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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 THURSDAY 17 MARCH 2016

AT 9.10AM

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

THE COMMISSIONER: Yes, Mr Latham.

<GARY WILLIAM GOODMAN, on former oath

[9.12am]

MR LATHAM: Mr Goodman, I just want to clarify one question I asked you yesterday. We were talking about a meeting – sorry, an encounter out at Wetherill Park yesterday afternoon. Do you remember giving that
10 evidence?---Yes.

And you said that that meeting took place three weeks ago and I denied that but I did say this to you that in relation to an earlier meeting he didn't discuss these matters at all. I just want to withdraw that. He said this to you didn't he, something like the words, "Are you okay?" And you said something like, "I'm in trouble," or, "I am stuffed." And he said, "You should tell the truth." Do you remember that conversation?---No, I don't.

Well, that's what he said isn't it?---It may well be the case. That may be
20 how it started but I don't recall that conversation.

Okay. Now yesterday you gave some evidence about events that took place in relation to Drummoyne Council. Do you remember giving that evidence?---Yes.

Now let me just get this right. When were you last working at Drummoyne Council?---I think I started at Botany in 1995 so 1995. I finished at Botany on – Drummoyne on one day and started at Botany on the next.

30 Sorry, in '95, and didn't you work at - - -?---'94 or '95. I'm not sure of the year.

You didn't you work at Marrickville Council between - - -?---Yes.

So if you started at Botany in '95 you must have worked at Marrickville Council before that?---No. Drummoyne before that.

Sorry, when - - -?---Marrickville - - -

40 Marrickville then Drummoyne?--- - - - Drummoyne, Botany.

Okay. Now when do you say this raid as you described it took place at Drummoyne Council to the best of your recollection?---Look, I just can't remember.

Okay?---I just remember the detail. I don't remember when it was. I can't remember if I was still there or I'd left. I'd say I was still there because one of us had a key and you return keys when you leave an organisation.

Right?---So I can't remember exactly when it was. It may have been when I was still at Drummoyne because I think Lorraine had left about a year earlier than me.

Well, it must have been then while you were at Drummoyne wasn't it?
---Mmm. I'd expect so.

10 So it must have been in 1995 or earlier, can we agree on that?---I expect so, yes.

I see. And you gave evidence I think earlier that you had never met Mr Fitzgerald at Drummoyne. Was that your evidence?---Yeah. I think he'd left and was personnel manager at Botany when I, when I went over to Botany.

Right. So at the time of the raid you did not know Mr Fitzgerald?---I don't believe so, no. I knew of him but not personally.

20 So just so that I've got this right. You gave evidence that you undertook the stealing of his Mayoral diaries at a time that you did not even know who he was, is that correct?---Probably true.

Did you not think that was the most bizarre request that you had ever had made of you?---Not necessarily.

There were more bizarre requests that have been made of you?---Absolutely. Not, not in regard to that, obviously.

30 And given that you didn't know him, you could never have discussed it with him before that raid - - -?---No.

- - - could you?---Absolutely not.

Yeah. I'm not trying to be difficult. But you're agreeing with me, aren't you?---Absolutely.

Okay. And you said yesterday that you took those records for a tax case?---Yes.

40 Remember giving that evidence?---Yes.

And that those records you changed so that they could be used to give false evidence in that tax case?---I don't think I said I changed them. I don't think I said that. If that's the case I'm mistaken. I didn't change anything.

So what did you do?---Helped procure them.

Right?---If you want to call it a raid or stealing or allowed in there, I don't know. But helped obtain them.

To be used in evidence in a court case about tax?---Subsequently that's what Peter told me, after I commenced at Botany.

What?---That's was Peter told me.

10 Let me just get this right. The diaries were held in the Secretary to the Town Clerk's office, weren't they?---I thought they were in the dungeon part off memory of the Council. Which is a record storage area. If memory serves me correct.

Sorry. I thought you gave evidence that these were in the Mayoral office?
---No, I never, never gave that evidence.

20 And it's true, isn't it that the Town Clerk's Secretary had a locked office?---I don't know. But I never said that they were in the Town Clerk's Secretary's office.

And these were paper records, were they?---I believe they were annual diaries.

Yes. But they were made out of paper, went they?---Yes.

And they were, sorry, they were in the Town Clerk's Secretary's handwriting, weren't they?---I have no idea.

30 Well you never opened them?---No. No.

How did you know that they were even the Mayor's diaries?---That's where they were stored. And I believe it was in the dungeon. That's where they were stored.

No, no. Answer my question, Mr Goodman. How did you know that these documents were even the Mayor's diaries?---They were definitely diaries. Absolutely definitely diaries.

40 Definitely diaries?---Definitely diaries, definitely.

But do you know whether they were diaries of the Mayor?---No. No, I don't know that.

Can I just put a couple of things quickly to you - - -?---Yes.

- - - Mr Goodman. You never spoke at any stage to Mr Fitzgerald about the theft of these diaries?---Prior to, no.

Prior to, no. Yes and subsequent to, no?---No, yes.

THE COMMISSIONER: Sorry.

MR OVERALL: What's that mean?

THE COMMISSIONER: That's very confusing?---Prior to no.

10 You say that you didn't speak to him prior to the actual event where you
obtained the diaries, but you say you spoke to him after that event?---
Absolutely.

Right.

MR LATHAM: And today, you don't even know whether these were his
diaries?---I believe they were.

And you were never asked to do so by him?---That's correct.

20 And they were never used as false evidence in a court case about tax?---I
don't know. All I know is that Peter thanked me for my assistance when I
started or after I'd commenced at Botany. That I remember clearly.

And there in fact was no court case about tax involving Mr Fitzgerald, was
there?---I don't know. All I know is Peter thanked me.

30 THE COMMISSIONER: He did say that he believed it saved Mr
Fitzgerald either a fine with the Tax Office or he had a case against the Tax
Office which he won, so it's one or the other. Perhaps you might want to
put the other proposition to him as well?

MR LATHAM: Yes. And there was no issue involving a fine against Mr
Fitzgerald and these diaries, was there?---I don't know, I don't know.

Because, Mr Goodman, I'll be as restrained as I can. You would say
anything in relation to these proceedings to try and reduce your involvement
in this fraud, wouldn't you?---No.

40 Because your evidence is really just about trying to reduce your non-parole
period isn't it?---No.

Because you have just made up these allegations to try and throw this
Commission off the scent haven't you?---No.

And they like most of your evidence is just simply a fabrication isn't it,
Mr Goodman?---No.

Can I just have one moment, Commissioner.

THE COMMISSIONER: Yes.

MR LATHAM: Nothing further, Commissioner.

THE COMMISSIONER: Thank you. Ms McNaughton?

MS McNAUGHTON: Yes, thank you. In relation to this alleged raid at Drummoyne Council, sir, I suggest that Ms Cullinane had nothing to do with any raid in relation to diaries on Drummoyne Council. What do you say?---I'd say that's a lie.

Can I also, Commissioner, ask him about the Botany Bay Hotel meeting?

THE COMMISSIONER: Yes, certainly.

MS McNAUGHTON: Can I go back to another issue in relation to the meeting at Botany Bay Hotel?---Yes.

Can I suggest to you that there was no discussion involving Peter Fitzgerald being asked to – well, I might rephrase it in this way. Peter Fitzgerald was never asked to write – sorry, I'll withdraw that. I'll start again. Peter Fitzgerald did not say to Lorraine Cullinane write something about your conditions of employment and I will sign it?---No. I think what I said I had lost a document that Peter gave me indicating that Lorraine was to be paid sick leave on termination. The other issue was letters confirming that I think it was Barry Byrnes, Lorraine and Mark Thompson were to have continuity of service from Marrickville to Botany - - -

But that - - -?--- - - - as far as long service leave was concerned.

The continuity of service discussion resulted in Mr Fitzgerald saying he couldn't recall and it was left there wasn't it?---Look, I don't believe so but I could – look, I can accept that but I don't believe so.

In relation to Ms Cullinane's conditions of employment was he asked about whether or not there was a – whether or not he could provide a letter in relation to her conditions of employment and did he say he had already done it and it should be on Ms Cullinane's file and that she should check about that and if there's not a hard copy there should probably be an electronic copy of it?---I can accept that but the – I don't believe that was said but the document I had was – had a number of things about Lorraine's employment. He'd obviously copied it from somewhere. He wrote down the bottom about on termination of agreement for whatever reason to pay sick leave. This document was actually shown to other people at Botany and I sent it for filing and it never made it to the file. There was nothing else apart from this handwritten note from the General Manager at the time and it was a few years old I think. Now Mark Thompson viewed that and whether he's got a recollection of it I don't know. And I'd lost that document. It didn't make it

onto her file. I already checked that. It's a fairly important thing for any, any senior staff member.

Yes, thank you.

THE COMMISSIONER: Any other questions at this stage? Dare I suggest that we can excuse Mr Goodman.

MR THANGARAJ: I don't think we can excuse him.

10

THE COMMISSIONER: No. Well, no. I mean for the time being at least.

MR THANGARAJ: He won't be required for the rest of today I'd imagine.

THE COMMISSIONER: All right. Well, that's perhaps the only course we can take. Mr Goodman, you can step down and you can accept that there is no need for you to remain for the balance of today's proceedings and there may be an occasion to call you back to the Commission at a later time. All right?---Thank you.

20

Thank you.

THE WITNESS STOOD DOWN

[9.24AM]

MR THANGARAJ: I have some questions for Ms Cullinane before Mr Moses continues. Just before that, I've told Mr Latham that yesterday's suppression order will be lifted now that he has cross-examined.

30

THE COMMISSIONER: Yes, yes. I think that follows, Mr Latham. You're content with that?

MR LATHAM: Yes, Commissioner.

THE COMMISSIONER: Yes. Thank you. Well, the suppression order that was placed on the questions from Mr Overall to Mr Goodman yesterday afternoon is lifted.

40

**SUPPRESSION ORDER THAT WAS PLACED ON THE
QUESTIONS FROM MR OVERALL TO MR GOODMAN
YESTERDAY AFTERNOON IS LIFTED**

THE COMMISSIONER: Ms Cullinane. Yes, Ms Cullinane, just take a seat. You're on your former oath and the section 38 order continues to apply. Yes, Mr Thangaraj.

MR THANGARAJ: Ms Cullinane, I took you to some documents yesterday including the 1997 memo and email, do you remember that?
---Yes.

And it had the calculations?---Yes.

10

And you said, well it was raised a few times but you said that that was the basis on which the ex gratia payments were made over the subsequent 20 years or so?---That's correct.

All right. And can I just bring up volume 37, page 97, please. And just the figure at the bottom of 222.75, that's the figure that went into volume 37, page 98. And just have a quick look at that. And that's what was the 97 rate for ex gratia payment and it increased, sorry, that was the calculation for the ex gratia payment and that's what was paid over the next 20 years.

20

And you've given evidence about that?---Yes.

All right. Now can we just go back page 97. This is Mr Goodman emailing Mr Fitzgerald Senior. "Following a request from yourself, the following amount has been calculated in lieu of superannuation contributions on her behalf by Council". It refers to the Director of Operational Services. That was John Maru?---Maree, that's correct.

Maree, all right. And it had the figures of nine per cent, two and a half times and then the figure, see that?---Yes.

30

All right. And then if we go then to page 98. It has a start date at the bottom of the page of 23 October, 1996, see that?---Yes.

And that was, the entry higher than that on the page, paid through payroll from 31 January, '97?---That's correct. Yeah.

Right?---Yes.

40 And you said yesterday, well, I'll come back to that. So can we – having a look at 98, you'll see that that has been agreed and approved I think it says or something. Mr Fitzgerald has signed off on it?---Yes.

And you gave evidence yesterday that his signature showed that it had been approved by him, right?---That that is his signature?

Yes?---Yes.

And you said yesterday that any of your benefits had to have been approved and were approved in this case by the General Manager?---That's right, the original agreement was approved by the General Manager.

And that's the agreement that continued, that's the evidence given?---That's correct. Yeah.

10 And so the ex gratia payments that we've heard about that's the signature that you say you're relying on and the approval that he gave, documented on page 98, when you referred – when you were referring to your personnel file?---Yeah. I'd only just recently seen this, but, yes.

Yeah. All right. Now is this what happened. There was a calculation using the methodology on page 97 which then showed, which then led to a total package being calculated on page 98 and that was approved by the General Manager by his signature in February of '97?---Yes.

Do you want me to do that again?---Yes.

20 All right. So the calculation is shown – the description of the calculation is shown in 97. That figure is – page 97, that is. Sorry, volume 37, page 97. That figure is then used to calculate your overall package and that's described or particularised at page 98?---Yes.

