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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE MEGAN LATHAM

PUBLIC HEARING

OPERATION RICCO

Reference: Operation E14/2586

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON WEDNESDAY 16 MARCH 2016

AT 2.00PM

Any person who publishes any part of this transcript in any way and to any person contrary to a Commission direction against publication commits an offence against section 112(2) of the Independent Commission Against Corruption Act 1988.

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

<LORRAINE CULLINANE, on former oath

[2.03pm]

MR THANGARAJ: Can I play telephone intercept session number 1-2-5-3-9, and we're just going to play an extract because it's a long call.

AUDIO RECORDING PLAYED

[2.03pm]

10

MR THANGARAJ: I tender that transcript and audio.

THE COMMISSIONER: Yes. That will be Exhibit R77.

#EXHIBIT R77 – TRANSCRIPT SESSION 12539

20 MR THANGARAJ: You referred to each other – well, Mr Goodman referred to you as Bambi?---That's correct.

You referred to him as darl. Was that in relation, was that because of the relationship you had with him or was it how you referred to people generally?---I would refer to many people as darl.

30 All right. Now, let's work backwards. If we can go to page 9, sorry, page 8, sorry. Now, I'll remind you of the evidence you gave – or maybe I'll come back to that. Let's look at what is said at page 8. Sorry, if you go to page 9. Sorry, sorry, page 7. All right. Now, the bottom of page 7, you are raising a concern that, "Somebody might look at the financial stuff here over the last whatever period?"

MS McNAUGHTON: Some of the financials.

40 MR THANGARAJ: Right. "Somebody might look at some of the financial stuff over the last whatever period." Right. What were you concerned about?---I think it was only referring at that stage to the Cabcharge. The conversation was really about getting Gary back up from downstairs, upstairs and at that stage we were looking at the long-term financial plan and we'd just finished Fit for the Future - - -

Yeah?--- - - - and it was really not financial stuff, it was getting all the records in order.

Okay. And this call has to be looked at not only in the context of what was happening in October and before that, but also with respect to the rest of the call. Do you agree with that?---(No Audible Reply)

None of these – these are not discrete items, it's a connected call where you're talking about something for some pages?---Yep.

All right. Now, if we go over to page 8 you're talking about Cabcharge and the fuel card I take it?---That's, that's correct.

Is that correct? All right. Now, we go to the next page, page 9. Now, you're having this discussion with him about whether or not he might leave? ---That's correct.

10

And one of the ramifications of him leaving, the organisation that is, not his role but the organisation, is that any serious misconduct that he was involved in might be exposed?---In, in retrospect I'd agree with you.

Right. And if the conduct that we now know Mr Goodman engaged in was exposed, it might or would also expose anyone who was involved with him? ---That would be correct.

20

And when you say to him, "Honestly, you can't afford to leave," that's about the impact on him, not the business. Do you agree with that? ---Probably.

See, what you were concerned about was, serious misconduct, serious criminal misconduct of Mr Goodman being discovered?---In relation to the Cabcharge and fuel card.

30

All right. Well, let's – I'll come back to that, but let's do it step by step. The first thing is you were concerned that serious criminal misconduct might be exposed in relation to what Mr Goodman had done?---No.

All right. Well, when I asked you that, you just said, "In relation to the Cabcharge and fuel card?"---That, that, that, that's correct.

All right?---That was in relation to those.

40

Okay. So is this the case, that you agree that at the very least, or sorry, put it this way – you're saying that you were concerned that if Mr Goodman left, his serious criminal misconduct in relation to Cabcharges and fuel cards might be exposed?---No. The conversation was relating to a whole series of things. This was around the time that the General Manager was overseas and there was three things that, three main things that she wanted done before she returned. First thing was she wanted the storage shed cleaned up over at Strathfield, all the old records to be, the records managed to go over there with the building person and get rid of the old records so it would make room for the new records. Our offices had a whole lot of records in there that were probably for the last two years I'd say and we had a whole series of staff that were starting and we couldn't employ the staff because we didn't have any space for them to sit. So that was another, that was a job

that she had been trying to get to all year, I'd been undertaking to do all year but hadn't got to. The second thing was that we had to sell her car. She'd got a new car and we had to sell her car to auction. The third thing that I had to do was get Gary from the office downstairs, upstairs and when I'm referring to John Patterson there, Gary had a choice, Gary could either go into the General Manager's area and work from an office in there, and that meant that John Patterson would come over into my area, or that Gary would come up and sit in my area, because I was trying to – and I think I mentioned in there he can either be the Manager of Finance or the CFO, but he can't be both. So there was a lot of dysfunction in the Finance area, particularly between him and Karen Rowe, and I think I mentioned that in there, but his relationship had to be with Karen Rowe and Karen Rowe had to run the day-to-day Financial operations. In terms of the Cabcharge, it had been, I don't know, nine months, maybe even 12 months since we had the conversation and he hadn't paid the money back. Part of that I thought was some of my integrity there because I had the conversation with the General Manager when it was agreed that he could pay that money back. It was 12 months on and he hadn't paid that money back, so at the end of the day, and I'm not sure if it said in there, but I said, "Gary, you'll go to gaol." I was, I mean I was trying to use any encouragement I could for Gary to pay that money back.

THE COMMISSIONER: What was the amount he was asked to pay back?
---I'm not sure what the amount was. I asked - - -

But I thought, I thought you were the one who had the conversation with him about paying the money back?---That's correct, so he'd incurred um, a number of charges on the Cabcharge account, I'd asked – some of those, I saw some of those records were quite large um, I asked the Financial accountant, which was Barry Byrnes, to extract all the Cabcharge records and to give Gary those details so he had, so he could then pay that money back. At the time he also said that he'd spent some money on the fuel card and he said, "Yes, I'll pay that back too."

But, but are you saying that you didn't at any stage ascertain what that amount was?---No, no. I left, I left that with Barry Byrnes to calculate. When Gary said he would pay that money back, then I assume that Barry Byrnes had told him the amount and that that would be repaid.

MR THANGARAJ: And what you told the General Manager was that this was him going from the hospital and back, the Cabcharge abuse?---Because that's what he told me.

Right. And are you seriously expecting us to believe that the, what might lead to him ending up in gaol was this Cabcharge abuse which led to no internal disciplinary proceedings in relation to him, no mark, black mark against his personnel file, no reporting to the police, but simply a repayment because it was something more than incidental private use?---Yes.

Now, when I first asked you about this you talked about the shed, the car, John Patterson, not one of those matters had anything to do with the question of whether Mr Goodman could, in your words, "Afford to leave." Do you agree with that?---Yes.

Nothing to do with what I asked you. Right?---Yep.

10 Right. So let's go back to what I put to you. What you were saying to him was, he could not afford to leave. It had nothing to do with long-term planning, the work that he was involved in, it related to personal ramification on him if he left?---That's correct, but I think a bit earlier there was, in the conversation it said about me leaving, and to be honest, when Gary wasn't doing his job, a lot of that Chief Financial work came, came to me in terms of the policy writing, the report writing, that was his role.

Yeah. And again that's another - - -?---So if - - -

20 - - - answer that has nothing to do with what I've asked you, which is a question of him affording to leave?---That's right.

Whether or not it left you with any more work had nothing to do with - - -? ---No.

- - - the question of whether he, Mr Goodman, could afford to leave?--- Yeah, but if, if, if I, if I had left then somebody else wouldn't have been as sympathetic probably to his situation.

30 All right. Well - - -?---That was, that was meant by that you can't afford to leave.

40 Well, but that's got nothing to do with you leaving, it's about him leaving. Him leaving would mean a new Chief Financial Officer with Mr Goodman no longer in the Finance Division which left exposed criminal conduct that he had engaged in?---No, I don't, I don't, I don't accept that because we had already put – in that, during that year we'd already put a new Coordinator of Financial Services in, so that person had the day-to-day management of the Finance section, so that person plus we had another person um, who was there but left, but another position coming on board, so we had two senior people, we had already had one person employed, the Coordinator of Financial Services, another senior Finance person was coming on board, they had access to all the information, it was not – I was, I was trying to get Gary out of the day-to-day management and into the Chief Financial Officer's role. I gave him a choice – stay as Finance Manager and I'll get a new Chief Financial Officer - - -

Yeah. You weren't worried about him moving to some other role in the Finance Division, you were worried about him leaving the business?---If

you're asking was I worried about him leaving the business because it would leave me exposed the answer is no. I had nothing to be exposed over.

THE COMMISSIONER: Ms Cullinane, can I just follow something up that you indicated earlier. You indicated that you were meaning to convey to him that he couldn't afford to leave because he would go to gaol and that was only in relation to the Cabcharge abuse and the fuel card abuse?---That he - - -

10 Is that right?---Yes. That he had a debt to Council and he hadn't paid it back.

Yes. And he hadn't paid it back?---That's correct.

Well, I'm just trying to follow this logically. So if Mr Goodman did leave and another Chief Financial Officer was employed in his place, that Chief Financial Officer if he looked at the Cabcharge issue and the fuel card issue would have no doubt been told by you that look, he did promise to pay it back and we reached an agreement and admittedly he hasn't paid it back but
20 he should be pursued because I caused this audit to be carried out and everybody agreed on what the amount was. So that didn't leave Mr Goodman exposed to anything did it?---(No Audible Reply)

That scenario doesn't leave Mr Goodman exposed to anything let alone a gaol sentence?---No, I was, I was – I used the word go to gaol to encourage him to pay that money back. I couldn't think – I mean it was a year. He hadn't paid the money back. We'd given an indication. But in terms of if you're saying was I worried about somebody uncovering something in the Finance area we already had a new person in the Finance area. We already
30 had – that person has been sitting there for 12 months. I, I engaged them so - - -

But, Ms Cullinane, you didn't say Gary, if you don't pay it back you'll go to gaol. You said, "If you leave you will go to gaol." That - - -?---Is that what I said in there - - -

Yes. There is - - -?--- - - - "If you leave"?

40 Yes. "If you leave you will go to gaol"?---Sorry.

There's no reference to if you don't pay this debt you will go to gaol?
---Sorry, could I just see that again.

"You can't afford to leave, like seriously - - -?---Oh, well, I - - -

- - - you might leave but you'll end up in gaol, Gary"?---Yeah, that's, that's not what I meant. That's not what I meant.

MR THANGARAJ: The culture at Botany Bay Council was that whatever Mr Goodman wanted done or not done in the same way as it occurred when Mr Fitzgerald Senior was the General Manager, people didn't do anything inconsistent with what they wanted. Do you agree with that?---No.

Well, Mr Goodman gave that evidence that there were people of authority that just weren't questioned including well, he pointed to Mr Fitzgerald and himself. Do you disagree with that evidence?---(No Audible Reply)

10 MS McNAUGHTON: That's a very, very broad question with my – in my respectful submission.

MR THANGARAJ: All right. I'll put it this way. Give us an example of someone reporting Mr Goodman for misconduct to anyone other than you.

MS McNAUGHTON: Well, to her knowledge, with respect.

MR THANGARAJ: Yeah, to your knowledge. Yeah, to your knowledge?
---Somebody - - -

20

In the 20 years that – in the - - -?---Somebody reporting Gary - - -

Misconduct - - -?--- - - - to somebody other than me?

Or Mr Fitzgerald Senior.

MS McNAUGHTON: Well, that's the Deputy General Manager and the General Manager so, really.

30 MR THANGARAJ: Yeah?---I think, I think we did deal with one issue in terms of a previous investigation but that's all I can remember.

Right. What previous investigation?---In relation to an inquiry we received about Mr Goodman using Council's funds to hire a car.

Right. Who made that complaint?---I don't know but it came through this office as I recall.

40 All right. Okay. Well, then, that's not what we're talking about is it?---I thought you said - - -

The point is - - -?---I thought you said who other than myself and the General Manager had some, had somebody reported any issues with Gary's conduct to.

Okay. Well, okay.

MS McNAUGHTON: With respect to the - - -

THE WITNESS: I was referring to the fact that a complaint obviously had been made to this office in relation to that matter and it was investigated. If it was made to somebody else I wouldn't know. So the only other person I suppose it would have been another director or, or the Mayor or the Council but I'm not aware of that.

10 MR THANGARAJ: I've started this line of questioning by saying here was a culture with respect to Mr Fitzgerald's authority and Mr Goodman's authority and I said did anyone report Mr Goodman's misconduct to anyone other than Mr Fitzgerald or you. Now what I'm obviously talking about, and I'm sorry if I wasn't clear, was reporting it internally?---Buy I'm not sure of what misconduct you're talking about.

MS McNAUGHTON: With respect, I object. I object. The hierarchy of the Council is that the head of the Council administratively is the General Manager. She's the Deputy General Manager. Who is my friend suggesting are the other option?

20 THE COMMISSIONER: I think he's suggesting that any other Council officer who might have become aware of Mr Goodman's conduct might have at some stage reported it and it was – and it came to Ms Cullinane's attention by way of a referral up the hierarchy. I think that's what he's referring to.

MS McNAUGHTON: It's not clear, in my respectful submission.

THE WITNESS: Is that what you mean?

30 MR THANGARAJ: Yes?---If anything was referred to me about Mr Goodman I'd refer it to the General Manager.

All right. Well, we'll come to that. My point is you're saying well, we employed another person in the Finance Division. The fact that someone else was in the Finance Division does not mean that Mr Goodman is necessarily exposed does it?---I thought you were referring to the fact that if another finance manager came on board that would somehow let other people have access to the financial information and that may expose something. So what I, what I said in relation to that - - -

40 Well, then, let me clear that up. What I was saying was if Mr Goodman was no longer there he couldn't control what was happening. He couldn't control - - -?---Well, I didn't see - - -

- - - the risk of exposure?---Well, I didn't see that as an issue.

Well, that's what you told him, Ms Cullinane. If we can bring that back up on the screen. "You can't afford to leave." Now the fact that he was

present – do you agree that the fact that he was still at Council would have affected the decision of whether or not people would make complaints about him?

MS McNAUGHTON: Could I ask my friend in fairness to put the previous passage which is terms of a previous page, “Like somebody may make a different judgement call than you”.

THE COMMISSIONER: Yes.

10

MS McNAUGHTON: Which in turn refers to, as I understood it, to the Cabcharge and the fuel card and that that’s the full context of what’s being said.

THE COMMISSIONER: Well, that’s a matter for the witness to explain I suppose. It’s her conversation but - - -

20

MS McNAUGHTON: But my friend is taking lines out of – well, line by line and in my respectful submission it should be taken in proper context and the witness should be allowed to answer in that context.

MR THANGARAJ: All right. Well, I took you though the Cabcharge lines before and we got to the “afford to leave”. You’re under no illusions are you, or you have no doubt that the lines immediately before you said, “You can’t afford to leave”, refer to a discussion about Cabcharge and fuel cards? ---We were discussing that, yes.

30

Yeah. And I took you to the Cabcharge and I took you to the fuel card discussion?---Yes.

Right. So let’s then go to the question that I asked you. You did say someone may make a different judgement call to which you agreed. There’s no doubt about that and I’m not suggesting for one moment that you haven’t discussed misuse of Cabcharge or misuse of fuel cards but it goes deeper than that is what I’m suggesting to you, Ms Cullinane. You understand that that’s what I’m saying don’t you?---But I understand - - -

I understand what you’ve said about it but you understand that’s what I - - -

40

MS McNAUGHTON: She didn’t – again she didn’t finish her answer.

THE COMMISSIONER: Well, look, I think Counsel is trying to make clear the basis upon which the question is being put so there’s no confusion and I think we need to make sure that that’s, that’s the case so go on, Mr Thangaraj, and we’ll just see what the witness says after that.

MR THANGARAJ: “You know at the end of the day seriously you can’t afford to leave”?---It wasn’t - - -

Right?---It, it – there was nothing else I was talking about. I wasn't worried about anything being exposed at Council and I wasn't worried about Gary leaving who controlled the situation. If that's what you're saying then I refute that. That's incorrect.

10 All right. And it went on. You've said it again but a bit more forcefully, "No, honestly you cannot afford to leave." Now you agree that what you are warning him against doing is leaving because it might leave him to personal exposure?---I didn't – I wasn't - - -

Okay. Let's say it's Cabcharge and – let's say at the moment it's just Cabcharge and fuel cards, all right. Let's limit it to that and then we'll go to a more - - -?---Well, I wasn't aware - - -

- - - wider - - -?---I wasn't aware of anything else.

