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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 MONDAY 14 MARCH 2016

AT 9.05AM

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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: Mr Goodman, I just want to ask you some further questions about the superannuation payments to Ms Cullinane. I want to show you some documents which were received on Friday. They've been – these documents have been added to volume 13, Commissioner, and - - -

10

THE COMMISSIONER: Yes.

MR THANGARAJ: - - - so they'll go up on the screen but because they're new we're also going to give everyone copies this morning, hard copies. But can I just give Mr Goodman a hard copy of this.

THE COMMISSIONER: Yes.

MR THANGARAJ: And I'll take you through some of the pages. It starts at volume 36, page 160, the new 160. Sorry, volume 37. Volume 37. And ultimately I'll tender this new bundle. So Mr – can we start at page 162 please. This a printout of some payments made to Ms Cullinane by Council for the years 2003-2010. Do you see that?---Yeah.

20

And are you able to read those dates on the – that - - -?---Yeah, yeah, I can read it.

30

It's not too small. All right. And so you'll see that there's a column roughly the middle of the page describing what the expense was and they're in categories of superannuation, reimbursing expenses or supplementary super. Do you see that?---Yes.

So I just want to take you through these. You'll see that there are various figures if we start with the supplementary super. So they start 30 July, 2009. There are four entries below that for various dates and then the fourth, third and second-last entries are also supplementary superannuation. They roughly correlate with the figures you gave us on Friday. They're part of the payments you were talking about on Friday were they?---Yes.

40

And if you – for the period 2003-2010 that adds up to about \$350,000 and I'll come back to that page but if we could go to page 169. I'm not sure if the system changed but this isn't on that schedule. So this is 2011. There's a payment of \$37,500. Is that in the same category?---Yes.

And then if we go over the page to 170 there's a payment in the same year of 2011 for about 60,000. Is that in the same category?---I'm waiting for it to come up.

Sorry. 170?---Yes.

And then we go to 168. This is for 2012. There are a number of payments. I'm not sure what the last one was for so if we exclude the last one for 2,400 are the payments for 32,000 and 11,000 in the category that you were telling us on Friday?---I think I might need more detail on that but - - -

Beg your pardon? I couldn't hear you, sorry?---I might need more – the first entry looks like it is, the 32,000.

10

You see the reference is the same for the first and second - - -?---Oh, okay. Yeah. Yeah.

So you - - -?---I'd say yes.

Okay. Now I'll come back to – well, perhaps we can go to 166. Now this was a credit in 2014 for around \$90,000 and it's described as a superannuation contribution and that first page that we went to that was in the category of superannuation?---Ah hmm.

20

And there is an email which I'll come to later this morning from Ms Cullinane to you asking if this is a superannuation payment or not and if it's a superannuation payment that it should go into her super fund. Now firstly, do you remember what this \$90,000 payment was?---No, not off the top of my head. No, I can't.

All right. Do you remember ever facilitating – sorry, I withdraw that. Let's say this was a super payment that had gone into her account, was there ever an occasion where you received money back from her and put the same amount of money into her super fund?---Not that I can remember.

30

All right. All right. So if we go back to 162 please. The payments for – that are in the category of supplementary superannuation for the years 2003-2010 inclusive add up to about 350,000, 2011 97,000 and 2012 43,000 which was about 500,000 almost 500,000 for 12 years. We don't have 2013 and I haven't included the \$91,000 payment I've just shown you for 2014 because that's – it's not quite clear where that money ended up. We know it went into her account but given that email it may – there might be an issue of how to describe it. But those figures add up to – over those 12 years they add up to about a little over \$40,000 average which is what you were telling us on Friday. Is that right?---Yes.

40

All right. Now there's something else I want to ask you about this page 162 and also I'll take you to – well, if we could just maybe go to 164 first and I'll come back to 162. You see that there – see the second and sixth entries say reimburse expenses?---Yes.

And you see at the top of the page it has creditor Ms Cullinane?---Yes.

Now the second entry has a reimbursement of \$29,000 and the second entry and a further entry on 3 September, 2007 of 18,850 and then if we go back to 162 the first entry for reimbursed expenses was on the previous page so we can discount that but if we go further down there are two payments on 30 June, 2007 for different amounts adding up to about \$18,000. So they're all under the category of reimbursement so within those years of 2007-2009 there are entries for over \$65,000 of payments to her which are entered as reimbursed expenses. Can you explain what they are about?---One  
10 explanation, Lorraine didn't use petrol cards like everyone else did and she paid for a lot of things herself.

Like what?---Oh, it could have been expenses for anything, for child care centres, for the office. She used a lot of her own money and we did have to reimburse her that.

Sorry, so - - -?---I'd have to have a look at the voucher itself.

Okay?---Now whether it's that much I don't know.  
20

Yeah?---Just looking at that on the screen from nine years ago I don't know but I know that did occur.

So when you say she paid for things such as child care expenses what do you mean by that?---Oh, no, no, no, no, no. I meant work-related expenses.

That's what I mean, what - - -?---What work should have been reimbursing her for. I'd say the biggest thing was petrol. She never used a petrol card. She used her own money to pay for petrol so she was entitled to petrol for  
30 her car. It's things like that.

Wouldn't it have been - - -?---She might have used it for office expenses.

Right?---Rather than, than using Council's creditors or - - -

So when that happened what was the process to verify the legitimacy of the refund?---Lorraine used to keep all the dockets and she'd give us a sheet with what the expense was - - -

40 All right?--- - - - costed with the receipt attached to it.

Right. And why wouldn't it - wouldn't it have been easier to simply have a fuel card for fuel purposes?---Off memory I think where Lorraine lived there was not a service station that took our fuel cards.

Right?---Off memory I think there was a Caltex one - - -

All right?--- - - - near where she lives and that's it, there was nothing else.

And do you remember ever exploiting the reimbursement expenses, that is, giving her back money that she was not entitled to as a way of getting money to her?---No. No, not at all.

All right?---Quite the opposite. I had to hound her all the time to, to put in her expenses.

All right.

10

THE COMMISSIONER: Did Ms Cullinane have a Council credit card in the same way that Mr Fitzsimmons (as said) did?---No.

She didn't?---No, she didn't.

MR THANGARAJ: I tender that bundle of documents, Commissioner.

THE COMMISSIONER: Yes. That will be Exhibit R53.

20

**#EXHIBIT R53 - EXCERPTS FROM PUBLIC INQUIRY BRIEF  
(VOLUME 37)**

MR THANGARAJ: Mr Goodman, would this be fair to say that there was very little, if any, real corporate governance at Botany Bay Council during the time you were there?---Yes.

30

And you had a very good understanding of the weaknesses in the system?  
---Yes.

And you knew how to exploit them?---Yes.

And you did exploit them?---Yes.

There were significant parts of the business that were under your control?  
---Yes.

40

And there were parts of the business that were under the control of people that were doing the wrong thing with you such as Malcolm Foo, Lorraine Cullinane?---Yes.

We've heard evidence from contractors and others talking about lending you money. This is correct isn't it that the fact that people owed you money for even legitimate work – sorry, the fact that you owed people money for legitimate work or for work that they had done for Council placed them in a particular vulnerability that you could exploit?---Thinking about it, yes.

And that exploitation occurred in a number of ways, false invoices?---Yes.

Loans?---Yes.

Paying bills for you including for your family?---Yes.

Getting free private work or private work paid for through Council?---Yes.

And at least from Mr Gajic a kickback for the promise of work?---Yes.

10

Now I want to play you a telephone intercept, a recording between you and Mr Freitas?---Ah hmm.

And then after that I just want to ask you - - -?---Yeah.

- - - a couple of questions. It's 2-1-8-8. It's already been tendered

THE COMMISSIONER: Yes.

20 MR THANGARAJ: It's R46.

THE COMMISSIONER: Thank you.

**AUDIO RECORDING PLAYED**

**[9.19am]**

MR THANGARAJ: All right. Do you happen to remember that call?  
---Yes.

30

All right. Now, is this a fair summary of what happened there. Mr Freitas was expressing some reluctance to continue or put in another false invoice or series of false invoices?---That's the second such conversation we had, that's only one, we had two.

Yeah. And was the other one face-to-face?---Yeah.

Yeah. All right. And what you were saying to him was, if he wanted to stop, that's fine?---Yep.

40

But the price to pay will mean they won't get any more Council work?  
---That's not what I meant.

What did you mean?---My work. I used to pay Joe to do work for me as well as Council work and I did favour him with Council work, not just because he was helping me, because he's very very good.

Yeah. But are you suggesting that the information that you were telling – sorry, what you were saying to him in that telephone conversation, he didn't have reason to think that he would lose Council work if he didn't - - -?  
---Oh, absolutely, yes.

All right. So it's clear that you're not differentiating between private work and Council work, right? Do you agree with that?---Yes.

10 And if you're going to threaten him, it's far worse for him to lose the Council work than to lose your private work?---Absolutely.

Right. So it's inevitable isn't it, that the threat that you were making to him was, if you don't continue with false invoicing you'll lose all the work that I can give you?---Yes. Me. There was other people at Council that gave Joe work, not just me.

Yes. Well, at least lose all the work you could give him?---Mmm.

20 But the fact is he would clearly understand that you could have directed other people to stop giving Joe Freitas work?---I could, yes.

So the short answer is that what that call was about was, unless he kept cooperating he would lose all his work that came through you or Botany Bay Council?---He could.

Right. And there was no suggestion that anything other than that would happen?---That's true.

30 Now, you kept mentioning there a couple of times 40 per cent?---Ah hmm.

And what you were suggesting to him was, well, I allow for you to put in a 40 per cent premium, that is of the false invoicing you can take 40 per cent for yourself over and above any legitimate work you may have done. Is that right?---Not exactly. Joe's prices, he charged about \$30 an hour and I said, you need to put, and it was always a fact, you need to charge about 40 per cent more than that across the board, it was too cheap, and yes, he used to do things for me as well included in that.

40 Yeah, but it didn't sound like that, with respect, Mr Goodman?---Yes, that's fair enough.

Well, what it seems you're saying was, we're doing – we're in this together, you're making money on the false invoicing as well as me - - -?---Yes.

- - - and your cut is 40 per cent of, well, your cut is 40 per cent above what your fee is?---Yes.

Do you agree with that?---Yes.

So it had nothing to do with his rates being too low, it was about he could exploit the system as well to keep him happy and to keep therefore money coming in to you?---Yes.

He gets 40 per cent above what he normally charges?---Yes.

And was that a pattern that you had with all the contractors or other contractors as well?---No, I can't, I can't say with all the contractors, no.

10

All right?---With Joe, yes.

Okay. So the arrangement with – so is this the situation. You and Mr Freitas were putting in false invoices, right?---Yes.

And they were being paid into his account?---Yes.

And he was to your understanding, if he wanted to, could charge up to a 40 per cent premium just for the participation in the false invoice system?

20

---Yes.

And you would get some out of it as well, out of the false invoicing?  
---What do you mean?

Well, he would give you some of the false invoice proceeds as well?  
---Or pay some bills or whatever.

Yeah, or pay bills, but whatever, it's coming back to you?---Yes.

30

And ultimately what you said to him was, well, if you want to pull out, that's fine, but if you don't pull out – if you do pull out, you're going to lose all Council Botany work and my work?---I don't think I ever said he was going to lose all Council, all Botany Council work.

No, you didn't put it in those terms?---No.

But the point is, you didn't differentiate. There's no suggestion that you were only going to take away your work?---Mmm.

40

Do you agree with that?---Yes.

And it would have been pointless to say, well, I'm threatening you but I'll take away a little bit of your work but I'll leave the majority there. You agree with that?---Only that I never had control over the other work, it was totally different people.

Well, when you say control, you may not have been directly allocating the work, but you certainly had the capability of influencing where that work

--?---I could have, yes.

All right. Now, false invoices were put through the following people at least, and I'll read out a name and you can tell me whether you agree or disagree?---Yes.

Keith Mark?---Yes.

10 Sam Alexander?---Yes.

Alex Subeski?---Yes.

Gardens2envy?---Based on evidence that I've heard, yes.

Yes. Joe Freitas?---Yes.

Raj Haria?---Yes.

20 Zoran Gajic?---Yes.

Marny Baccam?---Yes.

I just want to play you one call with respect to Mr Gajic, 1-3-1-7-7.

**AUDIO RECORDING PLAYED**

**[9.30am]**

30 MR THANGARAJ: I tender that phone call. The transcript will be tendered lately.

THE COMMISSIONER: Yes, Exhibit R54.

**#EXHIBIT R54 - TRANSCRIPT SESSION 13177**

40 MR THANGARAJ: And could I also tender volume 37, Commissioner, so that can go up?

THE COMMISSIONER: Volume 37 will be Exhibit R55.

**#EXHIBIT R55 - PUBLIC INQUIRY BRIEF (VOLUME 37)**

MR THANGARAJ: Now with respect to Mr Gajic, I said to you before that, I'm not sure if I played a tape to you before but I took you through a

recording with him, the transcript of it which was, sorry, I'll withdraw that. There was a conversation between you and Mr Gajic other than this one, which I'll come to. But you told him about the new airport contract?  
---Yeah.

And you told him that you were going to give him work under the new airport contract?---Yes.

10 You asked him if he wanted to get in. Obviously he would?---Yes.

You told him why it would be lucrative?---Yes.

And you said I want \$2,000 now, make it 3,000, correct?---Yeah.

2,000 was paid and he said I'll get back to you about another 1,000?---Yeah.

Do you remember that?---That was a loan.