30 All right. Okay. And you said this yesterday when we were talking about a telephone intercept, this is at page 1195, line 8, “When you go back to my personnel file if the payment was never a payment that should have been made in '97 it would not have been – it would not have had the General Manager's signature on the calculation.” That is, you're saying well, if it wasn't an appropriate payment to you the General Manager would not have signed off on it?---That's correct.

All right. And the corollary of that is because obviously something like this needed the General Manager's signature?---Yes.

And the ex gratia payment was signed off by the Manager, the General Manager and that's the – that's what's recorded you say at page 98? ---That's Correct.

40 All right. All right. Is this what actually happened, the agreement that you reached with the General Manager or that the General Manager approved and signed off on was an amount in lieu of superannuation that went through payroll, that is, the documents 97 and 98 what was being approved was being paid through payroll. Do you see that 98 entry, paid through payroll from 31 January, '97?---It's not on the screen but I do recall that.

Sorry. If 98 could be brought back up. Sorry about that. You see that entry where the cursor is?---Yes.

Paid through payroll. So isn't this what actually happened, there was an arrangement that you would receive this extra superannuation payment because you'd missed out on some scheme. The General Manager had approved that and in 1997 that amount was 222 per week and that was being paid to you and was paid to you and was paid through payroll?---No.

10 Well, let's go to page 37 – sorry, volume 37, page 193 – sorry, 173, sorry. You might remember Mr Moses referred to this page yesterday but I want to take you through it now. See the – remember the date on page 98 it said, “Has been effective since 23 – start date effective 23 October, '96”?---Yes.

All right. Now look at the top of page 173. It says the date 23 October, 1996?---Yes.

And it has super 222.75?---Yes.

You recognise that figure don't you?---From the previous calculation, yes.

20 Yes. And so that is, that is your money that's coming through payroll. Do you see that?---Yes.

And it was increasing. If you look through the years – this is only a few years, this is only '97 to 2003 but you'll see that your salary is increasing through that period. Right?---Yes.

30 Which means the super in lieu is – well, anyway, your salary is increasing. This super payment is coming through payroll with your salary and with your car allowance. Do you agree with that?---I can see what you're saying.

Yeah. But that's right isn't it?---Well, I wasn't aware of that.

Well – all right. We'll come to that question in a moment but let's just establish how this was paid. Your \$222.75 super per week which was effective October, '96 was paid from then on through payroll?---Seeing this it appears so but I was never aware of that.

40 Okay. All right. Well, we'll get to that but let's just do it step by step. Now the ex gratia payments were in a totally different category weren't they for the following reasons. I'll do them one by one. You tell me what you say. Firstly, if we go back to page 98. This approval that – this document refers to nothing more than what is going through payroll. Do you agree with that?---From the information there, yes.

Yes. And so the signature of the General Manager by looking at page 98, goes no further than allowing the superannuation payment that went through payroll. You accept that?---From this it appears so.

Yeah. Okay. Now let's look at page 162 of volume 37. See the top left-hand, see where your name is towards the top left-hand corner?---Yes.

That is, that's a creditors account?---That's correct.

So these payments are going through, not through payroll but through a creditors account?---That's correct.

10 Okay. Now let's go to 166. That's your email address in the top right-hand corner, isn't it?---Yes.

You responded to this creditors remittance advice by emailing Mr Goodman?---Yes.

You received – when something went through the creditors account, you received a creditor remittance advice, didn't you?---It says it's been implemented to Council, yes.

20 Okay. Well how long has that been going on for?---I couldn't you but for, for a while.

Yeah. So for a number of years at least, is it, you've been receiving creditor remittance advices by email in relation to the payments going through your creditors account?---That would probably be correct.

MR MOSES: Commissioner, if I can just assist my friend and the witness. It's been in place since 2003 and there's evidence of that in the brief.

30 MR THANGARAJ: All right.

MR MOSES: So it can't be disputed.

MR THANGARAJ: All right. Do you accept that you have been receiving creditor remittance advices by email since 2003?---I wouldn't have thought it was 2003 but I accept that I have received creditor remittance advices.

All right. For at least a decade?---I, I don't think it's been a decade, but I'm not sure.

40 All right. Well that will be established in due course?---No, no, I - - -

So let's assume that it's, I'll ask you to assume that it's 2003?---Yeah, yeah.

It probably doesn't make any difference if it's 2003 or 2006 or 7, does it?---Yeah, yeah. No, no. I accept that I, I received, I have received this.

All right. So let's go back to page 162. Every single one of these entries apart from reimbursement expenses and long service leave is one of these ex gratia payments to you, isn't it?---It is, yes.

Yeah. So sometimes the person who made the entry put in superannuation other times supplementary superannuation, other times sup payment. But that might've just depended on who was doing it or what they chose to enter?---Yes.

- 10 Right. And similarly with the 2014, you received that 91,000 odd dollar payment. That said superannuation contribution but in fact that was also an ex gratia payment?---That's correct.

Now can you tell us just as a tangent for a moment, why it was \$91,000 in 2014?---I think that it related to two years.

Okay. Well there's no entry that I've seen for 2013, so did it relate to 2013/2014?---I'm not sure.

- 20 All right. I'll come back to that. So were you aware of my questions on this document that I asked Mr Goodman, you read that transcript or been informed of that transcript given that's it relating to your creditors account? ---In regard to what?

All right. Well I took him through, I'll withdraw that. My original calculation was based on a misunderstanding that the entries were labelled superannuation were in fact superannuation. And so I had calculated 500,000 over 12 years. In fact it's 580,000 over 14 years. However that does not include '97 to 2002. Do you broadly agree with those figures?---

- 30 Yes. Ah, yeah.

You agree with that. Now if we add in an average of 40,000 for those years '97 to 2002, then we've got another 240,000 which means you have received over \$800,000 either tax free or after tax in these ex gratia payments. Is that right?---Yes.

All right. And critically this \$800,000 was not provided to you pursuant to the signoff by the General Manager on page 98?---(No Audible Reply)

- 40 That follows, doesn't it? No, I'm limiting it to the signoff at the moment. I'm not saying that she doesn't say there wasn't some other approval, but the signoff, that signoff on page 98 from the personnel file, volume 37/9, do you want me to bring it back up?---No, no, no.

That 800,000 sits outside the approval that Mr Fitzgerald put on that document, doesn't it?---It, yes, yes, it does.

Yeah?---But as I said, I wasn't aware of that document and I wasn't aware that my pay included that amount.

Well, the first thing is, you agreed yesterday that the signature on the personnel file – and this is your evidence anyway, isn't it?---No, no.

A signature on a personnel file signifies approval?---Approval.

10 And something that results in the Deputy General Manager receiving \$40,000 a year without having to pay any tax on it over 20 years would obviously need signed approval by the General Manager?---Yes.

Right?---But I took – yes.

Okay. Now, the \$800,000, not only was it not pursuant to, not paid pursuant to the signoff that the General Manager put on page 98, but it was also not pursuant to the original calculation, was it?---No, it was pursuant to the original calculation.

20 Miss – I'll do it step by step, I'll do it again, Ms Cullinane. The 222 figure - - -?---Yes.

- - - that was what you said was the calculation for the ex gratia payment. That's what you said yesterday a few times?---Yeah, it, it was the 9 per cent times two and a half times. If that came to 222 I agree that's the calculation.

Well, you know it did, because that's what 97, the document at page 97 says?---Yeah.

30 But that went through payroll and I've shown you the first entry for that of 23 October?---Yes.

So ex gratia didn't go through payroll, ex gratia went through the creditors' account?---That's correct.

THE COMMISSIONER: Could I - - -

MR THANGARAJ: So - - -

40 THE COMMISSIONER: Sorry, could I, can I just also clarify that that 222 that went through payroll which was designated as superannuation went in - - -

MR THANGARAJ: In lieu of superannuation.

THE COMMISSIONER: In lieu of superannuation.

MR THANGARAJ: Yes.

THE COMMISSIONER: So that did not go into a superannuation fund either?

MR THANGARAJ: No.

THE COMMISSIONER: I see. All right. Thank you.

MR THANGARAJ: It went through payroll.

10

THE COMMISSIONER: Thank you.

MR THANGARAJ: It went through - - -?---From what you've shown me now, yeah, yes.

It went through payroll into your account as – and that, that amount in lieu of superannuation was a salary increase effectively because you'd missed out on the benefits of the earlier scheme?---I, I, I don't, I don't accept that part of it. I know that's Mr Goodman's evidence.

20

Well, it's more than Mr Goodman's evidence, it's the documentary evidence?---That's right, but I hadn't - - -

Well, let's go back to 97. We've got to be careful about this. Can we have that back up on the screen, please. You relied on this document yesterday to say that this was the calculation for the ex gratia payment?---That's correct.

Right. Now, firstly, "Following a request from Ms Cullinane," – you requested this extra payment, didn't you?---No, I, I, no, the General Manager offered it to me, I accepted it. Obviously after that I've obviously told Mr Goodman about it and that's what - - -

30

All right?--- - - - this email's about - - -

Right?--- - - - I presume.

But this is calculated in lieu of superannuation contributions, right?---Yes.

And it's got the nine per cent?---Yes.

40

And it's got the two and a half times?---That's correct.

And it gets to that figure of 222?---That's correct.

That is in fact what you were being paid because you had purportedly missed out on a scheme that others felt was unfair or unfortunate for you. Do you agree with that?---Yes.

Right. That went through payroll?---I understand that now.

And that is what Mr Fitzgerald approved when he signed it on page 98?
---I understand what you're saying.

Right. So going back to what I asked you a moment ago, the \$800,000 that you have received was not pursuant to that calculation because what was done pursuant to that calculation went through payroll?---No, I understand what you're saying, I - - -

10

Well, do you agree with it or not?---I do agree with it but I wasn't aware that that was happening.

Well, all right, well, you keep saying that, Ms Cullinane, but let's - I'm just establishing the platform first?---Yes.

We now know, contrary to what we knew yesterday, we now know that the \$800,000 that you have received without having to pay any tax on it has nothing to do with what is in page 97 or page 98, does it, nothing at all?

20

---Well, I think it does in terms of it's obviously a duplication of that payment, if you want to put it that way. I wasn't aware it was being paid through payroll, my understanding it was paid through creditors.

THE COMMISSIONER: Sorry, whether or not you now think it was a duplication - sorry, whether or not - I'll start again. Whether or not you were aware of it, what Mr Thangaraj is putting to you is that it is in fact a duplication. It's being paid twice over for something that you thought was in lieu of superannuation?---That's correct. What I'm saying is I understand from that document it was being paid through the payroll. What I'm saying is I didn't - I wasn't aware that that was the case. I was aware - my, my understanding was that it was being paid through the creditors. I wasn't aware it was being paid through payroll.

30

MR THANGARAJ: Sorry, you weren't aware what?---I wasn't aware it was being paid through the payroll.

All right. Well, we'll come to that final issue in a moment but we now know that not only did you receive this \$800,000 without having to pay any tax on it but we know that it had nothing to do with page 97, page 98 or the signoff that Mr Fitzgerald affixed to page 98. Do you agree with all of that?---Yes, but it wasn't my understanding.

40

Okay. Now what actually went through from pages 97 and 98 assuming that the arrangement for the in lieu superannuation was acceptable and we're not worried about that so what went through pursuant to page 97 and 98 was exactly how it should have been, that is, it went through payroll?
---I can understand that now.

All right. Now with respect to the \$800,000 ex gratia payments, we know that Mr Goodman knew about it because he was facilitating the mechanics of it, right?---He was, he was making the payments. That's correct.

10 All right. And we know that there is – sorry, no one has yet found, including yourself, any document with respect to the 800,000 along the following lines. No one yet, including yourself, has found a document with the signed approval for those ex gratia payments from the General Manager?---That's correct. I thought that what was on the file substantiated the ex gratia payments through the creditors.

All right. Well - - -?---I wasn't aware it was being paid through payroll.

O.K. Well, Ms Cullinane, you keep saying that with every single answer. We understand that that's your contention?---Yeah.

20 There's no need to say it with every single question, with respect. Let's just deal with the issues. Now the issue is have you seen a single document signed by the General Manager authorising the payments of the \$800,000?
---No.

Have you seen any document to support the legitimacy of the \$800,000?
---No, other than what I've already given as evidence.

Well, that's not a document. That's purely your say so and it's purely – right, that's purely your evidence, oral evidence?---That's correct.

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

30 Right. And at the moment at least, and things may develop, but at the moment the only evidence that suggests that Mr Fitzgerald knew about these payments was – is your evidence and Mr Goodman's oral evidence. Is that right?---That would be correct.

All right. Can we go to page 37 – sorry, volume 37, page 1. Now you see that this was – this letter that we've been through was being prepared as a justification for the payment that had already been made in October of 90-odd thousand dollars?---That's correct.