Okay. Well let's say it's the Cabcharge and the fuel card?---Yeah.

20 What you are saying to him is, you cannot afford to leave because if you leave you will be exposed for misuse of the Cabcharge and the fuel card?---I can't honestly remember what I meant by it. But I mean all the conversation was about was, was, was getting Gary into a better work ethic. Gary making a decision on whether - - -

Ms Cullinane, I've been asked not to cut you off a number of times. I've stopped doing that, but you are giving highly unresponsive answers to these questions?---I can't give - - -

30 And you've agreed with the fact that you're giving unresponsive answers to questions as well, for example, when you spoke about the shed, the car and Mr Patterson. Now please listen to what I'm asking you. What I'm asking you is, forget about whether you say you can remember it or not, this is a text of a call. We can play the call again if you need to - - -?---No.

- - - if you need to hear the tone?---No.

40 Now what you are telling him is, you cannot afford to leave because if you do there will be personal ramifications for you?---In, in relation to the fuel card and the Cabcharge.

Okay. Now you're limiting it to – let's limit it to that for the moment. You are encouraging him not to leave so that that won't come back and hit him? ---Well, so that the Council would be repaid that money.

Sorry?---So the Council - - -

No, no. We've already been through this?---Well I can't answer the, I can't

- - -

You, no, no. This – we'll come to whether or not this ends up with the hangs us type comment of you just not having a response. Look at the words you use. You do not say, this has nothing to do with the ramification on Council. All right. You've already agreed with that. This is the ramification on him. Right. Do you agree with that?---Yes.

You can't afford to leave?---Yeah.

10

You can't afford to leave, you said it twice. Right . You agree with that? ---Mmm.

You can't just can't nod. The transcript needs to record?---Yes. Yes, sorry.

Yes. All right. You are advising him not to leave Council because there will be adverse ramifications on him personally?---Yes.

20

Now, what that would've meant was Council having a different view to the view you had taken on the Cabcharge and fuel card abuse?---Well, I, I didn't – I, that – I agreed that that's what should occur, that the money should be paid back.

No. We're not talking about repayment, Ms Cullinane, we're talking about - you used the words gaol?---Yeah.

30

Now I'll come to that in a moment. But you were concerned that somebody else would come and make a different call to what you had done and impose a different penalty on Mr Goodman?---But the decision in relation to that wasn't mine. The decision in relation to allowing Mr Goodman to pay that money back and any ramifications in relation to the use of the Cabcharge and the fuel card was made ultimately by the General Manager.

On the information - - -

40

THE COMMISSIONER: Ms Cullinane, we know all of that. But really, you see you have to direct your attention. I acknowledge that you say you don't remember the conversation, that's why we play the audio recording and that's why we give you a transcript?---Yeah.

But you have to direct your attention to the words that you use. And what's being pointed out is that you're saying, look, I dealt with it this way but someone else might've made – might make a different judgement call i.e. on that issue, therefore et cetera, et cetera, you can't afford to leave because it might come back on you in a far more serious way than I have chosen to deal with the issue. That's the effect of the conversation that's being put to you?---Ah hmm.

And you're just being asked whether you agree with that or not?---I agree with that.

MR THANGARAJ: Right. Now when you say the decision was made by Ms Kirchner that of course is entirely dependent on you giving her all the relevant information, isn't it?---That's, that's correct.

You knew that there had been a Cabcharge entry for \$400?---Yeah. Well of that order, yes.

10

Yeah. Of that order. And you say that Mr Goodman told you that that was going only from hospital back to his house, right?---No.

Yes. That's what you have - - -?---Yes, yes.

All right?---It was for treatment but I assumed that the cab waited for him to get that treatment and then took him back home.

20

Your explanation for a \$400 Cabcharge is an assumption that he drove from where to where?---I don't, I don't know where he, where he drove from and - - -

Okay. From his house to the hospital and what the taxi may have waited - - -?---Well I assume he would've waited because Gary couldn't walk.

Right?---That's why he had to go to the hospital. He was unable to get in and out of a car himself.

30

Right?---So Mr Goodman explained to me when I questioned him about the fuel card, of the Cabcharge, that he had used the Cabcharge to get, to go to the hospital to have his leg dressed. So I assumed that the cab picked him up, took him to the hospital, waited for him to have his treatment then took him back, got him out of the cab and got him into his Council car. He couldn't get in and out of the car without the assistance of somebody.

We're not saying, I'm not saying that he needed, didn't need assistance, but the question of whether you get two cabs or one is a totally different issue?--
-Well, I presumed the issue was that he got a cab that, that allowed his, like a disability cab.

40

Yeah?---I assumed that's what it was.

And the reason that you keep saying assume is because Mr Goodman never said to you it's \$400 because I got the cab there and got the cab to wait for several hours or however long it took to rack up four or \$500 and then go back. He never said that to you, did he?---Well, I think he explained it to me in those terms.

Well, the reason you've said assumed with respect to the waiting is because he never said that to you?---No. I think he said that to me, you said – I, I assumed that what Mr Goodman told me was correct.

Oh, all right. I'm going to take you to your private examination about what you said about that. This idea that you knew, that you believed that a \$400 or a \$500 Cabcharge - - -?---I don't remember it being 500, I think I said - - -

10 Okay, you said, yeah, 400 or thereabouts you said?---That's right, I think, and it may have been 200, it may have been 400. I don't know.

All right. Well, I'll take you to what you said about that as well and you clearly said before that you knew of the \$400 entry?---I think when the Commissioner questioned me about what was the value, how much was that, I said, "I think I saw one for \$400."

Yeah, which was correct?---It may well have been.

20 And what I'm coming to is, you did not tell Ms Kirchner that there was \$400 entry?---No, I told her there was very large bills on there, she had no doubt that the Cabcharge was - - -

MR MOSES: Objection, you just can't say whether somebody else had a doubt. I mean can we focus on evidence that she can give?

THE COMMISSIONER: Yes.

30 MR THANGARAJ: You did not – this is a yes or no question?---Yep.

You did not say to Ms Kirchner that there are individual Cabcharge entries for \$400 or thereabouts?---I can't say whether I did tell her that or not.

No. And that makes a completely different sort of reporting, doesn't it, because if it's simply an accumulation of \$20 bills that shouldn't have been charged to Council, 40 or \$50 bills, that's a completely different scenario to a \$400 Cabcharge which suggests a deliberate overcharging?

40 MS McNAUGHTON: Well, there's a lot of - - -

THE WITNESS: No.

MS McNAUGHTON: - - - propositions in that question.

MR THANGARAJ: All right. Well, are you not capable - - -?---Sorry, sorry.

Do you not understand what I'm putting to you?---You're suggesting that I didn't tell Ms Kirchner that the Cabcharge was perhaps in the thousands of dollars, but rather it might - - -

No, no, no, I'm not suggesting that at all, I'm not talking about the aggregate, I'm talking about individual entries which suggest fraud. You didn't - - -

10 THE COMMISSIONER: Well, just, all right, all right, all right.

MR THANGARAJ: You did not tell Ms Kirchner that there were entries, individual entries in the order of \$400?---I can't remember if I told her that or not, to be perfectly honest.

And the reason you didn't tell her that was because it would have exposed criminal conduct on the behalf of Mr Goodman?---No, I, I don't think that's true.

20 MS McNAUGHTON: Well, I object, I object. If you could not answer.

MR MOSES: She just answered it.

MS McNAUGHTON: I object.

MR MOSES: I mean seriously.

MS McNAUGHTON: Not, not seriously, I am on my feet, thank you, Mr Moses.

30 MR MOSES: Well, the witness answered the question.

MS McNAUGHTON: I am on my feet.

THE COMMISSIONER: Yes, Ms McNaughton.

MS McNAUGHTON: There was a proposition that's being put that a \$400 fee inexorably means that it's fraudulent. Now, in my respectful submission it does not flow.

40 THE COMMISSIONER: Well, yes, that, that - - -

MS MOSES: And now can I object. The witness answered the question.

THE COMMISSIONER: Yes.

MS MOSES: It's not appropriate for my friend to get up and object the way she's doing. The witness is answering questions, she answered it and that's it.

THE COMMISSIONER: Well, all right. Well, I don't know that the witness's answer is necessarily problematic because I think she didn't accept the proposition anyway, but look, the point, I think the point is, Ms Cullinane, that if, if you have a Council employee with a Cabcharge voucher or booklet who is either using the Cabcharge vouchers for trips that are unrelated to Council business or using it for longer journeys that are justified, if that's in the order of 20, 30, 40, 50, \$60, that's of a different order than a single, a single use of a Cabcharge docket that comes in at \$400. That's what's being put to you. It's a different, it's a different order of misconduct, isn't it?---It is, yes.

Right.

MR THANGARAJ: And it changes the character of the misconduct?
---Well, I don't - - -

It might change the character of the misconduct?---It might, but if you're suggesting that I thought those charges were fraudulent, I didn't.

What investigation did you undertake to determine whether they were fraudulent or not?---I, I took Mr Goodman at his word.

And do you regard - - -?---But I don't - sorry.

Do you regard the Deputy General Manager looking at misuse of Council assets where there is a highly problematic entry, you think that investigation is concluded by you accepting the word of the person who's abused the credit card, the Cabcharge in the first place, in circumstances where you've had a previous relationship with the person?---I think that that's, that's not a fair nexus to draw. Everybody knew, anybody who was working there knew Mr Goodman's health circumstances at the time.

THE COMMISSIONER: No, no, no, no, no, sorry.

MR THANGARAJ: This is nothing to do with health.

THE COMMISSIONER: Sorry, that's not the question. I'm just concerned about the time, Ms Cullinane, we have to progress this. What, what is being put to you is that you - forget for one moment if it's Mr Goodman, but if a Council employee has misused a Council Cabcharge to the extent that appears a single trip cost \$400 and you ask for an explanation, what's being put to you is that you could hardly call it an investigation if you do no more than seek the explanation from the very person who's committed the abuse and you accept that without making any further inquiries. That's what's being put to you?---Well, I - - -

Do you agree with that or not?---Yes, I do.

MR THANGARAJ: And do you agree that that was – what, how would you describe that investigation by you in terms of transparency, conflict of interest, propriety et cetera?---I didn't see I had a conflict of interest. Um, I asked the question, I got an answer, I understood the Cabcharge was, you know, the, the, the bill would run into a few thousand dollars um, and I believe Ms Kirchner knew that as well, because that was my - - -

10 MR MOSES: Objection again. The witness cannot give that evidence, Commissioner.

THE COMMISSIONER: Well, anyway, she – all right. I agree, I agree. I don't think you can talk to somebody else's belief?---Okay.

MR THANGARAJ: And this was - - -?---I think I conveyed that though.

20 All right. You conveyed the aggregate bill. We're not, we're not – that's not controversial. But this was in circumstances where you also knew that he had abused the fuel card system?---That he told me he had used the fuel card, yes.

Yeah. So he told you that he had improperly used the fuel card. Right. And what did you understand, how did you understand he'd improperly used it?---He told me he had some personal expenses on his fuel card as well.

All right. How much was that?---I didn't, I didn't ah – he said he was going to pay it back and I didn't inquire.

30 So part of your investigation involved no inquiry of him as to the quantum involved of the abuse?---It wasn't an investigation really, it was a - - -

40 No?---No, it wasn't. It was something that was brought to my attention, I raised that with Mr Goodman, I told Mr Goodman that wasn't an appropriate use of the Cabcharge, the Cabcharge subsequently was cancelled as I understand, and I reported that to the General Manager and we made, a decision was made to allow Mr Goodman to repay those funds. It wasn't something that was the start of an investigation. I think I accepted Mr Goodman's explanation based on his ill health and I think the General Manager probably also accepted that based on her knowledge of Mr Goodman's ill health.

Based on what you told her?---Or based on what she observed herself.

Yeah. All right. How much – did you find out what the extent of the Cabcharge - - -?---No.

- - - abuse was?---No.

And did you find out what the extent of the fuel card abuse was?---No.

And surely that would be relevant to determine whether or not you could believe what he said about it?---Possibly.

Well, why wouldn't you find out?---Well, I trusted Mr, Mr Byrnes to produce those records and I trusted that Mr Goodman would pay it back.

- 10 No, but the – Mr Byrnes was only asked to extract the information?
---And give it to Mr Goodman.

Yes. Well, so he's going to extract the information and give it to the person who stole the money in the first place?---No, give him the details of the amount he had to repay back.

Right. But then who would look at how this conduct was to be characterised?---Well, nobody because we accepted - - -

- 20 THE COMMISSIONER: No, but the point is, if you didn't know the amounts that had essentially been - - -?---I accept that I should have checked that.

No, no, no, just let me finish. What's been put is, if you didn't know the amounts that were being extracted from Council by the abuse of the Cabcharge and the fuel card, you were in no position to characterise the level of misconduct, i.e. it was either a low level of misconduct or a very high level of misconduct?---I accept that.

- 30 Right?---I accept that.

MR THANGARAJ: And you did no more than ask him to return the money he'd improperly taken?---That's correct.

No other disciplinary measure?---That's correct.

And you don't think that you're in a conflict given that you had a prior personal intimate and business relationship with him?---No.

- 40 And did you ask the internal auditor to go through and look at the Cabcharge or fuel card abuses?---No.

And you perfectly were entitled to have the internal auditor to do that, weren't you?---Yes.

And this, you can't afford to leave, you'll end up in goal, sits quite comfortably with the other call I played you of, it hangs us, doesn't it?---No.

If, if there's a suggestion that somehow in Mr Goodman leaving that would leave me exposed in any way shape or form - - -

That is the suggestion?---I absolutely and totally refute that.

10 All right. This meeting that we've heard evidence about between you and Mr Goodman. Propositions have been put by your Counsel to Mr Goodman as to what actually happened in that meeting according to you. You know the meeting I'm talking about where - - -?---The, the meeting in 2011 about the excessive, is that what you're talking about?

Well, the meeting where he says he admitted false invoicing to you and your Counsel put that there was a meeting where there was discussion of excessive use?---That meeting, yes, I recall that.

20 Well we know that you've taken, that you took a particular view with respect to the Cabcharge and the fuel card. Just by the way on that, why didn't you arrange to garnish his wages to repay those debts?---It just wasn't something that was considered. It could've been, we could've done that. But we allowed him to repay that money. I think he was, you know, he did have additional expenses, I think because of his, his health and he was allowed some more time to pay it. As, as I recall he was waiting for, he was the beneficiary of an estate and he was waiting for that money to come in to repay the Cabcharge and the fuel card. That was my understanding.

30 Well you've characterised in that telephone call conduct that if he left Council you said, "You'll end up in goal". Now I understand what you say about it but you understand, don't you, that what I'm saying is that that call is an example of you understanding that Mr Goodman had engaged in serious criminal misconduct other than the Cabcharge and the fuel cards and that there was a risk to him if he left?---No.

All right. And you also understand, don't you, that what I'm saying to you is that if he left, not only would it expose him but it might expose you for misconduct that you had engaged in?---I haven't - I hadn't engaged in any misconduct.

40 All right. Now this meeting, if Mr Goodman had admitted to you that he had engaged in false invoicing, what would you have done about it?---The General Manager was at that meeting. He would've referred it to ICAC, I'm sure.

All right. That of course depends on the propriety of the others at the meeting?---Well from my point of view I've always seen the former General Manager as I see the current General Manager as having that sort of integrity that if that was brought to the - either of their attention they would raise it with ICAC.

All right. Ms Cullinane, what I want to ask you is, forget about precisely what was said at that meeting or not. It really doesn't matter whether there was a revelation or there was a concern of well, what do we do now, or what's the problem. The fact is that you were aware of serious criminal misconduct being engaged in by Mr Goodman including false invoicing?
---No, that is absolutely totally and utterly incorrect.

10 All right. I want to ask you about the car. It was put by – this is – you have had a Lexus bought by Council using Council funds?---That's correct.

One or two?---One.

One car, all right. What year was that?---I think it was about 2009 or 2010, somewhere around there.

Okay. Did you own a Lexus before that?---No.

20 All right. Did you trade in a car when you bought the – when the Council paid for that Lexus - - -?---I think, yeah.

- - - in 2010?---I think Council had a Lexus, yes.

Sorry?---Council did have a Lexus, yes.

Right. And, sorry, is that before your Lexus that you're telling us was bought?---Yes. I think they've had a couple of Lexuses.

30 Okay. But was it a – were you using a Lexus before the one that you bought that Council bought for you in 2010?---I don't think so.

