mr Fagir is pointing out, anyway.

MR FAGIR: Struggling with the need to report the issue.

THE COMMISSIONER: With the need to report, yes.

MR MOSES: Yeah. Sure. That's exactly, that's exactly what I've been saying. Thank you for that?---Yes.

10

THE COMMISSIONER: And I think Mr Byrnes has said - - -?---And I'm, I'm agreeing with you.

- - - thus far that it was not pleasant, yes?---Yes.

Yes?---I'm agreeing with you.

MR MOSES: And the reason you were struggling with the need to report the issues to Ms Cullinane was it, because Mr Goodman and her were friends?---And that I had known Gary Goodman for some time.

20

You had known him since you worked at Marrickville together?---That's right.

Yeah?---And that wasn't, that wasn't easy to have to report on him, no.

Now could I just ask you go to paragraph 28. I want to ask you a very specific question here?---Yeah.

30 As to whether these are your words and what you mean by them. You say "I was struggling with the need to the", whoever's drafted that's, that's, I mean this has been drafted with the assistance of your lawyer, correct?---Yes, correct.

There's no secret about that?---No. Correct.

It's got the standard (not transcribable)?---Yeah. Correct.

40 You're not meaning to suggest by the last sentence or the sentence in paragraph 28, are you, that you did not report the matter to the General Manager, that is Ms Kirchner because of your assertion there that she was friends with the persons?---No.

No?---I'm not, no.

Because this is the position, isn't it. This General Manager was somebody who had taken a particular stance in respect of these matters upon her appointment, correct?---Yes.

Yeah?---Yeah.

And you're not meaning to suggest, are you, by paragraph 28 that you wouldn't go to report matters to her would you?---No.

10 No. Thank you. So what should we do with those words that appear in the last two lines, I mean are these your words or do you want to now modify that, that line for us?---In some ways it wouldn't matter whether it was Ms Cullinane, the General Manager or whoever it was. I didn't like having to go and report matters.

Thank you. Thank you. Because what we don't want is for there to be an implication - - -?---I understand that.

- - - that somehow you're suggesting something there concerning the General Manager. Can we assume - - -?---Yes.

20 - - - you're not?---Yeah. No, you're not.

We can assume that?---Yes, you can assume that.

Thank you?---The current General Manager.

Yes, thank you. And can we assume where you're referring to the General Manager there, you're referring to Mr Fitzgerald, the previous General Manager, Fitzgerald, Senior?---Well - - -

30 Mr Fitzgerald, Senior?---I'm just saying in general, it's a difficult process to go and report people and it wouldn't matter whether it was the General Manager, the Deputy General Manager or a Director, it's still, you're putting someone in a position where you're reporting on them.

Sure?---And that's not easy.

No. It's not easy but it's an obligation that you have?---It is.

Correct?---And I was carrying it out to the best of my ability.

40 Okay. Except in relation to the Elias & Sons issue involving yourself?--- - - -

MR THANGARAJ: I object to this?--- Well, once again - - -

MR MOSES: I withdraw it, I withdraw it?--- - - - once again - - -

THE COMMISSIONER: Sorry.

MR THANGARAJ: Can I just make one point with respect to this. We did not know about this issue with the son's car until Mr Byrnes told us. Not from our own and as far as we know, Council hasn't told us that, so we don't – as far as we know they didn't know either that this invoice that referred to particular registration had anything to do with Mr Byrnes or anyone in his family. He's volunteered it and he's explained it in the statement and has explained in his evidence. And he's explained why he did not believe that he was getting an improper advantage at the time. And then he took advice when he realised what had happened late last year. So we  
10 need to understand that background which is well obvious from the evidence that's come to date before questioning that I think unfair or I submit is unfair with respect to that issue.

MR MOSES: Well, just two things in response. And my friend would be well aware because they've obtained the statement from this witness that Council wasn't aware of it because he didn't disclose it to Council, number one.

THE COMMISSIONER: Well you see, Mr Moses, the problem is, the  
20 evidence establishes that there's a reason for that. The reason that the witness has given is that he didn't even know that Council had paid any money until he was asked to go through invoices late last year. And it was that event that triggered him seeking advice in relation to what he should do about it. So - - -

MR MOSES: He didn't know that Council had paid that invoice, correct?

THE COMMISSIONER: That's right.

30 MR MOSES: Correct.

THE COMMISSIONER: And so the question that you then put to him was unframed in terms of - - -

MR MOSES: Well it goes to - - -

THE COMMISSIONER: - - - time.