20 Yeah. All right. So what was a loan?---That money.

The 2,000 was a loan?---Yes. As far as I was aware. He always wanted it back.

All right. Well I'll have to play that in a moment. All right. I'll come to that in a second. Mr Goodman, Zoran Gajic had a couple of companies, Cube DNC was one of them? ---Yes.

That company had done work in the past for Council?---Yes.

30 And we know that Highland Profiles was set up with the hope of getting airport contract work. I assume that?---Yes.

40 Did Highland Profiles – in that last, the last bit of that conversation you said "Well this is legit, you know what I mean". Now that's because in the past the two of you had done had done things that were not legitimate?---No. That's not what I meant. We've just signed a new contract which required a lot of extra staff. So we weren't allowed to employ staff at the Council. The General Manager wouldn't give it to the airport, so everything had to be done through contractors. And it's not that easy to find a labour hire contractor at a reasonable rate because I helped put the airport contract together. I knew how much money we had to spend on labour and it was incredibly difficult without employing people to fit that into a labour hire company. I'd had previous discussions with him about his expenses. They were just too dear. That's why Garden2envy was favoured so much. And I went through his costs and went through Gardenenvy's costs and I told him what he had to come in at and that, that was based, he said, he'd need to employ more people.

All of that might be correct but that's not what we're talking about. I'm talking about your reference to "This is legit". Now what you're saying was there's legitimate work going forward?---Oh, yeah, absolutely.

You would not need to say to someone who - - -?---No, no, you're right, you're right.

Right. So that was a reference to the past conduct the two of you had engaged in which was illegitimate?---Yes.

10

Which included false invoicing of Council?---Yes.

And, all right. Now Highland Profiles, you can assume from me, apart from you and Mr Gajic, as far as I, as far as we can tell no one has any knowledge of that company doing legitimate work for Council. It was certainly understood that Mr Gajic had done legitimate work for Council in the past but almost in an historic sense. To your knowledge did Highland Profiles do any legitimate work for Council?---To tell you the truth, I can't really remember - - -

20

All right?--- - - - the name.

We know - - -?---Like even the name. I've heard of it but - - -

All right. Okay. Now - - -?---But he had a number of companies.

Yeah. All right. Have a listen to this call. This is Exhibit – oh, sorry, it hasn't been tendered. I'll tender it.

30

**AUDIO RECORDING PLAYED**

**[9.37am]**

MR THANGARAJ: I tender that. Session number 504.

THE COMMISSIONER: 504, Exhibit R56.

**#EXHIBIT R56 - TRANSCRIPT SESSION 504**

40

MR THANGARAJ: Do you maintain that that was a loan?---I don't think he ever put that invoice in. I remember that conversation.

Yeah?---I needed - - -

So we're not talking, wasn't talking about an invoice?---Oh, okay.

There was no invoice?---Yeah. I think I had to pay it back to him.

All right. Well let's go through it then?---That's what I believe. I don't know what Zoran said, that's what I believe.

You told him – don't worry about what Mr Gajic might have said, but I'm happy to tell you what he said in due course and well, you can speak to your lawyers about what he said, but you told him about the new contract?---Yes.

10 And the first thing he said was, "What do I need to do?" Right. Now, you understood that to mean how do I grease the wheel to be part of this contract. Well, let's look at the very next thing you said?---I think you're missing a couple of conversations we've had in the middle about that when we were tendering for the contract, how much he wanted for, to supply labour, there's been a number of conversations - - -

All right?--- - - - about the costs and so on.

20 Can that first page be brought back up, brought back up, please. He says, "Excellent. What do I need to do?" Your immediate response is, "Give me two grand now?"---Yeah, yeah.

Now, we know that shortly after this call, consistent entirely with the bank account details being discussed, \$2,000 was deposited by Mr Gajic into your account?---Yes.

And he sent you a further text saying, "I'll try to get more later?"---Yes, yeah.

30 Which is consistent with you saying, "Can you make it three grand?"---Three, yeah, absolutely, I agree.

Now, do you say anywhere, can you lend me \$2,000?---No.

It's clear isn't it that your soliciting a payment for him - - -?---Okay, yeah, I accept that.

All right. So it wasn't a loan. You agree with that?---Yes.

40 What you were doing was saying, look, I'm going to give you this work anyway, and - - -?---Yeah.

- - - as a reward I want \$2,000. You agree with that?---Yes.

And if you can make it 3,000, make it three?---Yes.

Right. And that was further confirmed at the end of the call where you were saying, well, someone else doesn't give you a sling?---That's right.

And a sling means a corrupt payment?---Yes, or goods or services or something, yep.

Right. But something corrupt - - -?---Yes.

- - - in the sense of a bribe or something else?---Yes.

10 And Mr Gajic said what he said, which is, “You will from me?”---Ah hmm.

All right. Now, a number of companies you used their details to put through false invoices and on those invoices you had your own bank account details, correct?---Yes.

They included Raj Haria with CNR?---Yes.

Veljanovski, the Truck Service Centre?---That was my company.

20 I beg your pardon?---That was my company.

I know, but you used Wetherill Park, you used his company name on it as well, Wetherill Park Fabrications, Wetherill Park Metals?---Yes.

Do you agree with that?---Yes.

And Kevin Maton, Emu Alarms?---Yes.

30 And you did that – that money went – the account details on various invoices from those companies had your bank account details on them?  
---Yes.

And when you did that, those individuals did not know that you were doing that. Is that right?---Yes.

Now, the following companies did not do any work, legitimate work for Council. Ari Landscape?---Yes.

Truck Service Centre?---Yes.

40 Jovane?---Yes.

Green Thumb?---Yes.

Council funds were used for private work for you and others, including Suman Mishra, Marny Baccam and members of your family?---Members of my family?

Yes. Didn't you – did something happen at your uncle's house, some work done at your - - -?---Yep, I paid for that.

All right. So it was limited, was it, to your house, Ms Mishra and Ms Baccam?---Well, Ms Baccam and mine is the same house, I paid for that.

All right. All right. Well, Council funds were also used in relation to properties that they were both living at, weren't they, Ms Baccam and Ms Misha, such as - - -?---Yes, no, you're right.

10

And ultimately Australian Landscape Creations is another one that did not do any - - -?---Yes.

And ultimately from as early as the late nineties with Keith Mark, millions of dollars of false invoicing went through Council with your direct knowledge?---No.

No?---Not at all.

20 How do you say that?---When you mention that amount.

Sorry, I might have been unclear. Not millions with Keith Mark only, in total?---I agree.

Sorry, I was unclear. You agree that starting in the late nineties, from then onwards millions of dollars of false invoicing has gone through Council with a number of companies?---Yes.

30 THE COMMISSIONER: Mr Goodman, can I just ask you, you started with Council in about 1995?---Yes.

What Council Assisting has just put to you is that it started in the late nineties. Is that right, that it started in the late nineties?---I'm just accepting what he's saying, I don't know, Your Honour, I - - -

Well, you - - -?---Some, like, there's things in - - -

40 Well, I know you can only – well, just a minute. I know you can only speak from what you were directly involved in?---That's right.

But what I'm trying to understand is, was this something that in effect started in the late nineties or was it something that you were doing almost as soon as you arrived at Botany Council, do you have any sense of when this started?---I think a lot later than that. I think there might have been things that I'm not aware of, of that Keith Mark one, that's been put to me and yes, but a very very small scale, not on this type of scale that he was, that he was talking about that I was aware of.

Well, when you say later than that, what, what year do you put on that?  
---Very late nineties I'd say.

All right. So we're back to late - - -?---Or early 2000.

- - - late ninety, early 2000?---Yeah.

Right.

10 MR THANGARAJ: Keith Mark and you started putting in false invoices well before 2015 which was a different category, 2015 was about repaying money that was owed to him. Do you agree with that?---Yes.

But the false invoicing had started with a completely different company much earlier than that?---Yes.

And the reason that he became persona non grata and you wanted a different company when he came back to Council was because of the false invoicing that had happened before?---Yes.

20

And that started in the late nineties?---Yes.

Now, right. Now, I'm not suggesting that there were millions of dollars defrauded of Council in the late nineties alone, I'm saying that it started with Keith Mark, the false invoicing started with Keith Mark in the late nineties, didn't it?---Yes, yes.

30

And since that time the aggregate figure of false invoicing that's gone through Council through a variety of different companies is into the, is several million dollars at least?---I have to accept your word, I don't know.

Well, Jovane had - - -?---I accept your word on it.

About two million went through Jovane alone?---Ah hmm.

Accept that?---I have to, I don't know.

All right?---I've got no figures.

40

All right. Now, I want to do this in short form but I want to tender some material. Apart from false invoicing there were other ways in which Council property was misused. One of them was phones being given to people who did not – weren't entitled to them. Do you agree with that?  
---Yes.

Similarly eTags?---Yes.

The use of the Officeworks cards?---I never held the Officeworks cards so

- - -

No, but you know - - -?---It could have been misused, yes.

Yes. And you also had the benefit of it yourself when I think Ms Baccam bought a laptop for your family?---Yes.

The Campbells Cash and Carry card, you knew about abuses with respect to that?---I knew about it, I never had a card though.

10

Yeah. Some of these things you're the beneficiary of and some of the things other people are the beneficiary of the abuse?---That's what I was trying to say, yeah, exactly.

Yeah, no, I understand that. You abused and other people abused perhaps but certainly you did, the Cabcharge cards or Cabcharge?---I don't agree with that.

20 You had times where there were \$500 and \$400 entries on the Cabcharge?  
---Yes.

How did that happen?---That was used by my person who was looking after my leg. I never had the card at the time. I didn't know that occurred. When that was brought to my attention I cancelled the card immediately, I inquired of the person of where the card was, they said the taxi driver had it. I said what? I didn't know.

30 All right. Well, rather than explore that, given the significance of it in the scheme of things, we'll put it this way. You were asked to repay money to Council?---Yes.

You had an agreement with them that it was used in at least some form in a way that you weren't entitled to?---That Council wasn't entitled to pay for it, yes, I agree.

They didn't have to pay for what you were using them for?---No, that's right.

40 And you came to an agreement with them about that?---Yes, absolutely.

Came to an agreement to repay it?---Yes.

And you did not repay it?---No, not yet.

Not yet?---Mmm.

Okay. And the vehicles were misused, including people receiving them that shouldn't have included members of your family?---You'll have to expand on that one.

Well, did you have cars you should not have had?---(No Audible Reply)

10 Did you have, did you use Council cars for your own purposes or for, or giving them to other people such as Anmol to drive around?---I gave him, I gave him a new, a new Toyota ute to return to Council, one we'd just bought, I borrowed it from the Airport because I was entitled to a Council car.

No, I know you were.---I can only drive one at a time, whether it be a Volkswagen or a Micra or something else um, because of the change in conditions with my foot, I had to change cars. I used to have a Landcruiser.

20 All right.---So, when you say misuse, whether I drove a car or D car or C car at any given time, I could only drive one and I did Anmol a car that had to be returned to Council, it was a brand new one that we bought. I did lend him my car also, my own one.

All right. Now did you made available Council cars to be used, not for test driving to be used by Marny Baccam and her family - - -?---Yes.

- - - and different cars for her family, her niece or daughter. Do you remember that?---I think she might have loaned one of her cars to her daughter, yes. And she probably did tell I just can't remember.

30 Fuel cars were misused including for your benefit such as buying groceries, dinners, cigarettes - - -?---Groceries and dinners?

Yes, meaning hot chooks, not going out to a restaurant. Do you remember asking people like Miss Mishra or Miss Baccam to use the fuel card to buy you cigarettes?---Yes.

All right. And - - -?---I did actually start repaying that on a monthly basis.

40 All right. All right. Could I tender this material, Commissioner, primarily to give the benefit to the parties of some analysis that have been done with respect to these issues. Cabcharge analysis, will become Volume 19 page 131 to 138. I'll tender that.

THE COMMISSIONER: Yes, that will be Exhibit R57.

**#EXHIBIT R57 - PUBLIC INQUIRY BRIEF (VOLUME 19) PAGES 131 TO 138**

MR THANGARAJ: Fuel card analysis Volume 20 pages 17 to 19.

THE COMMISSIONER: Exhibit R58.

**#EXHIBIT R58 - PUBLIC INQUIRY BRIEF (VOLUME 20) PAGES 17 TO 19**

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MR THANGARAJ: Financial analysis Volume 22 pages 3 to 17.

THE COMMISSIONER: Exhibit R59.

**#EXHIBIT R59 - PUBLIC INQUIRY BRIEF (VOLUME 22) PAGES 3 TO 17**

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MR THANGARAJ: An email from Miss Cullinane Volume 23 pages 230 to 231. And that email is the one I took Mr, I raised Mr Goodman about the \$91,000 superannuation payment just for everyone's knowledge.

THE COMMISSIONER: Yes, that's Exhibit R60.

**#EXHIBIT R60 - PUBLIC INQUIRY BRIEF (VOLUME 23) PAGES 230 TO 231**

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MR THANGARAJ: Income streams, Volume 27 pages 129 and 161 to 163.

THE COMMISSIONER: Sorry, pages 1 - - -

MR THANGARAJ: 129.

THE COMMISSIONER: 129.

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MR THANGARAJ: And 161 to 163.

THE COMMISSIONER: Exhibit R61.

**#EXHIBIT R61 - PUBLIC INQUIRY BRIEF (VOLUME 27) PAGES 161 TO 163**

MR THANGARAJ: Mr Goodman's expenditure analysis and analysis of creditor payments Volume 34 pages 1 to 33.

THE COMMISSIONER: Exhibit R62.