All right. Was there a - - -?---I think I, I think drove a Prado for a little while.

Right. Do you remember the number plate of the car you drove before you bought the – before the Lexus was bought?---No.

Does this number plate sound familiar, N-X-0-3-8-T?---Not, not at all.

40 Did you buy a car or did Council buy you a car at the end of 2007 which you kept until the Lexus was bought in April of 2010?---No. Or kept, did Council buy it? I had a Council car.

Yeah?---I had a Council car, yes.

Yeah. But was that car that you're talking about, was that car bought at the end of 2007?---I would have no idea.

All right. If it's a Council car it wouldn't be in your name, would it?---If it's a Council car, no.

Yeah. So what car was in your name before the Lexus was bought in 2010, if any?---I think, I think a car my uncle drove, that was all.

All right. And what car was that?---It was a Calais.

And who bought that?---I did.

10

Okay. Okay. So - - -?---I don't, I don't ever remember a car called N-X.

All right. So 2010, now your Counsel put to Mr Goodman that that was in lieu of a top-up payment for that year?---That's right. It was, it was in - - -

Is that right?---Yeah. And plus an adjustment to a salary increase. There was as I recall that year, the salary reviews went to the Mayor. The Mayor was going to give me a greater increase and the General Manager said no, that's okay. Because I've worked that out with a car with Lorraine.

20

Right. And this would of course be documented if it's a salary that's – so firstly, it would've been a salary review which resulted in a potential increase, was there?---There was a salary review that went to the Mayor. As I recall the Mayor discussed that the General Manager and the Mayor, Peter then said, the Mayor then said to Peter about giving me a greater increase. And the General Manager said, that's okay, I've worked something out with a car for Lorraine.

All right. And has this – any of this been documented?---I don't know.

30

All right. Now none of that was put to Mr Goodman by your lawyer. What was put was this was in lieu of a top-up payment for that year?---Well I don't think Mr Goodman would've been aware of - - -

No, hang on. The question was put to Mr Goodman?---Yeah.

That this payment was made by Counsel in lieu of the top-up payment for that year?---Yeah.

40

That was put?---Okay.

Nothing else was put to suggest it was offset against anything else. You were here for that evidence?---Yeah.

Right. So you've heard that?---Yeah.

Are you just making that up as you go?---No. I'm not making it up.

Well why – that question was not put to Mr Goodman and we're hearing it for the first time from you. Do you accept that?---Yes.

Okay. Now let's go to the top-up payment. You're saying that in 2010 in lieu of the top-up payment a \$70,000 car was bought for you?---I don't, I don't recall it being 70,000, but - - -

Okay. What do you recall it as being?---I really don't know.

10 Well it was a Lexus, was it brand new?---Yes, I believe so.

So a brand new Lexus was bought for you in 2010 using Council funds?---That's right.

Right. Okay. Let's assume it was 70,000 if it's some figure that's slightly below or slightly above, we'll deal with that if we need to, if it's relevant?---I would've thought it was in the late 50s or around 60.

Okay. Let's say 50?---Yeah.

20

A \$50,000 car was bought for you by Council funds. You say in lieu of the top-up payment?---That's correct.

Now in 2010, the day before your car was bought, you received the superannuation payment, sorry. I'll have to come – I'll come back to that. In 2010, so in 2010 the car was bought, April, 2010?---If, if, if that's what the record is, yeah.

30 All right. And it says that the value was \$76,000. Does that sound - - -?---To be honest, I don't, I don't know.

All right. So the value is \$76,000, you've told us that the payments would either have been the same every year or going up as your salary went up?---That's correct.

Right. Now you've said also that, sorry, I'll withdraw that. So \$76,000 was the car, your entitlement at best, according to the top-up was 45,000 or perhaps a little bit more?---That's correct.

40 So if Council owed you say \$45,000 for your top-up for that year, how were they buying you a car for \$76,000?---Well I didn't, I didn't realise it was 76. I thought the car was in the late 50s or around 60,000.

Well even that would be well above the top-up that you say you're entitled to?---Well not when you consider the salary adjustment.

Well that's the piece of evidence we've heard for the very first time five minutes ago?---Yeah.

Of which there is absolutely no Council documentation, is that right?---I don't know if there is.

Okay. To your knowledge there isn't a scrap of Council documentation to record the potential increase that was discussed between, you say, the Mayor and the General Manager and then the offset that would then take place?---I don't, I don't know if that information is held by Council.

10 The address - - -

MS MCNAUGHTON: Commissioner, can I just put something on the record. It was my error. I did not read my instructions which said the additional amount being – forgone as a salary increase.

THE COMMISSIONER: Thank you.

MR THANGARAJ: Does the company name [REDACTED] mean anything to you?---Sorry?

20

Lawyear?---No.

Does that mean anything to you?---No.

Does the address [REDACTED] mean anything?---No.

Can we just suppress those previous addresses?

30 THE COMMISSIONER: Yes, yes. The name and address of that company is suppressed from publication.

NAME AND ADDRESS OF [REDACTED] IS SUPPRESSED FROM PUBLICATION.

MR THANGARAJ: All right. Did you sell a Lexus in 2010?---No.

40 When you got your Council paid Lexus?---No. The Lexus I've got now is the only Lexus that's been in my name.

All right. And what model is that, do you know?---Well I thought it was 2009/2010. You've told me it's April 2010. I accept that. It was around that time.

Well, no, April 2010 is when you – when it was bought for you, that's what I'm saying?---Yeah. It was around 2009/2010 as I recall. If you're saying it was April 2010, that, that would probably be right.

All right.

THE COMMISSIONER: You mean that the Lexus you presently have is that particular car?---That's correct. It would be about that age.

MR THANGARAJ: Now did you declare the fact that this car had been bought to you as part of your tax return for the relevant year?---No. As I said I didn't, I didn't realise I had to declare those.

10

So - - -?---I haven't done my tax for that year by the way so I can - - -

2010?---Yeah. I can, I can fix that.

All right. So, all right. So you're saying you haven't put in a tax return since 2010 have you?---That's correct.

Or before that?---That's correct. Around that time. I've got an appointment on the end of March.

20

And do you have to sign any forms at the time to say that you, that you acknowledge receipt of this Council purchased asset?---No, I didn't.

Well, is there, is there to your knowledge any record of the Council having bought this car for you using its funds?---It was approved by the General Manager so again I don't know if there's any records at Council or not.

Have any cars been bought for any members of your family using Council funds?---No.

30

Does any part of – does the internal audit cover car purchases for employees?---There was a fleet management audit done but I can't really – I think that was the operations of the fleet management so, no, an audit hasn't been done to the best of my knowledge.

All right. And does that mean that even though the Council bought you this expensive brand new car does that mean that you did not sign a single form to one, accept that that had happened, and two, to have a Council record to say you acknowledge that the ex gratia payment had been satisfied for that year?---I can't recall. I can't recall if I signed something or not.

40

All right?---I don't recall doing it but – and I can't recall what the records are.

And what would you say about the, the governance around the purchase of this car with respect to record keeping?---I can't – I don't know what the record keeping was so I can't comment on that.

Well, to your knowledge it was either nil – well, to your knowledge there has been no – sorry, to your – withdraw that. To your knowledge there has been no document to satisfy the minimum standards of corporate governance in relation to this purchase?---That could be true.

And given that your role at Council, there has been no known transparency of this purchase either?---I don't know that to be true because I don't - - -

10 No, to your knowledge?---Well, I don't know that because I would have assumed that the General Manager would have signed something or would have made a record of it because the General Manager approved so I don't know what occurred in relation to that.

20 All right. You agree don't you that if there – if this was a legitimate purchase by Council on your behalf there must be entries and documents at Council recording the fact that Council funds have been used to buy you a car?---Well, it certainly was a legitimate expense. It wasn't, it wasn't something that was hidden and it was in lieu of one of those payments so it wasn't seen to be, by me, an inappropriate thing to do so I haven't done anything that I didn't believe was approved and I was entitled to.

Sorry, when you say it wasn't hidden, what basis do you have to come to that conclusion?---Well, you're suggesting that it wasn't transparent.

Yeah?---What I'm saying it was – the opposite to transparent I suppose is hidden and what I'm saying is it wasn't something that was hidden. I don't know what records were, were – that the Council has.

30 Yeah?---But what I'm saying is it was a legitimate purchase. It wasn't - - -

I'm asking you on what basis do you say that it was not hidden, what, what happened that shows that this was not hidden?---I assume there would have been a voucher to purchase the vehicle and I assume there's probably some documentation on that and if the General Manager – the General Manager may have completed some forms or may have made a note of it. I, I don't know.

40 So it's all based on - - -?---I can't recall, I can't recall if I signed anything or filled anything in.

All right. So it relies on one, assumptions you've made, and two, the propriety of Peter Fitzgerald Senior?---Yes, and also mine. I haven't accepted – I've never accepted any payment or any gift or any benefit that I wasn't entitled – that I didn't believe I was entitled to.

All right. Did Mr Byrnes or Mr Thompson or both bring any concerns to you about Mr Goodman?---Not in relation to - - -

No, it wasn't, it wasn't a confined question?---Oh, probably over the time. I think most people would have raised a concern about somebody in the office with me.

THE COMMISSIONER: We're not asking about that. We're asking about Mr Goodman. Whether Mr Byrnes or Mr Thompson raised specific concerns with you about Mr Goodman?---Only in terms of things like bringing the Cabcharge or, or those sorts of things to me.

10 MR THANGARAJ: All right. Have you, have you read or been here for the evidence of Mr Byrnes?---I've heard some of that evidence.

So you heard the evidence of Mr Byrnes?---I haven't – I've, I've been told about the evidence.

Okay, you've been told about the evidence of Mr Byrnes. And what about Mr Thompson?---I think I've been told about that evidence.

20 All right. And do you understand that the evidence that they have given is that one or both of them brought a number of concerns about serious misconduct of Mr Goodman to your attention?---I believe they, they did, they did say that.

All right. All right. I want to ask you about those. They say, and I'll use them interchangeably because I can't quite remember who - - -?---Yeah.

- - - brought which one to you?---Yeah.

30 But the general, the general evidence was Mr Thompson when he, when he found something that he was concerned about he brought it to Mr Byrnes's attention who said he would raise it with you. Mr Byrnes' general evidence was if it was raised with him by Mr Thompson he brought it to you. If he found something himself he brought it to you?---I understand.

And he says as you know that as far as he knew no investigation was done to his knowledge as a result of anything that he raised with you. All right. That's – I think that's a summary of their position. All right. Now - - -

40 MS McNAUGHTON: Well, it was a bit more specific than that. It wasn't just - - -

MR THANGARAJ: I'm coming to the specifics.

THE COMMISSIONER: Yes.

MR THANGARAJ: All right. That's the general proposition and now I'll go to the detail of what they say that was brought to your attention. The first – one of them was Mr Goodman having Mr Thompson co-sign blank

cheques. Was that brought to your attention?---Not, not that I recall but I do recall issuing an instruction about the fact that Mr, Mr Thompson was the third signatory and I think Mr Goodman and Mr Thompson were signing cheques and I did issue an instruction to say that the cheques should be signed by Mr Goodman and Mr Byrnes and only in their absence by Mr Thompson or myself.

All right?---That's the only thing I can recall.

10 All right. I'll come to that in a moment. Do you remember them telling you that the blank cheques ended up being supported by documentation which was inconsistent with what the cheque was in fact used for?---No.

All right. So that's a pretty serious step to take isn't it to say that a Chief Financial Officer cannot countersign a cheque with another employee of Council?---No. What I, what I was saying is the, the process should be if there are two main signatories to Council's bank account that being, that being Mr Goodman and Mr Byrnes and then there are alternate signatories which is Mr Goodman – sorry, Mr Thompson and myself and now there's
20 more, that those alternate signatories should only sign when the two main signatories are – if one of the main signatories is unavailable.

THE COMMISSIONER: But that - - -

MR THANGARAJ: Well, was – sorry.

THE COMMISSIONER: Sorry. I thought the original, sorry, the original question was did Mr Thompson or Mr Byrnes come to you about the issue of Mr Fitzgerald - - -?---Mr Goodman.
30

Sorry, Mr Goodman asking them to co-sign blank cheques and you said you don't recall that?---No.

But the question of the instruction that you issued doesn't address that issue, it just addressed the - - -?---No.

- - - question of who the cosignatories were?---That's correct. When I heard that and it was discussed with me I tried to recall anything I'd done and that was the only thing that I could recall. If something was raised with me I did
40 issue that instruction but I don't remember it being raised by either Mr Thompson or Mr Byrnes in terms of blank cheques.

MR THANGARAJ: All right. Well, the first thing is - - -?---and I would have raised that with the GM.

All right. Well, the first thing is that their evidence is that they were no longer allowed to co-sign blank cheques or cheques together?---Well, I don't, I don't, I don't recall.

All right. Well, even - - -?---I do recall issuing a memo, that's to the best of my knowledge what the memo said.

Okay. Well, even if you had to say that Barry Byrnes and Mr Goodman were to sign cheques as the first alternative, was that casting a doubt on the integrity of Mr Goodman with respect to signing cheques?---No, because he would always be the main signatory.

10 And it depends who you're doing it with, doesn't it?---Well, the signatories should be the two main signatories to the council's bank account. That's what I would suggest.

Well, what stimulated you to remind people or impose that - - -?---I can't recall because when it was raised with me, that's the only thing I can recall in relation to cheques.

All right. Well, something must have been raised with you in order to result in you taking a remedial step?---That, that may be true but I don't remember
20 it being in relation to blank cheques because if it was - - -

All right. Well - - -?--- - - - in relation to blank cheques I would have raised that with the General Manager and I don't recall raising that with the General Manager.

Well, let's not worry with respect as to what you raised or may have raised with the General Manager because that's a separate question. What I'm asking you is, given the evidence of Mr Byrnes and Mr Thompson about this, and Mr Goodman, do you agree that, that it's possible that they did
30 raise with you this concern of blank cheques being signed by Mr Thompson and Mr Goodman?---No, I don't, I don't recall that at all.

I'm not asking you whether you recall it, I'm asking you, given their evidence do you agree that that might have happened, given that you don't have any other explanation for why you took remedial action?---Well, the answer would be no.

I beg your pardon?---The answer would be no then, because I don't recall it.

40 All right. And you've got no other recollection of any other explanation that led you to that conduct?---No.

Okay. Did they bring the Cabcharge abuse to your attention?---I, I couldn't recall how I found out about the Cabcharge but I think it was Barry Byrnes.

All right. What about the credit card, did they bring to your attention concerns they had about the quantum and the nature of the expense on the credit card of Mr Fitzgerald?---No.

No?---No.

They didn't tell you that there were Gas Motorsports entries on the Council credit card?---No, I don't recall that at all.

When you say you don't recall, do you deny that they did that?---Well, I think with the credit card, yes.

- 10 Okay. And what about the blank cheques, do you deny their evidence in relation to that, that they told you that blank cheques were being countersigned?---Well, I can't recall being told. All I can recall is that if, if that was raised with me what I would have done and I don't remember it, so I don't think it was raised with me, no.

All right. Well, what about this as a proposition. If you were deliberately not telling Ms Kirchner - - ?---This would have been under Mr Fitzgerald's time, not Ms Kirchner.

- 20 All right. Well, if you were choosing what to and what not to tell your superior, whoever it was, if that was the – let's just assume – let's assume that you had made a decision as to not reporting everything you should have. All right. I just want you to work on that assumption. I know you don't agree with it but I want you to assume that. If that was the situation, it doesn't mean that the fact that you hadn't reported it above, that doesn't mean that you were not told about blank cheque co-signing. Do you agree with that?---That's correct.

- 30 All right. So in those circumstances do you deny that they raised blank cheque countersigning with you?---If you want to put it that way I have to deny it.

Because – and the only explanation is because you say you would have reported it upwards?---That's right, and I don't - - -

All right?---I don't – and I don't – I have no knowledge of it.

- 40 Okay. Now, they say that they brought to you the fact, which we now know is – sorry, we now know – I'll go back a step. We now know that there were invoices that had Mr Goodman's bank account details on them, right, you accept that, that we now know that, you now know that that's the case? ---I think so, yeah, I think so.

Do you accept their evidence that they brought that to your attention? ---No. Yes, I do deny that.