40 Do you agree with that?---Correct.

And because you had received \$90,000 that was a further reason why you ought not have been involved in the preparation of this letter isn't it?---Yes.

And what Mr Goodman has asserted to Ms Kirchner in this document is that the \$91,000 was paid as an ex gratia payment for 2011 and 2013. Do you see that?---Yes.

Now if we go back to page 162, please. Sorry, page 169, volume 37.

In 2011 you received an ex gratia payment of 37,00 odd dollars, see that, you agree with that?---Yes.

And we go over the page, 170. You received another ex gratia payment in 2011 just a few months before that of \$60,000. Now you're receiving creditor remittance advices in 2011 at least, weren't you?---I would've.

10 And so you were told within three months you'd be paid \$97,000 as an ex gratia payment. You knew that in 2011, didn't you?---If they came through as creditors remittance advice, I would've, yes.

Yeah. Well didn't you think – we know you've already forgotten about or missed an \$87,000 deposit into your account. Did you also miss the fact that you had been paid double your ex gratia payment for the year within a period of three months?---Well I'd have to say, yes.

Well - - -

20

THE COMMISSIONER: Sorry, is that a yes, you were unaware?---Yes.

MR THANGARAJ: Well even the stand alone one of 17 March was well above the ex gratia payment that you were entitled to even on your evidence?---That would appear to be the case.

30 What possible reason could you have allowed the Council to have paid \$60,000, three months after they, sorry, \$60,000 when you knew that you weren't entitled to anything like that, even on your evidence?---I obviously just haven't looked at it. And I haven't looked at my bank account.

So your account has so much money in it, does it, that 90,000 going in within a matter of 12 weeks doesn't raise eyebrows with you?

MS MCNAUGHTON: Well, she said she hasn't looked at her bank account.

MR THANGARAJ: You didn't look at your bank account?---I, I don't look at my bank account.

40

THE COMMISSIONER: What, you – are you suggesting that you never look at your bank account?---Yes. I don't have a need to.

Never?---No. No.

How do you know that you have funds in your bank account that allow you to pay your expenses?---Because I know I have funds in my bank account.

Well how do you know that if you never look at it?---Well when I say I never look at it, I know, I know roughly how much I've got in my bank account, when I go to an ATM and I get a receipt. But I don't look at my bank statements to see what goes in and what comes out.

10 Well, look if you were using an ATM to obtain cash from time to time and you got a receipt each time, wouldn't it dawn on you that you take out \$200 one day, the receipt says you've got \$60,000 in the bank. You take out \$200 three days later and suddenly there's 150 there. Wouldn't that actually give you some insight into what was going on?---No. No. Because there's more than that in my bank account. I just don't, I just don't look at those things.

Well were you in the habit of getting a hard copy bank statement from your bank on a monthly basis?---I think they're delivered quarterly. But, yes, I do. But I don't look at them.

20 MR THANGARAJ: All right. Well when you were assisting – well you and Mr Goodman were preparing this letter of 27, that's dated 27 July, 2015, did you want to make sure that it was correct or were you just trying to put in anything to - - -?---No.

Were you trying to make sure it was correct?---I don't think I was assisting Mr Goodman. He rang – the call was he rang, I'm doing this. I wanted to make sure that Gary put accurate information in there not, not not accurate information. So I didn't really see myself as assisting in the preparation of it as opposed to ensuring that Gary put correct information in not incorrect information.

30 Ms Cullinane, I'm not going to play the call again unless you require it. You were providing significant assistance to - - -?---I accept that.

You were assisting him?---Okay. I accept that.

All right. Now this document, it says that part of the 90,000 was an ex gratia payment of 44,000 for 2011. Right?---Yes.

40 Can that be brought up again, 27 July, volume 37, page 1, please. So that means, according to the payments I've already taken you to, for 2011 your ex gratia payments totalled \$140,000?---And I don't know if that's right. I don't know if the rest of the records are right either.

Well, we know that you got paid the 37, we know you got paid the 60, and we know you got paid the 90?---Yeah.

And even without the 27 July attribution to 2011 of 44,000, we know you got 100,000 ex gratia for 2011. Now according to this document, it's now pushed up to 140,000?---That appears to be correct.

Ms Cullinane, you engaged in highly improper behaviour on your own acceptance by involvement in this letter because you knew full well that these payments were improper?---No, that's not correct.

If Gary Goodman left the organisation, not only was he at risk of going to gaol but so were you?---No, that's not correct.

10 That's why you said, "If someone went through the financials it might hang us?"---No, that's not correct.

They sit well together don't they, those words, your words of, "Hang us," and your words of, "You might end up in gaol?"---My, my belief was that the ex gratia payments were being paid through the creditors. I left those calculations to Mr Goodman to make, I trusted that they were right, I received them but I never checked them, but I wasn't aware of the, of the, of the earlier emails or notes that you showed me on my file and I never at any stage, never at any stage understood they were being paid through payroll. I thought those payments were always being paid through creditors.

20

THE COMMISSIONER: Ms Cullinane, if you had submitted tax returns from 2009 onwards, as was your obligation, all of this would have been made clear to you, wouldn't it?---Probably not because I didn't - - -

Oh, Ms Cullinane, your income would have been made obvious to you because in the preparation of your tax returns you would have to produce group certificates and you would have to explain income?---Yeah, I always, I produce - - -

30 Do you accept that?---Yes, but I never understood that I had to declare the ex gratia payments because I thought they were being – there was a Fringe Benefits Tax paid on it so - - -

Well, I think Mr Thangaraj took you through this yesterday, that does not relieve you of the obligation to disclose to the ATO that you had income, whether or not you thought tax was paid on it?---No, I understand what you're saying, but what I'm saying is, I wouldn't have – it wouldn't have highlighted it to me because I wouldn't have disclosed it, I didn't think that I had to, so I would never have raised it with - - -

40

Well, let me come back to this because this needs to be put in the event that a submission is based on this evidence. Let me suggest to you that the reason that you have not submitted a tax return since 2009 is that you knew these payments were improper and rather than disclose them when you knew tax had not been paid, you elected simply not to file tax returns? ---No, that's not correct.

All right.

MR THANGARAJ: Not only did you have a risk of criminal exposure, but if this was revealed you would have had an enormous tax debt imposed on you, wouldn't you?---If, if, if what I understand now to be correct, that I should have declared it, but I thought the tax was being paid - - -

All right. Well - - -?--- - - - through Fringe Benefits Tax.

10 You've, you've received \$800,000 over which not a dollar of tax has been paid by you?---By me, that's correct.

All right. And it seems, unless Mr Goodman's evidence is to be accepted -- sorry, even if, even if Mr Goodman's evidence is accepted, the only tax that's been paid on it is over the last two payments for the last two years, right. So for 18 years he was giving you an ex gratia payment over which no one paid tax?---I don't know that to be true because my understanding was that it was being paid through the Fringe Benefits Tax, that maybe - - -

20 THE COMMISSIONER: Look, you keep saying that, that's your understanding. What we've been trying to demonstrate over the last day or so in relation to the production of these documents is that no tax was paid? ---I don't - - -

Do you understand that?---But I don't know that's correct.

30 Well, you might not know it but what we've demonstrated is that it was not paid, it wasn't withheld by Council and it wasn't paid by you?---If, if, if, if we've, if you've gone through the FBT returns from Council and it's not there, I'd have to accept that.

MR THANGARAJ: And you knew that if Mr Goodman left and the impropriety of the payments was exposed, you would be exposed with interest and penalties to a tax debt of probably over \$1 million?---No, that's not, that's not true.

And is it just a coincidence that you never directed the internal auditor to look at matters that would have exposed this sort of thing?---No, that's, that's not correct either.

40 Is it a coincidence?---I've already gone through that. I don't direct the internal auditor - - -

All right?--- - - - to do any audits, it's done by the Audit Committee and on the approval of the General Manager.

All right. What are your qualifications?---I've got a Bachelor of Business.

Yeah?---And some HR qualifications.

And did your Bachelor of Business involve any accounting?---Many years ago. I finished it in the early eighties.

All right. I want to move onto the car. Did you have one Lexus or two Lexus?---Two.

All right?---I checked it last night.

10 All right?---I had two.

All right. You know there are issues with this don't you?---(No Audible Reply)

MS McNAUGHTON: Well, she knows because she was told yesterday to look at it.

MR THANGARAJ: Yeah. Are you seriously suggesting that until you had to look at something last night you didn't remember that you've had two
20 Lexus's?---That's, that's correct.

That's your evidence?---It is my evidence.

Okay. See you knew didn't you – if we go – can we bring up volume 37, page 162 please. You knew didn't you that I had mistakenly taken – when I had – sorry, withdraw that. You knew that when I took Mr Goodman through this I had said that the 2010 entry was legitimate superannuation, all right, but I had, but I had mistakenly said that the 2010 entry for your ex gratia from this list was a superannuation payment and I had been saying to
30 Mr Goodman because that was my then understanding favourable to you that the ex gratia payments were those listed as supplementary super, supplement – or sup payment, all right. Did you know that?---I can't recall specifically - - -

All right. Well - - -?--- - - - what you're talking about.

Well, the fact – we're not – because I have mistakenly said that the 2010 – in 2010 there was effectively no ex gratia payment, that's the reason why you said yesterday that the car was bought in 2010 in lieu of an ex gratia
40 payment?---No, no. That, that, that's not correct. I - - -

All right. Well, let's go through, let's go through then what you have given evidence about with respect to the car. It was put by your Counsel and you gave evidence yesterday that the 2010 purchase was in lieu of ex gratia payment?---That's correct. I think you mentioned that I had a Lexus in 2010. I accepted that and I know that the payment for the car, the, the car was in lieu of – partly in lieu of the ex gratia payment.

Well, the ex gratia payment that you received in 2010 was \$57,526. You didn't get a \$100,000 pay increase that you forfeited did you?---No. No, I -
--

No?---I accept that.

You got a \$57,000 ex gratia payment in 2010, right, April, 2010. Accept that?---If that's what it says there.

10 Well, can we bring it up please. Sorry. I don't want you to – I want you to look at this. Volume 37, 162. See the entry second from the top 9 April, 2010 dressed up as superannuation 57,526?---Yes, I can see that.

Why were these creditor remittance advices saying superannuation and supplementary super when it wasn't superannuation and nor was it supplementary super?

MS McNAUGHTON: Well, I object. That's not her document.

20 MR THANGARAJ: All right.

THE COMMISSIONER: All right.

MR THANGARAJ: Well, you received the creditor remittance advices didn't you?---Because I believed that it was that ex gratia payment for the superannuation.

Well, that's the way that you and Mr Goodman had fashioned it wasn't it?
---No, that's not, that's not correct.

30 All right. Well, let's go back to – let's go back to this entry and your explanation for the car in 2010. 2010 do you accept that you received an ex gratia payment of \$57,000?---I accept that those payments on the screen I received.

Sorry, not 57, sorry, that's an accrual, \$41,895, 41. Sorry about that?
---When I, when I checked my records the only record I think against my bank statements that I'd ever received was – is a duplicate payment there for 50,397.80.

40 All right. Well, that's 2008. I'm not worried about that?---That – there's two payments there.

Yeah?---I've only got one of those payments. I'm, I'm reasonably sure that when I went through my bank records the rest of the payments were there.

Okay. Well, so you agree that in 2010, April, 2010 you received an ex gratia payment of \$41,895?---Yes.

So how could it be the case that in 2010 you can say that you received a car in lieu of the ex gratia payment for that year?---The answer is I don't know.

All right. And is it a coincidence that the price of the car is – see that – see the entry above it, reimbursement expenses?---Yes.

\$15,631. Apparently the price of, the price of the car is those two sums added up together?---No, that, that's, that's not, that's not correct.

10

Okay. All right. Well, let's go back then to the – forget about the reimbursement expenses. How could you possibly say that the car in 2010 was in lieu of the ex gratia payment when you had already been paid the ex gratia payment for that year?---I don't know.

Well, you said it. You gave – you said it because the evidence was dishonest?---No, that's not - - -

20

Well, then, what's the explanation?---The explanation I, I received a car – my, my best recollection was that I did get a Lexus. It was partly in lieu of my superannuation ex gratia payment and a foregoing of a salary increase and I have clearly received those payments but I didn't, I didn't put them together. I mean I - - -

30

All right. See that's, that was unfortunately the second time you failed to put it together because in 2007 Council paid \$54,000 for you to get a car as well didn't they?---That's correct. That's the car that I thought was the car that – I only recalled – only recall receiving – only recalled having one car. The evidence that I gave, the payment of that car my understanding was that it was partly in lieu of the ex gratia payment and partly in lieu of a salary increase. I didn't recall that I had the two cars. It was only last night that I actually checked.