**#EXHIBIT R62 - PUBLIC INQUIRY BRIEF (VOLUME 34) PAGES 1 TO 33**

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MR THANGARAJ: Mr Goodman, did you ever sign invoices or documents which may have looked like they were your brother Mark Goodman's signature?---Yes.

And did you use a sort of a scribble signature rather than your own or, so that it would look like his?---I don't think I could ever copy his signature, but yes.

20 Your brother has provided a bundle or has seen a bundle of documents which to purport to have M Goodman or something looking like it.---Yes, yes.

He says he did not sign any of those. Were you signing false invoices with a sort of scribble that would look like an M - - -?---Yes.

Okay. Did Miss Cullinane ever say to you, Barry Barnes and/or Mark Thompson have raised some concerns, they know some things?---I don't believe so.

30

All right. Did she ever challenge you with respect to anything that you were doing, that she knew of?---In what period do you mean?

Well, did she ever challenge you, apart from the Cabcharges which became common knowledge, did she ever challenge you with any other Council misconduct that you were engaged in?---I don't know if misconduct - we went through a whole range of invoices and expenses back in about, I don't know when it was, it involved CND, it involved Truck Centre, it involved Council credit cards, everything, we sat down and we had a pile and we went through them as best I could, justify things.

40

THE COMMISSIONER: When was this, sorry?---Gee, it would have been probably seven or eight years ago.

So we're talking 2006/2007?---She had a folder, a folder full of things.

Does that sound about right, 2006?---Yes, I can't remember the date but something like that.

MR THANGARAJ: And what was the potential problem at the end?  
---Spending too much money in these areas.

Not about the legitimacy of the invoices?---Oh both, everything.

Right. So legitimacy of the invoices, that is, was she speaking to you about these invoices?---I believe the general manager was there too.

10 Beg your pardon?---I believe the general manger was there too.

Peter Fitzgerald?---Mmm.

Right. And the discussion was, was it, that some of these invoices over these various companies might have been false?---(No Audible Reply)

MS McNAUGHTON: Well, I'd ask that my friend not to lead on this issue.

MR THANGARAJ: I'm sorry, I didn't mean to, I thought that's what he  
20 said.---I don't think that and I also think there was a separate one where Barry Byrnes was there as well.

You tell us, what you say - - - ?---I can't remember the details - I'd say it's too long ago but I look at thousands and thousands of invoices but I just for some reason that conversation stands out, maybe I got it wrong, may be it wasn't Peter, may be it was Barry, I just can't remember.

THE COMMISSIONER: But Mr Goodman the salient point is, as I  
30 understand it, that you just mentioned a string companies including Truck Service Centre and a couple of others that you've already acknowledged were used primarily to submit false invoices to Council, and these were the ones in the folder that you were having the discussion about it.---Ah hmm.

Right.

MR THANGARAJ: And you said - - -?---Can I just say one thing here?

Yes.---I can't justify this but those, we did, I did service Council cars for  
40 two years, I just have no proof of it, that's the problem, no proof. The cars are all gone, the log books are all stamps, I absolutely, that's what I've got to say, yes, I can't justify it.

And did you tell anyone at Council that you were retaining a company you owned to the Council work?---I believe Barry Byrnes knew, I believe Mark Thompson knew, whether or not (not transcribable) I don't know. And also the log books of the vehicles are stamped, that went on for about two years or so.

All right. Now, let's just go back to this meeting.---Yes.

I asked you a question about the invoicing and you said that, that the first thing you said was or a thing that you said was, there was too much money being spent in these areas.---That's what I believe.

But then you also said that there was an issue about legitimacy. Was there a discussion about the invoices being illegitimate - - -?---I don't think so.

10 We can check the transcript to see what you said about that?---I don't think so.

All right.---As I said, my, my - - -

Well, what's the relevance of that meeting then if you're saying that there was no discussion about the misconduct?---Well, you said that Barry Byrnes might have raised something or Lorraine had raised something and that's the only meeting I think I ever remember about that.

20 THE COMMISSIONER: About what?---About Barry raised, or Barry raising some concerns or someone, Barry and Mark raising some concerns, that's the only meeting I remember. That was some six or seven years ago.

MR THANGARAJ: All right. And what do you say was discussed at the meeting?---I think we just went through item by item off memory.

And what were those items, what was the relevance of the items?---I think we went through trucks that were repaired. We had two independent reports done about our fleet and the only justification I can provide for what  
30 happened that we were told about 90% of our fleet will not pass registration.

Yes.---The entire fleet passed registration when the time came up, that's RTA registrations so, all I'll tender is they didn't fix themselves.

THE COMMISSIONER: Mr Goodman, can I just ask you, if it was the case, as you say, that your own company was servicing these vehicles and that you believed that Mr Byrnes knew and I think you said Mr Thompson, Mark Thompson.---I believe so, yeah.

40 Why weren't you submitting invoices from your company for that legitimate work that you were providing, why was it going through - - -?---I think that will probably come up later on.

What do you mean that will come up later on?---Haven't you got those invoices?

So you're saying you did put in - - -?---Your Honour, I haven't seen anything. I've seen no - it's being presented to me now.

Well, I know but I'm just asking you are you saying that you did submit legitimate invoices to Council for the work that your companies did on the car?---Absolutely.

All right?---But I haven't got any – I haven't, I haven't got any justification to prove that.

10 All right?---So I've got to say yeah, they were false. What else can I say. I say they weren't you say where. I haven't got any, any paperwork at all.

MR THANGARAJ: Truck Service Centre started invoicing Council in 2011?---No.

In this meeting that you've told us about - - -?---No, no, no, no.

It started earlier than that did it?---Yes, you're right.

20 Under that name or some other name?---I don't know.

So - - -?---I thought it was the same name.

Are you saying – Barry Byrnes and Mark Thompson were below you in the hierarchy?---Yes.

30 Are you seriously saying that you as Chief Financial Officer started billing Council for legitimate work for a company that didn't have your name on it, that is, it didn't say Gary Goodman Servicing but a different name Truck Service Centre, are you seriously saying that you were invoicing Council for work that a company that you owned did and you did not seek permission from your superiors?---Yes.

And what would the relevance be of saying that you claim that Barry Byrnes and Mark Thompson knew about it?---They worked with me.

All right. Well, what would be – how could it possibly be that you would – well, let's go back a step. About half a million dollars went through those invoices?---Yes.

40 Council paid a company you owned about a half a million dollars - - -?---Yes.

- - - in a relatively short period of time?---Yes.

Do you agree with that?---Yes.

And how much of that do you say was false?---I don't know. I just don't - - -

All right?---I don't know. That's why I have to accept the whole amount. I don't know.

Well, I don't want you to accept the whole amount and then later say well, we did some legitimate work. Now firstly, if you put in half a million dollars' worth of invoicing hundreds of thousands of dollars at the minimum were false. Do you agree with that?---Yes.

- 10 All right. So you say that there's a somewhat small proportion of Truck Service Centre invoices which are legitimate?---I think what you need to do and you obviously haven't looked at this, there are two reports we had done, independent reports. One was done by N H Engineering, I can't remember who did the first one, where our entire fleet was inspected. Now on the second one, and of the first one, it's got 90 per cent of our fleet would not pass an RTA inspection when registration came up.

THE COMMISSIONER: Mr Goodman?---Our entire fleet passed.

- 20 Mr Goodman, I don't – I'm not cutting you off but I don't know that the existence of these reports and the state of the fleet for the purposes of registration necessarily proves that your company did legitimate work. They're two quite separate propositions aren't they?---Yeah, I understand.

So - - -?---That's why I have to accept that the whole lot was – because I can't justify it.

MR THANGARAJ: No, no, I want to test your evidence?---Yeah.

- 30 Now – and I'm going to come back to the meeting with Ms Cullinane in a minute but you say that Truck Service Centre did legitimate work for Council. Who - - -?---Some.

Some legitimate work for Council. Who worked for the Truck Service Centre?---Casual, casual people, casual staff. I often bought parts, had them fitted, door, or whatever happened to be done. Like as I say it's so hard to justify and I've spoken to my legal people about this, I can't justify it so what can I do.

- 40 All right. Well - - -?---I'm left in a position where I say O.K. it was all wrong.

Why did you - - -?---I rely on the fact that we had a plant committee meeting or two of them where our fleet – the plant committee was told our fleet would not pass registration. I farmed work out – and I was told to fix it. I farmed work out everywhere to get this fleet – and at the time I remember this. The General Manager was in there and a garbage truck had

careered out of control down Spit Road and killed a couple of children in a, in a child care centre and he said that is not going to happen here.

Now the Truck Service Centre, if this work needed to be done and you say some legitimate work needed to be done and it was going to be done by you, why would you not put that in writing and seek permission from your superior?---I don't know.

10 Well, surely that would be the - - -?---No, you're right.

But it would have been knocked back wouldn't it?---I don't know.

Well, surely – well, would Botany Bay Council have allowed the Chief Financial Officer to set up a company to allow work to be done by the Chief Financial Officer's company when the work could be directed to that company by the Chief Financial Officer?---No.

20 So there was no prospect of any legitimate work being approved by Truck Service Centre. Is that right?---True.

And why did you put Wetherill Park Fabrications of Wetherill Metal on it? ---Because I did send some work to him.

Yeah, well, you may well have sent some work to him but you had it on the Truck Service Centre invoice?---Yes, that's true.

All right. And this was just a disguise to get – to legitimise the invoice for payment sake wasn't it?---Yes.

30 And Truck Service Centre ultimately put through a huge amount of money through Botany Bay Council?---Yes.

And there is no evidence whatsoever that you have been able to demonstrate that you had used it in any way legitimately?---I can't. That's what I said. I can't justify it.

All right. But I asked you who worked on the trucks - - -?---I had casuals.

40 Well - - -?---We had many, many, many employees. Now unfortunately I tried – some of them are dead now. They were drug addicts unfortunately. But because I can't justify anything it makes it terribly difficult and so I have to put my hand up and say yeah, it was all me.

Well, Mr Goodman, in circumstances where you would never have got approval to do work through Truck Service Centre?---Yes.

In circumstances where the invoicing could hardly be described as detailed, do you agree with that?---Yes.

And you say that some of it was done by Mr Veljanovski' s firm - - -?---  
Yes.

- - - a company legitimately but of which there is no documentation saying  
can you do this on behalf of Truck Service Centre as opposed to can you  
just do it?---Yeah, I understand that.

10 And I want you to assume that Mr Veljanovski doesn't know anything about  
any arrangement doing work for Truck Service Centre?---I understand that.

All right. Well, I want you to understand that ultimately I'll be submitting  
to the Commissioner that the Truck Service Centre group never did any  
legitimate work for Council?---And that's what I have to accept.

Well, for a different reason you say. Did Nik Hadusek do work for Truck  
Service Centre?---No, he did work for Botany Bay City Council.

20 Yeah. All right?---He's one of the people that did a full inspection on our  
plant.

All right. Did you introduce – sorry. So we can go back to this meeting  
then with Ms Cullinane and Mr Fitzgerald?---I'm not sure if Mr Fitzgerald  
was there or not. I'm not - - -

All right. Well, let's – Ms Cullinane and whoever else may have been  
there?---Mmm.

30 You've told us that it was some time ago and you still think that it was after  
Truck Service Centre started doing work?---Look, I might have the  
companies involved wrong. I just remember the meeting. As I said it was  
some, gee whiz, eight years ago.

Was she going through different things that you and Mr Fitzgerald – were  
the three of you – I'll put it this way. Was there a meeting where you,  
Ms Cullinane, Mr Fitzgerald were discussing misconduct at Botany Bay  
Council?---I don't think it was misconduct. I'm not even sure Mr Fitzgerald  
was there. It might have been Mr Byrnes. I'm not sure.

40 All right?---And a whole range of things were brought up I think.

I want to take you back to Keith Mark because it ties into this conversation  
that - - -?---Yeah.

- - - you had with Ms Cullinane. You've claimed that Mr Keith Mark was  
threatening you with respect to the \$160,000 loan?---Yes, I believe so.

And you started repaying that through false invoicing?---Yes.

I want you to listen to this phone call for two reasons, one, on that issue of whether or not he was threatening you or whether it was a scheme devised by you to repay money he owed. I went you to listen to this call and tell me?---Yeah. Yeah, no, I'll listen to the call.

And secondly, during that call you speak about a meeting between you, Ms Cullinane and Mr Fitzgerald?---Okay.

10 All right. So when that comes up I want you to listen to that and I'll come back to ask you some questions?---Yeah.

It's a long call. I think it's 9-3-6-3. It's 9-3-6-3.

UNIDENTIFIED SPEAKER: Sorry, what was that?

THE COMMISSIONER: 9-3-6-3.

20 **AUDIO RECORDING PLAYED** **[10.09am]**

MR THANGARAJ: Sorry, could we pause it there. You had told Mr Mark – Mr Mark had been chasing you for money?---Mmm.

And you had exchanged text messages and conversations with him - - -?---  
Yes.

30 - - - before this. You told him you had stomach cancer, I think?---It was a stomach ulcer, not cancer. I thought it was cancer but it was an ulcer. They gave me a sheet of tablets to take and I've had it once before but it got better.

When did you find out that it was an ulcer not a cancer?---I went back to the doctor again. I'd had cancer many, many, many, many years ago. And it was bleeding and the same thing happened again. And that's what I assumed but it was a stomach ulcer or ulcers.

40 **AUDIO RECORDING PLAYED** **[10.10am]**

THE COMMISSIONER: Mr Thangaraj, can we just pause this for a minute?

MR THANGARAJ: Yeah.