Because that evidence from them would be consistent, wouldn't it, with an admission by Mr Goodman to you that he had been engaged in false

invoicing?---If, if, if that had been raised with Mr Goodman, yes, it would have.

All right?---Or misconduct.

Now, you've heard Ms Rai's evidence this morning about the – sorry, yesterday, about the internal audit?---Yeah.

10 And it was put to her by your counsel that you were asked to do things in the, you were asked to do various things and that because there were other pressing concerns she was asked to do something then because that was a priority et cetera. You were here – were you here for that evidence?---I was here for her evidence.

Okay?---I'm not exactly sure what you're referring to there.

All right. Well, did you hear my question to her at the end, which was about the year or so, year and a half that she was there or you were both there together, that she was never once asked by you to audit the Finance
20 Division. Did you hear that evidence?---Yes, I did.

Do you agree with that?---I – the – there was – the, the internal auditor's job is based on the audit plan. I don't determine the audit plan, the Audit Committee does. The only one I can recall saying to Natasha to delay for it was, it was the accounts payable audit that was scheduled for 15/16 and I said to her, don't do it around that September/October, like sorry, October/November period I think it was, I think we discussed it in September, might have been August, is to not do that particular audit around
30 that time because that's when the Finance staff are preparing the annual financial reports and that if they did, if she did it sometime after November it would allow the procurement officer to come on board and she could get that person's input into the procurement processes as well. Then ICAC came in October and um, clearly it wasn't then time to do the accounts payable audit.

Did you ever ask her to audit the Finance Division?---No, because it wasn't my role. She had the – her, her role was to follow the audit plan, so the internal auditor functionally reports to the Audit Committee and administratively reports to the General Manager.
40

Right?---Given the fact that for that day-to-day contact she would see me, if I needed to get instructions in relation to any matter I would discuss it with the General Manager and then convey that back to Natasha.

All right. You heard her evidence that she reported to you?---That's right, I think at the interview she said she was, she actually reported to the General Manager through me.

Yeah. And she then gave evidence, that was what she was told in the interview and then she gave evidence that she, for all practical purposes, reported to you. Do you remember her giving that evidence?---Yes, but - - -

All right?---That's correct.

Okay?---But anything to do with internal audit I would then raise with the General Manager, there would be discussion and I would convey that information back to Natasha.

10

Well, when you say that there was discussion with the General Manager, if you did not want something to be looked into, you would not have raised it with the General Manager, would you?---No, but it wasn't something that I would have asked or not asked. For example, when we had an issue with a parking fine I spoke to the General Manager about getting Natasha to do a quick audit of the use of the pool cars and how we record the drivers of those various vehicles in various locations, so I spoke to the General Manager about that. She said, fine, that's a good idea. So I asked Natasha to do it. So I wouldn't be directing – I don't direct the internal auditor to do anything, they follow the audit plan that's been adopted by the Audit Committee.

20

Is it just a coincidence, Ms Cullinane, that the internal auditor did not look at the areas that would have exposed Gary Goodman to serious criminal misconduct?---No, I think the audit plan, as I recall, the audit plan was based on, I think it was, was it a 2013 audit plan, '13 to '17 or, or '12 to '16, I can't remember, I think it's '13, '13 to '17.

30

It doesn't matter, it doesn't really, the years don't matter?---I think, I think, well it does in terms of I think we're now better - promoting better practice review from the Office of Local Government. I think they recommended that the internal audit of Council focus on organisational audits. I think when the – when that was discussed at the Audit Committee following that recommendation, I think that also probably had some level of influence over the, over the audit plan.

40

THE COMMISSIONER: Was there ever at any time before Ms Rai, when other internal auditors occupied the position. Was there ever an audit of the financials, an internal audit of the financials?---There would've been some elements of financials but what they were I can't recall. I think the accounts payable audit was the first main audit in that financial area.

MR THANGARAJ: What role - - -?---I think there was some procurement, there might've been something to do with procurement once before.

Did you have any role in putting together the audit plan?---No.

The internal audit plan?---No.

All right. Now in the entire time that you have been the Deputy General Manager and there has been an internal auditor, has – and that Mr Goodman's been working there, has the internal auditor looked at the financial division?---I don't think so.

Nothing further.

10 THE COMMISSIONER: Ms Cullinane, can I ask you had you, excuse me. Have you submitted tax returns before 2009?---Yes, yes, yes.

So is there any reason why they haven't been done since 2009?---No. Only, only because just work commitments and my carer commitments.

But you'd have a tax file number?---Oh, of course, of course.

20 Well you must've received notices from the Taxation Office putting you on notice that you were obliged to file returns since 2009 and you hadn't done so?---2010. No, I haven't but I've, but I, I haven't - - -

You haven't?---No, I haven't. But I've got an appointment with my tax agent on the 31st of this month.

What so your tax agent, no one has informed you, you've received no letter from the Tax Office?---(not transcribable) No, nobody forwarded it, no.

Sorry?---No, nobody has sent me a letter, no.

30 Not even directly from the Australian Tax Office?---No.

Has Mr Goodman borrowed money from you at any time?---Yes, he borrowed a little bit of money to buy, I think, I can't remember what it was, but he borrowed a couple of thousand dollars and then probably about six months ago he borrowed \$5,000 from me that he said he needed to pay his private nurse.

40 When you say a couple of thousand dollars, when did that happen?---I can't remember, probably over the last 18 months. But they're the, they're the two I remember. I think one was for a compliance plate that he wanted to buy for a car and it was a short term loan. And he hasn't paid it back. And the other was, he needed some money. What he told me was to pay his, his private nurse.

And that was about six months ago?---I think, sorry, I apologise. It would've been more than that. Because I haven't seen him. It's six months from October, so sometime earlier in, because I haven't seen Mr Goodman so probably some time, I don't know, March, you know, sometime in - - -

March?---Sometime early in 2015.

March, 2015?---Onwards. You know, for maybe March to September. I can't honestly remember.

10 And when was it that you were having this discussion – when was it that you were having the discussion with him well according to the date on the phone call about the – what you say was the abuse of the Cabcharge and the fuel card - - -?---I think it was October.

- - - dockets, that was October, 2015. So as at the date of that conversation, he already owed you something in the order of \$7,000?---It may have been more, I'm not sure. But he was waiting on a beneficiary from his uncle as I recall.

20 But what I'm trying to understand is, given that he personally owed you \$7,000 at the time that you were complaining, you say, to him about his non-payment of the Cabcharge and the fuel card debt back to Council. Why was it that you accepted his assurance that he would pay it when you had an outstanding loan to him?---Because he was waiting on the settlement of that – being a beneficiary.

All right?---And then I assume he would pay that.

Yes? Did - - -?---I wasn't, I wasn't that concerned about my money it was just the repayment of the Council.

30 Have you received payment of the 7,000 back to you?---I haven't, no, I haven't had any contact in relation to that matter, no.

Well whether or not you've had contact, he hasn't returned that money to you?---No.

Yes, Mr Moses, did you want to go next?

MR MOSES: Yes, I do. If that's convenient, Commissioner?

40 THE COMMISSIONER: Yes.

MR MOSES: Ms Cullinane, I act for the Council. I think you've already accepted today that you've given evidence which has proven not to be true, correct?---No, I don't accept that.

You don't accept that. Well, let's be blunt about it. You were shown volume 37, were you, page - - -?---Oh, sorry. Are you referring to the memo when I didn't recall it, yes.

No. No?---Sorry.

THE COMMISSIONER: You might be better off not anticipating what Mr Moses is about to ask you.

MR MOSES: Volume 37, page 1, if that could be put on the screen. We'll just refresh your memory. I just want to make sure we start the cross examination off on the right foot?---Yes, the memo.

10 You got it, sure. Now Counsel Assisting very fairly and specifically asked you, ma'am, whether you had had a discussion with Mr Goodman in relation to that memo prior to it being issued to the General Manager. Do you recall him saying that?---Yes.

And you were quite emphatic, you said, no, you hadn't, correct?---That's correct.

That evidence when you gave it, I'll withdraw that. That evidence was wrong, wasn't it?---Yes.

20

Yeah. It was not truthful, was it?---It was incorrect.

I see. It was false, wasn't it?---It was incorrect.

Ah hmm. And when the telephone intercept was played it quite clearly demonstrated it, demonstrated did it not, that in fact not only had you discussed it you had told him what to put in it. Do you remember that?---I think he was, yeah, that's correct. He was discussing with me what should be (not transcribable)

30

You told him what to put in it, correct?---Okay, yes.

Not interested in you putting a spin on it?---Yes. Yes.

You told him what to put in it, correct?---Yes.

Thank you. We've all seen it?---Yes.

Okay. And heard it?---Yes.

40

And when you gave your evidence about that memo to Counsel Assisting, you were trying to mislead this Commission, weren't you?---No.

Yes, you were, ma'am. And I'll be putting a submission to the Commission to that effect. You deliberately tried to mislead the Commissioner when you were answering Counsel Assisting's questions about that?---No, that's not correct.

Now in relation to CND?---Yes.

Did you tell Counsel Assisting that the first time you heard of CND was today, is that right, or when?---No.

When did you first learn of CND?---A long time ago. I think what the question was put to me - - -

10 No, no. Don't worry about what the question was, I'm not interested in you telling me things about what questions are, answer my question, okay, ma'am. That's what you're here to do. You don't control this. Okay. Focus. When did you first learn of the entity CND?---Several years ago.

Was it in 2009 when Mr Byrnes and Mr Thompson came to you and said that CND invoices were having moneys paid into Mr Goodman's personal bank account?---No.

You are lying, aren't you?---No.

20 You are lying, ma'am, aren't you?---No.

No. Now can you explain to me when and how you first learnt about CND several years ago?---I think it was - - -

Come on?---So we had a meeting, it was one of the - - -

30 Who's we?---Mr Goodman, Mr Fitzgerald and I had a meeting about some excessive expenditure. They were included in the list of cameras, security, those sorts of things were raised in relation to excessive amounts of expenditure.

Who raised it with you?---I think it was Mr Byrnes.

Mr Byrnes raised it with you. And did you find out what CND did?---They took over the installation of cameras and security with Council.

Who told you that?---I can't remember.

40 You can't remember, can you?---No.

So the reason you can't remember is because you're lying, aren't you?---No.

No. Okay. Now you know that after you were dismissed there were documents located in your office?---That's correct.

Which have been tendered to this Commission?---Three volumes.

And a copy has been provided to your lawyers, correct?---That's correct.

Yeah. Have you been through those documents?---I had a quick look.

I'm sorry?---I had a quick look.

Okay. Before I take you to some of the documents. Those documents, why were they in your office?---Why were they in my office?

10 Why were documents in your office that related to the investigation by ICAC, ma'am?---Some of the - I don't think all of those documents related to the investigation - - -

Listen, there were documents that were in your office that related to the ICAC investigation, correct? Yes or no?---In retrospect some of it, yes.

I'm not interested in you saying in retrospect, you've said that a number of times today and I'm going to come back to your "in retrospect's."---Okay, yes, yes.

20 There were a number of documents which were found in your office that related to the ICAC investigation, correct?---Yes.

Okay. And you were aware - - -?---Well, I don't, I don't know, I don't know that, yes, yes, the answer is yes.

And you were aware that ICAC had issued notices to the Council for the production of documents, correct?---For certain documents, yes.

30 And part of your job had been to collect documents to be produced to ICAC, correct, is that right?---Um, a small part of it, but yes.

Now, I'm going to ask you a question and then you can tell me what your answer is to it, okay. Did you keep documents in your office which should have been produced to ICAC?---The only documents - - -

Answer the question - - -?---I don't, I don't - - -

I'm not interested, you can answer that yes or no.---I don't know.

40 Did you keep documents in your office that should have been produced to ICAC?---I don't know.

Well, why wouldn't you know the answer to that question, ma'am?--- Because I think when you look at those documents there were some documents in there that didn't relate to the ICAC investigation. There were some Teletec and some other companies in there, I don't know if they were photocopies that had already been provided to The Commission and relation to the credit cards, um, the general manager's credit cards - former general

managers - I don't know if there is anything in there that related to the investigation.

Okay. Is that your evidence?---As best as I can, I mean, I'm happy to go through - - -

Oh don't worry, we will be. Now, in relation to Cabcharge, for instance, there were quite a lot of Cabcharge documents in there, weren't there?
---That's correct, they weren't the vouchers - - -

10

No, no, there were quite a lot of Cabcharge documents in there were there, is that right?---There was some, yes.

And they weren't produced?---I don't know if they were produced.

No, no, you did not produce them yourself did you? You did not give them to anybody at Council and say these should go to ICAC?---I don't know if they're, I don't know if those documents had been produced because they're copies.

20

You're not even listening to my question, are you? You've done this a couple of times so far - answer the question. These documents that were found in your office, you did not give them to anybody in Council to give to ICAC, correct?---Those documents, no.

30

Thank you. Now, contained within the bundle that was found appears to be an entry or entries in relation to a number of entities where payments were made. I'm going to show you the document, do you want to just find that page reference for me, where it's got CND on it. Now if the witness could be shown the Exhibit that was tendered yesterday, 70, Exhibit R70 it's behind Tab C, there's no tabs in that one, just give me that, just give me that, that's the one but it's got no tabs on it. So I'm going to give the witness a copy of this document which is behind Tab C, it's entitled CND and there are a number of payments that are listed there for CND Computers and the like on the second page, thank you. If that could be shown to the witness, it comes from Exhibit R70. Have you seen that document before today?---Yes, I think this - yes, yes.

40

And what was that doing in your office?---I think this was part of the documents that we went through at the meeting in 2011, Mr Fitzgerald, Mr Goodman and myself.

Well, is these the expenditures that were going to these companies, correct?
---That's correct.

And one of them was CND, correct?---That's correct.

And what was the amount that was spent there?---It was various amounts but the total in all of those \$2 million, \$2.7 million.

And that document's titled CND.---That's correct.

Who prepared that?---Me.

You prepared it. And did you think that you ought provide that to the Council to produce to the Commission when this investigation kicked off?
10 ---I didn't actually realise that I still had this document but all the - - -

It was in your room.---That's correct.

It was not hiding anywhere - - -?---That's correct.

- - - there was a folder containing all of these documents that related in one way or another to the matters that ICAC were looking at. You didn't think you had the document?---No, I, I didn't recall I still had this document.

20 So you prepared that document?---Back in 2010/11.

And what was the trigger for you preparing the document?---I think we were, it was raised about some excessive expenditure - - -

Who raised it?---I think it was Barry Byrnes.

You see, what Barry Byrnes raised with you and Mr Thompson was what appeared to be invoices being issued by CND Computers for payments that were going straight into Mr Goodman's bank account, correct? That's the truth of it, let's be truthful - - -?---That, that - - -
30

This is the moment now to tell the truth and to come clean on this. You were confronted with this issue by Mr Byrnes and Mr Thompson who've given evidence on oath here in this Commission that they told you about this. That's the truth of it, let's be honest, that's the truth of it, correct?
---No.

No. So Mr Byrnes, Mr Thompson and Mr Goodman all say, all say that this issue arose and you say that's not true. Is that your evidence?---That's - - -
40

Is that right?---That's correct.

Okay.---Not in those, not in those terms, I don't know what conversations Mr Byrnes, Mr Thompson and Mr Goodman had but I only know the conversations I've had.

What they told you was, is this right, that the bank account numbers used by the Gary Goodman in the payroll system were the same as the bank account

numbers used for payment in relation to CND Computers, that's what they told you, correct?---No.

You're lying aren't you?---No I'm not.

You see and you call Mr Goodman in according to his evidence, and you basically told him in effect that he was a crook, correct?---That's not correct.

10 Well, you've heard his evidence about that.---I have.

Yes. And he said that, he said that to you didn't he?---(No audible reply)

He said that to you didn't he?---He said that to me?

You said that to him?---No.

No. And he said to you, he wouldn't do it again?---No.

20 No, okay.

MS McNAUGHTON: I'm loathed to interrupt my friend and it might be my mistake, but I thought it was Mr Goodman's evidence that the crook conversation occurred in relation to false invoices, not in relation to bank account.

MR MOSES: These are false invoices, of course, they're issued by CND, money is going into his bank account. They're false, I mean, semantics or what are talking about here?