40 MR MOSES: Sure.

THE COMMISSIONER: And your earlier question in relation to whether or not he had taken a benefit that he was not entitled to was one that was associated with when these events occurred not what actually made him realise that he had received a benefit which was seeing the invoice in November, 2015. So, anyway - - -

MR MOSES: Commissioner - - -

THE COMMISSIONER: - - - can we, I think this - - -

MR MOSES: But Commissioner, this is a second issue. If I can just respond. The second issue which is plain, with all due respect to everybody here, I would say with respect, he did receive a benefit because something and I'm surprised that anybody would suggest he didn't, especially Counsel Assisting. He received a benefit from a supplier, that is, a vehicle was fixed for his son for free. I don't care - - -

10 THE COMMISSIONER: And I don't think he's denying that. He's not denying that.

MR MOSES: Correct. Thank you. We're at cross purposes then. Thank you.

THE COMMISSIONER: No. He's not denying that.

MR MOSES: Thank you.

20 THE COMMISSIONER: He's simply saying, the question of when that became clear to him was eight years after the event, not at the time. But anyway - - -

MR MOSES: No, but Commissioner, again. Let me just be clear about this, very clear. He knew he received a benefit at the time because he'd got something for free. That's the point. Whether Council paid for it or Mr Freitas decided to do it for free as a way to in some ingratiate himself with Mr Goodman, who cares. As a Council employee he got a benefit for free from that supplier. He did the wrong thing and it doesn't matter how one  
30 wants to spin it. And that's the proposition. I'd be surprised if this  
Commission - - -

THE COMMISSIONER: All right, all right.

MR MOSES: - - - or anybody else says something to the contrary.

THE COMMISSIONER: All right.

MR MOSES: In fact it would be contrary to what this Commission says on  
40 a regular basis.

THE COMMISSIONER: All right. I think we've spent enough time on it.

MR MOSES: Thank you.

THE COMMISSIONER: And the evidence is pretty clear.

MR MOSES: Thank you.

THE COMMISSIONER: Can we move on?

MR MOSES: Thank you.

THE COMMISSIONER: I have to take a phone call shortly so I was going to take a short adjournment.

MR MOSES: Sure.

10

THE COMMISSIONER: I'm waiting – I thought you might finish before I needed to do that, Mr Moses.

THE WITNESS: Excuse me.

MR MOSES: Just bear with me, Commissioner. Just if I can just have moment.

THE WITNESS: Excuse me, Commissioner.

20

THE COMMISSIONER: Yes, Mr Byrnes?

THE WITNESS: In relation to that payment. I didn't know it was coming from Elias. For all I knew Gary Goodman had paid for it. I didn't know where it was coming from.

THE COMMISSIONER: Right. Thank you.

MR MOSES: Mr Byrnes, can I just ask you to go tab 9 of the folder that's  
30 being given to you. There had been some overpayments made to you in respect of superannuation?---Yes.

Is that right? And Mr Perry, the manager - sought to get those back from you, is that right, that is a repayment schedule?---(No Audible Reply)

Is that right?---No. I'm not aware of that.

Okay. You're not?---No.

40 Are you familiar with the email that's behind tab 10?---No.

Tab 9, thank you?---Tab 9?

Yeah. Have you seen that email before?---No.

You've never seen that email before?---This is about super?

Yeah?---That's about an error that was made by the pay office in my super contributions.

Okay?---That's all that was about.

Was it?---Yeah. They made an error.

Thank you?---And overpaid my super. So they stopped paying it for some time until they recouped it.

10

Thank you.

MR THANGARAJ: The document says error.

MR MOSES: Thank you. There's a back story but I'm not going to waste your time on it now. If you go back behind Tab 7 of that folder - this is evidence already Commissioner. I've just got three questions to go Commissioner. In respect of that file note.---Yes.

20 You've seen this in evidence haven't you?---I'm not familiar with it, I, I, it's 2001 I'm trying to - - -

Has this been brought to your attention by your lawyer - - -?---No.

- - - that was given as evidence in this case?---No.

Okay. The point of it is simply this that you have been told by, I think you referred to her as Suman Sharma - - -?---Oh yes, she's changed her name Mishra.

30

- - - about an issue - - -?---Yes she has changed her name.

You're referring to a matter that she raised with you concerning FBT irregularities?---Yes.

And she knew what was going on in respect of that issue, correct?---Yes.

And you reported it to the Deputy General Manager?---I did.

40 And Ms Sharman as Miss Mishra denied that she said those words to you, is that right?---She did.

And nothing, do you know what happened with the FBT irregularities after that?---I recall we had a meeting about with the personnel manager or HR manager at the time and at that time Miss Mishra said that she never said those words to me, I think that's where it ended, from memory.