THE COMMISSIONER: I just have to take an adjournment. Could I suggest that we resume in about 10 minutes.

**SHORT ADJOURNMENT**

**[10.31am]**

THE COMMISSIONER: Yes. Can we just resume. Thank you.

10

**AUDIO RECORDING RESUMED**

**[10.54am]**

MR THANGARAJ: Now, what had happened was Mr Mark had sent you a detailed emailed outlining various matters and there's evidence of that before the Commission and there was, what he was doing was he was threatening to expose what had happened in the past, correct?---Yes.

20

And that would've been problematic for you and him?---Yes.

And you've pointed out what the inevitable consequences of that would've been as you saw it at the time?---Yes.

And in the end he said, I didn't want to do the dirty on you and you said, well that's not the reason I'm doing this?---Correct.

So you were using a mechanism to repay money to him?---Yes.

30

That's what was proposed and what was being proposed was to backdate the first few invoices?---Yes.

That's why you said, now that - - -?---Yes.

I want three of them going back three weeks?---Yes.

And the reason to backdate a few and then start from then on was because you could get more money through quicker?---He needed money in a hurry.

40

Yeah. And that was one way to do it, which was - - -?---That's correct.

So it wouldn't – like you couldn't put through 50,000 for one week - - -?---That's true, yeah.

You could have those backdated and then ongoing?---Absolutely.

All right. Now you – we go back just going through the call. You told him that he needed to find a name for a company that involved landscaping?---Yes.

Because you knew that you could put false invoices through for landscaping?---Yes.

And you told him what he needed under the current Council system?---Yes.

Email addresses, ABNs, et cetera?---Yeah.

10 And the urgency was, was it not just him wanting the money but if you got it in the next day the invoices could be processed immediately?---He needed the money urgently.

No, he needed – there's no doubt that he needed money, there's no doubt you were facilitating it but was it that tomorrow was, that is that tomorrow day was a day where it would be paid – were invoices paid once a week or a couple of days a week?---Once a week.

Once a week?---Generally once a week.

20 And it sounds like the – it's not important. But it sounds like the following day was the day invoices were going through which meant that they could be paid – the money would get to him within a very short time?---Yeah. I don't know.

Okay. All right. And you told him what the description should be on the invoice?---Yes.

30 And the plan was to get some big money now and scale it down, see how you go and presumably it would continue until the debt was extinguished?---Absolutely.

All right. Now I want to go to what you spoke about with him with respect to this meeting between you, yourself and Mr Fitzgerald?---Yeah.

The history of it was that there was some false invoices that you and Mr Mark had been involved in?---Yes.

40 And that's why you talked about gaol, et cetera, and don't want to get locked up?---Yes.

And even though there was some problematic invoices which you were convinced were legitimate?---Yes.

There were others which were clearly false?---Yes.

And you even joked about one of them, 60,000 for microwaves, et cetera?---That actually did occur. It wasn't false, it did actually occur.

Right?---But he charged more than he should've.

Okay. So there was a falsity associated - - -?---Yeah. That's right.

- - - with that?---Absolutely, yeah.

And the two of you were surprised that it managed to get through, that particular invoice?---Mmm.

10 Well he expressed surprise, I should say?---Yeah.

All right. So the history of it was these invoices between you and Keith Mark's company involved a significant amount of false invoicing. You'd been told, sorry, there's been evidence that, and the break down isn't quite clear. But there's evidence before the Commission that Mr Mark's company, the total invoicing got to \$3 million and I'm not suggesting and I think you even said, or you might have said on Friday that you did not received a significant benefit, sorry, a significant amount of that money?---That's right, yeah.

20

So we know that there was a lot of invoicing going through Keith Mark's company, Council paid a lot of money back to his company or to him?---Ah hhm.

And we know that there were legitimate invoicing, inflated invoicing and false invoicing. Correct?---True.

And so what happened was, there was therefore an explanation for him needing to use a different company name this time around. Correct?

30

---Yeah, true.

And I think you said at one stage, don't use that name, use, get a new name?---That's right.

And that was, don't use Comprehensive?---No.

Do you agree with that?---Yes.

40 And you've agreed that you told him at some stage that – you gave evidence on Friday that he was persona non grata with Ms Cullinane?---True.

That's what you told him?---True.

Right. Now, this meeting, what you've described in this meeting between you, Ms Cullinane and Mr Fitzgerald was – and let's forget about – I withdraw that. The three of you were there looking at Keith Mark invoices in part?---I'm not sure, delete the part about Mr Fitzgerald, I'm not sure if it was Mr Fitzgerald or Mr Byrnes, I just can't remember.

All right. Well, in this conversation you're saying that it's Peter Fitzgerald?  
---Yeah, I know, I know.

And - - -?---I just can't remember. I'm trying to remember exactly what happened, not the conversation.

Yeah, all right?---The actual meeting, I just can't remember, but it could well have been Peter.

10

All right. Well, let's put it this way, rather than worry about that for the time being let's assume that it was you, Ms Cullinane and another person?  
---Yeah.

And what the discussion involved, according to what you told Mr Mark, was a discussion about false invoicing involving Mr Mark?---I think it was more, well, no, that could have been true, but I think it involved four invoices as well that Keith had, Keith Mark had sent to us saying he wasn't paid for them.

20

Right?---Now, I signed off on those invoices.

And they're the ones that related to the son's grave comment?---Absolutely.

Right. Now, let's set aside those. There was a, there was a query raised about those, you had a genuine belief that they were legitimate?---Yes.

And Mr Mark told you in this call that those ones were legitimate?---Yes.

30 And you actually pointed out what you've told us previously about - - -?  
---Yes.

- - - the son's grave comment?---Yes.

Right. So let's - there was a discussion about that. You told whoever was at the meeting that you were satisfied they were genuine?---Yes.

And that was the end of that?---And I signed and that was it.

40 Yeah. And that was the end of the discussion about that, but let's just look closely at what you said to Mr Mark on this occasion. You started off by saying, "You know Lorraine, she put a ah, a fucking shit file on me and you've got no idea what I went through. When I signed those invoices for you, you know how long the time um, I love Lorraine to death, you know what she did at the time, she got every invoice we had paid you and went through each one?"---I don't think that was exactly true.

But what you were conveying to him was, there was a detailed - - -?---Yeah, yeah, yeah.

Right?---Yeah. I don't think Lorraine got every invoice we'd ever paid him, but this was over those four invoices because she said, and I believe one of the invoices that Keith had sent us had different information on it from another invoice that we'd previously paid him and that was her major concern.

10 All right. Well, it's up on the screen now, it's about – it's the first main entry from you?---Yeah. Yeah, I might have said that.

Right?---But that, that, I believe that would have been impossible.

Okay. Well, let's not take it literally in a sense of - - -?---Yeah, that's right, yeah.

- - - every single one, but what you said was, "She got every invoice we had ever paid you and went through every one?"---Mmm.

20

Now, let's assume it's not to be taken literally, but it's certainly far more than the four invoices that we - - -?---Oh, absolutely, yes, yes.

Okay. So this was a meeting where your memory of it as you relayed it to Mr Mark was that she was talking about misconduct that you had engaged in and the Peter Fitzgerald Senior had engaged in. Let's look at the next line?---Yes.

See what you say there?---Yes.

30

That she called you both crooks?---Yes.

All right. Now - - -?---I think, no, no.

Well, let's just continue and then you can tell us what you want to tell us about it?---Mmm.

40 You continued talking about, in fact you go back to Keith Mark and then, then you have the comment about going to gaol if, if he had, if he had gone through with the exposure of you and himself as to what had happened, and then we come back to the discussion about the meeting and you say, "You don't know what I went through with Lorraine." And we'll get it up on the screen in a second?---Yeah.

But you said it was essentially that, you called it disastrous?---I can't remember, I can't remember those words, yeah.

We'll come back to this, we'll come back when it comes up on the screen?

---But what I said to Keith may not have been fact either.

Right?---I'm not going to deny it, it may not have been fact.

Right. But you've referred to this meeting already before this call was  
- - -?---That's right, no, no, absolutely, yes, before, before today I know.

- - - was played and, and the transcript will confirm that you raised it before  
I raised it with you - - -?---Yes.

10

- - - the issue of legitimacy of invoicing?---Yeah.

And what this, you say then at – see the bottom entry for you on the page?  
---Yep.

And then it continues over the page where you say, “She had everything,”  
see that second entry for you, “She had everything?”---Yep.

20

“I was gone six ways and Sunday?”---Yep.

And then Keith Mark says, “Well, you don't want to give her any more  
ammunition?”---Yeah.

Now, the reason why you said, “I had gone six ways and Sunday,” was  
because it was abundantly clear what the conversation was about with  
respect to you, Ms Cullinane and the third person?---Yes.

30

And you tell us, you tell us why that conversation showed you were gone  
six ways and Sunday?---Sorry?

Tell us why - - -?---I admitted it.

What did you admit?---That there were some false invoices in Keith's work.

Right?---Absolutely.

Yeah, and you - - -?---And I apologised.

40

Yeah?---And whoever the third, whether the third person was Peter, same  
thing. I went and got Barry, I apologised to him.

Yeah?---No question.

And, and what year - - -?---That's why I was gone six ways from Sunday.

Right?---Because I admitted it.

And what year was that?---I don't know.

Okay. But it was several years ago because - - -?---Yeah.

- - - if it was Mr Fitzgerald it's pre-2011?---That's right, yeah. I'm sure, like, I just can't remember the year, I can't remember, 'cause I might have seen Barry separately, I can't remember.

10 All right. Now, Keith, if anyone had conducted an invoicing check at the time of this conversation they would have seen that possibly \$3 million went through Keith Mark's invoicing prior to this time, prior to this meeting?---Just for the transcript you'll need to, you can't nod, you'll just need to say - - -?---Oh, sorry, yes.

You agree with that?---Like what went through Keith's account, I don't know, I've got nothing in front of me.

No, no, I know, I know you don't, I know you didn't - - -?---I'm accepting your word on that.

20 Yeah, but you accept that that's - there had been significant invoicing by Mr Mark prior to this meeting?---And significant purchases.

Yeah. To your knowledge had, was any investigation conducted into the invoices that Keith Mark had put through as a result of this admission at this meeting?---I think the one thing Lorraine picked up, and I don't know, it's just an incredible amount of work, was that there was an invoice there where the same invoice number had two different items on it.

30 But that was discussed at the same meeting, wasn't it?---Now, that's right, yes.

So I'm not talking about that, I'm saying to your knowledge, well, after you made this admission, who said what, did anyone say anything?---No.

Okay. After that meeting did anyone - - -?---I don't think the amount involved was significant.

No, well, let's not worry about the amount for the moment?---Yeah.

40 It's really the issue of false invoicing - - -?---Yep.

- - - rather than the amount?---True, yeah.

After that meeting did anyone challenge you about false invoicing with Mr Mark, did anyone say, well, this has to be investigated, you need to give a statement, or anything like that?---No.

Did anyone say this was going to be reported?---No.

All right. And to your knowledge was an audit then conducted over the invoices that Mr Mark had put through Council prior to that meeting?  
---No.

Did they – did the people at the meeting ask you well, if you've done it with Keith Mark have you done it with anyone else?---No.

Before - - -?---I don't, I don't believe so.

10

All right. I think before you referred to CND invoices being discussed at this meeting?---Yes. Yeah.

That's - - -?---I think. As I say this, this thing is very hazy.

All right. Okay?---It is. That's, that's true. It is.

All right?---It could have been. I don't know.

20

All right.

THE COMMISSIONER: You - - -?---But I remember that was raised at one time.

Mr Goodman, you said that you admitted that there were some false invoices from Keith Mark?---Yes.

Did you tell them how many?---No. I didn't know.

30

What, you just said some of them were false?---I know because Keith was giving me some money so they had to be.

All right.

MR THANGARAJ: And did you tell them who was the beneficiary or who were the beneficiaries of the false invoicing or it didn't come up?---I don't think it came up.

40

All right. All right. I want to move to a different topic in the same call. There are – you receive a list of contractors that the Australian Taxation Office is ultimately sent?---No, I produce a list - - -

Okay. Sorry?--- - - - for the Australian Taxation Office.

You produce a list. You receive, you receive a list from someone as a working document to then - - -?---That's right.

- - - prepare your list?---Yeah.

And so what you were doing was taking off the company names you wanted to take off - - -?---The company names that shouldn't be on there.

All right. Well, shouldn't be on there meaning because they were doing not legitimate work for Council but doing – but putting through false invoicing?---No, no, no. The Tax, the Tax Office had a list of people - - -

10 Yeah?--- - - - or a list of types of organisations they didn't want information on as well as staff and myriad of other – there's a whole set of rules that come into it.

All right. Well, what you were doing – what you were boasting to Mr Mark about was your ability to affect the integrity of the list going to the Department.?-Absolutely.

The Tax Department?---Absolutely.

20 And you would take off names that you did not want the Tax Department to know about?---Absolutely.

And that included companies that were or may have been in false invoicing?---I could have, yeah.

Well, if a company was - - -?---I only did this list a couple, a couple of times.

30 Okay. But the couple of times you did it, if a company was putting through false invoicing you would not want that company's name to go to the Australian Tax Office?---No.

Do you agree with that?---Yes.

And so you were telling him that if he produces this new company name, this new landscape company name that you could make sure that the Tax Office didn't receive that name?---Absolutely.

40 All right. And you said that you had done that in the past for Peter and his friends. If you can bring that up just - - -?---I can't remember that but I'll - - -

No, no?---I'll take your word for it.