30

THE COMMISSIONER: Can I just ask this question, Ms Cullinane, do you, did you ever have a meeting, whether it was in relation to excessive expenditure or false invoicing, did you ever have a meeting with Mr Goodman about that, that topic where he apologised and he was in tears? ---We had, Mr Fitzgerald, Mr Goodman and I had a meeting to talk about some excessive expenditure, this was one of them um - - -

Yes, but what I'm specifically putting to you is, did you ever have a meeting where Mr Fitzgerald, sorry Mr Goodman I'm sorry, apologise - - -?---No.

40

- - - and he was in tears?---I don't recall a meeting - - -

But that's not something you'd forget is it?---It didn't occur. I had a meeting with - - -

That didn't occur, all right.---Not while I was at the meeting.

All right.

MR MOSES: So we've got three witnesses saying, two of them saying they told you.---That's correct.

And Mr Goodman says that you confronted him with it.---When was the um, meeting - - -

10 No, ma'am, see you're like asking questions. It either happened or it didn't you see, what you've been doing, may I respectfully say to you ma'am, is ever time you're confronted with a question, in order to see whether or not, I'm being blunt with you here, whether or not you're going to answer it, you try and illicit more details to see if you could fudge away around, that's what you're doing isn't that right?---No, no, no, that's not.

20 No? Okay. Well, let's focus then, let's focus on what you're doing then. You say on oath to the Commissioner, that you never had that discussion with Mr Byrnes and Mr Thompson where they told you CND invoices were being paid into Mr Goodman's account, they never told you that, is that right?---I never recall a meeting with Mr Goodman - - -

No, no, not recall. Mr Byrnes and Mr Thompson they came to you and they told you that there was money being paid for CND invoices that was going into Mr Goodman's personal bank account?---No.

They never said that to you?---(No Audible Reply)

Answer it on there - - -?---No. Sorry.

30 - - - because ultimately - - -?---Sorry.

- - - someone will have to look at the transcript and make a finding. It never happened?---No. I, I cannot recall a meeting - - -

No, no, don't worry about don't recall. You either, you either say one of three things. Yes, it happened, no, it didn't – four things, no, it didn't happen, thirdly you say I don't recall or fourthly you deny it. So which one is it, which one are we coming to, yes, no, don't recall, deny, what one is it?---It will have to be no.

40 No. Okay. So never happened?---Not that I can ever remember having a meeting where they raised that issue.

THE COMMISSIONER: Ms Cullinane, Ms Cullinane - - -?---No.

You have to appreciate there is a very big - - -?---No.

- - - distinction between saying I don't know something - - -?---No. The answer is no.

- - - and something didn't happen?---The answer is no.

It's an important distinction. You understand why don't you?---Yeah.

All right.

MR MOSES: Thank you. Thank you. And now did you ever confront
10 Mr Goodman with an allegation that moneys were going into his personal
bank account in the name of CND, that is, through CND invoices?---No.

Did you ever confront him with that?---No.

Never did?---No, because I didn't know.

Okay. So you deny that?---That's correct.

Thank you. Now let's go back if we can to the transcript of the telephone
20 intercept of 2 October, 2015. That was a conversation you had with
Mr Goodman. Correct?---Yes.

Yes. And you told him in that telephone conversation that he could not
leave, is that right, he shouldn't leave. Correct?---(No Audible Reply)

Ma'am, it was only put up - - -?---Yes.

- - - moments ago?---Yes.

30 Do you recall this one?---Yes.

Okay. And you said to him in this conversation did you not that – this is on
the screen up there, page 9 of 9, “Like seriously you might leave but you'll
end up in gaol, Gary.” Do you see that?---Yes.

Okay. Now on your evidence you say at the time of this conversation you
had no evidence in your possession that he had engaged in criminality. Is
that right?---That's correct.

40 Okay. And that all you knew was that Cabcharge had been used and it was
excessive and he was going to pay it back. Correct?---That's correct.

Yeah. And you knew of no other criminality. Is that right?---No.

No?---No. I didn't – I certainly didn't about any false invoicing.

No. Well, what about other criminality by Mr Goodman, I mean again, now
is the time to be truthful?---Well, I don't - - -

What, what about other – what was the conduct that might have him ending up in gaol, what’s the – what were you referring to there?---I was referring to him if he didn’t pay the money back to Council he would go to gaol.
That’s - - -

Oh, so if he didn’t pay Cabcharge money back he was going to go to gaol?
---I was, I was trying to encourage him to pay that money back to Council.

10 You were trying to encourage him to pay the money back - - -?---And that’s what I said to him.

- - - to Council. What you were encouraging him to do is not to leave because if he left somebody else would be sitting in the chair who might uncover the fraud. Correct?---No.

That’s what you were encouraging?---No, I had no knowledge of the false invoicing.

20 Okay. Okay. Well, let’s go back if we can to 18 July and we’re not going to play the intercept to you but I just want to say you accept don’t you that you used the words there that they might hang us in respect of when you were having a discussion with him about what should go in the memo. Correct?---That’s right in terms of - - -

Yeah?--- - - - the words “might hang us”. Yeah.

30 Yeah. Well, what that meant to say is that if you say something they might catch us out and we might be in trouble, correct, that’s what you were meaning to convey?---No. No, I was not. I, I have never been complicit or involved - - -

No, no, no. Is that what you were meaning to convey in the conversation, about the use of the word hang us?---No.

40 No. Well, how can you honestly give that evidence right now, right now when you told the Commissioner multiple times that you couldn’t recall that conversation as the explanation for giving a dishonest answer that you never had a discussion with Mr Goodman. So let’s walk back from it now for you, okay?---Yeah, yeah.

And see which story you’re going to stick with. Can you recall anything about the conversation of 28 July, 2015 - - -?---Not a lot.

- - - sitting here today?---Not a lot.

I’m sorry?---Not a lot.

Not a lot. So you can recall parts of it?---I can recall it when it's on the screen.

Okay. So when you see it on the screen does it refresh your memory or it just puts in your mind the fact that you had the conversation?---A bit of both.

A bit of both. Well, the words "hang us", does that prompt you to recall why you would have used those words?---It was inappropriate words.

10

No, no, no. Don't worry about inappropriate. You keep on wanting – making explanations for what you've said?---I don't know why - - -

You've been caught out here. What were the words "hang us" meant to convey, can you remember? If you can't remember stick with it but if you want to put a spin on it tell us what, what you can recall.

MS McNAUGHTON: Well, I object to my friend's - - -

20 THE COMMISSIONER: Hyperbole.

MS McNAUGHTON: Yes.

MR MOSES: Well, whatever?---All I meant - - -

Whatever, Commissioner.

THE COMMISSIONER: Flourish.

30 MR MOSES:. Flourish.

THE COMMISSIONER: Forensic flourish.

MR MOSES: Well, it's cross-examination.

THE COMMISSIONER: Yes, I know.

MR MOSES: The truth hurts.

40 MS McNAUGHTON: Well, I object to that too.

MR MOSES: Well - - -

MS McNAUGHTON: My friend is often making comments. As I understand it a barrister's job is to ask questions - - -

MR MOSES: I know exactly what my job is.

MS McNAUGHTON: - - - (not transcribable) comments.

MR MOSES: And my, and my friend - - -

MS McNAUGHTON: (not transcribable) comments being made.

MR MOSES: And my friend, my friend is taking objections quite a few times now in my view at inappropriate times. If she wants to make a point
- - -

10

THE COMMISSIONER: I wouldn't – I don't accept that, Mr Moses.

MR MOSES: But a few times, a few times, Commissioner. If she wants to take an objection in respect of some of my questioning it should be done sometimes in the absence of the witness. That's what I'm saying.

THE COMMISSIONER: Well, look, I think Ms McNaughton's objections have been well within the bounds of her responsibility to represent Ms Cullinane.

20

MR MOSES: Yeah.

THE COMMISSIONER: But can I just suggest that it's getting - - -

MR MOSES: Can I - - -

THE COMMISSIONER: It's getting late in the day.

MR MOSES: It is.

30

THE COMMISSIONER: And I think we're all a bit tired so can we - - -

MR MOSES: I know. Well, can I focus on this - - -

THE COMMISSIONER: Yes, can we keep going and - - -

MR MOSES: Can I focus on - - -

THE COMMISSIONER: Yes.

40

MR MOSES: - - - this issue because this is quite important, Commissioner.

THE COMMISSIONER: Yes.

MR MOSES: In relation to "hang us", can you recall why you used those words?---No. All I meant by that - - -

No, no, no. If you can't recall you should say so, ma'am. Can you recall why you used the words "hang us"?---No.

Thank you. Now in relation to the content of that letter of the – the 29 July letter, the one that went to the General Manager, you didn't tell the General Manager did you that you'd spoken to Mr Goodman about the content of that document. Correct?---No.

No. And - - -

10

THE COMMISSIONER: You meant that's correct?---That's correct.

Right.

MR MOSES: Yeah. And you had a meeting did you with Mr Fitzgerald and Mr Goodman at the Botany Bay Hotel. Is that right?---We did have lunch there, yes.

20

Yeah. And when did you have that lunch?---In October.

And did you pay for the lunch?---Yes.

And did you pay using cash or credit card or ATM?---Cash I believe.

I'm sorry?---Cash I believe.

30

Okay. And can you recall whether there was anybody else present apart from the three of you?---To the best of my knowledge, no. There was nobody at the table with us, no.

Okay. Now can you recall what the purpose of that discussion was to be over lunch?---There was two main purposes.

Ah hmm?---One was to - - -

And bearing in mind of course you're giving evidence under oath. Correct?---Yes.

40

As you're giving this evidence and you don't know for a fact whether the Independent Commission Against Corruption has any - - -?---No, no.

- - - listening device in respect of this?---Yeah. Yeah, that's fine.

So tell us what, what the discussion is?---So the main discussion, the main purpose of the meeting was that Peter Fitzgerald had contacted me probably earlier in 2015 about some documents or photographs or something that he'd left at the storage shed in relation to his mum. I think it might have been tennis trophies or, or whatever.

And just stop there. The Strathfield storage shed?---I believe so, yes.

Thank you. So he contacted you?---That's correct.

So that was one of the purposes of the meeting?---Yeah. So the GM's secretary had put those together so one was to give him that. He rang me earlier in the year and I just hadn't had time to do it.

10 Okay?---He contacted me later on. I said yes - - -

We, when, when?---It was probably around September.

Okay?---And I knew that that box of stuff was located in the GM's area - - -

Can you just stop there?---Yeah.

So he contacted you in September on your mobile or at the Council offices?
---I think it was, I think it was on my mobile.

20

Okay. And apart from discussing - - -?---Or, or it might have been – he contacted me, he contacted me twice about it.

That's okay?---One was a while ago. I don't know if it was September.

Okay?---It would have been - - -

Well, just trying to get the time line right?---No, it wouldn't have been - - -

30 No?---We're talking about 15. Yeah, it wouldn't have been in September.

Well, when did he contact you, ma'am?---I can't remember. It would have been – once was earlier in the year and then subsequently at another time. I apologised that I hadn't done it so we met for that purpose and the other purpose was to clarify with Mr Fitzgerald about continuity of service for staff.

Okay. Well, let's go, let's go - - -?---And then, and then I raised with him at that - - -

40

Well, can we just go, can we just go to the second issue, to clarify with him?
---Yes.

Just say that again?---Continuity of um, service for staff.

Okay. Are they the words you use?---(No Audible Reply)

What did you say to him about that - - -?---Ah - - -

- - - in the conversation?---Did he remember approving - - -

Ah hmm?--- - - - the continuity of service for long service leave for Barry, Mark Thompson and myself I think it was.

And why did you want to do that for?---Because the General Manager, Peter Fitzgerald had approved continuity of service for long service leave.

10 No, no, no, listen?---Why did I want to?

Why did you want that clarified by him?---Because - - -

That's the question?--- - - - Mr Byrnes had left - - -

Ah hmm?--- - - - and as I - - -

Mr Byrne had left where?---Mr Byrnes had um, retired from full-time employment at the Council.

20

Ah hmm. Yeah?---Um, and they'd made a, they'd overpaid him an amount of money - - -

Ah hmm?--- - - - and they'd also deducted some long service leave.

Okay?---I thought that long service leave was relating to his continuity of service, so in other words that he was in the system at 2.2 weeks and they'd only paid him 1.3.

30 Ah hmm?---So I said to Barry, look, I don't have the authority to approve that.

Ah hmm?---I said, you have to pay the overpayment back and we'll have to clarify, if there's documented we'll have to clarify with Mr Fitzgerald what his recollections were about what he approved.

So that's what you told Mr Fitzgerald was the purpose of you catching up with him?---No, I didn't tell him that was the purpose, the purpose - - -

40 Well, I'm going to - don't worry about pointing to your lawyers. In terms of the conversation you told the Commissioner that there were two things that were raised in the conversation. Correct? The first one relating to photos, correct?---That was the purpose of the meeting.

Yeah. And well, the second purpose was to clarify the entitlements of staff. Correct?---Sorry, I may, I may have misled. The purpose of the meeting with, with, with Peter - - -

Yes?--- - - - as far as Peter was concerned - - -

No, no, I'm not, I'm not interested - - -?---Oh, okay, I thought you - - -

- - - about that, about – I was talking to you about your telephone conversation you see. You said there was a telephone conversation?
---It was to meet Peter.

10 And there were two issues that were discussed?---It was – no, no. The telephone conversation was to meet up for lunch - - -

Okay?--- - - - to give Peter his - - -

Is that what you said in the telephone call to him?---I, I, actually I don't know. Actually thinking about it, I don't think I arranged the lunch, I think I asked Gary to.

20 Okay. So - - -?---I only had the conversation with Peter about asking me to give him that information and I said - - -

What information?--- - - -we would at a lunch.

What information?---I think Gary Goodman arranged the lunch.

No, no. See, this is very confusing. Let's walk back. There was a lunch at the Botany bay Hotel. Correct?---That's correct.

Mr Fitzgerald, yourself and Mr Goodman attended?---That's correct.

30 Correct. And you're now saying the lunch was organised by Mr Goodman?
---I'd arranged with Peter to have - - -

No, no, no, listen to the question. Are you saying that the lunch was organised by Mr Goodman?---Mr Goodman contacted Mr Fitzgerald about the date, the time and the location.

40 Thank you. Okay. Did you speak to Mr Fitzgerald prior to the meeting about any issue to do with clarifying issues relating to staff or the service of staff?---I can't, I can't recall. I don't think so.

You don't think so?---I don't think so.

So at the, prior to meeting Mr Fitzgerald at the hotel did you talk to Mr Goodman about what you wanted to discuss with Mr Fitzgerald at the hotel?---Yes.

And what did you say to Mr Goodman?---It was about the continuity of the service.

For whom?---For those staff members, for Barry - - -

Including yourself?---Yeah.

Sorry? No, don't say yeah?---Yes, yes.

Including yourself, ma'am?---Yes, yes.

10 Yes. So yourself, because you had self-interest in this too, correct?---Yes.

Yes. Who else?---Mr Byrnes.

And who else?---Mr Thompson.

Yeah. Anybody else?---No, they were the - - -

And Mr Goodman?---No, I think his continuity of service applied.

20 Okay, thank you. So the lunch occurs?---That's correct.

And tell us what, what was discussed at the lunch?---Um, just did he recall approving continuity of service for the three of us.

Okay. Did you say that to him?---Yes.

Okay?---I'm sure, I think I did.

You think you did?---I can't - - -

30

Well, did you?---I can't recall exactly who said it but it was raised and I
- - -

You see but the Commissioner has warned you before about the way in which you should give your evidence. If you don't recall - - -?---Okay, I don't recall.

40 You don't recall. Okay. Can you recall what Mr Fitzgerald said to you at this lunch concerning the question of service of staff?---He didn't have a great recollection.

No?---He said, "You'd have to give me some dates or something to think about."

Sorry, what did he said?---He said, "You'd have to give me some dates or something to think about."

Right. Okay?---Clearly he had no recollection of it.

Okay. Thank you?---Um, and so I told Mr Byrnes that, you know, he, obviously Peter didn't have a recollection of it so it wasn't something that could be pursued, and Barry accepted that.

Okay. See Mr Goodman, the way he tells it, is that at this lunch Mr Fitzgerald said that you should draft something?---I should draft something?

10 Do you remember Mr Goodman's evidence on this?---No.

No?---No, I don't remember.

You don't. And did your lawyers direct your attention to that at all?---No.

No. Okay. So do you deny that that was said by Mr Fitzgerald at the lunch?
---Yes, I do.

I'm sorry?---Yes, I do.