Okay. Well, let's go back to 2007 then. In December, 2007 you became the registered owner of a Lexus?---That's, that's, that's correct.

And the day before that Council paid \$54,000 for a car. All right. So that's your car. Is that right?---Yes.

40

Okay. Now in 2007 let's look at what ex gratia payment you received. In 2007 you received on 30 June reimbursement of 7,450, reimbursement of 11,400 and supplementary superannuation of 48,352. Now if we ignore the reimbursement expenses, you received six months, and within the calendar year but six months before Council gave you another – well, I should say Mr Goodman gave you another \$54,000, you received an ex gratia payment of \$48,000. Do you accept that?---From the payments there, yes.

Yeah. So he gave you \$48,000 in June and he bought you a car for \$54,000 later in the year?---I have to accept that that's correct.

Yeah. But we know it's correct. There's nothing great by your acceptance with respect, Ms Cullinane. What we're wondering is how could that possibly have been in lieu of an ex gratia payment?---I don't know.

Well, it wasn't?---Well, that's, that, that's what I believed.

10 You believed it twice, you believed it in 2007 when it was wrong and you believed it in 2010 when it was wrong?---No, no.

Is that what you're saying?---No, no, that's not what I'm saying. I didn't recall that I had two Lexus's. When you asked me the question - - -

No, no. We know what you say you recall and what you said yesterday?---Well, that's, that's the only evidence - - -

20 No, Ms Cullinane. Let's look at what's happening now. You now know there were two cars, you now know Council paid for both and you now know that you got ex gratia payments over those years before you bought the - before the cars were bought for you, right. All that's correct isn't it? ---From this evidence, yes.

Right. So let's go back to what I said. Your, your - the questions that you had your lawyer ask and the evidence that you gave was that the one car I had was bought by Council in lieu of an ex gratia payment?---I accept - - -

30 That's the evidence you gave?---That's - - -

And that evidence was patently incorrect isn't it?---No. That's, that's my belief. If you - - -

Well, forget about your belief. We'll come to your belief but it was patently incorrect wasn't it because you did receive ex gratia payments that year and in fact you had already received them before the car was - before the cars were bought?---I don't know looking at these - - -

40 THE COMMISSIONER: Ms Cullinane, all that's being put to you is on the basis of what Counsel has explained to you it is objectively incorrect. That's what's being put. Your belief is your belief but that is - - -?---Oh, okay. Okay.

But you have stated - - -?---Yes.

- - - is objectively incorrect. Is that right?---Yes. Yes.

Right.

And the mistake that you made you say is, well okay, you've said that with respect for one the cars you believed it was lieu of an ex gratia payment. What about the other car?---I didn't recall the other car.

Okay. I'm asking you now?---I don't, I - - -

Forgot about what you recalled yesterday?---I honestly don't know. I don't remember.

10

Okay. So one car, the explanation is it was in lieu of an ex gratia payment which in fact was made, is that right?---I don't know if that payment was – yes, yes.

Yes. Okay. We'll do it again. One of the cars you said was in lieu of ex gratia payment but in fact the ex gratia payment was made, correct?---And ex gratia payment was made that year, yes.

20

Yeah. Right. So what I said is correct?---Yes.

Do you want me to say it again?---Yes.

Okay?---The only thing I'm confused about is when those ex gratia payments – you can see they're all over the place. I don't know - - -

They're not all over the place, Ms Cullinane. They are remittances into your account?---No.

30

For which you were getting email notification?---No. That's correct. But what I'm saying is like the payment that I received for two years, one payment for two years, I can't tell from those, from those transactions what payments related to what period. And I don't know what I received earlier for that. That's the only, the only thing I'm saying.

Ms Cullinane, there are payments every year. From 2003 to 2010 on that schedule there are payments every year and there are payments in 2011 and 2012 on other documents?

40

MS MCNAUGHTON: Well I hate to quibble. But I can't see one for 2005?

MR THANGARAJ: Okay. That's right, 2005. Well, neither car was bought in 2005, was it?

THE COMMISSIONER: We're talking about 2007 at this stage?

MR THANGARAJ: Yeah.

THE COMMISSIONER: And Ms Cullinane, I think, the point is this. You say your belief is that the car was purchased in 2007 in lieu of ex gratia payment and perhaps partly in lieu of an increase in salary. That's your evidence?---That's correct.

10 All right. Whether the car was purchased before, that is in the months or weeks before the ex gratia payment in 2007 or in the months or weeks after the ex gratia payment in 2007, the point is that you received email notification in 2007 of that ex gratia payment, didn't you?---(No Audible Reply)

So you didn't have to look at your bank account, you got an email notification to that effect?---From what you're telling me, yes, but I don't
- - -

But, no, we're talking about at the time?---I don't, the, the answer is I don't know.

20 Well, you may not remember now but as an objective fact you received email notifications in that year of those ex gratia payments?---If, if there were, if there were notifications issued in that year, yes, I would've received them.

30 All right. Well then my question is this. Whether you received the email before or after the purchase of the car, didn't you then say on receiving the email notification, well, hang on a minute, I was supposed to have got that car in lieu of that ex gratia payment, what's going on here? That's the question?---I understand what you're saying and I should've if, if I received that. I understand and I accept that.

MR THANGARAJ: Well two cars were bought for you. One car you said was in lieu of an ex gratia payment which we know is objectively incorrect, right?---Yes.

What's the other explanation for why the Council paid for that car?---Well I assumed that I traded the other, the 2007 Lexus on the 2010.

40 Right?---And to be honest, I don't know if I paid the balance or Council. I don't know.

Well, if you went through your records last night, you'd know whether you traded it in or not, wouldn't you?---No. I just looked at – I only had the, I didn't actually have the registration records. But I did have some insurance records.

So you drove, between 2007 and 2010 you drove one Lexus and in 2010 you got a second Lexus?---I would have to say that's correct.

And when did you – have you still got the second one?---It's unregistered in my garage.

Okay. So you've still got it?---Yes.

Right. And as of yesterday, which car did you think – have you had any other Lexus's besides those two?---No.

10 All right. And have you had any other luxury vehicles other than those two?---No.

MR MOSES: I can't hear the witness.

MR THANGARAJ: And yet - - -

MR MOSES: I can't hear the witness.

THE WITNESS: No. No.

20 MR THANGARAJ: In your entire driving time you've had two luxury vehicles, both in the last eight/nine years, is that right?---Yes.

And you replaced one with the other?---Yes.

And you're saying that you, yesterday couldn't remember that you had in fact had two Lexus cars, not one?---That's correct.

30 And – all right. I just want to ask you a couple of questions about the security system. When did your mother move into your house?---It is my, it was mother's house.

So you moved into that house?---I was there, yes.

All right. So your father died and it became the three of you down to the two of you, is that right?---Yes.

And what was the timing of between your father dying and the installation of the security system?---10 years, 9 years.

40 THE COMMISSIONER: How long had you been living in that house before your father died?---Pretty much the whole time I've lived there.

MR THANGARAJ: Can the witness be shown the folder that Mr Moses gave her yesterday.

THE COMMISSIONER: Yes.

MR THANGARAJ: Can you go to the document that you say you prepared in relation to CND. It's in tab C, towards the end?---Sorry, what tab was it?

MR MOSES: Sorry, that's my fault, Commissioner. This is the document, I gave my friend the wrong exhibit number. This is the document that was found in the office of the Deputy General Manager after – I think it's Exhibit 69?

10 THE COMMISSIONER: You wanted the folder, was it?

MR MOSES: Yeah. I think it's Exhibit 69.

THE COMMISSIONER: It's R78. The folder of documents relating to Ms Cullinane?

MR MOSES: No.

20 THE COMMISSIONER: No.

MR MOSES: A separate folder. I gave my friend the wrong exhibit number.

THE COMMISSIONER: Oh, I'm sorry.

30 MR MOSES: There was two folders. One was the folder that we provided to the Commission that was found in her office after her dismissal which was the documents that we say should've been produced to ICAC. And I think you marked it Exhibit 68, Commissioner, or 69.

MR THANGARAJ: We think it's 69.

MR MOSES: 69, sorry. Thank you. I think that's the folder that my learned friend wished to show the witness.

THE COMMISSIONER: Yes, it is 69.

MR THANGARAJ: And it's got 28 at the top right-hand corner.

40 MR MOSES: That's the folder.

MR THANGARAJ: If you could go – just go to the top of, sorry, page 28 top right-hand corner and we'll make sure we're looking at the same document.

MR MOSES: That's the document, yeah.

MR THANGARAJ: Is that document – does that document have CND at the top?---That's correct.

Sorry, if you look at it in landscape?---That's correct.

And the left-hand corner, the first date is 12 May, 2010?---That's correct.

And I'll just read you some of the record just to confirm we're all looking at the same thing. Under description it has 13001.0530.0402?---That's correct.

10

All right. Now you say you prepared this document, did you?---Yes.

Did you do so from information provided to you by Mr Thompson and/or Mr Byrnes?---No, I think, I think they raised the concern of some excessive expenditure in relation to it. And I think that is a, pretty much an extract from the computer system, downloaded to an Excel format.

20

All right. So this was, this document came about through you because of what they – because of a conversation you'd had with Mr Byrnes and Mr Thompson?---I don't know, I'm not sure if it was Mr Thompson but Mr Byrnes.

Okay. And what companies had he mentioned?---It was the security. We were spending a lot of money on security systems and cameras. So CND and presumably Emu, but I'm not sure.

30

All right. And - - -?---I probably, I may have known Emu because they installed the security system in my home. So he may have only mentioned CND, I'm not sure.

All right. So was it your instigation that the Emu numbers be brought up? ---Yes.

Nothing further at this stage.

THE COMMISSIONER: Yes, Mr Moses.

40

MR MOSES: Yes, thank you. Ma'am, can you leave that page open in front of you. Thank you.

Commissioner, could the following document be brought up on the screen, it's volume 6 of the ICAC brief, page 67.

Ms Cullinane, Ms Cullinane? Ma'am, the document that Counsel Assisting just showed you was the document which you gave evidence about yesterday as having been the subject of a discussion you said you had with Mr Fitzgerald and Mr Goodman in 2011. Do you recall that evidence? ---Yeah.

Ma'am, you have to - - -?---Yes, yes.

- - - keep your voice up because this is being recorded?---Yes.

Thank you. And this is a document, this is a document which you say you went through at the meeting in 2011 with Mr Fitzgerald and Mr Goodman. Correct?---I believe - - -

10 That was your evidence yesterday?---Yes, yes.

It's page 1238 - - -?---Yes.

- - - Commissioner, line 40. Now, this document that Counsel Assisting has shown you is a document that you put together, correct?---Yes, I believe so.

Okay. And in putting it together did you go through the invoices which you were referring to in the document, did you look at the invoices of CND?
---No, I don't, I don't think so.

20 Well, on the screen in front of you is an invoice from CND Computers. The order is by Gary Goodman, and that's the sum of \$30,800 in total, including GST. Do you see that?---Yes.

And if you go to the entry for 30 June, 2010, you'll see there that's the invoice there, 30,800, and the details were three times white lights and three times cameras. Do you see that?---(No Audible Reply)

Ma'am, it's the document - - -?---I'm just looking.

30 It's the, it's the table, so you'll find - - -?---Yes, yes, I do.

Do you see that?---Yes, I do.

And if you go back to the invoice that's on the screen, somebody's handwritten there, first of all it had, "Supply and installation of security equipment," and then somebody's handwritten further down, "Three times white lights and three times cameras." Do you see that?---Yes.

40 Is that your handwriting?---No.

Sorry, you have to keep your voice up?---No.

Okay. And when you prepared this document and you included the details of invoices, you say you didn't look at the invoices, but how did you know what the details of the invoices were when you were preparing this document?---I, I, I don't know. I may have had some from Mr Byrnes, I don't know.

You don't know?---I don't know.

Okay. You have no recollection - - -?---No.

- - - of how you prepared this document, ma'am?---No. I thought I, I thought I'd prepared it - - -

Ah hmm?--- - - - from the information from the computer system.

10 Okay?---And that's really all I remember.

Well, if I suggest to you that there is no information on the computer system that shows the details of invoices, would you accept that or you just don't know?---I honestly can't remember.

Okay, that's fine. That's your evidence. Well, just go to the second page of the document that Counsel Assisting showed you – this is the table, the
20
CND table that you prepared. If you go to the end you'll see there are the amounts that were paid, that are said to be paid in 2010/2011. Do you see those amounts?---Yes.

Okay. And the total comes to about \$2.7 million?---That's correct.

Were these payments that you had determined had been made by Council to those entities?---I believe so.

Okay. So then if you can go back to the next page for me, next page of the
30
table. There are two columns. There's an amount column, do you see that?
---Yes.