No, I know you will but I'd rather it be brought up?---Yeah.

All right. See about the middle of the page where the cursor is?---Yeah.

You're talking about Peter Fitzgerald Senior I take it?---Yes.

And it says, “like Peter made sure”. So are you saying that it was an instruction from him?---Yes.

And what was the instruction?---I can't - - -

See what you say there, “like” - - - I can't remember in detail.

10 Yeah?---But it'd be along the lines of what's – what I've said there.

Yeah, well, okay. So - - -?---Like without, without a creditor it's very difficult - - -

I understand that?---Yeah. Without a creditors list - - -

We're not - - -?--- - - - in front of me - - -

20 At the moment we're talking about, we're talking about concepts in generality - - -?---Yeah. Understand.

- - - and we can work the detail as we can?---Yeah.

But what you are telling Keith Mark was that Peter Fitzgerald made sure that you deleted payments made to him and his friends and - - -?---Yeah.

- - - that included did it what you were talking about earlier which I've just asked you about which is the company names going to the Tax Office?  
---Yes.

30 So Peter Fitzgerald would say this company name, this company name or this - - -?---No, I don't think it was like that. I, I – back when I was working there I knew most of them.

Right. So you knew which ones - - -?---I didn't know, didn't need to be told.

Right. And you – okay, you didn't – I understand. Now did that include Bloggs Consulting and others?---Yes.

40 Okay. All right. I tender that transcript.

THE COMMISSIONER: Exhibit R63.

**#EXHIBIT R63 - TRANSCRIPT SESSION 9363**

MR THANGARAJ: I'll move onto a different topic, Mr Goodman. This is – Ms Mishra has given evidence that she spoke to a broker who facilitated false loan documents. He just - - -?---Yeah.

That she, that she wanted a loan. She – that the broker encouraged her to put in false document - - -?---Yeah.

- - - to secure the loan?---Yes.

10 And she said that you introduced her to the broker?---Yes.

Was that correct?---Yes.

And why did you introduce her to that particular broker?---I'd used him myself.

What was his name?---Greg Perfrement I think his name was.

20 And had he – why did you recommend her to use him apart from the fact that you knew him and had used him ?---No other reason.

Well, did you put in a loan through him with genuine documentation? ---Yeah. Absolutely.

Did you put a loan through him with false information on the loan documentation?---I don't believe so. I could have but I don't believe so.

30 Well, what did you understand that she would be – that she needed a broker for, did you understand that she needed just a broker or that she needed a broker who would help her get a loan that she wasn't actually eligible for by - - -?---I think she needed a broker who would help her get a loan. I'm not going to say she wasn't eligible for it but Greg in the dealings I've had with him came across some very good interest rates, much cheaper than banks.

All right. But did you have experience with him or knowledge or belief that he if necessary would manipulate the numbers?---Absolutely. Yeah.

40 So you understood did you that if she wasn't eligible for a loan that between her and him - - -?---They could work it out.

All right. By misleading the lender?---Yes.

All right. And did that include false documentation or just false numbers? ---It could have been – I can't remember. It could have been both.

All right. All right. I just want to ask you a couple of discrete questions. Do you agree that at times you deliberately used Council credit cards for your own purposes?---Yes.

That is, private purposes - - -?---Yes.

- - - not Council purposes?---Yes.

And there were times where you asked Mr Thompson, Mark Thompson to countersign blank cheques?---Yes.

10 And they were – some of those blank cheques were used for improper purposes?---Some.

Some, and those ones that were used for improper purposes had false supporting documentation, that is, that it was said to have gone to a particular creditor when in fact the supporting - according to the supporting documentation that was needed it was said to have gone to a particular creditor but in fact the blank cheque was used for whatever purpose you then wanted to use it for on occasions?---Yes.

20 I asked you before about companies being used without their knowledge for invoicing to go through. Do you – there's been – one of those companies that I omitted was On Q Installations?---Yeah.

Just for your information, I'm not going to take it to you but if anyone else is interested it's at volume 15, page 233 where there's a deposit of \$34,540 into your St George account?---Ah hmm.

Do you agree that – well, was that money being held for Mr Seng or was it something done without his knowledge?---Have you got the year?

30 We can find the year. We'll bring it up. Volume 15, page 233. Does that assist you? It looks like it's January, 2009?---Have you got the documentation for it?

Beg your pardon?---The documentation rather than just - - -

No, no. So –no, that's – at the moment that's all I can show you. You see the amount there, it says City of Botany Council for 34,540?---Only reason I ask that question, I did pay tax for Leon on a number of occasions.

40 And how did that work?---I paid it myself.

When you say you paid it yourself, using Council's funds?---Yes.

Right?---Now whether that was one, I don't know. Because there was other things to do with – other information I gave you before that was, was paid for I'm just not sure.

All right. Well forget about this - - -?---Without some documentation.

Okay. Forget about this particular example then. How did that arrangement arise whereby you paid tax for Mr Seng?---I think we just screwed him that hard on his pricing he made no money.

Right?---And he got a tax bill he wasn't expecting so I did help him out a couple of years.

Did he raise it with you or - - -?---Yes.

10

So what did he say?---I can't remember the conversation, I can't remember the conversation.

Yeah. I accept that you don't remember the detail of the conversation, I wouldn't expect you to?---But he got a tax bill and he'd made no money. He'd just made no money. He lost money. Because we did press him pretty hard on pricing.

20

Okay. Let's accept – let's assume all that's correct. How did you go – how did that translate into Council paying his tax bill?---I think I agreed with that, off, off memory. So all this is on memory. It's pretty difficult to, to sit up here and get hit with something that happened - - -

No, no, I understand that?--- - - - eight or nine years ago and say, yeah, that's right.

Yeah. Okay. Now how did – how was the arrangement made so that you would pay the tax?---(No Audible Reply)

30

Did you give him a cheque, did you give him money, did you pay directly to the Australian Tax Office?---I think I might've paid directly to Australian Tax Office at one stage.

You did?---Yeah. I think I did at one stage, yeah.

From your personal account?---Yes.

And you used false invoicing to cover that into your account, did you?---No. I think I just paid it myself.

40

Right. And did you repay it using Council funds?---No.

Are you saying that you paid his tax bill - - -?---Yes.

- - - with your money?---Yes.

All right. Well when you say your own money, you by this stage had, had benefitted significantly through improper Council money anyway, that had added to pool of money you had available?---Could have, yes.

Well it did have. Do you agree with that?---Yes.

Yeah. So did Mr – you told Mr Seng, did you that you'll cover some of his tax payments?---Yes.

10 And did you tell him – is that why – well what was the purpose of the, of that invoice being deposited into your account?---And I just paid – look, I don't know if that was for that. I don't know if that was for that. I don't know - - -

No, no, no?--- - - - there was other things we bought as well which he was involved in which - - -

20 What do you mean?--- - - - I've raised previously. I don't know. Without something, a cover sheet, they must have something at work, a cover sheet for it rather than just that, I can't tell.

All right. What do you mean by "other things that he bought"?---When we talked earlier about tracking systems. And he was involved in that.

All right. Well this deposit of \$34,540 went into your account?---Yes.

For an On Q Installation invoice?---Yes.

30 Now why would it go into your account as opposed to going into the On Q account?---I just said either tax or that other equipment I was talking about earlier, just previously mentioned.

All right. But if – was it a false invoice?---No, no, it wasn't, no, no. If was used, it wasn't false, not at all.

Okay. But used for the tracking system it went into the - - -?---Absolutely.

40 Right. But then why would it, even if it was, if it was for the tracking system for Council, why would it have to go into your account as opposed to On Q's account?---I think it had to be paid and (not transcribable) were paid by cash.

But he - - -?---It was pretty obvious from the previous conversation - - -

Yeah. But that could've gone – even if it went into On Q's account, he could've still paid - - -?---But I can't remember. It depends on what it was for, that's why I need the cover sheet. If I can get a cover sheet I can tell

you exactly, just something to look at. But that doesn't really, but I know it could've been that, I don't know.

All right. Well maybe I can put it this way. Are you saying that and if there was an arrangement that involved that Mr Seng doing something wrong?---I don't think it involved him something wrong.

10 All right. Well if this was a legitimately invoice and it wasn't going into his account, would that mean, were there tax implications for that, was that part of the arrangement?---(No Audible Reply)

Was it designed to avoid an invoice being paid into his - - -?---It was designed to avoid detection.

By who?---Depending on what it was used for.

Right. And who might you be trying to avoid detection from?---It could've been the Tax Office, it could've been the Supreme Court, don't know.

20 All right. So if it was the Tax Office it would be, he wouldn't have to pay tax on that amount?---That's right.

If it was the - - -?---If I in fact gave that money to him. Or if in fact it was used to buy something else.

All right. And when you say the Supreme Court, you were concerned that if there was a problem with the tracking system and someone - - -?--- Absolutely.

30 - - - took you to court then it would not show that On Q Installations had - - -?---Absolutely.

Right. But - - -?---I think the installers were all – off memory when that was done (not transcribable)

All right. Okay. Now who did the internal auditor receive instructions from or directions from?---Eventually the Audit Committee.

40 Yeah?---I think they reported to the Deputy General Manager.

Yeah. Who else could the internal auditor, I anyone, who else could the internal auditor receive directions from besides the Audit Committee?---The Deputy General Manager.

Now the external auditor made recommendations at different times that affected your area of work?---Yes.

And is it true that there are some recommendations that you did not follow because they could've caused problems for you?---There was a lot of recommendations we didn't follow for several reason.

All right. And what were those reasons?---Waste of time.

10 Yeah?---We'd done it before. We regularly checked that, we balanced that account. We haven't got the staff. It could've been any number of different reasons I wouldn't follow every recommendation they put up.

And was one of them because the recommendation might've exposed what you had been doing?---Could have, could have. I can't say no. We'd get, we could get 50 recommendations, twice a year.

All right. Now Iced Air that's a company of Mr Subeski's?---Yeah.

20 They did work, private work at the homes of various living in, including Marny Baccam, Ms Mishra and Ms Baccam's mother?---I don't know about Marny Baccam's mother but - - -

Okay. But you know about the other two?---Yeah.

And that was – you know that that was billed to Council, or some of it?---Yeah.

And did Iced Air do any legitimate work for Council?---I believe so. Actually, can I re-answer that question?

30 Yeah?---Yes.

I've forgotten the question, sorry, what was the question?---Did Iced Air do any legitimate work for Council?

All right. Nothing further.

THE COMMISSIONER: Yes, Mr Moses.

40 MR MOSES: Thank you, Commissioner. Mr Goodman, I act for the Council. Just two propositions I'd like, or two issues I'd like you to keep in mind whilst I am cross examining you. Firstly, as the Commissioner reminded you fairly at the commencement of your evidence. If you deliberately lie during this inquiry then you'll be subject to a separate charge. Do you understand that?---Yes.

Yes. And secondly, if you can focus on telling the truth whilst I'm putting questions to you that will help me to get through this quickly and minimise the time that you have in the witness box. Okay?---Yes.

Thank you. Now Mr Peter Fitzgerald, Senior, where did you first meet him?---I first met him when I started at Botany, Botany Bay City Council.

And Lorraine Cullinane, you worked with her at Drummoyne Council?---Yes.

And you reported to her at the role?---Yes.

10

And prior to you being employed at Drummoyne Council you were employed by Marrickville Council?---Yes.

That was during the period 1989 to 1992?---Yes.

Yeah. Ku-ring-gai Council, you were there 1985 to 1986 in an accounting role?---Yes.

And Ryde Council, you were there between 1983 and 1985?---Yes.

20

And you started your employment with Local Government at Leichhardt in 1975?---Yes.

Now, your application for the job as Manager of Finance and Administration, that was the position that you were seeking at Botany Council. Correct?---Yes.

Now, if I can ask that the witness be shown, Commissioner, the volume 22 of the ICAC brief, page 301?---I can see.

30

Thank you. That's the application which you made to Mr Fitzgerald Senior as the Deputy General Manager on 25 August, 1994. Correct?---Yes.

And you set out there your previous experience as Treasurer, that is your experience then as Treasurer of Drummoyne Council, which was direct control and management of all finance and administration function?---True.

And if we go to page – and you'll there it's quite long, but if we go to page 311, that just sets out some of your managerial experience. Correct?

40

---(No Audible Reply)

Yes?---Yes.

And then if we just go back to page 309, there your experience included at Drummoyne reviewing all accounting procedures to ensure compliance with the Act, Regulations and Standards?---Yes.

And finally page 316 in this document. This was a reference from Ms Cullinane, if we can just go to that. Now, at that time Ms Cullinane was a Director at Drummoyne Council. Correct?---I don't, I can't see a date on the - - -

Okay. Well, this is the date upon which you were applying for the position with Botany. Ms Cullinane was still employed at Drummoyne Council, correct, when you were there?---No.

10 No? Where had she moved to then?---Botany.

Botany. Okay. And at the time that she provided you with this letter, you were in a relationship with her?---I can't see a date on the letter, but yes.

MS McNAUGHTON: Can I just indicate it has a personal address and if that could be redacted, please.

THE COMMISSIONER: Yes, the personal address is suppressed pursuant to section 112, thank you.

20

**PERSONAL ADDRESS IS SUPPRESSED PURSUANT TO SECTION 112**

MR THANGARAJ: And the phone numbers.

THE COMMISSIONER: And the phone numbers.

30 MR MOSES: Thank you. You were in a relationship with Ms Cullinane in 1994 at the time she provided you with this reference?---Yes.

Yes, and she says there in the third-last line words which we know not to be true now, that, "Needless to say his honesty and integrity are beyond question." Correct?---Yes.