Thank you. The second question I wanted to ask you, the second last question I wanted to ask you, relates to this, in relation to all of the matters that you've addressed here today in terms of reporting to the Deputy General Manager, can we assume that there is nothing by way of email or memorandum from you to the Deputy General Manager on any of those issues raising your concerns?---That's correct.

Okay. And the third issue, the final issue I wanted to raise with you relates to Mr Peter Fitzgerald - - -?----Yes.

10

- - - senior. In terms of your time at Botany Bay Council were you of the view that he had a close relationship with Mr Goodman?---Yes.

Thank you. I have no further questions for the witness.

THE COMMISSIONER: Does anyone else have any questions for MR Byrnes?

MR MAHENDRA: Commissioner, it's Mr Mahendra, I act for Mr Thompson.

20

THE COMMISSIONER: Yes, Mr Mahendra.

MR MAHENDRA: I just wanted to enquire whether some of the matters set out in Mr Byrnes statement, specifically relate to Mr Thompson will be put to Mr Thompson for him to comment and if that is the case, I won't waste The Commission's time cross-examining Mr Byrnes.

THE COMMISSIONER: I'm reasonably sure that's right Mr Mahendra, thank you.

30

MR MAHENDRA: Thank you Commissioner.

THE COMMISSIONER: Sorry, did Mr Moses want to tender the folder?

MR MOSES: Yes Commissioner, thank you.

THE COMMISSIONER: Exhibit R49.

40

**#EXHIBIT R49 - FOLDER OF BARRY BYRNES DOCUMENTS**

THE COMMISSIONER: Any other questions of Mr Byrnes at this stage?

MR FAGIR: Just one from me Commissioner.

THE COMMISSIONER: Yes, Mr Fagir, yes.

MR FAGIR: Mr Byrnes, why did you resign from Council in February this year?---Well, basically due it being very stressful and my health wasn't enough to keep doing it.

MR THANGARAJ: With respect to the son's accident, did you believe before you saw the invoice in 2015 that you had received an improper benefit, an improper benefit from that?---No, I didn't.

10 All right. And secondly, you were asked whether or not Mr Goodman taking care of the Joe Freitas situation impaired or compromised you going forward with respect to making any complaints about Mr Goodman.---Yep.

The Cabcharge complaint made by you concerned Mr Goodman's mis-use didn't it?---It did.

And that was after, well after the accident with your son?---Yes.

All right.

20 THE COMMISSIONER: Yes, thank you. You can step down Mr Byrnes. You're excused. I'll just take a short adjournment and resume at 12.05pm.

Thank you.

**THE WITNESS EXCUSED** [11.54AM]

30 **SHORT ADJOURNMENT** [11.54AM]

THE COMMISSIONER: Yes, Mr Thangaraj.

MR THANGARAJ: Mark Thompson, Commissioner.

THE COMMISSIONER: Mr Mahendra.

MR MAHENDRA: Yes, Commissioner.

40 THE COMMISSIONER: Has Mr Thompson been advised of the effect of a section 38 order?

MR MAHENDRA: He has, Commissioner.

THE COMMISSIONER: And he wants the advantage of that order?

MR MAHENDRA: Yes.

THE COMMISSIONER: Could I just explain, Mr Thompson, that the section 38 order 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've deliberately given false or misleading evidence to the Commission because in that event your answers could be used against you in a prosecution under the Act. Do you understand that?

MR THOMPSON: 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 THOMPSON: Sworn.

THE COMMISSIONER: Yes, can he be sworn, thank you.

MR THANGARAJ: Mr Thompson, could you give the Commission your full name, please?---Mark Edward Thompson.

And when did you start working for Botany Council?---Ah, 1995.

10 And what was your role when you started?---Initially just working in the Finance Department while they were in the process of commissioning a new computer system and after that, System Administrator.

Okay. And what are your qualifications?---Don't have any.

All right. Do you have any previous finance or accounting experience?  
---Yes, I do.

20 And what's that?---I worked in the Finance Department at Marrickville Council.

Right. And what did you do there?---Oh, various roles, involved in accounts payable, production of annual statements, processing of inventory.

When were you appointed to the role of System Administrator?---I'd say it would have been early '96. I can't say for sure but - - -

Right. And was there an interview process or a - - -?---No.

30 Okay. And who appointed you then to that role, do you remember?  
---Ah, the General Manager.

All right. And who was the General Manager at that time?---Peter Fitzgerald.

Okay. Were you qualified to do that job at that time?---I'd had the necessary training, it was provided by the computer company.

40 Right. That's training to operate the computer system, is it?---That's right, yes.

Okay. And did your role involve things other than that?---Oh, I was still doing work in the Finance Department.

Okay. Was that the same work you had been doing or different work?  
---It probably expanded a bit once we had the new computer system.