Headed "Amount?"---Yes.

And then next to it is a column that has a blank. Do you see that?---Yes.

Okay. And then for some of the entries – and just by way of example, if you go to the entry for 16 November, 2010, which is the forth last entry on the page, there is an amount there for the invoice of \$13,530. Do you see that?---Yes.

40 And then alongside it is 32,560. Do you see that?---That's correct.

Can you explain what the second column entries are meant to signify?
---I think they're the, the – the first column where it says Amounts, I think they're the invoices.

Yeah. And the second column?---I think the second column is the actual payment.

The actual payment made to the companies?---So in other words that if it's the first one - - -

Ah hmm?--- - - - that would appear to be that we paid that invoice in one cheque or EFT.

Ah hmm?---And further down where there's no entries, where it's blank - - -

10 Ah hmm?--- - - - then those invoices would form part of that payment on the right.

So if we go to – just by way of example, if we go to then the entry that I've just taken you to for 16 November, for 16 November 2010 there is an invoice there of \$13,530. Correct?---That's correct.

And just to satisfy yourself, if that could just come up on the screen with your leave, Commissioner, volume 6, page 103. That's the invoice for that. Correct?---Yes.

20

And the – your evidence is that what appears for 15 November, 2010, is we either add those two entries and that relates to the total payment made on 16 November for both invoices. That's how we should read this document? ---I believe so, yes.

Is that your evidence?---Yes.

Okay. Now, you said you discussed this document with Mr Fitzgerald and Mr Goodman in 2011. Correct?---That's correct.

30

What did you discuss with them?---Just the excessive expenditure in some of the areas.

The excessive expenditure?---That's correct.

Okay. And did you ask Mr Goodman why he was ordering, in his role as the Chief Financial Officer, why he was ordering camera software and security equipment for Council? Because that wasn't part of his job, was it, ma'am?---He, he was - - -

40

That wasn't part of his job, was it, ma'am, you know that?---But it's - - -

MS McNAUGHTON: There were two questions. First of all she was asked - - -

MR MOSES: I'll withdraw that, my friend is correct.

THE COMMISSIONER: Ah hmm.

MR MOSES: My friend is right. I'll withdraw the question.

It wasn't part of Mr Goodman's job, was it, to order security equipment for Council. Correct?---No, that - - -

Do you accept that?---No, that's not correct.

You don't accept that?---He, he was doing that in his role.

10

He was doing that. Okay. So part of his role was it, we can go through parts of these if you want – part of his role was to order software upgrade for the Aquatic Centre, was that part of his job?---(No Audible Reply)

Is that, is that your evidence?---Possibly, yes.

When you say possibly, you know as part of his role as Chief Financial Officer he was not involved in the ordering of equipment. You understand that, correct?---No, I don't understand that.

20

Okay. That's your evidence?---That's, that's correct.

Okay. Thank you. Now, just in relation to the document again which was found in your office with – so you've been shown a bundle of documents? ---I've got those.

Exhibit 69. These are the documents found in your office. Do you recall there was a telephone intercept call took place between Mr Gary Goodman and Mr Fitzgerald, do you recall the telephone intercept call that took place?

30

---Could you just refresh my memory of - - -

Well, without wanting to use hyperbole, the Commissioner I think eloquently put it yesterday that there was a reference made in a telephone conversation by Mr Goodman that you had a shit file on him?---Oh, yes, yes.

Do you recall that?---Yes.

Yeah.

40

THE COMMISSIONER: It wasn't my eloquence, Mr Moses, it was Mr Goodman's eloquence, but never mine.

MR MOSES: It was, Commissioner, it was, Commissioner. I'm just using you as cover, Commissioner, so my friend doesn't object.

MR LATHAM: The conversation was between Mr Fitzgerald and - - -

THE COMMISSIONER: That's right.

MR MOSES: Yeah.

MR LATHAM: - - - and Mr Mark.

MR MOSES: Thank you, thank you.

Mr - - -

10

THE COMMISSIONER: Mr Goodman.

MR MOSES: Mr Goodman and Mr Mark, not Mr Fitzgerald and Mr Mark.

MR LATHAM: Sorry, sorry.

MR MOSES: Unless you've got different instructions.

20

Okay, okay. No, don't make any concessions. Okay. So it's the shit file, correct? Is that the shit file that was in your office?---(No Audible Reply)

Exhibit 69, is that, is that - - -?---I, I, I, I presume so, that's what they were talking about.

Yeah, yeah, because that file, ma'am, wasn't it, was the stuff that you had been collecting in relation to the conduct of Mr Goodman. Correct? ---In relation to the excessive spending in some areas, that's right.

30

Ah hmm. But also his illegal conduct. Correct?---No.

Sorry, ma'am?---No.

You see that was the file, wasn't it, that you in part had confronted him with in 2011 in respect of the theft from Council. Correct?---No.

No. Okay. Now, when were, when did you receive notification that you had been dismissed from Council?---On Monday night.

40

Monday night. Just the past Monday?---That's correct.

You hadn't received notification before that you'd been dismissed?---No. Oh, sorry, sorry, I apologise.

Your lawyers were sent - - -?---Sorry, I apologise

Thank you?---Monday, Monday morning - - -

Monday morning?--- - - - when I arrived at the Commission.

Okay?---But I received a letter from Council on Monday evening.

Okay. So were you aware that your lawyers were sent a copy of your letter of dismissal on Friday evening?---No.

Okay. Thank you. So when you sought to enter Council premises on the Sunday, being 13 March, at 9.36am, at that stage you still thought you were employed by Council?---That's correct.

10

Thank you. Now can I go back if I can, just to the issue of your moneys into your bank account?---Yes.

Just want to understand your evidence. You told the Commissioner that it wasn't your practice to look at your bank account statements, is that right? ---That's correct.

Yeah. And it wasn't your practice to know how much was in your bank account at any one particular time, correct?---That's correct.

20

And I think you also said in your evidence that you had looked or had reviewed your or you had, you'd gone through your bank statements, was that just recently?---Yes.

Okay. And that was in preparation for you giving evidence in these proceedings?---No. It was in relation to a matter that came out of the hearing, the private hearing.

30 Thank you. Now, how many bank accounts do you have?---Two.

Two. And which banks are they with?---ANZ and a credit union.

And are you the sole signatory of those two accounts?---Yes.

And how many properties do you own?---Two.

And where are those properties located, ma'am?---One in [REDACTED] and one in [REDACTED]

40

And the property in [REDACTED] is that the property that is the property that was owned by your parents?---No.

No. That's a different property?---That's correct.

Thank you. And is that property in your name?---Which property?

The property in [REDACTED] the one that is different from your parents' home, is that property in your name?---Yes.

Solely in your name?---Yes.

Yeah. Is it fully paid off?---It's on an offset loan.

Well, when you say it's on an offset loan, is there a mortgage on the property?---Yes.

10

Who has the mortgage?---The ANZ Bank.

And is it a home or an apartment?---A house.

And when did you purchase it?---2006.

And how much did you purchase it for?---700 and something thousand, 740,000.

20

And did you put a deposit down on that house?---I would have.

No, not would have?---Yeah. I did.

Did, you, yeah. And can you recall how much you borrowed from the bank to purchase that home in 2006?---I borrowed the full amount.

The full amount. The whole, the whole amount for the home or 10 per cent plus?---No, I borrowed the whole, whole amount.

30

The whole amount. Okay.

THE COMMISSIONER: Was that an interest only loan?---Yes, yes.

Is it still an interest only loan?---I think it's just – because it's, it's just on that 10 year period, I think that's when it starts becoming interest and principal.

MR MOSES: And how much is left owing on that home?---The same amount as I borrowed.

40

Thank you.

THE COMMISSIONER: Sorry, do you mean to say that all you've been paying for that 10 year period is the interest and nothing more?---That's correct, there's an offset. So I've got money in my own account which offsets the loan.

And it's tenanted, I assume?---Yes.

MR MOSES: And you said there's a property in [REDACTED]
---That's correct.

And when did you buy that property?---30 something years ago.

When?---30 something years ago.

Thank you. Is that property fully paid off?---Yes.

10 Now in relation to your two bank accounts. Having reviewed your bank statements recently, how much is in ANZ bank account at the moment?
---About \$1.9 million.

One point, how much?---About \$1.9 million.

\$1.9 million. Thank you. And what about the credit card, the credit account, the other bank account?---I don't know.

20 The credit service account?---The credit union.

Credit union account?---I don't know.

Okay. Now the \$1.9 million sitting in the ANZ bank account is that the money that was coming in from Council, is that where your money would be paid into in respect of money that was coming through the creditor system?---It would've been, yes.

Well not would've been?---Yes, yes.

30 Yeah. Okay. Now just a couple of things if I could. And you can confirm this if it's wrong. Did you have an uncle called Cliff Nash?---Yes.

Yes. And did you upon the breakup of his marriage, provide him with the sum of \$250,000 to assist in him buying out his former wife out of the property?---Yes.

Yes. And when was that?---I can't recall.

40 To the best of your recollection?---Five, six, seven years ago, eight years, I'm not sure.

Five or six or seven years?---Five or six years ago I would've said.

Yeah. And did that money come from the ANZ bank account?---Yes.

Okay. And that was cash that you had?---It was in my account, yes.

Yeah. Okay. Now in relation to family members, your family members. Have you over the years purchased vehicles for them?---I don't, I don't - - -

If you don't have a recollection you should say so, rather than - - -?---I don't know.

You don't know. Okay. Okay. My learned friend Counsel Assisting asked you a question yesterday about whether Mr Goodman had ever provided you with a gift or gift, a jewellery gift. Do you recall that question?
10 ---I don't believe I was ever asked it.

All right. Okay. Thank you. No, thank you. I asked, my learned friend asked Mr Goodman not this witness. Did Mr Goodman ever provide you with gifts?---He would have.

Jewellery?---He would have, yes.

When you say he would have?---He did.

20 He did, didn't he, yeah. Expensive jewellery?---I don't know the value of it but he, but he certainly bought me jewellery when we were together.

Yeah. Okay. Now apart from the money that was being paid to you by Council as an employee of Council?---Yes.

During the period 2003 up until your dismissal, did you have any other sources of income?---The rents.

30 Apart from the rental, the rental income from [REDACTED] and the [REDACTED] property, apart from those?---I don't believe so, no.

All right? And the - - -?---Unless it was – unless it was money that my mother had given me, but I had no other - - -

Sources of income?---No.

THE COMMISSIONER: You weren't receiving dividends from a share portfolio?---Yes, I would.

40 MR MOSES: Thank you, Commissioner?---Sorry, sorry, I apologise. They may have gone in there from Telstra, I think.

Was it just Telstra you had shares with?---I think so.

When you say, you think so - - -?---Well, I don't believe I've got any others.

Okay. Now the Commissioner put to you a proposition about why – an explanation as to why you hadn't put tax returns in since 2010 to the present date. Do you recall that proposition that the Commissioner put to you?
---I recall the Commissioner raising that with me, yes.

10 Yeah. As to – is one of the reasons why you haven't put tax returns in since 2010 is that you know that if you did you'd have to disclose the income or the moneys that you were getting in respect of these ex gratia payments, do you recall that questions being asked?---Proposition, yes.

And I think you answered to the Commissioner, well you said you didn't agree with that proposition, is that right, you don't agree with that proposition, is that - - -?---I didn't realise I had to declare that, that's correct.

Okay. But what the Commissioner was asking you was that - - -?
---Oh, that's correct.

20 Yeah. And you didn't agree with that proposition, is that right?
---No. It wasn't for any inappropriate reasons.

Okay. Now in relation to your tax returns. Prior to 2010 when you were putting tax returns in, is this the case, you were not disclosing to the Australian Tax Office the ex gratia payments that you were receiving, correct?---That's correct.

Now I'm just going to ask you, my learned friend's dealt with the question of superannuation so I'm not going to go through that, but I do want to ask you some questions if I can about the cashing out of leave entitlements.

30 THE COMMISSIONER: Mr Moses.

MR MOSES: I'm sorry, Commissioner, I apologise.

40 THE COMMISSIONER: There just something that arose and I didn't want to forget to ask Ms Cullinane. Ms Cullinane, in relation to the properties that you own that were being rented, in the years that you did submit a tax return, did you claim the expenses associated with the maintenance of those properties and did you claim the interest payments on the [REDACTED] property?---(No Audible Reply)

In other words did you claim them as - - -?---They would've have been. They would've been.

- - - as expenses - - -?---They would've been.

- - - because they were, well at least the [REDACTED] property was negatively geared?---That would've been correct.

Right. Sorry, Mr Moses.

MR MOSES: Thank you, Commissioner. So in relation to the cashing out of leave payments you accept don't you that there was the cashing out of leave payments that was occurring through the creditor system. Correct?--- That's correct.