40 And you've admitted I think and Counsel Assisting has been polite in the course of his examination, you've admitted haven't you in relation to your conduct in at Botany Council that there are three things that can best describe you, sir, as a person. Firstly you're a liar. Correct?---Yes.

You're a thief?---Yes.

And you're a fraudster?---Yes.

Thank you. Now, can I ask you some questions in relation to your statement to Counsel Assisting that Botany Council had little or no corporate governance?---True.

Now, in the period after Ms Kirchner came on board as the General Manager, is it fair to say that things began to change from the position where Mr Fitzgerald Senior was on board?---Yes.

Would you – would that be correct?---Yes.

10 And if I can ask the witness be shown volume 21, page 56. This was an email which was addressed to all staff on 13 July, 2012, which reminded staff, including yourself, in terms of obligations under the Council's Code of Conduct, Pecuniary Interest?---Yes.

If you'd go to page 61, that's the memo from the General Manager to staff. Correct?---Yes.

And the nub of it was this, and you knew this in any event, sir, that if you had a conflict of interest in relation to a decision that was being made by you, you needed to declare it. Correct?---Yes.

20 And in circumstances where it had been declared, you may be restrained from acting in the matter. Correct?---True.

And if the witness can then be shown page, first Commissioner page 18 of volume 21. This again is an email from the General Manager, Ms Kirchner, regarding Code of Conduct training which you undertook as well. See there the training was facilitated to ensure that you were aware of your obligations to act honestly and to exercise care and diligence in your work role. Correct?---Yes.

30 And promoting public confidence in the local Council and integrity of Local Government. Correct?---Yes.

And you also – if the witness could be shown page 80 of volume 21, there was also a memorandum from the General Manager reminding staff about the prohibition in relation to gifts and benefits being received?---Yes.

That was on 12 December, 2014. Correct?---Yes.

40 Now, you've also attended training on fraud prevention and corruption. Correct?---(No Audible Reply)

Correct?---That one I don't know.

Okay. Well, were you aware of - - -?---I know there was, I know there was training.

Okay. If the witness could be shown page 66, volume 21. Now, what this record demonstrates is that you were involved in training conducted by the

ICAC following a report called Operation Jarek. Do you recall undertaking training in respect of corruption prevention matters at Botany Council?  
---I can't, that's what I said before, I can't recall that.

You can't recall?---Doesn't mean it didn't happen, I just can't recall it.

No. Well, you were aware weren't you that there was an ICAC investigation back in 2012 in respect of a number of Government agencies, including Botany Council?---(No Audible Reply)

10

In 2012?---I, yeah< I can vaguely remember, yes.

Well, you were aware weren't you in 2012 that this Commission had through a series of investigations uncovered at Botany Council a circumstance where there had been in effect gift cards provided to two employees at Council from individuals who were undertaking work for the Council? You were aware of that, weren't you?---Yeah.

20 Yeah. And following that report, you are aware aren't you that the General Manager in effect had a crackdown on such conduct and issued a series of memorandums and training measures that were rolled out following that report?---Yes.

And you knew didn't you, of course, before 2012 that it was improper for you to accept gifts or benefits from an entity providing service to Council. Correct?---Yes.

30 Now, in terms of the policies that were in place at Council, you were aware of the following – and I can show them to you if you'd like because the ICAC have got them all on their brief – you were aware of the Procurement Policy that came into effect in October 2010?---I was aware of it, yes.

That's volume 27, Commissioner, page 70. You were aware of the Fraud and Corruption Prevention Policy that came into effect in June 2012?---Yes.

That's, Commissioner, volume 27, page 93. You were aware of the Statement of Business Ethics that was issued in July 2013, volume 27, page 130, Commissioner?---Yes.

40 Yes. And you were aware of the Gifts and Benefits Policy of June 2012? That's volume 27, page 103?---Yes.

Thank you. I'm not going to show the witness these, Commissioner, because I just want to speed through them.

THE COMMISSIONER: Yes.

MR MOSES: I just wanted to make sure that he was aware – wasn't denying that he was aware of those various policies and procedures that were in place. Now I'm just going to go through different topics and I'll highlight to the Commissioner the topics I'm going through to ensure as best I can there's no overlap with what Counsel Assisting has undertaken. So let's go to the termination of your employment. You were suspended on the 9 October, 2015 as a result of the ICAC investigation. Correct?  
---The date I can't remember but, yes.

10 Okay. Did you send a text message to Ms Cullinane on that day to this effect, "Lorraine, please accept this as my notice of retirement effective immediately"?---Yes.

Do you recall sending her a text message?---Yes.

- - - to that effect?---Yes, I do.

And did she tell you not to retire but that you would be suspended on pay?  
---Yes.

20

And on 22 October, 2015 you sent her a further text message to this effect, "Lorraine, I wanted to retire last week. You told me not to, I would be suspended on pay. I need to pay a solicitor. I have no money, Bambi." That was a term you referred – that you used to call Lorraine, Bambi?  
---Yes.

Yeah. "And with no pay or retire I cannot afford solicitor. That's no good, Bambi."?---Yes.

30 Now Ms Cullinane she at one time was in a relationship with you. I think you've told the Commission that?---Already said that, yes.

Yeah. And when did that relationship cease, sir?---Approximately seven years after I started at Botany. Approximately.

Approximately?---I'm not very good on dates.

40 Okay. And when you were in the relationship with Ms Cullinane was that when you arranged the alarm system to be installed at her home and security system or was it after the relationship came to an end?---It could have been either. I can't remember.

Thank you?---Being in that relationship had no bearing on her – on putting in the alarm system.

Okay. Thank you?---Or the camera system.

Now I just wanted to stay on the topic of Ms Cullinane just for a moment. You indicated to Counsel Assisting that you had a business interest with her which were some video stores that were operated?---Very early on, yes.

Yeah. That was during your period of employment at Botany?---Very early on, yes.

Okay. When you say very early on, did it start after you commenced at Botany?---No.

10

It had started previous to that?---Yes.

Okay. And for how long did you operate the video stores with Ms Cullinane?---I can't tell you off the top of my head.

Okay?---But it wasn't too long.

Was it operated through a company?---No, just sole trader.

20 Say that again?---Just a sole trader. A company name.

Well, okay?---Sorry. Obviously, yeah.

What was the name of the company that traded?---Just Video.

Just Video?---Ah hmm.

And that was a business name?---Yeah.

30 That was owned by yourself and Ms Cullinane?---I don't think – I can't remember.

Okay?---I just can't remember.

And the income that came in through that did it go into your bank account or Ms Cullinane's bank account?---No, it had – the company had its own bank account.

40 Okay. Thank you. Does it still exist?---No.

Which bank was it with?---I think, I think ANZ. I think.

Okay. Thank you. Now I'm going to move on to the question of internal audit and reviews that Counsel Assisting asked you some questions of? ---Ah hmm.

I'm going to go first if I can to internal audits and then I'll move to the external audits. There were several internal audits that you were involved in during your time at Council. Correct?---Yes.

Now during the period after 2011 in which the new General Manager was appointed there have been a series of internal audits that have been undertaken. Correct?---Numerous.

10 I'll just walk, I'll walk you through some of them. The internal report of the Business Unit March, 2013. Commissioner, if we could go to this one. I'm sorry. It's volume 23, page 204/

THE COMMISSIONER: Ah hmm.

MR MOSES: This is an internal audit report of the Business Unit. Now this document, if we go to page – this document set out a number of recommendations that needed to be dealt with in the business unit. Go to page 233. So if we go to page 223. It's just coming up shortly. 223 I'm  
20 sorry. So what is set out there was a number of – so 223 had you as the responsible person to deal with the recommendations and I want to just go back to 222 then, page 222. That set out a number of recommendations. Do you see management action plans?---Yes.

And that was your responsibility. Correct?---Yes.

Now – and you were to report to Ms Cullinane in respect of those matters according to page 223?---Yes.

30 And Mr John Patterson, what was his role in relation to these matters at the time?---I don't think John really had any role in relation to these particular items.

Okay. So it was your responsibility and you had to report to the Deputy General Manager who was your supervising director - - -?---Yes.

- - - about those matters. Correct?---Yes.

40 Okay. I'm just going to go through some of these others. If you can just recall these, if not we can show them to you. There was also an internal audit report which was commissioned by the General Manager into cash management and general controls at the Botany Aquatic Centre in February, 2012?---Yes.

There was an internal audit report of the golf course and pro shop where your brother worked in July, 2012?---Yes.

And there was an internal audit report of section 94 of development contributions?---Yes.

And there was an internal audit report in June, 2014 of fleet management?  
---Yes.

Can the witness – just before we move to the external audit issue, can we just move to the internal reporting policy of April, 2014, Commissioner, which is at volume 27, page 136-159 of the ICAC brief. There was also this document that was issued by the General Manager following approval by Council in respect of the systems that would operate in relation to the reporting of serious wrongdoing. This is page, sorry, 137 of volume 27 of the ICAC brief, sorry. At volume 27, 137 there was an internal reporting policy in effect that – this is under the new Mayor, Mayor Keneally and the General Manager that it stated that Council’s commitment to the high standards of ethical and accountable conduct. That any form of wrongdoing will not be tolerated. This is in clause 3. Do you see that, sir?---(No Audible Reply)

Mr Goodman, clause 3?---I’m reading it. I’m reading it.

20 Okay?---I’ve never seen this document before.

You’ve never seen this document before, sir?---No.

Okay?---I don’t recollect it anyway.

Is it because - - -?---But, yeah, I’m reading it.

- - - you may have seen it but you can’t remember?---Yeah, it could be.

30 Okay. You certainly were aware weren’t you that there was a policy in place within Council that would permit those employed by Council including those who were subordinate to you of being able to report corrupt conduct - - -?---Yes.

- - - if they came across it. Correct?---Yes, yes.

Okay. And despite that, of course, you took the view in relation to your dishonesty it appears, there are two reasons why you proceeded with your dishonesty despite what you knew to be your obligations and the measures that Council had was firstly, because you felt that you were untouchable because you had got away with it for so long, correct?---I don’t know that.

40 No. Is that not why you continued behaving dishonestly because you thought you could get away with it?---Obviously you think you can get away with it.

Yeah?---But that's not the sole reason.

No. And the second reason was, and we'll come to this a bit later. You were desperate for the money because you had a number of debts and obligations that you needed to pay so the more those matters became pressing, the more you became greedy and stupid in relation to the fraud that you perpetrated on the Council, correct? You'd agree with that?---Yes.

10 Now I want to go to the topic of the Audit Committee. Commissioner, this is at volume 2 of the Additional Documents Folder, tab 46 and 47. Just as an example, if I can just show these to the witness. I think there's a copy for you, Commissioner.

THE COMMISSIONER: Thank you.

MR MOSES: So we go to tab 46 and 47. Once you've looked at those I just want to ask you a couple of questions about them, if I could. Do you have that Mr Goodman, so it's tab 46 and 47, if you could just look at those Minutes for me, and I just want to ask you some questions?---Oh, 46?

20 Yeah?---Sorry.

It's Minutes of the Audit Committee meeting on 14 October, 2014?---Yes.

And that of 5 November, 2014. Just have a flick through just to refresh your memory. And I just want to ask you some questions if I could?---Yes.

Now after the election of the new Council, headed up by the new Mayor, a determination was made that there would be the establishment of an Audit Committee of Council, correct?---(No Audible Reply)

30 The Audit Committee?---I don't think it was as a result of - - -

Do you know when the Audit Committee came - - -?--- - - - the new Council. I think it was the law.

Say that again?---I think it was the law it wasn't a result of the election of a new Council.

So - - -?---It was compulsory to have one.

40 Okay. And that came into effect, correct, yes?---What date was this? I thought it was in effect before then, but you could be right.

It was in effect before then?---It was, yeah.

Yeah. You were an attendee at Audit Committee meetings?---Yes.

What I want to show you these Minutes for is just to point out a couple of things, if I could. You can confirm this? Mr Norm Mah Chut, who was the

Chairperson of the Audit Committee. He was previously the auditor of the Council and its external auditors, correct?---Yes.

And following his retirement as the Auditor and from the partnership which Mr Mottau, belonged to, he then was appointed as the Inaugural Chairman of, Chairperson, of this Audit Committee, correct?---Correct.

And he remained in that position until he passed away recently, correct?---Yes.

10

And that was last year?---Yes.

And upon that the person who was listed there as Councillor, George Glinatsis, then assumed the position as Chair of the Audit Committee upon the death of Mr Mah Chut, correct?---I don't – that one I don't know, Inaugural Meeting since that occurred.

Okay. Now in relation to the Audit Committee, you were an attendee at those meetings from time to time?---Yes.

20

And at those Audit Committee meetings that would be the venue for the presentation of reports by the auditors of the Council, correct?---Yes.

Yeah. So they would come along and they would give an oral presentation about the audit that they'd undertaken in a particular year, that would be the process?---Yes.

30

Okay. Now as part of the matters that you were being asked to look at and examine and cooperate with by the Audit Committee was the Asset Review and Business Improvement Project, do you remember that project?---I can't say I remember it but it doesn't matter.

Okay. Commissioner, can we have shown to the witness volume 23 of the ICAC Brief page 236. It's an email from Susan Gannon, G-a-n-n-o-n to Lorraine Cullinane and Gary Goodman - - -?---I've got that up here.

40

- raising issues including a lack of support from Finance. This was in June, 2015. Ms Gannon had been undertaken in effect to bring to bear upon asset management some form of rigour in relation to the way in which records were being maintained in respect of the assets of Council, correct?---That's what she was appointed for.