20 You do. Okay. So after Mr Fitzgerald said that he could not recall that issue and you would have to give him some dates, as far as you were concerned that was a dead issue?---That's correct.

So therefore that meant for you that that was going to have ramifications for you. Correct?---Well, I wasn't worried about my - - -

No, ma'am, correct?---Yes.

30 Yeah. Okay. Now, let's go then to your employment conditions if we can. You've told the Commissioner that in 2014 you were approached to go on contract like the other Directors. Do you remember giving that evidence earlier today?---Yes, that's correct.

And you said no, you weren't interested in that, you were subject to the award and that's where you'd prefer to be. Correct?---That's correct.

Do you remember that?---Yes, that's correct.

40 You have to keep your voice up because I can't hear you?---Yes.

Now, at all relevant times that was the position, wasn't it, you were an employee engaged pursuant to the Local Government State Award and its predecessor. Correct?---That's correct.

Yes. And as you told the Commissioner, there was no contract of employment, that is a document that extended beyond what was contained in the award. Correct? That is there was an award that governed your employment, correct?---Yes.

And there was no written piece of paper that set out the terms and conditions of your employment. Correct? That is there was no contract of employment. You told the Commissioner - - -?---Yes, that's correct.

Is that correct?---That's - I, I hadn't received a letter outlining that, that's correct.

10 Okay. And because, and that didn't surprise you because your terms and conditions were under the award. Correct?---Well, it didn't surprise me because um, I just assumed it was on my file.

Sure. But it didn't surprise you because the terms and conditions were under the award. Correct?---Yes, except for those conditions that had been negotiated separately with the General Manager.

We're going to come to that. Now, you, your previous employment in Local Government was at Drummoyne, correct?---That's correct.

20 Prior to it become the City of Canada Bay Council?---That's correct.

Correct. And upon your termination you were paid out all your long service leave entitlements. Correct?---That's correct.

And you then had a three-year break in service between the Drummoyne Council and Botany Bay. Correct? That is you didn't work for Botany Bay until three years after Drummoyne?---Oh, on a, on a permanent basis, that's correct.

30 Correct. You commenced in 1996 in a full-time role. Correct?---In a permanent position, that's correct.

Prior to that time you were a casual contractor?---A year, a year earlier than that I was full-time - - -

Yeah, yeah?--- - - - Acting Director, but prior to that - - -

Casual contractor?---That's correct.

40 Okay. Now, you were appointed as Deputy General Manager in around October 1997?---That's correct.

Now, if we can just ask if you can be shown the white folder which is the additional folder which the Commission has been given. I just want you to have a look at tab 8. I assume you've seen this folder before today?
---Oh, yes.

Yeah. And tab 8, that's the position description. Is that correct?---I haven't seen it before.

I'm sorry?---I haven't seen it before.

You haven't seen your position description before?---No.

Right. Okay. Did your lawyers show you this folder before you stepped in the box today? They were given it. Ma'am?---Ah - - -

10

Did you go through this folder or not, is this a surprise to you?---(No Audible Reply)

Just saying, Commissioner - - -?---Sorry.

- - - we specifically gave these folders or circulated them - - -?---Sorry, no, I haven't - I - - -

Don't ask your lawyers questions, have you seen it or you haven't seen it?

20

---No, no, I haven't seen this folder I'm sorry.

You haven't seen it, okay. Well that's your position description, isn't it there?---(No Audible Reply)

Is that your position description or you don't agree with that?---(No Audible Reply)

Yes or no?---(No Audible Reply)

30

THE COMMISSIONER: This is at November, 2011. I'm assuming it remains current, does it Mr Moses, yes?

MR MOSES: Yes, Commissioner?---I've, I've never seen this until today.

Okay. Your role as Deputy General Manager and Director Corporate involved did it not, looking after a number of areas including finance, administration and records, is that right?---Yes.

40

And to provide effective governance on behalf of the Council in relation to finance, administration and records, correct, was part of your role?---To assist in that, yes.

Yeah. Well you were the Director, weren't you, ma'am?---That's correct. Yes, correct.

Okay. And you were aware of course, that in respect of the role that you had, you of course were required to comply with Council's Code of Conduct, correct?---That's correct.

And I don't need to take you to the documents, I assume that you're familiar with the Code of Conduct?---Yes.

And that Code of Conduct had a number of obligations on your part?---Yes.

Yeah. One of it was that if issues of misconduct came to your attention concerning employees, it needed to be reported and dealt with, correct?---Yes.

10

Secondly, that you were not to engage in obtaining benefits that you were not entitled to, correct?---Yes.

And thirdly, in relation to the Code of Conduct, you were to report any conflicts of interests, correct?---That's correct.

Okay. You can stop flicking through the folder for now. We'll come back to it before your evidence is complete. So Mr Gary Goodman reported to you?---That's correct.

20

Okay. During the time that you had a relationship with him, that overlapped with the period that he reported to you?---That's correct.

Okay. And when did he cease, when did you and he cease having the relationship?---Oh, about 2002-ish. About 2002.

That was the period?---I think it was.

30

Okay. And the business that you had, the video store business, when did that start and when did that finish?---It was about probably about '93, '92/'93 probably till about '96, I would say. Maybe, yeah, '96, I think, maybe '97. But I'm not 100 per cent sure.

You don't have a good recollection of that?---No, it's around that time.

And was that operated through a company or a partnership?---Partnership.

Okay. And was there a joint bank account?---It was a – there was bank account in the business name, yes.

40

What was the business name?---Just Video.

Now that bank account's closed?---I think so.

When you say you think so, do you know or you don't know?---I don't know.

Thank you. Now were you the signatory to the bank account?---Yes.

Now in relation to the training at the Council, were you responsible for Code of Conduct training?---For arranging it?

Yeah?---Yes.

Yeah. And staff were required to undertake training in respect of general procurement policies?---Yes.

10 And in October, 2012 there was additional training conducted by ICAC following Operation Jarek, do you remember that controversy, Operation Jarek?---Yes, yes, yes, yes.

Yes. And that was the issue of an employee or two employees at Council receiving gift cards from - - -?---Yeah. I remember the - - -

- - - a service supplier. And following that there was the reinforcement of corruption training within Council, correct?---The Botany Way training, yes.

20

Now without taking you to all of the documents so I just speed through them. From 2012 onwards, there were a series of policies that were rolled out to reinforce business ethics and ethics amongst employees?---That's correct.

Would you agree with that?---Yes.

And that included Fraud and Corruption Prevention Policy in 2012?---Yes.

30 Gift and Benefits Policy in 2012?---Yes.

Statement of Business Ethics in 2013?---That was revised, but, yes, it was in earlier than that. I think it was 2010.

And the Code of Conduct and Gifts and Benefits in 2014, the revised document?---Yes.

Now and it was your job as the Deputy General Manager to make sure that you were aware of the policies in place, correct?---That's correct.

40

And to ensure that people in the organisation were trained in relation to those policies, correct?---(No Audible Reply)

Yes, ma'am?---(No Audible Reply)

Thank you. Yes?---I would arrange it, I think the responsibility rests with the General Manager but I would arrange that, that's correct.

And also your job in governance was to ensure that people complied with the policies, that was part of your job?---And part of the Manager of Governance's job and part of everybody's job, yes.

Sure. Yeah. And if people were not complying with the policies, it was your responsibility to raise it and take action if you became aware, correct? ---As it would be everybody else's, yes.

Do you agree?---Yes.

10

Okay. Now in relation to this issue of the use of Cabcharges with Mr Goodman, that of course was a serious issue because it related to the use of public moneys, correct?---Yes.

Is that right?---Yes, yes.

And to use your words in another context, "As custodians of public moneys you were required to exercise care and due diligence in carrying out your duties", do you accept that?---Yes.

20

And you raised the issue of over use of Cabcharge with Mr Goodman in 2014, is that right?---Yes, 2014/'15. I think it was 2014.

Yeah. And he needed to pay the money back?---That's correct.

And that had been drawn to your attention by whom?---I think it was Barry Byrnes.

And do you know who drew it to his attention?---No.

30

Okay. Now can the witness be shown, Commissioner, volume 19, page 3? ---Yes.

Now is that the email from Mr Goodman to you?---Yes.

And does that prompt your memory at all in terms of what was occurring there?---No. I think this was in relation to a request from the General Manager, I think.

40

This is in relation to what though? Does it prompt your memory at all?---I can't remember.

Thank you?---It may have been in relation to, no, I do remember. I think it was in relation to making sure that the Councillors Cabcharges were current for the Local Government conference, I think. I think that's why she asked me to get that.

With the issue of overuse of Cabcharge with Mr Goodman, you say you raised it with him?---Yes, I did.

And you told him he needed to pay money back?---That's correct.

And did you check at the time that you've asked him to pay it back as to when he would pay it back?---No. He, he, he would pay it back when he received the money from being a beneficiary of his uncle's estate, that's what (not transcribable)

10

You told the Commissioner earlier that one of the reasons why you had a heated conversation with him in October, concerning the need to pay the money was that it called into question your integrity because you had told the General Manager that he was going to pay the money back, correct?---That's correct. That's part of it, yeah.

20

And the issue that arose there was it, that you had the issue of the Cabcharge use brought to your attention and it was also brought to the attention of the General Manager and there was a discussion between the both of you as to how the issue was going to be resolved, correct?---That's correct.

Is that right?---That's correct.

And that you – the recommendation you made was to get him to pay it back, is that right?---That's correct.

30

Yeah. And you didn't conduct any investigation further, I think as you told Counsel Assisting into the matter to ascertain for yourself what was the reason for the overuse of the Cabcharge other than nothing that he had to go to hospital for hospital visits occasionally, correct?---Other than what Mr Goodman had told me, that's correct.

So you didn't go and check the documentation yourself?---No.

Is that right?---That's correct.

You accepted what he had told you?---I had.

40

And one of the reasons why you accepted that he told you is that you'd known him for a long time?---I knew he tells, I knew he tells - - -

I'm sorry.---I'm knew his health situation.

But, you knew his health situation that's why you accepted what he told you, is that right?---I think, I think so plus Mr Goodman was a long serving member of the Council, I think people trusted him.

And a former partner of yours?---I don't think that entered my head.

No, okay. Now, how much was it, did he owe to Council?---I'm not sure.

I'm sorry?---I'm not sure of the amount.

You don't know?---No.

No. Did you tell him how much he needed to pay back?---No.

10 You didn't?---No, I - - -

So, you told him that he needed to pay money back to Council but you didn't know how much it was?---That's correct.

You were going to leave to him to work out what he should pay back?---No.

I'm just trying to understand your evidence because - - -?---No, Mr Byrnes was asked to produce the details of the amount that he owed um, and he - - -

20 Did you sight it?---Sorry?

Did you sight the document?---No, no I didn't.

You didn't?---No I didn't.

No. Now let's go to the next topic which is the role in the audit processes. Can the witness be shown Volume 23 Page 236. Do you recall this email?
---(No audible reply)

30 Do you recall this email? It's Tab 145 page 236 Volume 23. Have you seen this document before ma'am?---Yes.

And Susan Gannon, she had been brought in, had she not, in respect of a specific project?---That's correct.

And the concern that she was raising in relation to this matter was that she had reached a position where the project had become stalled for a number of reasons, correct?---That's correct.

40 One of them was a lack of support within finance, was that right?---Yes.

That was a lack of support from an area which you were the director of?
---That's correct.

And the email attached the Asset Review and Business Improvement Project, could you look at page 247 behind Tab 146 of the folder that's been provided to you by the associate.---Yes.

Have you seen that document previously?---Yes.

And did you, did you review at the time you obtained it?---Sorry.

Did you review it at the time you go it?---Not - - -

This document.---Not at the time, no.

10 No. Have you subsequently reviewed the document since that time?
---Not in great detail no.

So there'd be no point asking you any questions about it because the position is that you didn't read it in any detail, correct?---Yes.

Okay. And you didn't do anything with it, correct?---No.

Ma'am?---No, that's not entirely correct.

20 Okay. What did you do with the document?---Sorry, around that time we were finishing the Fit for the Future (not transcribable) so that we had to have that done by the 30 June, 2015. From 1 July pretty much to well to 7 August I was working reduced hours. From 7 August to sometime early at September I wasn't at work so no I hadn't reviewed during that time.

Okay. So the answer to my question is, you didn't do anything with the document did you?---No.

Okay.---The finance co-ordinator reviewed it -- -

30 I'm asking you, did you do anything with the document.---No, no.

Sorry ma'am?---No, that's correct.

Thank you. Now External Audit Draft Management Letters. You'd had a role in that process - correct - in terms of financial reports?---Yes.

40 And what about your role with Draft Management Letters that were being received from the auditors, you would get them, wouldn't you?---I didn't personally get them um - - -

No?--- - - - Gary Goodman got them as the chief financial officer.

Okay.---And they were mailed to the general manager.

Is that your evidence?---(No audible reply)

Is that your evidence, yes? Is that all you want to say in answer to my question?---Are you saying somebody may have - - -

Did you get draft management letters?---I may have got them from Gary Goodman yes.

Well, can the witness be shown Volume 23 page 156. This is an email from Gary Mottau in which you are copied in, do you see that?---Yes.

Do you have that in front of you?---Sorry, what page was it?

10 Page 156.---156.

Volume 23. You're copied in on that?---That's correct.

And if we then go to page 170, of the same volume Commissioner.---Yes.

So if that can be shown up on the screen by the Commission staff, it's page 170 of Volume 23. Do you have that?---Yes.

20 Page eight of the letter it discusses the issue of cashing out of annual leave. ---That's correct.

It talks about that being prohibited unless in very specific circumstances, do you see that?---Yes.

Do you recall reading this document at the time?---I would have - - -

No, no, do you - - -?---I don't, I don't - - -

30 Don't worry about would have, do you recall sitting here today - - -?---I don't recall - - -

- - - seeing, reading that document at that time?---No, I don't recall.

Thank you. Do you recall the auditors raising the issue of cashing out of annual leave at any time up until the date of your dismissal with you, raising a concern or an issue about the cashing out - - -?---I remember this issue being raised here - - -

40 By the auditors?---Yes.

Okay. When was it raised by the auditors?---In this audit letter.

I'm sorry.---In this audit letter.

So you do recall the letter?---Yes, yes I do recall it.

Okay. Thank you.---I thought you said, at the time, sorry, I apologise.

And in relation to the management letters that were being issued by the auditors, do you recall concern being raised, and we can show you the letters if you like, concerns being raised in respect of amounts of \$150,000 being paid to certain suppliers of service without contracts or tendering processes being able to be identified?---Yes, yes.

I can show you the letters if you like, but do you recall that issue being raised?---In the letters, yes.

10 Yes. And that was a theme or an issue that arose on a number of occasions from the auditors, would that be right?---(No audible reply)

I mean, I can show you the letters if you like.---No, no, what they do - - -

Do you accept that?---Yeah, the auditors, the auditors raise those payments of certain creditors that may be over \$150,000 for Council to make a comment on.

20 Sure.---So the answer the managements response might be that it's covered under a SSROC contract or Procurement New South Wales or Procurement Australia or indeed, there is no contract.

Yes. There were quite a few of those weren't there, that had been identified by the auditors?---Over time, yes.

30 Yes. And do you know that some of the matters that the auditors identified were two names of businesses which this Commission has uncovered as being part of a fraud on Council, you're aware of that now aren't you, through the evidence?---I am now.

And there are some other legitimate suppliers of service that they've identified?---Yeah.

And there are others that they've identified that is, the auditors that were not legitimate, correct? Correct?---I believe so.

40 Yes. You did not take any steps, did you, upon reading the audit management letters to ascertain how these entities came to be awarded the work, did you?---(No audible reply)

I mean, we can go through them if you want, I can show you Exhibit 64 and you can take me through whether, through in respect of each of those entities that were listed as not having been subject of a sighted contract or tender processes, whether you made any inquiries to satisfy yourself as to the legitimacy of payments?---I'd probably prefer to see it.

Okay. Could the witness be shown, Commissioner, Exhibit R64. It's a letter dated 28 June, 2013. Thank you. It might be witness if I show the

witness a document rather than the Commission having to find it, thank you. Just go to page three, under the heading procurement, the second paragraph.

Do you have that ma'am?---I don't think I've seen this particular document. It's still marked draft. But - - -

Well, is that why you're saying you haven't seen it before? I'm just trying to understand your evidence?---I can't say I've seen every single audit letter.

10

No. No, you – I'm just asking you have you seen it before? If you haven't seen it before you should tell the Commissioner?---I'm not sure.