Right. What was the – with respect to your recent role, what tasks were you undertaking for the Finance Division?---Some general ledger maintenance, assistance with some asset work in relation to capitalisation of assets.

Yep?---General assistance in finance where necessary.

Were you involved in account reconciliations?---As an end of month task was required to run an accounts payable trial balance and ensure that balanced to the general ledger.

10

And was that the extent of it?---I think so, yes.

All right. Preparing reports from the system, was that your - - -?---Yeah, used to have to run reports from the system, yeah.

Did anyone else do that or was it just you?---Mainly me. Suman Mishra had the ability to run the reports and she would at times - - -

Okay?--- - - - in relation to general ledger.

20

Right. And what about the vendor master file, would you be the person updating that?---No, that was updated by someone else in Finance.

And who was that?---For some time it would have been the accounts payable clerk, Sharon Dale, and at a later date that was changed to the assistant person who was Tien Luc.

And did – you’ve given three names so far of those things, but did they have access to all of those functions or did they have limited access?---They had access to all of those functions.

30

Right. What’s your – does your level of access to the financial system have a name or a grading?---No. As System Administrator I have access to all, everything - - -

Okay? Are there - - -?--- - - - in the system.

Sorry?---Had everything, access to every level in the computer system.

40 Yeah. But were there levels below you or was it just an individual basis? ---No, there were levels below.

Right. And what were those levels?---The system’s set up basically with a level of inquiry, a level of data entry, a level of data entry high and a level of parameters.

And what does parameters mean?---Basically just codes behind the system, like say in a plant system, a vehicle-type code, a vehicle make code, just things like that.

All right?---Just basic setup information.

Okay. Did anyone have the level of access that you did?---Only the IT Manager.

10 And who was that?---Fred Saad.

Yeah?---And I believe he may have given that to someone else who worked in IT as well, but I'm not sure.

So who determines who has access?---Well, if we have a new employee start there would be a request from the Department manager saying that this person needs access to the system and they tell me what sort of things they need access to and we create an access based on that.

20 All right. And when you were giving someone access, did more than one person have to be involved in the approval of that or, or not?---No.

All right. And I take it that you had read and write access to everything? ---Yes, that's right.

And was that just part of the job or did your access and read/write access expand over time?---No, it was always that from the start.

30 Right. Are you able to create a supplier in the system?---Yes, I could do.

A purchase order?---Yes.

Could you process an invoice?---I could.

Transfer funds electronically?---Yes.

Complete bank payments?---Yes.

40 Delete or amend transactions?---You can't delete transactions or amend transactions once they're processed.

Okay. Can you delete anything off the system?---The only way you'd be able to delete something is if there was nothing tied to it.

So give us an example of that?---If you created a general ledger number

---

Yep?--- - - - and then decided you weren't going to use it, you could delete it, but if you've already applied a transaction against it you can't.

Is it possible to delete records of payments to people from payroll?  
---Not that I know of, no.

And is it possible to disable functions in the payroll system that records transactions by user and date?---Not to my knowledge.

- 10 Are there processes in place to stop people who had your level of access from paying people inappropriately or doing other things that were in appropriate?---No, I don't think there would be.

All right. Was there anyone checking, and I'm not limiting this to the fact that you were in that role but anyone in your role, did you know of anyone who was checking your work at any time?---No.

- 20 If an entry had been made or you wanted to correct something, how would you go about doing that?---It would depend what the module was, basically.

Right. So what are some examples of what you - - -?---Or if there's a general ledger it would be a journal entry.

All right. What about if there was a change to one of the accounts, what if there was a typographical error from data entry, how would that be corrected?---It would depend on what it was, if it was like just an account name, like in the general ledger, you can maintain that. If it was a description on a transaction you can't change that.

- 30 All right. So that error would stay?---Yes.

What if it was a numerical typographical error?---Once again, depend on the system as to a general ledger you'd do a journal entry.

To correct it - - -?---Yes that's right.

- - - rather than amend the number you put in another entry and correct the error?---Yes, so the original entry would be there as well as the correction.

- 40 All right. And are there system logs on the system, on the finance systems that provide an audit trail?---There are some.

And therefore can the system tell who has made a particular entry or who's made a correction of sorts?---Yes, yes.

All right. Are there inbuilt controls in the system so that if you try to process say an invoice without a purchase order number that it won't go through?---No.

Have you ever approved an invoice for payment?---Um, yes I have, yes.

And was that inside or outside finance?---I'm not sure what you mean.

Well, have you approved invoices from say the Business Unit?---No.

What sort of invoices have you approved?---Mainly to do with invoices from our depot in relation to stock items.

10

Goods being purchased, is that what you're saying?---Yes, yes.