10 So in the same what that my learned friend took you through the superannuation contributions being paid through the creditor system the cashing out of leave payments also occurred through the credit system. Correct?---That's correct.

And you knew for a fact didn't you that - - -?---Well, no. At that – sorry.

I'm sorry, ma'am, you go?---Sorry. I apologise. There was - - -

That's okay?---There was - - -

20 You tell us what you want to say?---The cashing out of the leave was paid through the payroll system.

Okay?---There was one payment that I received that I wasn't aware of that was received. That's correct.

So let's – so I can understand your evidence, your evidence is that apart from one payment that you received through the creditor system the remainder of the leave payments being cashed out went through the pay system. Is that your recollection?---That's my understanding, yes.

30 Okay. Have you looked at documents recently to refresh your memory on this issue or is that just your recollection?---When the Commission raised the payment that I received in 2007 - - -

Yeah?--- - - - I went back to my bank statement.

Yeah?---And there was two payments there, one was a creditors payment.

Ah hmm?---And one was a payroll payment.

40 Okay. Well, can we – maybe we might just have a look at that and sorry, Commissioner, if we could go to volume 37, 163 and 164. Are these the payments you're referring to or are they something different, the one that you say you picked up? Just trying to understand your evidence and perhaps if we go to - - -?---No, no, that's, they're something different.

Thank you. So if we go to 164, long service leave. There's an entry for 29 August, 2007?---That's the amount.

Okay. And that was cashed out through the creditor system. Correct?---I received that payment that's correct.

Yeah. And in fact – but that came through the creditor system. You know that don't you?---Yes, I do.

That payment. And there was notification of that through the creditor system, correct, you get emailed when there's a - - -?---I don't, I don't recall receiving the emails but I accept your evidence - - -

10

Well, can I just show you what - - -?---I accept your evidence that that is how it's done.

It's not my evidence, it's the document. If we go to page 166 which Counsel Assisting took you to, that's an example is it not of a creditor remittance advice that would be emailed to you when something went through the system. Correct?---That's correct.

20

Okay. And just if we - - -?---But I'm not entirely sure to be honest whether I did receive - - -

Okay?--- - - - those emails.

Okay?---If my email address wasn't on there I wouldn't have received it to my work email.

Okay. Sitting here today you just don't recall. Correct?---That's correct.

30

Okay. If we just go back to page - - -?---I recall receiving that one. There's no doubt.

Okay, ma'am. If you go to page 165, back I'm sorry, if we can just go back to page 165. That amount there – sorry, apologise, it's 164. I apologise to the Commission staff. That amount thereof \$87,081.05. Do you see that? ---Yes.

40

That was the amount that you provided in a bank cheque did you on, on or about 2 February, 2016 for a member of the Council staff to take down to be deposited into the Council bank account. Is that right?---That's correct.

And who did you give that document to, the bank cheque?---Mr Byrnes.

There was no covering letter that you gave him with that?---No.

There was no explanation you provided to him as to what that payment was for?---I told him - - -

I mean you've heard his evidence?---I told him - - -

Yeah?---I told him that was a payment that I received - - -

Okay?--- - - - that I had no knowledge of and - - -

Okay?--- - - - I asked him to re-bank that amount of money.

You told him to do that?---(No Audible Reply)

10 Okay. And that bank cheque – you did it in a bank cheque, is there a reason why you did it in a bank cheque – was it a bank cheque or was it a cheque from your account?---I don't have a cheque account so it was a bank cheque.

Okay. So it was a bank cheque. Is that right?---Yes, that's correct.

20 Okay. Thank you. So just if we can go back to the payout figures. I just want to ask you some questions about the annual leave payout in 2007. If you go behind tab 11 of the white folder which the Commission has marked as Exhibit 78. That's an example of a leave cash-out payment?---Sorry, what number was it?

Behind tab 11 of Exhibit 78. That's a leave cash-out payment of \$59,038.46?---Yes.

And for you. Correct?---I believe so.

30 Okay. And you received that two days after receiving the \$87,000 that we've just shown you on the screen. So the \$87,000 which was the long service leave payment on 29 August, 2007 and within two days you were then getting an additional 59,000 into your bank account?---I think it was about a week.

Yeah. And your evidence to the Commissioner is when these rivers of cash were coming into your account you didn't notice it because you never looked at your bank account. Is that right?---Yes.

40 Okay. Because you – is this your evidence, that had you noticed that in excess of \$100,000 had hit your bank account, whether it be within two days or a week, the light would have gone on in your head and you would have said well, hello, where is this money coming from. Correct?---That's correct.

But you're asking the Commissioner to believe your evidence that that never happened, correct, that is, you never looked at your bank account? ---I'm not saying I never looked at my bank account. Obviously I did when I got withdrawals out but I didn't have Internet banking. I wasn't looking at - - -

That's your evidence?---I don't, I don't live week to week.

Okay. But at some stage did it dawn upon you in 2007 that in excess of \$100,000 cash had hit your bank account and you would wonder where it had come from?---Not the 100, not the 100,000.

No?---But the 87,000 I accept and, no, I didn't.

10 No. But I'm talking about within a week over \$100,000 in cash went into your bank account. You accept that don't you looking at the records now? ---And I would have, and I would have received a pay slip - - -

Yeah?--- - - - indicating that that amount had gone into my bank account.

20 So do you accept that the sum of \$100,000 going into your bank account would have been a remarkable occurrence for you in 2007, as a Council employee on the salary that you were on back then which was \$153,000 there's this river of cash flowing into it in 2007 which almost equates to your annual salary and you wouldn't have asked the question where did that money come from?---No. I think my mother also deposited some money in my account around that time.

So is your answer to the question I wouldn't have regarded it to be an occurrence that would have caused me any concern to look where the money was coming from, is that your evidence or you just don't recall?---I - - -

I'm just trying to understand what your evidence is?---I just don't recall.

30 Okay. Okay. Because you weren't meaning to give by the last evidence to the Commissioner that because your mother would have been depositing money at the same - at about that time, and we'll check the records when we get your bank account statements, that that somehow explained why you wouldn't have thought this was unusual - - -?---No.

- - - because your evidence is I just don't recall this?---No, I'm not, I'm not, I'm not suggesting - - -

40 No. Okay. Thank you?---I'm not suggesting that.

Thank you, ma'am. So in August, 2007 did you authorise the cashing out of annual leave to yourself, did you authorise this, in 2007 this cashing out at tab 11 did you authorise - - -?---No.

- - - the payment of \$59,038, 46 to yourself - - -?---No.

- - - as a cash-out?---No.

No. Did you authorise the cashing out of annual leave at this time to Mr Goodman?---No.

Did you authorise the cashing out of annual leave at this time to Barry Byrnes?---No.

Did you authorise the cashing out of annual leave at this time, this is August, 2007, to Mark Thompson?---No.

10 Are you aware that over a period of two days, two days the four of you received a total of \$431,132 for the cashing out of annual leave?---No, I'm not aware.

Okay?---But in relation to that payment I am sure - - -

When you say that payment - - -?---Sorry, the - - -

- - - the payment at tab 11?---That's, that's correct.

20 Yes, ma'am?---The cashing out of those annual leave for that period.

Ah hmm?---I'm sure there was a document signed by Mr Fitzgerald.

Okay. When you say you're sure that there was a document, have you seen that document before or are you just assuming that? It's very important. Are you assuming it or have you seen the document?---I've got a feeling that it was at work recently, but I'm not 100 per cent sure.

30 You're not 100 per cent sure. Okay. When you say you've got a feeling, did you see the document?---I have got a feeling when the General Manager was looking at these payments um, I thought they - - -

You saw - - -?--- I thought they had located - - -

Okay?--- - - - a document in relation that, that the General Manager had signed.

Mr Fitzpatrick?---Mr Fitzgerald.

40 Mr Fitzgerald, sorry, thank you?---In relation to the payment of the leave.

Okay?---But I don't think they located any payments, any authorisations in relation to the, to the other payments.

Okay. So that's your recollection?---It's, it's my recollection.

Okay. Thank you. Now, just in relation to the payment of moneys through the creditor system, can I just ask that you be shown – before I ask you that

question I just want to put to you this proposition – you knew that when payments were being made through the creditor system that that should not have been occurring. Correct?---In, in respect of what payments?

The cashing out of long service leave and annual leave. You knew that that should not be going through the creditor system but through the pay system. Correct?---That should have been – that’s correct.

You accept that?---Yes.

10

And in fact, I can show you the document if I want, that when a matter was uncovered in 2004 by Mr Perry in relation to Mark Thompson, it was, it was the case wasn’t it that it was said that those moneys should have gone through the pay system, not the creditor system. Correct? And I could show you an email between the both of you but you, I think you accept the proposition - - -?---Yes, yes.

- - - these payment should have been going through - - -?---Yes.

20

- - - pay?---Yes.

Correct?---Yes.

Okay. Now, in 2007 we’ve established that there were two payments made to you that went through the creditor system, and we can show you this again, but it was the payment of long service leave of \$87,000, which you’ve paid back. Correct?---Yes.

30

And there was an annual leave payout, which is the tab 11 document, which was the 59,000 that was also gone through the creditor system?---No, no, that - - -

But you’re, you’re not aware of that, you think it went through the payroll system. Correct?---That’s correct.

Okay. But if it went through the creditor system you wouldn’t know, because you didn’t, you didn’t involve yourself in the details. Correct? ---No, but I think when I looked at my bank statement - - -

40

Okay?--- - - - for the annual leave - - -

Okay?--- - - - I’m sure it said, “Pay.”

That’s your recollection then?---That’s, that’s my recollection.

Now, if we can just go back to page 169, volume 37 of the ICAC brief. Just wondering whether you can help us with this amount. This is a payment to you of \$37,475.21. Do you – this went through the creditor system?

---That's correct.

Do you know what that was about?---Yeah, this, this particular payment, this was before the former General Manager left.

Yes, that's right?---When I met, when I met with him about asking him to make sure that all of my leave records, my, sorry, my conditions were documented - - -

10 Right?--- - - - he, he said that I started um, the payroll records start, said that I started in October '96 and I'd actually been the Acting Director of Corporate Services for a year earlier - - -

Ah hmm?--- - - - so all my entitlements from the system - - -

Yeah?--- - - - commenced in '96.

Yeah?---I said to Mr Fitzgerald would I be entitled to the casual loading on, on that year that I worked as a contractor and he agreed.

20

Yeah?---And he made that, he approve that payment.

But see that was a dishonest payment, wasn't it?---A dishonest payment?

Yeah, because you were a contractor at the time that you were just referring to, you weren't an employee, were you?---No, but I think, I think we discussed the point that even though I was a contractor I was full-time - - -

30

Okay?--- - - - and that in all probability that would have met the employee test - - -

Okay?--- - - - and therefore I would have been entitled to those entitlements.

So let's just walk back from that if we can, because Mr Fitzgerald will have to give his version of events. At the moment what the documentary evidence clearly establishes is that the only signoff he gave as General Manager in respect of your entitlements are the two emails which Counsel Assisting took you to earlier. Correct? You've accepted that as a proposition, that's the only documentation in relation to entitlements.

40

Correct?---He, he did, he did authorise that payment.

Ah hmm. Okay. There was no discussion between you and Mr Fitzgerald prior to you commencing full-time employment with the Council that your period of service as a contractor would be taken by the Council to be a period of service as an employee for the purpose of statutory entitlements. Correct? There was no agreement between you and he at the time you were employed?---We, we didn't, we didn't have that discussion, that's correct.

Crystal clear, there was no discussion?---That's correct.

Just before he was about to leave the door you say in your evidence that you had a discussion with him that you wanted him to document or record your conditions of employment. Correct, you gave that evidence yesterday?

---Yes.

Okay?---I asked him if they hadn't been documented - - -

10 Okay?--- - - - could he make sure that they were.

Okay. And we established yesterday, it was your own evidence out of your own mouth, that at all relevant times, this is correct isn't it, you were employed pursuant to the Local Government award. Correct?---Yes, correct.

Yeah. There was no contract of employment, standalone contract of employment that you had, correct, it was under the award. Correct?

---That's correct.

20

Okay?---Other than, other than the resolution of the Council that said he could negotiate an employment package.

Sure. But, but the only documentation about Mr Fitzgerald's approval of your conditions are that contained in the emails that my learned friend took you to. Correct?---From Council's records that would be correct.

Yeah, correct?---That they've been able to locate.

30 Okay. And you're saying now – is this right – and I withdraw the now – you're saying that Mr Fitzgerald, prior to his departure, approved you getting an additional payment which was the payment that doesn't have a descriptor that I've just taken you to of \$37,475 to compensate you for the fact that your period of service is a contractor to count as period of service as an employee. Correct?---We discussed that and he agreed with it.