You're not sure?---I'm not sure.

Okay. If you had seen a document - - -?---Yeah.

- - - such as this - - -?---Yeah.

20

- - - page 3 in which it said, "We can't identify contracts for the following", as a prudent director of corporate governance would you have taken steps to try and identify whether there were contracts - - -?---Yes.

- - - or how they came to supply services?---Yes. Normally and we all - - -

That's what you should have done?---We normally do do - - -

I'm asking you that's what you should have done?---Yes.

30

Okay. But you can't tell me - - -?---Myself or - - -

But you – just - - -?---Myself or the Finance team, yes.

Yeah. But you can't tell the Commissioner whether that was done in this instance because you can't recall this letter?---No, that's correct.

Is that right?---That's correct.

40

Okay. Thank you. Now when did you meet Sam Alexander, first meet Sam Alexander?---I, I couldn't tell you.

I'm sorry?---I couldn't tell you when I first met him. I - - -

Did you meet him, did you meet him through Mr Goodman?---I - - -

I'm just trying to ask you do you know where you met him?---I can't – at work.

At work. Which work?---Botany Council.

Botany Council. And do you know what he was doing at Council?---I think he was providing – well, he was providing us with some phones at the time but I just can't remember when that was or where that was.

Okay. And do you know that his name or the name Teletec has come up in this case, in this inquiry?---Yes. Yes, I do.

10 And was Teletec providing work for Council?---They were undertaking work for Council, yes.

Yeah. Do you know what they were doing?---Providing phones and I think Mr Goodman had them doing some other work but I'm not sure what that was.

You don't know?---No.

20 Did you ask?---Sorry?

Did you ask him what they were doing at the time?---Not particularly, no.

When, when the Council was using Teletec did you tell him what they were doing?---No.

Did he tell you what they were doing?---No.

Okay?---Other than, other than providing phones and repairing equipment.

30 Okay?---And I think they were servicing a couple of things down at the Business Unit - - -

A couple of things?---- - - but I don't, I don't know what else.

Were you aware that in 2012/2013 they were given about \$76,000 worth of work by Council and that escalated in 2013/2014 to 225,000?---In what year?

40 2013/2014. Did that come across your desk at all, the figures that were being spent on various entities over 150,000?---It probably would have.

Did you raise any questions about it, ma'am?---No.

No. And you know now don't you from the evidence in this case that there was quite a significant fraud on Council by that entity?---Yes.

Correct?---Yes.

And without showing you the folder but you can have a look at it but you might be familiar with it, there was a Teletec invoice in the file found in your office. Can you help us with that at all as to why that would have been in the bundle of documents in your office rather than being produced?---No. The only thing – I don't know if it was produced.

Yeah. But you didn't give it to anybody to produce to Council did you?---I don't know if that's a photocopy or an original. We had - - -

10 I'm going to ask you the question again. The Teletec invoice in the file that was found in your office do you know whether you gave it to anybody at Council or you just don't know?---I don't know.

Okay. Thank you?---I don't know if it's part of the evidence or not.

Okay. Now your lawyers have been here throughout this matter. They no doubt would have told you or you may have heard it because you were seated next to them on a few occasions, Mr Mark said in evidence that Mr Goodman told him that he was not to use Computer Intersections
20 anymore because Lorraine did not want Council to use that company any more. That was his evidence. Do you recall reading that evidence or being told about it by your lawyers?---Yeah. Yeah, I have.

And was that the position, that you had told Mr Goodman that he was not to use Computer Intersections anymore?---Yes, that's correct.

You told him that?---That's correct.

Okay. And when did you tell him that?---I can't exactly recall but I think
30 Mr Goodman raised with me about buying either printer cartridges or something or computers or whatever from Computer Intersection and I said well, why would we do that, we're already getting a deal on cartridges which is below the (not transcribable) tender and the computers come under Government contract. I just couldn't see any reason to change from our current suppliers and deal with a company in Queensland.

That's what you told Mr Goodman?---In, yeah, in those terms.

That's what you told Mr Goodman?---I believe so.
40

Okay. And when did you tell him that?---Oh, whenever he asked me about Computer Intersection.

He raised it with you did he?---Yes. It hasn't been – I mean it was many years ago.

Well, what did he say to you about Computer Intersections?---I think it was just said about using Computer Intersection to buy the toner cartridges again and the computers.

He said that to you?---I think so, yes.

10 No, not you think so. See this is quite important because this company committed a large-scale fraud on the Council so I just want to understand your evidence very particular about this. What was the conversation that took place, do you say he triggered a conversation about it, about getting toners or you raised it? I'm just trying to understand the evidence?---No, he raised it with me but it was - - -

Okay?--- - - - it was several, several years ago.

Several. When?---I couldn't tell you. I couldn't tell you. Five years ago. I really don't recall.

20 Five years ago. Okay. And do you know that another entity was used that was related to Keith Mark to allegedly obtain - - -?---I didn't.

- - - those purchases from?---I didn't know but I - - -

You did know?---I didn't know but - - -

I didn't know?--- - - - I believe so now.

30 Say it again?---I didn't know but I believe so now there's - that Mr Mark had another company but I didn't know it was his company.

Okay. Thank you. Now can I move to the question of the security cameras. You've talked about a security of servant policy at Council?---That's correct.

You've said you've seen such a document?---Many years ago, yes.

40 You know, you know for a fact don't you, you're the director of corporate governance, that there is no such current policy is there?---(not transcribable)

See you instructed your Counsel yesterday to put some positive propositions. Correct?---No, no - - -

About - no, listen very carefully, this is very serious - security of servants policy, did you provide a copy of that to your lawyers, that policy?---I haven't got a copy.

No. Okay. Well, let's – because a number of propositions have been put based on this policy, okay, on your behalf on your instructions and your own sworn testimony to the Commissioner?---That's correct.

So let's go through this. You know for a fact there is no security of servants policy currently within Council, you know that don't you, sitting here today you know – we can show you the website that you referred the Commissioner to – there is no such policy is there?---There's - - -

10 You know that?---No, no.

Do you agree with me that there is no security of servants policy currently within Council, do you agree?---I, I - - -

I mean - - -?---I don't think that's correct.

You don't think that's correct. Are you aware of the policy, the section 252 policy payment of expenses and provision of facilities?---Yes, I am.

20 And do you know what that policy relates to?---Payment for Mayor and Councillors.

Okay. And that relates to security to?---There is a section in there on security.

Which says does it not that up to \$2,000 for security can be approved by the General Manager and anything above that has to be determined by the whole Council?---Yes.

30 Correct?---Yeah. Yes, it is.

Okay. Now the security of servants policy that was alluded to by your Counsel at page 1117 yesterday on your instructions where she put a number of positive propositions about that and your evidence today that's been done without you having a look at the policy. Is that right?---That's correct.

Is that right?---That's correct.

40 Yes. And when is the last time that you sighted the policy, ma'am?---Oh, a number of, a number of years ago. I couldn't say - - -

Give it your best shot. When's the last time you saw it?---I can't, I can't answer that.

You can't answer it?---No.

No. And when's the last time that you had cause to use it?---Me personally?

Yeah?---Well, I, I suppose in 2003.

Okay. Now, Mr Goodman's evidence was that under the authorisation or permission from Mr Fitzgerald Senior there was a security camera or installation at your home or your mother's home to the value of approximately \$50,000?---I believe so.

10 That's what he said, and Council paid for it. And your evidence is this, is it not – the Commissioner asked you about this – you are unable to point to any causal link between any alleged suspicion you had about being followed home or somebody entering your home, with anything that you were doing at Council, correct, at that time?---I, I, I didn't know if it was.

20 No, correct. Well, the Commissioner was very fair, she said to you and asked you specifically was there anything that you were doing at Council at that time or any incident related to your Council employment that could be linked to this, and you were unable to point to anything. Correct?---That's correct.

Okay. And you didn't report the matter to the police?---That's correct.

And you did not make any written report to Council in respect of this?
---No, I just spoke to the then General Manager.

Ah hmm. And there was no documentation that went in about it at all from you?---No, not, no.

30 No, okay. And this camera that was put in, by what entity?---Emu Alarms.

Emu Alarms. Okay. That was Kevin Maton?---That's correct.

And did you, after it was installed then pay for its upkeep?---Yes.

And you accept don't you, sitting here today, that that was an inappropriate use of Council money?---No.

Sorry?---No.

40 No. Because as Counsel Assisting put to you, your understanding of the policy was, what you say existed was the Security of Servants Policy, existed that Council would pay for security of employees if there was a security threat that arose in relation to their employment. That was the effect of what you said. Correct?---(No Audible Reply)

There wasn't – well, let's go back. Your counsel is about to object. Why don't you tell us again what you understood to be the effect of the Security of Servants Policy?---I think, I think the Security of Servants Policy

provided that if a member or a senior officer had a concern about their security - - -

Ah hmm?--- - - - that the General Manager was authorised to arrange a review and to incur the necessary funds um, within approved votes to reduce that person's security risk, to - - -

That's what you say the policy said?---That's, that's what I believe.

10 What you understood it to say?---That's right.

Unrelated at all to anything to do with their employment. So if there was a security threat to an employee unrelated to their employment, you understood the policy mandated or facilitated public money being used on your home. Is that what you thought it meant?---Yes, I think, I think - - -

Is that what you thought it meant?---Yes.

20 Your - I'm going to - this not hyperbole, I'm going to put it to you directly. You're lying about this, aren't you?---Lying - - -

Correct?---Lying about what?

You're lying about this issue of you thinking that you had a legitimate basis to have Council pay for security cameras at your home?---No.

You're just making this up, aren't you?---No.

30 And what you've tried to do is make up an excuse for considerable public money being used for your personal benefit. Correct?---No.

And you've sought to deceive the Commission by raising this issue?
---That's not correct.

Correct?---That's not correct.

That is correct, isn't it, ma'am?---That is not correct.

40 Okay, thank you. Let's move on to the cashing out leave. Commissioner, can we show the witness volume - - -

MR THANGARAJ: Just before we, just before we go onto that, sorry.

MR MOSES: Yes.

MR THANGARAJ: Mr Latham has a few questions for Mr Goodman. It would be good if we could do that tonight because then Mr Goodman won't have to return.

THE COMMISSIONER: Yes.

MR LATHAM: I'm happy for that, Commissioner.

THE COMMISSIONER: He has been waiting rather patiently.

You've got somewhere to go, have you, Mr Moses?

10 MR MOSES: I do, Commissioner.

THE COMMISSIONER: Yes. Well, can we stand down Ms Cullinane for the time being and can Mr Goodman return to the witness box so Mr Latham can put his questions.

THE WITNESS STOOD DOWN

[4.35pm]

20 MR OVERALL: Commissioner, I have two questions that I failed to ask Mr Goodman earlier on.

THE COMMISSIONER: All right. You ask him first and then Mr Latham can.

MR OVERALL: Yes, okay.

THE COMMISSIONER: Yes.

30 MR OVERALL: Mr Latham would need to be aware of them.

MR MOSES: Commissioner, just while that's being done, could we hand to the Commission solicitor documents in answer to a notice that was issue, it's in part production?

THE COMMISSIONER: Yes. Do you want to tender the Cullinane folder, Mr Moses?

MR MOSES: Yes, Commissioner.

40

THE COMMISSIONER: Exhibit R78.

#EXHIBIT R78 – FOLDER OF LORRAINE CULLINANE DOCUMENTS

MR THANGARAJ: And I've got a corrected version of 2136.

THE COMMISSIONER: Thank you.

MR MOSES: Commissioner, just on this Security of Servants Policy which has been raised by my friend and her questioning of course we accept on instructions and the sworn testimony of Ms Cullinane – we’ve checked the policy register at the Council dating back to 1993 and have been unable to locate such a policy, but we think in order to formalise the issue, subject to your views, Commissioner, a formal notice will be issued by the Commission to the Council concerning that because we’ll want to make
10 some pretty serious submissions at the end of the day concerning that issue and I think it needs to be formalised.

THE COMMISSIONER: Well, I think that’s probably wise, but also can I just say that the – I know that Ms Cullinane gave the policy a name and I also note that as Deputy General Manager, one of her areas of responsibility
- - -

MR MOSES: Correct.

20 THE COMMISSIONER: - - - was Human Resources.

MR MOSES: Correct.

THE COMMISSIONER: And it may be, I don’t know, but it may be that there was something that may not have been necessarily a separate - - -

MR MOSES: Correct.

30 THE COMMISSIONER: - - - policy but some subset of the Human Resources Policy framework that addresses that issues. So - - -

MR MOSES: We’ve been trying to search - - -

THE COMMISSIONER: Across that spectrum?

MR MOSES: Across that spectrum.

THE COMMISSIONER: All right. Well - - -

40 MR MOSES: And in respect of that policy, we’ve checked the register and been unable to locate anything. I think it might be best to formalise it - - -

THE COMMISSIONER: All right. But I think a Notice to Produce might
- - -

MR MOSES: - - - with a notice to ensure that - - -

THE COMMISSIONER: Yes.

MR MOSES: - - - that is dealt with appropriately.

THE COMMISSIONER: All right. We'll do that.

MR THANGARAJ: And while Mr Goodman's coming, can I just put this on the record so Ms Cullinane's lawyers can think about this with her. We have a document that suggests that a Lexus was bought in her name in December of 1997, sorry, December 2007 I'm sorry, and we asked Council
10 for documents – this has all been very recent – and we now have a Council document which shows that the Council paid for a vehicle in the amount of \$54,000 on a date which is consistent with the, with that Lexus being in her name. So - - -

THE COMMISSIONER: So that's 2007 not 2009?

MR THANGARAJ: Well, I said – she agreed there was one in 2010 and I was suggesting or asking if that was the second one. She said - - -

20 THE COMMISSIONER: Right.

MR THANGARAJ: So if she can think about that because Council did pay \$54,000 for a car and at the same time there was a Lexus registered on RMS records in her name for that at that time.

THE COMMISSIONER: Yes, Mr Overall.

MR OVERALL: Mr Goodman, I've just have two areas that I forgot to mention to you before in your previous examination. You recall that I asked you about the meeting on your business premises with Mr Fitzgerald?---
Yes.

10 And you indicated to the Commission that you felt that Mr Fitzgerald was trying to compromise what you might say in evidence in the Commission?
---That's correct.

And this is the area that I need to go to. He indicated to you that Marny Baccam should take a two year holiday in Thailand?---That's correct.

And the purpose of that was so that she could not give evidence at this Commission hearing?---I believe that to be the case.

20 Now did anything – was anything else discussed at the meeting?---A whole range of issues. But they're the two that stood out. What had happened at work and I'd actually spoken to Peter a little bit earlier on that as well. Not in the same broad terms. And I actually rang Marny Baccam and asked her to come down. I wasn't present when Peter was talking to her but he spoke to her. Whether it was about this or not, I don't know.

When Mr Fitzgerald asked you to speak to Marny Baccam about taking a two year holiday, what did you say?---No. But I rang Marny up and asked her to come down and speak to Peter.

30 Yes. And then he got the phones out of the fridge, did he?---Yes.

And he - - ?---Well I should say if he put them in the fridge, he's done that before but he went in the kitchen so I assume he went in the fridge.

Now the other issue that I want to talk to you about is you've worked for a fairly long time with Mr Fitzgerald?---Yeah, 21 years.

Twenty one years?---Sorry, 16 years.

40 And Ms Cullinane has worked with him previously?---Yes.

A lot longer than you have?---Probably two or three years longer than me.

And she worked with him at Drummoyne Council?---I think she may have been there when he was Mayor.

Yes. And you worked at Drummoyne Council when he was there too?---
No. No.

I'm sorry?---Not when Peter, Peter had either lost the Mayorship or he'd moved on to Botany when I started there.

Yes?---Lorraine was, Lorraine was the Deputy Town Clerk at the time.

10 Now can you tell me about an evening where you attended the offices of Drummoyne Council to obtain Mr Peter Fitzgerald's private diaries?---This request, I believe came from Lorraine because I don't think I knew Peter at the time. That we had to recover and correct me if I make some small errors here but I think the gist of the whole thing is correct. That we retain or obtain, Mayoral diaries for the period of Peter's (not transcribable) about to say why. But obtain Mayoral diaries on behalf of Peter.

Did Ms Cullinane tell you why you had to obtain these Mayoral diaries?---It was something to do with a tax, taxation issue that Mr Fitzgerald had regarding his Mayorship I believe at Drummoyne.