Right. And was there some process that you were required to undertake to make sure that the goods had been bought?---The invoices I received had already been processed through the system and had a good receipt number on them um, they normally would go to Barry Byrnes to authorise but when he wasn't there I would authorise it in his place.

20

But were you ever required to verify that the item had been in fact purchased - - -?---No.

- - - or were you, so by the time you received it, it's gone through the appropriate approval process?---That's right, yes.

Okay. Were you ever, did you ever had an understanding that the external auditors had raised issues about the breadth of your job?---Yes.

30

And how did you know that?---It was mentioned to me by Gary Goodman and also by Lorraine Cullinane.

Right. And what did you understand was the concern that was being expressed?---Basically just what you said, I was doing finance work as well as system administration work and that the auditors thought there should be some segregation of duties.

Right. And when did they first speak to you or when did someone first raise that with you?---I couldn't honestly say, it was a few years ago.

40

Okay. And was anything, did anything change as a result of that?---No. Well, more recently it has but not previously.

When you say more recently, what do you mean by that?---In about March last year some changes were made.

What happened in March last year?---A procedure was put in place where other people would do journal entries.

Right. And so before that, you were doing all the journal entries were you?

---Pretty much, yes.

And who, what changed in March, who was then - - -?---It was given to Suman Mishra and Shirley Zane to do journal entries.

Right. So they were also putting in journal entries but you could have as well.---I could have yes.

10 So, how has it, how was it worked out who was putting in the entries from March onwards?---That was decided by our finance co-ordinator.

And what would happen, what was the breakdown of who was making those entries roughly, do you know?---No, I don't.

All right. But the, was there any other change made in relation to your role and the breadth of it?---There has been more changes made, yes.

20 And what, in relation to concentration of too much responsibility with you? ---Yes, that's right.

And what other changes have been made?---That someone else would be doing purchase orders.

And when was, has that actually taken place?---Yes it has, yes.

And when did that happen?---I'd say late last year.

Was that before or after this investigation began?---Probably after I'd say.

30 Any other changes?---Um, generation of work orders, that's in the process of going to somebody else now.

Right. What's also a new change?---Yes, that's right.

Right. All right. Do you have a general understanding of what this investigation is about and what the allegations have been with respect to - - - ?---Yes.

40 - - - things such as false invoicing?---Yes.

If a contractor was putting in false invoicing with an employee, let's say a contractor and an employee wanted to put together a false invoice for payment, we know that a lot of them went through in the past. What would stop that happening now? What changes have been made to minimise the chance of that happening now?---I don't think anything would, I don't think there's been any change made to that effect.

Right. All right. Do you have a financial delegation?---Um I've been told I have, yes.

And how were you told that?---By Gary Goodman.

Do you remember what he told you was the amount?---\$1,000.

When did he tell you that, roughly?---I'd say it would be at least five years ago.

10

All right. And did you ever authorise any invoices for under \$1,000?---I'd say I probably would have, yes.

And what about above \$1,000?---It would have only been in reference to those one's I mentioned earlier, for stock items.

Right. And that was because someone else was away, was it?---That's right, yes.

20

Did you, so how did the delegation work, was it so flexible that if you had to go above your delegation you did?---(No audible reply)

I mean, would you run, say an invoice came above your delegation and the person that was supposed to do it wasn't there, so we're talking about Mr Goodman are we? Are we talking about Mr Goodman?---No, Byrnes.

Sorry, Mr Byrnes wasn't there.---Yes.

30

And he couldn't do it, what step would you then take or would you just approve it?---No, it was only in relation to these stock items.

Yes. Sorry, that's what I'm asking you about. In relation to the stock items, what would you do then if Mr Byrnes was not available?---I'd sign them when he wasn't there.

Yes. But then, sorry. Would you ring anyone before you do it or would you speak to someone about it afterwards or you just approved it?---No, just approved it.

40

All right. Which meant that the financial delegation wasn't really enforced or wasn't really followed then, is that right?---True.

Okay. Are you responsible for providing access to the finance system for other people?---Yes.

And are you given a set of criteria to determine whether or not you should grant access, is there some protocol in place for that?---No, there isn't.

When you were approving stock item invoices, I'm not sure if this is different to what I asked you before, I'm sorry if it's not, but was it expected that you would verify that the stock item had been produced or is that part of what you were saying before where you understood that that – those checks and balances had already happened?---I understood that.

Well then, when you're saying – when you then approve the invoice what are you actually approving?---(No Audible Reply)

10 And it's not a rubber stamp?---No.

So what extra function do you perform over and above – well, what extra function do you perform by authorising the invoice?---I'm not really sure.