Yeah?---Yes.

Did you raise it or did he raise it?---Oh, I raised it.

40

You raised it. You raised it because you wanted, you wanted some money. Correct? You wanted money?---No, that - - -

No. Well, when had you previously raised with anybody – we'll hear Mr Fitzgerald's version of events no doubt, but when did you raise previously with anybody the fact that you wanted to have leave paid out for the period that you were a contractor with Council?---I had, I had never raised it.

You hadn't. So you were asking him – is this your version – I'm not putting to this as a matter of fact - - -?---No.

- - - I'm trying to put back to you what you're telling the Commissioner – you told Mr Fitzgerald did you that you wanted to be paid an amount of money to compensate you for leave that you should have been paid as a contractor. Is that right?---No, I, I don't think it was exactly like that.

10 Well, what did you say – well, did you say show me the money? What did you say?---No, I asked - - -

I just want to understand it?---I asked Mr Fitzgerald - - -

Without using hyperbole, what, what happened?---I asked Mr Fitzgerald - - -

Thank you?--- - - - for that period when we went through and my employment started in '96 - - -

20 Ah hmm?--- - - - I, we spoke about the fact that I had been a, the Acting Director in '95. I asked Mr Fitzgerald would I be entitled to be paid out for leave entitlements for that year that my entitlements weren't calculating on the system. He said yes.

Is this the discussion before he left, is that what you're referring to, this was the discussion?---Yeah, that's correct.

And he said yes?---Yes.

30 Okay?---I filled in a form, he signed that form, and I admit that I gave that to Mr Goodman to process and I accept that it was paid through creditors.

But ma'am, let's go back then. That period in which you were claiming the leave for was that period that you were not an employee. Correct?

MS McNAUGHTON: Well, I object.

MR MOSES: I'm just trying to understand the evidence, Commissioner.

40 MS McNAUGHTON: No, not an employee – that is a very loaded term, it depends on who's looking at it.

THE COMMISSIONER: Well, the period for which she obtained the leave while she was a contractor.

MR MOSES: Yes.

MS McNAUGHTON: Well, whilst she was – it depends who styles her as a contractor, is it the ATO or is it the Council?

THE COMMISSIONER: Well, I thought she, she agreed she was a contractor?

MR MOSES: She said she was a contractor, we went through this yesterday.

10 MS McNAUGHTON: Yes, she was, but in my respectful submission - - -

MR MOSES: I'll withdraw the question and put it this way.

THE COMMISSIONER: All right.

MR MOSES: No, I'll withdraw the question, I'll put it this way. There is no dispute is there ma'am, that prior to you being employed as the Acting Director of Corporate Services in 1996 you commenced as a casual contractor in 1993 to assist with financial statements. Correct?---That's correct.
20

Yeah. And during that period you were a contractor with the Council. Correct?---That's correct.

Okay. And during that period you would issue invoices for your services. Correct?---That's correct.

And you would be paid. Correct?---That's correct.

30 And during that period 1993-1996 you were not working full-time for the Council, correct, for the whole period?---No, I think that – I think in '93/'94 that's correct.

Yeah?---When I took the acting director's role - - -

Yeah?--- - - - I then was appointed at a certain rate of pay - - -

Yeah?--- - - - a certain amount.

40 Okay. But let's go back if we can?---So the - - -

You're not – I'm sorry, you finish your evidence please. You were about to say something. I interrupted you?---No. So the amount that I was – from my recollection the amount that I was paid in '93/'94 - - -

Yeah?--- - - - was different to the amount - - -

Okay?--- - - - I was paid when I took over the acting director's role.

Okay. You're unable to explain today are you to the Commissioner, and we can do it if you want to go through it the hard way, but you're unable to explain are you how the figure of \$37,000 was arrived at by way of reference to rates of pay and referenced back to entitlements under the Annual Holidays Act, sitting here today you couldn't explain that could you?---No, I think the, I think the - - -

10 But can you or – if you can, tell me?---I think the - - -

Is the answer yes or no, can you explain it? I'm not interrupting?---I think the calculation was based on what my rate of pay was at that time and it was based on four weeks annual leave or it was, it was either based on that calculation or on a 20 or 25 per cent basis but I can't remember which it was.

There is no documentation which you submitted to Council that recorded this. Correct?---There, there was documentation.

20 Okay. So let's – just so we can understand it, did you put a memorandum into Mr Fitzgerald in respect of the request for this entitlement?---I filled – yes, I filled a form in.

You filled a form in. And did you fill a form in in which you said clearly what basis you were seeking the money?---Yes, it was.

Thank you. And did Mr Fitzgerald sign that document?---He did.

30 Thank you. That's your best recollection?---No, it is.

Thank you. Have you seen that document recently?---No.

Okay. Thank you. Now can I then go to the question of the conditions that were contained in the 3 February, 1997 document. I just wanted just to put to you this proposition so I can make a submission at the end of these proceedings. The document which is behind tab 10 of your – of the bundle there Exhibit 78 which is also in evidence volume 37, page 97 of the ICAC brief. Do you have that in front of you? This is the - - -?---78, sorry, what - - -

40 This is the - - -?---What tab?

Tab 10 I'm sorry and it's also volume 37, page 97?---Yes, I've got that.

That document that you see in front of you is the document that sets out the arrangement that had been approved ultimately by Mr Fitzgerald in respect of your employment. Correct? correct?---In relation to that ex gratia superannuation?

Yeah?---Yes.

And I think you've agreed with Counsel Assisting's proposition that the payments that were going into your bank account as the ex gratia – what you had been describing as the ex gratia superannuation contribution payments you said I think in answer to what my learned friend said was that those payments were duplicates that were going in through the creditor system, they were duplicating what was going in through the pay system.
10 You now accept that. I think that as your, your evidence. Correct, yes?
---Yes.

Okay. In fact, in fact the payments that were going through the creditor system which you assert you thought were your super contributions were actually four or five times more than the arrangement you had entered into with Mr Fitzgerald. Are you aware of that?---No.

No. Because for instance, for instance, just by way of an example, and you can agree or not agree with this if you want but the documents bear this out,
20 that in 2007 just by way of example your salary was \$153,500. Okay. Do you accept that, yes?---If that's, if that's the records you've got, yes.

Yet the total amount of payments that you received from Council, that is, the payments coming through the creditor system as well as your salary totalled \$375,925?---That's, are you saying that's my salary plus those super
- - -

Plus those cash payments, yeah. Were you - - -?---The super payments?

30 Well, we're not talking - - -?---Or the ex gratia payments?

Well, no, we're not describing them as that either?---Sorry.

As far as Council is concerned those payments you received through the creditor system were unlawful payments so don't think for one moment - - -
?---I was just trying to clarify - - -

Yeah, okay?--- - - - what you were saying I received.

40 Okay. So you received in effect double, double your salary through other payments from Council. Were you aware of that?

THE COMMISSIONER: Sorry, is this in any given year or is this - - -

MR MOSES: In 2007, Commissioner.

THE COMMISSIONER: In 2007.

MR MOSES: This is an example.

THE COMMISSIONER: Yes.

THE WITNESS: Sorry, could I, could I have the information on the screen again.

MR MOSES: Sure?---If you wouldn't mind.

10 Okay. Well, we can go through it but this is the proposition. In addition to those cash payments you were getting in 2007 you also got a car, correct, the Lexus?---Yes, I do.

Was that the first Lexus you got?---2007?

Yeah?---Yes.

And then you got a second Lexus in 2010?---That's correct.

20 What happened to the first Lexus when you got the second Lexus?---I believe it was traded in.

When you say you believe - - -?---Sorry, it was traded in on the second one.

Okay. And that's was paid for wholly by Council?---I'm, I'm not, I'm not clear on that. I need to verify that.

30 Because when you gave evidence yesterday to Counsel Assisting that the payment of the Lexus, the payment of the Lexus was to compensate you for superannuation payment, that is, it was in lieu of super, you now accept that that is not true, correct, that is not correct because you were receiving super payments and getting a Lexus. I think you accepted that with my learned friend?---I accept that that - - -

Yeah?---Yeah.

But you said you never noticed the money coming into your bank account? ---No.

40 All right. Okay. So just have a look at the 2007 entries and you can, you can put them together. Commissioner, we've prepared a table which sets out throughout the years what the witness's salary was from Council and then the payments that went through the other systems and tried to do a total but we, we just want to check a few details but we'll tender it before the hearing is complete as a summary document.

THE COMMISSIONER: Thank you.

MR MOSES: Yes, ma'am, you've looked at that?---Yes, I have.

So does that satisfy you that the proposition I put is that you were in effect receiving through Council an amount of money which equated the salary that you were also getting through these other, these other payments?---(No Audible Reply)

If you don't agree that's fine, we'll move on.

10 MS McNAUGHTON: Can I just raise one problem.

THE COMMISSIONER: Yes.

MS McNAUGHTON: This document starts in '03.

MR MOSES: Yeah.

MS McNAUGHTON: And the arrangement was entered into well prior to '03. I'm just wondering is there a document available which assists us with
20 the prior years because for example this already shows that the '05 payment is missing so that may be important in the scheme of things.

MR MOSES: No, I - - -

THE COMMISSIONER: Well, it may be, yes.

MR MOSES: I accept my friend's point but this - - -

THE COMMISSIONER: Yes.

30

MR MOSES: The proposition I was dealing with here and we'll make some inquiries about what my learned friend has correctly raised but in relation to '07 the question I had confined myself to, Commissioner, was '07.

THE COMMISSIONER: Just that year.

MR MOSES: Just as an example.

THE COMMISSIONER: Yes.

40

MR MOSES: So do you accept in terms of the moneys that were hitting your bank account through the creditor system that they equated to your actual salary or more, do you accept that proposition? They were substantial payments?---The 48 and the 87, yes.

Well, in 2007, in 2007 there was in excess of 130-odd thousand?---I accept, I accept, I accept what you're saying.

You accept that. Okay. And your evidence is because I didn't regularly look at my bank account I just didn't see the money hitting the bank account in those amounts during that period?---That would be true.

That's your evidence?---That would be true.

Okay. And I think you now accept – because of the questioning of Counsel Assisting you now accept that the payments that were being made to you through the creditor system in respect of superannuation were payments that
10 you were not entitled to. Correct?---It appears to be - - -

You accept that now. Correct?---It appears to be a duplication. That's correct.

Yeah. Well, it's more than a duplication. You're actually receiving far more through the creditor system for superannuation than what Mr Fitzgerald had agreed. You accept that don't you?---I accept that.

Thank you. Now Mr Goodman authorised these payments to you, is that
20 right, he – how did these payments get through the system into your account, who had to sign off on these creditor system payments coming to you?---Mr Goodman would have made those payments based on what he understood - - -

Yeah?--- - - - I was entitled to.

Right. Was it based on what the both of you had discussed should be going into your bank account?---No.

30 Ma'am?---No.

No. Are you sure about that, are you sure that you never told Mr Goodman to make these payments to you?---I'm, I'm absolutely certain.

Okay, okay. That's your evidence?---Absolutely.

Okay. Now, Mr Goodman at this time was your subordinate?---That's correct.

40 During these times, correct?---That's correct.

And he was somebody who you of course had once been in an intimate relationship with?---That's correct.

And he was somebody that you were still a close friend of?---That's correct.

And these payments you say were being signed off by him to go into your account?---At, at – in his role - - -

Okay?--- - - - as the Chief Financial Officer.

Okay. Okay. Just a couple of propositions I want to put to you. First of all, you knew didn't you for a fact these payments that were coming to you through the creditor system were not payments that you were entitled to. You knew that, didn't you?---No, I didn't.

10 And, ma'am, you knew didn't you that these payments had to go through the creditor system so it could not be picked up. Correct?---No, that's not correct.

And that was why they were going through the creditor system, weren't they?---That's not correct.

An, ma'am, sitting here today do you accept that a substantial portion of the money that sits in your bank account now, the \$1.9 million, has to be repaid to Council?---I would accept that if I've been overpaid I would need to pay that back. I accept that.

20

Well, no, you accept that you were overpaid, don't you?---Yes.

Yeah. So when you determined to give the \$87,000 back through Mr Byrnes to be cashed in, you hadn't gone to the trouble of checking your records to see whether or not there were other amounts that went into your bank account that you should not be getting, you didn't, you didn't trouble yourself to look at that either?---No. All I said - - -

30 No, okay, that's fine?---All I said to the General Manager was when we looked at those payments, I said, "I can't work out" - - -

But I'm asking you, ma'am, just when you determined – don't worry about what you said to other people – when you determined to pay back the \$87,000 to Council on 12 February, 2016, you had not troubled yourself to go through your bank account statements to see whether there had been other payments that had lobbed into your account that you were not entitled to. Is that, is that your evidence?---I checked that the payments I had received on those creditors, except for one, had been received, but the payment for \$87,000 that I received, I had no knowledge of.