Yeah. And it's fair to say, is it, that Ms Gannon from the reading of this email was becoming or had become frustrated in that there was a lack of support within Finance and a lack of asset management skill and resources in the City Infrastructure Division which supervised the Business Unit to assist her to get her work done, correct, would that be fair?---Yes.

And it's fair to say that during your period as the Chief Financial Officer of the Council your general position would be, and we can go through this in detail if you want. But your general default position would be that if any initiatives were being put forward which somehow may expose the fraud that you had perpetrated on Council and had been involved in, you would try and either deflect those measures in some way being implemented or come up with reasons as to why they shouldn't?---I'd like to go through that in detail - - -

10 Not at all?--- - - - because I don't believe that statement's correct.

Not at all. Okay. So let's, let's start with some of them and we'll see how far we get into it before you accept the proposition. Okay. Now when did you meet Gary Mottau?---Sorry?

When did you meet Gary Mottau, who was the Auditor of the Council?---I can't remember. I can't remember.

20 Okay. Can I ask that you go to tab 23, page 3 of the Additional Documents, in volume 1. Now when audit reports would come in to Council, it's fair to say that you would get a copy of the draft management letter from the auditors, correct?---Correct.

And it would set out, would it not, the outstanding list of matters which the auditors had recommended needed to be undertaken, correct?---Correct.

And just go to page 2 of the document that's been provided to you. They provided the draft audit reports for your review and comment?---Correct.

30 Correct. So you're given a copy of the draft before they are issued in final form to Council. Correct?---Correct.

And the practice would be that you would be a person who would first get a copy of the draft management letter, correct, for your review and input? ---Correct, yes.

40 So it goes to you. Now, with the audit management letters, when the General Manager was provided with a copy of them or seen them, she would raise issues as to what was happening in respect of the matters that were outstanding in the audit management letter?---Yes.

Yeah. And if you just go to tab 28, page 1. This is an email from the General Manager on 9 November, 2012, to yourself and Ms Cullinane, where it was noted the following. "I note in the auditors' recent correspondence they refer to the audit management letter that was issued in respect of our examination of certain aspects of Council's accounting systems and internal controls necessary to produce reliable financial reports that we consider warrant attention," and she's asked for a copy of that. And

then Ms Cullinane – you weren't copied in on this, stated, "As soon as I see it so will you." Do you see that?---Yes.

Okay. Now, and then if you go to tab 31 Ms Kirchner sends you an email, here's an example in 2011 where she's asking you to set up time to discuss the audit management letter actions and how you were going with the quarterly reporting requirements, and you respond to her. Do you see that? ---Yes.

10 Okay. Now, if the witness can then be shown volume 177 of the ICAC brief – withdraw that – volume 23, page 177. This is an email from you dated 19 November, 2012 to Gary Mottau in which you've cc'd Mark Thompson, Barry Byrnes, the General Manager and the Deputy General Manager, which is your response to the audit - - -?---Ah hmm.

- - - response in which you set out the details of steps undertaken in response to the audit?---Ah hmm.

20 So if we go to page 177 you set out there the responses. Correct?---Correct.

Let's go to 4.3 page 178. Cost allocations are the responsibility of the section ordering the goods?---True.

This is generally done at the time of order preparation. It would be difficult from the invoice alone for Finance to determine if costing is correct. It must be remembered that all orders are subject to hierarchal approval. Correct? ---Correct.

30 Now, of course let's be blunt about it, your position in respect of this was to say what you said there because that was the best way for you to get rid of, you thought that was the best way for you to deal with the fraud that you were undertaking. Correct?---No.

No?---(No Audible Reply)

No?---No.

You don't accept that?---No.

40 Okay. And just the response from Mr Mottau is to be found at page 177 as well, sorry, page 176 where Mr Mottau responds to you and says that he'll incorporate it into the report for the General Manager's attention. So we then go to page 156 of volume 23. Now, this, this again was a draft of the audit management letter?---Ah hmm.

If you go, if you jump ahead to page 170, just have a look at volume 23, page 170, items 6, where it states, "It was brought to our attention during the period of review some employees of Council have had part of their annual

leave balance cashed out. Annual leave in Local Government is governed by the award and Annual Holiday Act, however as the award is silent on cashing out of annual leave, the following ruling prohibiting the cashing out of annual leave must be applied.” And that’s at page 171. I just note there, Commissioner, I think that was a point that you raised with one of the witnesses and the proposition you put was correct in terms of the prohibition. You read that, sir?---Yeah, I’ve read it now, yes.

10 Yeah, but you read it at the time it was issues?---Oh, probably yes.

Yeah. And you were aware as a matter of fact weren’t you that the cashing out of annual leave was prohibited except in very specific circumstances?  
---No.

You weren’t aware of that?---No.

No?---I believed it was legal.

20 You believed it was legal?---Yes.

Well, there are only four people in Council who had the cashing out of leave, let’s go through them. You?---Correct.

Yeah. Ms Cullinane?---Correct.

Yeah. Mr Barry Byrnes?---Correct.

And Mr Mark Thompson?---Correct.

30 Anybody else that got this - - -?---There were several others.

Well, let’s - - -?---Oh, look, I, I, I - - -

Name them, name them for the Commissioner because everybody’s been sitting here very politely, as you keep on saying you can’t remember, that’s a matter for you, but who else were the others that you say got cashing out of annual leave?---I’m trying to think. One was Peter Fitzgerald.

40 Senior or Junior?---Senior.

Ah hmm. Anybody else?---I think, I think Mr Rodger Dowsett’s received a leave payment, I think.

You think?---You’re asking do I remember.

Sure?---I’m trying to, look, you know, I think he may have received the cashing out of leave.

Okay?---I think Peter, Peter may have on a number of occasions.

Ah hmm. Anybody else that you can remember, sitting there today?

---There is, I can't remember the person's name, but it'll come to me.

Okay?---I'll raise it when it comes to me.

10 Well, let's go to some other management letters. This is the additional documents, it's volume, it's the one volume, tab 42. This is the audit management letter of 28 June, 2013. Do you see that?---Yes.

Okay. Now, go to page 3 for me. Do you see that?---I'm still going.

That's okay. Under the heading Procurement Tendering – New Issue. This is a problem which the auditors have noticed and suggest for improvement? ---Yes.

Do you see that?---Yes.

20 This is the draft. It says, and this is – it says, “We have reviewed procurement procedures for creditors paid over 150,000 since 1 July, 2012 with Council's procurement officer and Finance staff. Included in our review were the following payments to suppliers which a contract could not be identified for.” Do you see that?---Yes.

One of them was, as Counsel Assisting has established through questioning of you, was the Truck Service Centre, which was one of, which was the fraud that you perpetrated on Council. Correct?---Yes, correct.

30 Yeah. So auditor picks this up and noted that the procedures for improvement needed to ensure that contracts be reviewed to ensure the compliance of the Local Government Act. Do you see that?---Yes.

Now, that wasn't implemented by you and you weren't interested in it because to do that would have stopped the theft that you were engaging in. Correct?---No.

40 So which lie should the Commission believe, which one do you want the Commissioner to believe - you see, you're here giving evidence on oath and I said, everybody's been very polite to you but you are now saying, are you, that you would have tried to implement a measure that would have exposed and stopped your fraud? And you want the Commissioner to seriously accept that as a honest answer?---I think I'd previously, may be no one was listening in this inquiry - - -

Don't worry, we've been listening for everything you've got to say.--- - - - in this inquiry about certain aspects of purchasing in different departments

why I went to the general manager about them. I was concerned, I was directed to sign the invoices by the current general manager- - -

THE COMMISSIONER: But sorry, Mr Goodman, we're not talking at this stage about what else might have been going on in Council, what's being put to you is quite specific, this is a specific recommendation from the auditor which is actually based on analysis of invoices from the Truck Services Centre.--- (not transcribable)

10 And what is being put to you is, of course, it wasn't in your interested to do anything about that, to implement a measure that might have picked up those invoices for scrutiny because you didn't want them scrutinised. That's what's being put to you.---I believe that statements incorrect. I've, over the years, have tried time and time again to have us comply with tender procedures.

MR MOSES: Okay.

20 THE COMMISSIONER: Do I - - -?---That didn't occur.

Do I understand from that answer that you would have welcomed the exposure of the invoices that were issued by the Truck Services Centre as false?---No, I wouldn't have been happy about it but this list, this little list here starts with about 150 contractors long.

MR MOSES: Sir, don't raise your voice.

THE COMMISSIONER: No, no, it's all right.

30 MR MOSES: You're speaking to a Commissioner, don't raise your voice.

THE WITNESS: I was speaking close to the thing. This list starts out about 150 contractors long. What you're showing me is a version that was the final version. We make comments on every one of them, not just me, other staff there. As I say, what starts out at 150 comes down to about 20 which we're happy for the auditor to put in an audit report.

MR MOSES: Are you finished?---Yes.

40 Okay. Got to the first page of that letter look at clause 1.1.---Yes.

You told the auditors that, didn't you, under the heading cashing out of annual leave?---Hang on, which one, 1.1?

Cashing out of annual leave, on the first page of the letter dated 28 June, 2013.---I'm just reading it.

Read it.---No, I don't think I made that comment.

Yes, you did. You told them, did you, that there were guidelines in place in relation to the cashing out of annual leave?---Am I allowed to make a statement here?

Did you tell them - - -?---No.

- - - that you did that?---No.

10 No. So they made it up did they?---No, they didn't. They probably got that information from the HR Department.

They probably did.---Not from finance.

Not from you?---No.

No, okay.---I didn't know a form had been developed for cashing out annual leave.

20 No, there was none because you had made it up to get money for yourself, didn't you?---No.

Okay. If you could be shown, if you go behind Tab 43 which is another audit management letter 6 May, 2014.

30 THE COMMISSIONER: Sorry, Mr Moses, just before we leave that. Mr Goodman the cashing out of annual leave went through or long leave, went through finance didn't it, went through you?---Yes, not necessarily me, it had to be approved by both the deputy general manager and then, I believe, the general manager.

All right. Well - - -?---One or the other.

All right.---And by HR.

The, I beg your pardon?---Prepared the forms with the HR.

All right. So the forms were actually prepared in HR?---Yes.

40 And then sent to you for pay out?---No, no, no. Say I wanted to get annual leave paid out, I'd fill out a form, send it to HR, they would send it to the normal director for approval then it would come get and paid out of payroll which is in HR.

All right. So payout at payroll.---Generally.

All right. But the question I had was, given that HR had prepared a form that you say would somehow constrain the payout of leave, why would HR

be approving some of those payouts?---No, they didn't, they had to be approved by the current director so - - -

I see. So HR didn't draw to anybody's attention that this was actually contrary to Council policy?---No, first I heard that through - - -

Not even, not even to the general manager and the deputy general manager.--No.

10 MR MOSES: Sir, the fact is, even after this letter you kept on cashing out annual leave, correct?---Correct.

You cashed out 420 hours in 2013.---Correct.

And 630 hours in 2014.---Correct.

Let's assume one accepts your evidence that it couldn't be done, by the time that the auditors letter points out in 2013 that it's unlawful to do so except in specified circumstances, you continued to cash out annual leave?---Do we  
20 know what the specified circumstances are, that's very important?

Do you want to stick to procedure now do you? Let's go back to 42 and you can read it. If you go to Volume 23 page 170 of the ICAC Brief go to page 171. Did you go and have a look at Annual Holidays Act, Section 4, section 4 (a)?---Did I?

Yes.---No.

30 Do you know, what were the circumstances that warranted you getting the cashing out in 2013 and 2014?---Illness.

Sorry?---Illness and medical treatment and medical costs.

Illness.---Mmm.

Which illness? It wasn't the fake one that you told Mr Mark about, was there some other illness?---That wasn't fake.

40 That wasn't fake?---No.

So that telephone call that Counsel Assisting replayed to you in which you told him that you had cancer - - -?---I believe I had.

Let's focus on the question - and that you were getting chemotherapy, that was just a bald face lie by you wasn't it?---That's not what I said.

No.---I didn't say - - -

Are you a fantasist?---I didn't say I was getting chemotherapy.

Do you just make things up as you go along?---No.

No. Okay. Well, what was there, was there a document that you filled out to say that you were ill to get the money in 2013?---Yes, I had to get the approval from the relevant people.

10 There's no point talking about relevant people because people will be held accountable by the Commission for this, who was the person that you sought approval from? Let's start in 2013?---Deputy general manager.

Okay. Miss Cullinane?---Yes.

Okay. And did you put something in writing to her?---Yes.

And was it in an email or was it a form?---Proper form.

20 Sorry?---A proper form - it wasn't given to Lorraine, it was sent to HR.

Okay. So there was a form and on the form, what do you recall you said on it?---I can't remember

I'm sorry?---I can't remember. There had to be a reason why you wanted to cash that leave, I remember that, and I would have put an explanation on each one.

30 There had to be a reason.---And Lorraine knew the reason and she, I remember on a couple of occasions, I didn't want that particular reason put on the form so she abbreviated.

Oh, okay. So the form, so this is Alice in Wonderland, the words mean what you want them to mean, is that right?---No, that's not.

Well, be very careful because you're under oath.---Yep, I understand that.

40 And as you were reminded that if you tell a deliberate untruth it's only going to add to woes at the end of this hearing. Do you understand?---I understand that totally.

Thank you. So please focus. On the form, can we accept this, you did not put on the form that the reason for you needing the money was illness, is that right?---Say that, repeat that question.