Well, presumably the system if it required a signature from you or Mr Byrnes presumably that's because you had to do something, it was meant to be a check and balance was it?---Well, basically the invoices needed to have a signature on them before they could be paid.

20 Yes?---And they used to be sent up from our, our works depot, you know, once a week or something like that.

Yeah. No, I understand that but was the system that you or Mr Byrnes had to sign the invoice that was part of a corporate governance check and balance was it?---I suppose - - -

Is there any other - - -?---You could say that. It was never explained.

30 Okay. But apart from ticking a box of having a signature of either yourself or Mr Byrnes, the signature therefore was otherwise meaningless was it?---I suppose you could say that, yes.

And was that the system that's continued up till now, has the – has that changed since – or this year?---The invoices now go to our Financial Co-ordinator.

Right. Before they come to you?---No. I don't see them anymore.

40 Okay. So it's got – you don't have that function?---No.

Okay. Have people outside finance such as division heads or managers asked for access to view their own budgets?---Yes, they have.

And do you provide them with that access?---Um - - -

Or do you have to seek permission to provide the access?---I did have to seek permission just to make sure, yes.

And who do you need to seek permission from?---Deputy General Manager.

All right. And have there been occasions where a division head or a manager has asked for access to their own budgets and that access has been denied?---Not to my knowledge, no.

All right. So what would be the process of seeking approval for access to the budget?---Um - - -

10 The division head comes to you. What do you then do?---I would have gone to the Deputy General Manager just to make sure that - - -

All right?--- - - - she was happy with that.

All right. And are you saying on every occasion you asked her for that she said that's fine?---Yes.

20 And why is it that the division heads weren't given access to their own budgets or expenditures, do you know?---No, I don't.

THE COMMISSIONER: Can I just ask you, Mr Thompson, I'm assuming that the computer systems that Council used allowed for what's called read only access rather than the capacity to enter or delete items. Is that right?  
---Yes, that's right.

So read only access could have been given to any number of people?  
---Could have been, yes.

30 Right.

MR THANGARAJ: And when we're talking about access by the division heads did they have read only access, could they view them?---The general ledger doesn't have a in-built security so that once you give someone read only access they can see their own department plus other departments.

Right?---And they didn't want that to happen, just wanted exclusively they'd be only able to see their department.

40 So when someone comes to you and says I need to see this or I want to see this and you seek permission and you obtain that permission then what – how do they then look at what they want to look at?---We had a separate, a separate program which we'd be able to allocate to specific areas of our – areas to them.

So they could go back to their own computer and then look at just what they needed to could they?---They could do, yes, yeah.

Right. And so you would give them some sort of temporary access to that would you?---It wasn't temporary. It was a permanent access.

So does that mean if someone asked you for access to their budget once they did not need to come back because they could from then on get into it alone?---Yes, that's right, yes.

10 So why is it that the division heads weren't always given access to their own – sorry, you said before that if they got into the general system they could look at everything but you've just told us it was possible for the division heads to be given access only to their own information, do you know why it was that all of the division heads weren't given access to their own budgets and expenditures?---No. It's just the way it's been for years.

All right.

20 THE COMMISSIONER: Do you happen to know what the policy reason was, if there was one, behind the decision not to allow division managers to get read only access to the budget even if that meant that they could see other divisions other than their own?---No, I don't.

You don't know why that was – that decision was made?---No. They were given regular reports on their balances.

MR THANGARAJ: Did you – did they have any input to your knowledge into their budgets or you wouldn't know?---I don't know for sure.

30 Okay. And did they have access when they needed to, to the levels of expenditure within their own division?---On a regular basis by reports, yes.

And if the access that you're talking about where if they asked for access they would get access to limited – the information that concerned them, would that include their expenditure to date?---Yes, it would, yeah.

All right. Did you - - -

THE COMMISSIONER: Who – sorry. Who provided the reports to then that you've referred to?---I did.

40 And was that just in hard copy was it?---Yes, that's right.

MR THANGARAJ: And did that have dollar amounts or did it have as well percentage increases from the previous reporting period?---Just dollar amounts.

And would it have, would it have the names of contractors?---No.

Or would it have – so it would only have a global figure for the payments to contractors rather than a breakdown?---Yes, that's right.

So was there any way in which the division heads were notified of the percentage increases from contractors from reporting period to reporting period?---No, I don't think so.

Were the budgets for the divisions developed in consultation with Finance?  
---Yes, they would have been.

10

And what was the role that Finance had?---Collating the information.

Which information?---Their budget requests.

All right. So you would collate it and then – who was – who actually decided how much each budget – each division received for the budget?---It would have been Gary Goodman in consultation with the department heads.

20

Right. And were you involved in that process?---No.