20 And did you make some changes to those diaries?---I think Lorraine went through and examined the information and I can't remember if the reason we used me to get them is that because I was still working there or Lorraine was still there too. I can't, I just can't recollect that. It's too long ago.

Yes. But what changes did you make to the diaries?---You'd have to ask Lorraine that, I don't know. But I know there were either changes made or information given.

30 And what was the effect of those changes or information placed in the diaries?---I believe it saved Mr Fitzgerald either a fine with the Tax Office or he had a case against the Tax Office and he won.

So effectively it could be and this has to be checked. It could be that you assisted with Ms Cullinane in the presentation of false evidence to a court to effect Mr Fitzgerald's tax position?---It could be.

MS MCNAUGHTON: Well I object to - - -

MR OVERALL: Is that right?

40 MS MCNAUGHTON: I object.

THE WITNESS: It could be.

MS MCNAUGHTON: Commissioner, he said that the evidence of the witness was, he obtained diaries, he did, and also made – the allegation was either made changes or obtained information. It was the, sorry, it was the question which said – have that information as part of the diaries. So he's

making – the question is being more definite than the answer. Sorry, that wasn't very clear but I hope (not transcribable)

MR OVERALL: Someone worked on the diaries, didn't they?---Yes.

And someone changed the information in the diaries, didn't they?---Yes.

And then the diaries were presented to a court, weren't they?---I believe so.

10 Yes. And that was Ms Cullinane who took you there with her, didn't she?

MS MCNAUGHTON: Well these are very leading questions?

MR OVERALL: Yes. They are?---Either that or I met Ms Cullinane there.

What time of the night was this?---I've got an idea it was a Saturday night, off memory.

20 And so it's break and enter, was it?---I think I might've had a key, because one of us still worked there.

You're not supposed to be there on a Saturday night?---It's happened before, working.

It was - - -?---But no, we weren't. Not for that purpose.

And it was a theft of the diaries?---Yes.

30 So it was a break and enter and steal, is that correct?---Yes.

And Ms Cullinane took you with her at the request of Mr Fitzgerald as far as you know?---So I'm led to believe.

THE COMMISSIONER: Mr Overall, I don't know that you can technically call it a break and enter if somebody has a key to enter premises even if it's out of hours. But let's not go there. I just – at this stage it's just a question of what was done out of hours for the purposes of altering information. I accept that.

40 MR OVERALL: Yes.

MR LATHAM: Commissioner, I know ICAC has got broad powers but what has this got to do with an inquiry into Botany Council?

THE COMMISSIONER: Well, I think it's, well, I think, I think it has got a touch stone, Mr Latham. Because it directly relates to your client of course. But - - -

MR LATHAM: Of course it does, but how does it relate to Botany Council?

THE COMMISSIONER: Well - - -

MR LATHAM: We keep getting allegations on the run like this we have had no notice of any of these issues. They seem to have no relevance to the inquiry. I'm going to have to get further instructions, it's going to be reported in the media yet again. It's just simply not an appropriate way of conducting this sort of inquiry my friend's going through.

THE COMMISSIONER: I keep – look, I keep saying this. This is an investigation. The whole point of the investigation of which the inquiry is but one part, is to illicit information. That's why we have inquiries. And frankly as you would've heard from Counsel Assisting, we are still receiving information because the evidence seems to prompt further and further disclosures. Some from Counsel and I'm not being critical of Mr Moses' client but these things come forward in answer to the evidence that falls from the witnesses. Now Mr Latham, rest assured that if you regard your client's interests as being prejudiced by any of these matters that of which you're not previously aware, we will make sure that you have the opportunity to put them at the appropriate time. But it's now quarter to 5.00. It's in the interest of your client that Mr Overall finishes his questions to Mr Goodman so that you know precisely what you have to deal with. So we'll just finish with Mr Overall. Go on, Mr Overall.

MR OVERALL: Commissioner, I have no further questions.

THE COMMISSIONER: All right. Now Mr Latham, you obviously have some additional problems. But can you go as far as - - -

MR LATHAM: I can.

THE COMMISSIONER: - - - you are able to for current, for present purposes?

MR LATHAM: I can do that. But given this latest issue I'll need to raise - - -

THE COMMISSIONER: Yes. You'll have to come back to it. All right.

MR LATHAM: - - - raise that again. Okay. Mr Goodman, do you remember this morning you gave evidence about a meeting about three weeks ago with Mr Fitzgerald at your workshop?---Yes.

Do you remember giving that evidence?---Yes.

And you were quite clear it was about three weeks ago, weren't you?---It could've been four. It was after the commencement of this – after this inquiry was announced, I remember that.

Well let's say at most four weeks ago?---Yeah.

Something like that. Okay. And you went through this discussion about putting the telephones in the fridge, do you remember giving that evidence? ---Yes.

10

Okay. Isn't this the case. The last time that Mr Fitzgerald went to your workshop was late last year, wasn't it?---No.

And that was because his son had an accident in Croydon Park in June of 2015?---That is correct.

And that there were issues about the repair in the insurance because there was a question as to whether the driver of the other car was insured.--- That's true.

20

And the car was at your workshop.---Not at my workshop at a panel beaters workshop.

At the workshop next to you.---Yep, that's true.

And he asked, sorry, he being Mr Fitzgerald Senior, asked for you to get a quote in relation to the repairs so that he could send it to the debt collector? ---I think he actually did that, not me but irrespective, I believe that's what he wanted.

30

And there were other people in the workshop at the time helping to move the car?---I don't recall that but that could have been the case.

And he didn't discuss these matters at all let alone as you say, putting to you that he was not at the meeting.---That's false. There was another visit after that - - -

Oh, there was another meeting was there?---No, no, that was a visit I discussed, it was not in December.

40

Sorry, when was this other meeting?---I said about four weeks ago or thereabouts.

Oh, I see. And in fact the last contact that you had with Mr Fitzgerald was a text message that you sent him, wasn't it?---Yes, about three weeks, I mean two weeks ago I think it was.

Yes, on 22 February.---Yes, that's correct.

Where you in fact texted him, to use young person's terminology, can you give me a ring, not about anything I can talk about - sorry I can't talk about. ---Absolutely true.

And he did not respond to that did he?---No, he did not respond.

Sorry?---He did not respond.

10 Right. And that was about three weeks ago, wasn't it?---Yes.

I see. Because this discussion that you have about the workshop meeting is just a fabrication isn't it Mr Goodman?---No, it's not.

Now, I want to go onto some other fabrications of yours, Mr Goodman. You talked about today about payments of \$4,000 being made to Mr Fitzgerald Senior twice a month. Do you remember giving that evidence? ---\$4,200.

20 Sorry, \$4,200 - - -?---There are two, not that I said twice monthly but by two. So two lots of \$4,200 monthly.

Right.---Whether it was paid in two separate envelopes.

Yes.

THE COMMISSIONER: I think the point was, he said it wasn't paid fortnightly it was paid in two separate envelopes at the same time.---Two separate envelopes.

30

MR LATHAM: Oh, I see. You never made those payments to Mr Fitzgerald did you?---Yes.

And you refer to a discussion at the pub at Mascot was it the Botany Hotel or - - -?---No, the Botany Bay Hotel.

Botany Bay Hotel, sorry.---Yes.

40 Now that discussion was about the payment of long service leave to Mr Byrnes was it?---I think it was to Mr, yeah, well it was about Barry had resigned I think it was and when he got his long service leave they hadn't paid him enough or he had to pay some back, I can't remember that. That's not what I talked to him about.

The issue was that he had moved from one Council to another, wasn't it, and there was a system in place whereby continuity of service was continued in relation to long service leave?---That's correct. Providing you moved at a certain period of time.

Yes. And the issue in relation to Mr Byrnes, I think, was something like that his long service leave had in fact been paid out mistakenly instead of being transferred over, is that correct?---I'm not aware of that part of it, no.

And he said, words to the effect, "that he didn't recall the details of the event." Is that correct?---What even was that?

10 Oh sorry, the payments of long service leave to Mr Byrnes.---Peter said he didn't recall the, no I doubt he would recall the events of it.

Yeah. And he said that if you wanted to find out, you would have to go to the personnel file. Do you remember that?---No, not at all. I had a different discussion with him, my discussion was more about the payment of um, sick leave for Ms Cullinane upon her resignation whenever that may be because, Peter had written a document for me and given it to me which, dare I even mentioned this yesterday, which said, or this morning, that um, Ms Cullinane upon her resignation the same condition that Peter had was to be paid out fully her sick leave.

20

Sorry, sorry Mr Goodman. You're saying that Mr Fitzgerald Senior had created this document?---Yes.

And which document is this Mr Goodman?---It's a handwritten note from me to say that Ms Cullinane was to be paid out sick leave upon her termination, much the same as it contained in the general manager at the times contract.

30 So your evidence today, just so I've got it right, is that Mr Fitzgerald produced to you a handwritten document saying - - -?---Whilst he was still general manager.

And he produced this to you at the meeting at the hotel?---No, no, no. Whilst he was general manager he gave it to me and as I said this morning, I kept that, a few other piece in finance saw it. I sent it up to filing and it vanished, it never made it to her personnel file. That's the evidence I gave this morning.

40 Commissioner, at this stage, that's all I've got.

THE COMMISSIONER: Can I just clarify, I think in answer to your question or rather your proposition to Mr Goodman that he never made those payments to Mr Fitzgerald the witnesses answer was yes, and I take it that was a yes I did make the payments?---Yes I did, yes.

All right. Thank you. Thank you Mr Latham. Well, Mr Goodman, yes Mr Goodman you're going to have to come back when Mr Latham tell us he

has to put some further propositions. Ms McNaughton did you want to put something else?

MS McNAUGHTON: I will have to but I'll also have to get instructions about this latest issue as well.

THE COMMISSIONER: All right. All right.

10 MR THANGARAJ: Can I just raise one further matter for consideration. When Mr Thompson gave evidence Ms McNaughton quite understandably had just heard evidence from Mr Byrnes and this is at transcript 807 and at 809 and Ms McNaughton said, "So I'll be able to put certain matters to this witness, that is Mr Thompson but if it is to be held against my client that certain things were not put to Mr Byrnes I would ask for him to be recalled should that be necessary." My friend needs to understand there is arguable reason to accept Mr Byrne's evidence on what he spoke to Ms Cullinane about and so because of the difficulties my friend understandably had, nothing was put to Mr Byrnes and limited material was put to Mr Thompson in relation to that and there is some cross-examination that was put on 809
20 to Mr Thompson about the co-signing of cheques and it's not in the terms by which Ms Cullinane has given evidence today. So we'll have to think about those.

THE COMMISSIONER: Well, Ms McNaughton can consider her position in relation to whether she wants either or both of them recalled.

MR THANGARAJ: Yes.

30 THE COMMISSIONER: Sorry Mr Goodman you can step down for the time being.

THE WITNESS STOOD DOWN

[4.57PM]

THE COMMISSIONER: Subject to those issues and Mr Moses has some further cross-examination of Ms Cullinane, does anyone else have questions of Ms Cullinane?

40 MR LATHAM: We will, Commissioner.

THE COMMISSIONER: You will Mr Latham?

MR LATHAM: Yes. Commissioner, I understand that Mr Fitzgerald Senior's next in line as a witness.

THE COMMISSIONER: Yes.

MR LATHAM: The difficulty that I do foresee at the moment at least is if the cross-examination of Ms Cullinane goes for a while Mr Fitzgerald may only be partly heard by the end of the day which is not a very desirable event. I know that there are further hearings being looked at the moment. Does my friend Mr Moses have any idea as to how much longer he is likely to be?

MR MOSES: I think Commissioner, probably an hour to an hour and fifteen minutes.

10

THE COMMISSIONER: All right.

MR THANGARAJ: We've been thinking about that. It is quite possible that Mr Fitzgerald won't be able to finish by 5.00pm tomorrow. We thought that it would be helpful to Mr Latham at least and no doubt the rest of us because there will be intervening investigations is if I and perhaps no one else asks some questions of Mr Fitzgerald tomorrow I probably, I won't be able to complete it because of the ongoing investigations but we can take it as far as we can to at least, 1, use the time and 2, facilitate further
20 investigations and perhaps facilitate a better understanding for Mr Latham and others as to what Mr Fitzgerald's position is on certain things and then they'll have that time.

THE COMMISSIONER: When you say that time, there will be some further adjournment before we can resume.

MR THANGARAJ: Yes, that's the time.

THE COMMISSIONER: And for obvious reasons that will be more than a
30 few days and it will allow, everyone should be well and truly up to date by then because I think that not only will the further investigations be clear but also the transcript will be available for everybody to pour over. Is that suitable to your Mr Latham?

MR LATHAM: Well, Commissioner, the difficulty of course, and I know it's an inherent difficulty in these processes is that there will be allegations made, they'll be reported in the paper and he won't be able to respond to them for some considerable time.

40 THE COMMISSIONER: Well, my understanding of the reports thus far have been that they have been reported as allegations and that's – look, I mean I can't control what the press might write.

MR LATHAM: No, no, and I'm not, I'm not saying that the Commission can, but that's, that's a very practical difficulty that he will have.

MR THANGARAJ: I suggest this – I'm not going to canvass with him any of the questions that Mr Overall's put in relation to that to Mr Goodman,

The Commission might think it appropriate to suppress the evidence in relation to the questions that Mr Overall has asked of his client in relation to Mr Fitzgerald for the time being.

SUPPRESSION OF THE EVIDENCE IN RELATION TO THE QUESTIONS THAT MR OVERALL HAS ASKED OF HIS CLIENT IN RELATION TO MR FITZGERALD FOR THE TIME BEING.

10

THE COMMISSIONER: You mean the most recent ones or all of them?

MR THANGARAJ: No, just the ones concerning the meeting at the, involving the phone.

THE COMMISSIONER: So the workshop meeting?

MR THANGARAJ: Yes, the problematic meeting that I haven't addressed and don't, like I said, I don't propose to ask Mr Fitzgerald about that. Mr
20 Overall will have to now and Mr Latham no doubt will have to, but perhaps those, that meeting could be suppressed for the time being because of the adjournment and - - -

THE COMMISSIONER: All right.

MR THANGARAJ: - - - and I won't ask about it tomorrow. Oh, I'm told part of the meeting's already out.

THE COMMISSIONER: I think it is.

30

MR THANGARAJ: I'm told part of the meeting - -

THE COMMISSIONER: See, I mean this is, this is, you know, the digital age.

MR THANGARAJ: Yes, no, that's the problem.

THE COMMISSIONER: I suspect it's probably online.

40

MR THANGARAJ: I'm told it is.

THE COMMISSIONER: Mmm.

MR THANGARAJ: That's the fridge comment I think. Well, perhaps it's not too late – Mr Latham's got an application, I'm sure I'll just accede to it from my perspective.

MR LATHAM: Sorry, I didn't want to interrupt my friend.

Certainly in relation to these latest issues, which we say are of very dubious relevance, the issues in relation to this supposed midnight raid on Drummoyne Council – we seek that be suppressed.

MS McNAUGHTON: Yes, I'd join in that.

10 THE COMMISSIONER: Well, look, to the extent that it hasn't already been published, Mr Latham, I don't know, I mean it's impossible to say, but I can only, I can only make a non-publication order insofar as the last few questions put by Mr Overall, this is the most recent questions put to Mr Goodman - - -

MR LATHAM: Yes.

THE COMMISSIONER: - - - between as I understand it roughly 20 to 5.00 and, and 10 to 5.00 I think it was, but anyway, for the purposes of the questions that he has just put this afternoon - - -

20 MR LATHAM: Yes.

THE COMMISSIONER: - - - late this afternoon, I will issue a temporary non-publication order on the basis that these allegations have yet to be explored by the Commission or by anybody else. So we'll leave it at that, shall we?

30 **I WILL ISSUE A TEMPORARY NON-PUBLICATION ORDER ON THE BASIS THAT THESE ALLEGATIONS HAVE YET TO BE EXPLORED BY THE COMMISSION OR BY ANYBODY ELSE**

MR LATHAM; Yes, thank you, Commissioner.

THE COMMISSIONER: All right. Can I suggest we commence at 9 o'clock tomorrow morning and we can try and make up some time. So I'll adjourn till 9.00am. Thank you.

40

**At 5.02pm THE MATTER WAS ADJOURNED ACCORDINGLY
[5.02pm]**