On the form, did you put illness as the reason why you wanted annual leave cashed out?---Which one?

The 2013, can you focus on the 2013 form.---I can't remember.

Can't remember.---You have to have a look at the form.

Okay. You don't want take your chances and tell the truth here?---No, I need to see the form.

Okay.---There may have been another reason, I don't know.

10 There may have been another reason, okay, just don't know?---No.

Okay. What about 2014, 630 hours. What was that about?---Don't know. Same, same, same answer.

Same answer?---It's on the form.

It's on the form. Okay. All right. And the form went to Ms Cullinane to approve?---No, it went to HR.

20 No, but Ms Cullinane had to approve it, didn't she?---HR send it to either the Deputy General Manager or the General Manager.

You, you can't recall - - -?---I can't recall who was the HR Manager at the time.

You can't. Okay. Okay. Now, just in 2007 can you explain something to me. Over a period of two days there was – this is in 2007, there was the total of \$431,132 paid out of annual leave to four people, that is the total to Mr Byrnes, yourself, Ms Cullinane and Mr Thompson?---How much?

30 A total of \$431,132 in the period between 29 August and 31 August, 2007, that much amount of Council money was cashed out by the four of you. What, do you know what triggered that?---No.

You can't help us at all, no?---2007?

2007?---Were there any others paid out apart from that?

40 No, sir. You received in excess of \$120,000. Can you help us with that at all?---No.

No. Okay?---Actually I don't recall it.

You don't recall it?---No.

No. Okay.

You see in – I'm sorry, Commissioner.

THE COMMISSIONER: No. I just wanted to confirm this. Mr Goodman, thus far there's been some questions directed to you about cashing out annual leave?---Ah hmm.

But on my calculations the 2013 payout for more than 400 hours is something approximating 11 weeks. The 2014 payout of 600-odd hours is close enough to 17 weeks. That couldn't have been just annual leave, it had to be long leave as well?---Long service leave. It's - - -

10 And how many weeks, what was the acquisition of long service leave in Council, after 10 years you acquire what?---13 weeks and then 2.2 weeks per year of service after that.

So it kicks in at 10 years, does it?---Mmm.

And of course this was all premised on everything being given credit for all the time they'd been in Local Government?---That's right, yeah.

MR MOSES: Thank you, Commissioner. Now, you're not willing to  
20 accept a proposition are you, sir, that you knew that you were not entitled to this leave and you still sought to cash it out. You won't, you won't accept that proposition, will you?---No.

Thank you. I'll be putting a submission to the Commissioner at the end of this hearing concerning that issue.

Now, I'm going to show you the document behind tab 43 of the folder, the additional documents. This is a letter dated 6 May, 2014, again a draft, and I think as we've established in the evidence, the draft audit management  
30 letter goes to you for comment via the auditors. Correct?---Ah hmm.

Okay. Now, if you go to what appears at page 3, now, this is starting to get a bit long here, old and new issues, but again under Procurement Tendering, do you see that, there are number of entities there at page 3 where they have reviewed procurement procedures for creditors paid over \$150,000 since 1 July with council's procurement officer - - -?---Ah hmm.

- - - and Finance staff and the following payments were made to suppliers where authorisation could not be provided. Do you see that?---Yep.  
40

And if you go, sir, over to page 4, Elias & Sons Smash Repair feature here. Do you see that?---Yes.

Now, we've all had to listen to that telephone intercept between you and Mr Freitas?---Ah hmm.

And of course Mr Freitas in that telephone intercept as Counsel Assisting was pointing out to you, was becoming uncomfortable in terms of the

requests by you to be putting in fraudulent invoices. Correct? We don't have to pay that again because that would be a tragedy for all concerned. Do we have to do that again or do you remember that?---No, I remember that.

Okay. Now, it's fair to say isn't it in 2014 Elias & Sons Smash Repairs were putting in – and this is not contested, but we can go through this again if you want – were putting in false invoices. Correct?---Correct.

10 In 2014?---Correct.

Yeah. Now, what the auditors were pointing out was in respect of that entity there was a problem because there was no authorisation that could be provided. Do you see that?---Sorry, what was it?

There was no authorisation that could be provided for the payments for instance that were going to Elias & Sons Smash Repair. Correct? --- (No Audible Reply)

20 Mr - - -?---I'm just reading the auditors' comment, sorry.

- - - Goodman. Okay?---I like to read it before I – Yes.

Okay. Now, look at the suggestions for improvement. Do you see that? ---Yes.

Now, this wasn't the first time the auditors have recommended this. Correct?---Correct.

30 So if you go back to behind tab 43, page 3 under heading of Suggestions for Improvement, they say the identical things in the two paragraphs under there?---Ah hmm.

Correct?---Correct.

Now, nothing was done about these matters. Correct?---Correct.

40 And the reason why nothing was done about these matter, if we can get back to the first proposition I raised with you was because to implement these measures, no matter whatever reasons you wanted to give internally as to why things couldn't be done, the real reason why you didn't want these things being done is because it would stop the fraud that you were perpetrating on Council. Correct?---Incorrect.

Let's be blunt about it. Correct?---No.

No.

THE COMMISSIONER: If it didn't stop the fraud it would significantly heighten the risk, would it not, that some of these frauds were being perpetrated?--I think with these particular people that were mentioned in this report, as I said, this happened every year and what they focussed on was the tender amount. We started out with companies like Telstra on there, Sydney Electricity.

10 But I'm not, I'm not worried about these particular, these particular suppliers on these particular lists, what I'm asking you is whether or not putting the procedures in place that were recommended by the auditors would not significantly increase the risk that some of your fraudulent invoices would be discovered?---Absolutely, yes.

Right.

MR MOSES: Now, of course when you saw Elias & Sons there at paragraph 4 on the 2014 letter, of course you would have known that they were false payments being made to Elias & Sons. Correct?---Some.

20 Okay. What about Truck Service Centre in the previous letter of 2013? ---Yes.

You knew they were all false, correct?---Yes.

But you still allowed that audit management letter to proceed to be finalised of course without disclosing your dishonesty. Correct?---Correct.

30 And because you were quite happy to have the auditors sign off on a document that was not accurate or true because otherwise it would have to expose your fraud. Correct?---Incorrect.

You wanted them to sign off on the audit management letter as it was without telling them about your fraud. Correct?---Correct.

Because if you told them about the fraud, because if you got the letter and said, gee whiz, you know, Gary, gotta tell you, it's good for the soul, I've stolen all this money from Council through these companies, you would have been in gaol. Correct?---Correct.

40 Okay. So you were quite happy not to tell him the truth about those matters, correct?---(No Audible Reply)

The Truck Service Centre - - -?---Yes.

- - - and Elias Smash Repairs. Correct?---What was the question?

You never told him did you that they moneys being paid to those entities by Council were part of a fraud that you were perpetrating on Council?---No.

Correct?---Correct.

And the reason you never told him was because as we've heard before on another telephone intercept with Mr Keith Mark is you wanted to keep out of gaol. Correct?---Correct.

Okay. And of course because if you told him he wouldn't have been able to issue the audit management letter as it was. Correct?---Correct.

10

Thank you. Part of your job as the Chief Financial Officer, in fact part of your regulatory functions under the Act was to be in charge of the financial administration of the Council. Correct?---Correct.

Now – and you never told the –withdraw that. And you never told the Audit Committee of course about your frauds. Correct?---No.

20

No. Just before I move on to some of the topics of abuse of entitlements and resources I just wanted to touch upon one thing that Counsel Assisting led from you. You said that you told Ms Cullinane – withdraw that. You said that Ms Cullinane exposed the fraud that you have been involved in in respect of Keith Mark. Correct?---Mmm.

That is, Mr Thangaraj fairly played the telephone intercept - - -?---Yeah.

- - - which had you telling Keith Mark that Ms Cullinane had found out about fraudulent invoices which Mr Mark had been putting in from an historical perspective. Correct?---(No Audible Reply)

30

Do you recall that, was that - - -?---I recall. I'm just trying to - - -

Okay. Well, let's stop there. Did you tell Mr Mark the truth or were you lying to him in order to get his sympathy or trust or otherwise?---I wasn't lying to Mr Mark.

Okay. So Ms - - -

MS McNAUGHTON: What's (not transcribable). I didn't catch the answer.

40

MR MOSES: Sorry.

MS McNAUGHTON: I couldn't hear that answer.

MR MOSES: Sorry. Could you repeat your answer?---No.

You weren't lying to him?---No.

Okay. So Ms Cullinane called you into the office one day to confront you with the fact that she had uncovered fraudulent invoices being paid to Keith Mark. Is that right?---No, it wasn't put like that.

Okay. Well, can you tell us what Ms Cullinane said to you in the meeting that you referred to in the telephone intercept with Keith Mark?---I think I remember saying to the barrister I can't remember that. I couldn't even remember the people who were at the meeting, whether it was Peter Fitzgerald, Barry Byrnes, myself, Lorraine.

10

It doesn't matter. Just tell us what - - -?---I remember Lorraine having the file.

Yeah, but see just understand this, Counsel Assisting played the telephone intercept?---Yeah.

We're only talking about September, 2015. Correct?---Yeah.

That was when the telephone intercept was?---Ah hmm.

20

And what you've effectively said in the telephone conversation to Mr Mark was, but you correct me if I'm wrong and no doubt Counsel Assisting will correct me if I'm wrong, the effect of what you said to Mr Mark was that Ms Cullinane had found out about improper behaviour by you and Mr Mark. Correct?---Correct.

That she had confronted you about it. Correct?---(No Audible Reply)

Correct?---I think we had a meeting, yes.

30

Yeah. And that you had apologised to her and to Mr Barry Byrnes? ---Correct.

Is that right?---Yes.

Now the money which was the subject of the fraud between you and Mr Mark, did Ms Cullinane ask that you repay it?---No.

Did you repay it?---No.

40

And Mr Fitzgerald was aware of it Senior, the General Manager?---If he was at the meeting.

Okay. And you said I think according to the telephone intercept that she said - "She called us both fucking crooks and shit and Peter too"?---Can you repeat that for me.

Well, I can but people probably don't want to hear me swearing?---Sorry.  
Leave the swear words out.

It's – no, I'll say it. “She called us both fucking crooks and shit and Peter too”?---Just that second part I couldn't understand.

Okay?---I accept that.

10 Okay. At that stage was Mr Fitzgerald involved in the issuing of any false invoices?---Depending on when that meeting was.

Okay?---I couldn't remember the, the date or the time of whenever the meeting was.

Okay?---I can't remember.

20 Commissioner, I'm just going to go to the different topics of abuse of entitlements and resources and try and speed it up but there was one other topic that I wanted to ask the witness about before I went on to those which arose during Counsel Assisting's examination. I'll just – it arose out of the TI. This was about the changing of records and Council systems.

THE COMMISSIONER: Yes.

MR MOSES: Thank you. You made reference to, you made reference in Exhibit R63 at about page 238, this is the transcript, that Peter always made sure I always deleted any payments made to him and his friends. Do you recall that TI being played?---Yes.

30 We can see that up on the screen, page 238, that's just where this, where the cursor is there, do you see that, "Like Peter Shaw, I always deleted any payments I made to him or his friends". Do you see that?---Yes.

Now were you referring there to Mr Fitzgerald, Senior?---Sorry?

Were you referring to Mr Peter Fitzgerald, Senior?---Yes.

So where payments were made to him or his friends - - -?---Yes.

40 - - - you would, would you delete those payments from the system or would you get somebody else to and before you answer that, please bear in mind that the evidence seems to be undisputed that you didn't have administrator access to enable you to get into the Council system to delete and change things. You didn't have that access. So before you answer that, did you, and I'll ask the question. And before you answer think about it very carefully. Did you change or delete payments or did you direct a staff member to do it?---Neither.

Neither. So how did you do it?---What I was referring to there was different documents.

Okay?---We would download information from our system into an Excel spreadsheet that the Tax Office supplied and send information off to them. It didn't effect Council records at all.

Okay. So how are bank account details, well how are payments deleted?---  
From where?

10

Sorry?---From where?

Well, I'm talking about what you're referring to?---Oh, it's an - - -

I mean you're, you're the, you're the - - -?--- - - - Excel spreadsheet.

- - - fraudster, not me so tell me?---Excel spreadsheet.

Sorry?---It was an Excel spreadsheet.

20

Okay?---A download.

Okay. Now did you ever ask Mark Thompson to delete or change systems in Council's records in order to cover up a fraud?---I asked Mark to hide a payment once which - - -

Yeah?--- - - - ICAC's aware of.

You asked him to hide a payment?---Ah hmm.

30

Did you tell him why?---Yes.

And what was that for?---(No Audible Reply)

What was the reason you gave?---(not transcribable)

I'll move on from that, Commissioner. I thank my friend for that. So, Commissioner, I was going to move on to the next topic which is abuse of entitlements and resources. I note the time, is the Commission intending to take the adjournment now or at 1 o'clock?

40

THE COMMISSIONER: Well, how long do you think you might be, Mr Moses? I'm not holding you to it but - - -

MR MOSES: No, of course.

THE COMMISSIONER: - - - in terms of continuity. We could take the luncheon adjournment now or we could wait until - - -

MR MOSES: I'd probably say an hour to, yeah, about an hour, an hour and 10 minutes, maybe.

THE COMMISSIONER: All right. Well could I suggest that we take the luncheon adjournment now and we can resume, if it's not too much to ask, can we resume at 20 past 1.00?

MR MOSES: If it please the Commission.

10

THE COMMISSIONER: Yes, thank you.

**LUNCHEON ADJOURNMENT**

**[12.38pm]**