And anyone else from Finance involved to your knowledge in that process?  
---No.

Okay. Were any reports produced to your knowledge on how much specific contractors were being paid per reporting period?---Not to my knowledge, no.

30

Was there any system that automatically picked up whether common bank account details were being used across different contractors or different persons?---No.

Did Mr Goodman have access that you had to the system?---No.

Were you aware of invoices being authorised and paid without the appropriate documentation?---Um - - -

Or did you have a concern that that might be happening?---In some cases there may have been an email requesting a payment of some description.

40

Yes. And were you concerned of it, did you have some concern about it?  
---Yes, that's right.

And what was the concern you had?---That there was no supporting paperwork to go with it.

All right. Which was mandatory I take it, before a payment was made?  
---Yes.

And was the payment made without the supporting documentation?  
---In most cases.

And why was that?---Because Gary Goodman would demand it.

All right. You dealt with this in your statement to SINC haven't you?  
---Yes.

10 I'll come to that, I'll deal with that when we get to that statement. Apart from paying the invoices that were not properly supported by the mandatory material, did you do anything about that, apart from paying it, did you raise it with anyone?---I raised it with Gary Goodman.

I'm sorry. Apart from him?---Nobody else, no.

Did you become aware of payments to contractors that appeared suspicious?  
---I wouldn't say suspicious but I saw in payments, there seemed to be a lot payments going through.

20 All right. You were here this morning for all of Mr Byrnes' evidence, I take it?---Yes.

I just want to take you through slowly each matter which he raised which had some involvement of you. The first one was the cheques, countersigning cheques. Was there ever sometime put in place which stopped you and Mr Goodman from countersigning cheques together?  
---Yes.

30 All right. And who put that in place?---Deputy General Manager.

And why did that, this is we're talking about the chief financial officer and the systems administrator, so two senior people, why were you, why did you understand that she put that into place?---Gary Goodman would approach me once or twice to sign a blank cheque and he'd say he had an urgent payment that had to be made but didn't know the amount.

Right.---I'd say, no, I'm not happy about doing this.

40 Yes.---But he demanded that it had to be done.

And, so let's go, you did sign a couple of blank cheques, did you?---Yes, that's right.

So let's go back to the beginning of how that arose. Did you take that concern to Mr Byrnes?---Yes.

And was the concern also that supporting documentation - sorry I'll go back. Any cheque needs, that's signed with Council money needs some sort of supporting documentation, doesn't it?---Yes, that's right.

And was the concern also that the cheque was being made out, that there was supporting material for the cheque which wasn't correct, that is, there was supporting material which said, well, a payment's been made for a particular creditor when in fact the cheque was made out to someone else?  
---No, I can't say I recall that.

10

You can't say either way?---No.

All right. If there was a supporting documentation for a cheque that said there'd been payment made to company x a creditor x and in fact it was made out to a different entity then that would be something you would raise with Mr Byrnes wouldn't it?---Yes, that's right.

20

And after you took this concern about the blank cheques to Mr Byrnes, did you speak with Mr Byrnes or Ms Cullinane about that, after that?---No, that I can recall.

All right. And how did you know that you were no longer allowed to sign, countersign a cheque with Mr Goodman?---There was an email to that effect from the deputy general manager.

All right. And what was your reaction to receiving that email, if anything?  
---I didn't have a problem with it.

30

All right. Presumably, you were happy with it because it meant you couldn't be put in that position anymore.---True.

Did you speak to Ms Cullinane about that?--- (not transcribable)

Did she ask you - I'm sorry.---I don't think so.

All right. Did anyone come to you and say they wanted to speak to you about blank cheques being signed and these problems?---No.

40

No. All right. The next matter was the matter in 2009 where Mr Byrnes has given evidence about the bank account details. Did you ever raise - I'll go back a step. Did you ever notice that a creditors bank account details matched those of Mr Goodman's?---I did.

And so did you see an invoice or multiple invoices where the bank account details for the creditor were the same as Mr Goodman's?---Yes, I did, yes.

And did you then take that to Mr Byrnes?---I did.

And did you understand he would be doing something about it?---Yes.

What did he tell you - how did you know that or did he say something to you?---He said he was going to see the deputy general manager.

And after he told you that, did you hear anything further about that?---No.

Did anyone come and speak to you about wanting more information about that or - - -?---No.

10

So does that mean no checks were then conducted to see what contractors bank account details on any of these invoices matched that of Mr Goodman's?---As far as I know, that's true, yes.

And I may have asked you this with respect to the blank cheque incident - did you, did Mr Byrnes tell you that he was going to speak to Ms Cullinane about that?---Yes.

20

All right. All right. The next matter was the credit card of Peter Fitzgerald Senior, did you have any knowledge of that?---Yes I did.

And what did you know?---The statement came across my desk and I noticed it had Gas Motorsport on it.

Right. This was after Mr Fitzgerald Senior had left Council was it?---I don't know for sure.

30

All right. So what you did get was a Council credit card statement, is that right?---Yes.

And it had a company name attributed to Mr Goodman?---Yes.

And what did you do about that?---I showed it to Barry Byrnes.

Did he tell you what he would or wouldn't do about that?---He said he was taking to the deputy general manager.

And did you hear anything about any of that after that?---No.

40

All right. The Cabcharge mis-use - did you know about that at the time, sorry, did you find out about Cabcharge mis-use by Mr Goodman at some point?---I did.

And how did you find that out?---I think Suman Mishra came into my office and said, "Look at this, what do you think this is?" And it just looked very odd so I went to see Barry Byrnes about it - - -

Sorry, just step by step. What did you think was odd?---There was multiple Cabcharge, multiple charges on the invoice, many in one day and it just looked very irregular.

And did you notice large round numbers?---Yes.

All right. And you took that to Mr Byrnes did you?---Yes.

10 And what did he say he was going to do about it, if anything?---I think he asked the creditors clerk to get out previous copies of the payments we'd made to the Cabcharge.

Right.---And I from memory I think she said that she had received copies because the previous ones hadn't been paid, they'd been passed onto Gary Goodman.

Right.---So I think she requested new copies when you looked at those with more of these transactions on - - -

20 Sorry, who requested new copies, I'm sorry.---The creditors clerk or the accounts payable clerk.

Sorry, you said that, sorry.---We noticed there were these transactions on there and those ones as well.

And do you know whether or not Mr Byrnes took that further up the hierarchy?---Yes I do.

30 What do you know?---He took it to the deputy general manager.

And how do you know that?---He told me that he did.

All right. Now we know that Mr Goodman was told to repay a certain amount of money, I can't remember what it was, it might have been in the order of \$20,000 or more. Do you know who made that decision?---I don't know for sure, no.

40 Okay. Did you, I'm not sure if Mr Byrnes said that you did, he may or may not have, did you know about the overseas phone calls on the Council mobile phone?---No.

All right. And what about the Teletec, the evidence he gave about the Teletec reimbursement, did you know about that?  
---Yes, I did.

And how did you know that?---I'd seen some invoices go through - - -

Yeah?--- - - - and know there was just an invoice from Teletec and there was nothing behind it.

All right. So you had the same concerns did you that you've heard Mr Byrnes give evidence about this morning?---Yes.

All right. And did you speak to Mr Byrnes about that?---I probably did, yes.

10 And do you know whether or not he spoke to anyone about that?---I'm pretty sure he would have taken it to the Deputy General Manager.

All right. And what about fuel cards, did you know of any fuel card abuses? ---Yes, yeah.

What did you know?---A couple of things. One was purchases on there out of a shop and also sometimes one fuel card was used on the same day for different types of fuel.

20 All right. And you were concerned about – one is that it was being used for non-fuel purposes. Is that right?---Yes.

And then the other one looks like maybe multiple people were using it when maybe they should have been?---Yes, that's right.

Is that what the concern was, was it?---Yes.

And what happened with that concern?---I believe Barry Byrnes took that to the Deputy General Manager as well.

30 All right. All right. You've prepared a statement – sorry, you've signed a statement that was prepared by yourself and SINC Solutions?---Ah hmm.

Do you have a copy of that?---Oh, no, not here.

Or we don't have copies. Do you guys have copies?

MR MOSES: Of the SINC one?

40 MR THANGARAJ: You don't have a copy of that with you?---No.

All right. All right. Well, that will be - - -

MR MAHENDRA: Commissioner, I think there are two statements.

MR THANGARAJ: Are there?

MR MAHENDRA: I'm not sure which one Mr Thangaraj is referring to or if it's referring to both of them.

MR THANGARAJ: I only have one.

MR MOSES: 15 February statement.

MR THANGARAJ: 3 December.

MR MOSES: We don't have copies at the moment but copies are going to try and be located now.

10

MR THANGARAJ: Maybe we'll take a lunch break now, that will save some times.

THE COMMISSIONER: Yes. When the copies are produced we can tender it.

You don't have any further questions at this stage?

MR THANGARAJ: No. I was going to go onto the – I only propose to ask him some questions from the statement and that's it.

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THE COMMISSIONER: All right. Well, then that might be a convenient time to take the luncheon adjournment and we'll resume at quarter to 2.00.

Thank you.

**LUNCHEON ADJOURNMENT**

**[12.53pm]**