40

Okay?---I did receive it - - -

Okay?--- - - - so I paid that money back.

Okay. Thank you. Thank you. Now, I'm just going to ask you some other questions if I could.

Have you ever received cash from Mr Goodman – in the last 12 months before your employment came to an end, have you ever received any cash from Mr Goodman?---I don't believe so.

When you say you don't believe so - - -?---Well, I, I, I – no, I don't – no.

Well - - -?---He borrowed some money off me.

10 Yeah. Ah hmm. Well, in his phone records which the Commission seized, Exhibit 68, there was an entry to you of \$13,000 which is said to be what he owed you?---He hasn't repaid me any money.

Okay, but you told the Commission in your oral evidence that he'd borrowed money from you?---That's correct.

20 Okay. How much money did he borrow from – this is page 1000 on the transcript, Commissioner – how much money did he borrow from you? ---The amount of money that I can recall recently was \$5,000 to pay his nurse - - -

Ah hmm?--- - - - and a couple of thousand dollars for something else, but I can't really remember what it was.

Okay, okay, because - - -?---I think it was to do with the compliance plate on a car but I can't be 100 per cent certain, but he - - -

Because in an entry – I'm sorry, I interrupted you, please continue? ---But he hasn't repaid me any money.

30 Okay, okay. He hasn't repaid you any money?---No.

Okay. So he doesn't owe you \$13,000?---He may well owe me \$13,000, I didn't keep a record um - - -

Yeah, but ma'am, you're not Gina Rinehart, are you?---No.

No. Well, you are a Council, you are a former Council employee on a modest salary, weren't you?---Yes, but - - -

40 Yes, ma'am. So let's, let's be clear about this because you are giving evidence on oath here to the Commissioner, okay?---Yes, I understand that.

Can you recall how much money he owes you, sitting here today? ---No, no.

No, okay. When is the last time he paid back money to you?---I can't recall.

No recollection?---No. Um - - -

Okay, that's okay, if you can't recall - - -?---It, it, it would have been a number, a number of years ago.

Okay. Now, you've heard the fraud that was perpetrated on Council through a number of entities - - -?---That's correct.

- - - and false invoices. I'm just going to ask you some questions - - -?
---Yeah.

10

- - - and I want you to answer them if you could?---Yeah.

Did Mr Goodman ever give you cash that he told you was coming from CND Computers - - -?---Never.

- - - in false invoicing?---Never.

Did Mr Goodman ever give you cash that he told you was coming from Jovane Pty Limited?---Never.

20

Did Mr Goodman ever give you cash that he said was coming from Highland Properties?---Never.

Did Mr Cash – withdraw that – did Mr Goodman ever give you cash that came from gardens2nv?---Never.

30

And is it your evidence to the Commissioner today that the first time you learned that money was being stolen from Council through false or inflated invoices is when you've heard it in the hearing, in this hearing before the Commissioner? That's the first time you've become aware of that or have you learnt of it before?---Oh, there was discussions at work - - -

Okay?--- - - - from when ICAC, after ICAC arrived at our Council - - -

Yeah?--- - - - but prior to that, no.

40

Okay. And you were aware weren't you that one of the companies that had been involved in the fraud was CND Computers, correct, before giving your evidence in this hearing?---That they, they were one of the companies that the Commission had asked for information on, yes.

Correct. And you never gave, you never gave the Council the document which was found – if I can call it as the shit file – in your room, which was this document that you created in 2011. You never gave it to the Council to give to the Commission, did you?---I never – I – it didn't even occur to me.

Didn't occur to you. Okay?---I hadn't even remembered it.

Hadn't remembered it. Okay. Just slipped your mind?---Well, I had – it was, it was one creditor of many creditors.

Okay?---The only thing I can honestly say is during – I can't recall when, but I have, I, I did show that lot of papers - - -

Okay?--- - - - to the General Manager at some stage and she didn't require them so I - - -

10 You – listen - - -

MS McNAUGHTON: Well, she hasn't finished yet.

MR MOSES: I'm sorry – were you going to say something else?---No, I was going to say, the only thing – I can't even remember when we, when those records were, were dispensed with.

Mmm, okay?---It was quite some time ago.

20 Okay?---I didn't even know that was located in my office. I hadn't recalled it.

Well, ma'am, you're not suggesting to the Commissioner that this document, being the CND document that you prepared in 2011 which you had a discussion with Mr Fitzgerald and Mr Goodman with, that's what you say – you're not suggesting are you on your oath that you showed this document to the General Manager?---I showed a folder with those, those records and other records to - - -

30 Did you show this document to the Government?---A long time - - -

Is that your evidence?---A long time ago, yes.

A long time ago. When?---I don't know when I - - -

No, no, no, listen, ma'am, when, when did you show it?---It was a long time ago.

40 What, two years ago?---I can't remember the period.

No?---No, I can't.

You're just making this up, aren't you?---No, that's not true.

You, you have attempted throughout your evidence to the Commissioner to try and come up with implausible explanations every time you've been caught out on a lie. Correct?---No, that's not true.

No, thank you. I have no further – sorry, Commissioner, just bear with me.

Thank you. Oh, yes. The two banks, ANZ Bank, which branch?---Ah - - -

Which branch is your bank account?---I think it might be North Sydney.

Thank you. And the credit union, what credit union is it?---Bankstown City Credit Union.

10

The bank?---Bankstown City Credit Union.

Thank you. Commissioner, I have no further questions of the witness.

THE COMMISSIONER: I just might take a short morning tea adjournment and we'll resume at half past 11.00. Thank you.

SHORT ADJOURNMENT

[11.19am]

20

THE COMMISSIONER: Yes, I'm sorry, Mr Latham, yes. I think you better go next and then Mr Overall can go after that. Yes, Mr Latham.

MR LATHAM: That's fine. Ms Cullinane, you're an intelligent person, aren't you?---I feel so.

And you were previously highly regarded in terms of your work?
---That's correct.

30

You had some academic success too, didn't you?---Yes.

And you're well aware, aren't you of your obligations to disclose corrupt conduct in Local Government?---Yes.

And you're well aware of your obligations to disclose those matters, not only to your superiors but also to ICAC itself?---That's correct.

40

And that's what you would've done had you ever had those matters raised with you?---That's correct.

And one of the major ways that corruption is prevented, isn't it, is to ensure that there are proper accounting systems in place?---Yes.

And in relation to having proper accounting systems, the use of, for example, large amounts of cash would be totally contrary to having a proper accounting system, wouldn't it?---That would be correct.

Okay. And if there had, for example being, large amounts of cash that you had known about, you would've reported that, wouldn't you?---Yes, unless they were drawn for a particular reason authorised by the General Manager.

I see. Now can I just ask you, my friend Mr Moses asked you specifically about document R69 and I think it's been colloquially referred to a "shit file". That's a – that seems to be a document, doesn't it, that goes to a whole number of people that may have been implicated in, sorry, that clearly have
10 been implicated in corrupt processes set up by Mr Goodman, doesn't it?
---Yes.

And that folder was really your insurance policy against Mr Goodman, wasn't it?---No.

Well that's why collated those documents, isn't it?---No.

And that's why you kept the documents, isn't it?---No.

20 And that's why you hid the documents from ICAC and the Council, isn't it?
---No.

MR MOSES: Commissioner, I can't hear the witness's evidence.

THE COMMISSIONER: She's saying no, no, no.

THE WITNESS: No.

30 MR MOSES: Yes, thank you, Commissioner.

THE COMMISSIONER: Yes.

MR MOSES: Thank you.

MR LATHAM: Sorry, I might just repeat that. In relation to those questions I just asked you, your answer was no, wasn't it?---That's correct.

40 Is there any other reason why you might have collated such a document?
---Yes. When I, when I put together the document it wasn't just that. There was a number of other, other matters. There was some telephone issues, I think some fuel card issues, some expenditure at Bunnings, Officeworks, a few, a few other creditor details that the expenditure appeared excessive.

I see?---Not corrupt but excessive.

There was some other issues but the bulk of it was about the processes that we now know to be corrupt, weren't they?---No. That was, that was, from my recollection that was the only, only area that's, that's pretty much been

raised. So there was no other creditors that have been included on the list that ICAC have determined to be fraudulent invoicing.

Is that the best you can do, Ms Cullinane?---I'm sorry?

Is that the best you can do?---Well, yes, it is.

Okay. And in relation to your tax affairs, have you got an accountant?
---Not at the moment. I have, I have now. But I used to have another
10 accountant.

And did your accountant ever ask you why you hadn't prepared a tax return?---No.

Now I want to go specifically to the discussions in relation to a meeting that took place possibly with Mr Byrnes or possibly with Mr Fitzgerald or possibly with Mr Goodman and I might just recount Mr Byrnes's evidence because his evidence has not been challenged in relation to this meeting. I might just recount Mr Byrnes' evidence because his evidence has not been
20 challenged in relation to this meeting.

MS McNAUGHTON: Well I reserved my position.

THE COMMISSIONER: Right. Yes.

MR LATHAM: Mr Byrnes gives evidence that there was a meeting in 2009 where the issue of invoices were raised and particularly that there were details on the invoices referring to Mr Goodman's bank accounts. Do you remember that evidence being given?---Yes, yes.
30

And his evidence broadly is, that he put to you that there were irregularities or improprieties about these invoices and that something needs to be done about it. Do you remember that evidence?---Yes.

And that he was very nervous about putting this to you?---My barrister has recounted it to me.

Yes. And there has been, and Mr Goodman gives a version of that meeting where he says that he thought Mr Byrnes may have been there at one stage
40 he was certain that Mr Byrnes was there, he says that Mr Fitzgerald Senior may have been there but he wasn't sure and that his memory was hazy. Do you remember that discussion as well?---Yes.

Okay. Do you say that Mr Byrnes was at that meeting?---No.

Do you say that Mr Goodman was at that meeting?---Is this in discussing those invoices?

Yes.---Yes. No, it was Mr Goodman, Mr Fitzgerald and myself.

Are you saying there was no meeting where Mr Byrnes raised these fake invoices with you?---No, what I'm saying is Mr Byrnes evidence was some time whenever you said, 2009 I think it was - - -

Yes. - - -?- - - that he raised an issue with me. What I'm saying is, I don't recall Mr Byrnes ever raising an issue with me in regards to Mr Goodman and his bank account. So I don't recall that at all.

10

Okay.---The meeting I'm referring to was in about 2011, early 2011 and that meeting was held between myself, Mr Goodman and Mr Fitzgerald.

Okay. The meeting you're talking about, 2011, you say thought don't you, that discussions of impropriety at that meeting were never raised, it was just about cost over runs.---That was the document to related to that CND document that's been put into evidence as well as a number of other creditors. But at that stage it wasn't, I mean, it was, I didn't raise the issue in terms of corruption, I raised the issue in terms of there was excessive expenditure in a number of areas of which Mr Goodman, Mr Fitzgerald and I went through.

20

Right. And discussions in relation to excessive expenditure used to occur all the time, didn't they, between you and Mr Fitzgerald and Mr Goodman, that was part of the normal budget process wasn't it?---The normal budget process, this was somewhat different because there were significant expenditure in some areas.

30

Yes. But the issue of expenditure and expenditure overruns would be discussed regularly wouldn't it?---Yes.

Okay. I want to bring you back to the specific allegations raised by Mr Byrnes because on Mr Goodman's evidence, Mr Fitzgerald was at that meeting. Now, can I put this to you, in 2009 when Mr Byrnes describes that meeting, he says in fact, that Mr Fitzgerald was overseas. Do you remember that evidence being given?---Um, not specifically.

And in fact, that you were the acting general manager.---If Mr Fitzgerald was overseas that would have been correct.

40

So you would have been the most senior person there. And could I say, if required to, Mr Fitzpatrick (as said) will give evidence that he was overseas from May to July in 2009. Do you remember that period when he was overseas?

THE COMMISSIONER: Mr Fitzgerald.

MR LATHAM: Sorry, Mr Fitzgerald, sorry Commissioner.---Not specifically but I know he had a couple of long overseas trips in the years preceding his retirement.

So in relation to that meeting, you would accept wouldn't you, that Mr Fitzgerald Senior was not at that meeting and could not have been at that meeting.---I, my evidence is the meeting never took place.

10 I see. And there was in fact no meeting that you ever had on your own evidence that Mr Fitzgerald Senior was at where the issue of false invoices was raised, is that correct?---That's correct.

Now, you gave some evidence earlier on about payment of large amounts of cash and that you would have in the normal course of events reported those. There has been some evidence by Mr Goodman that there was a payment of \$75,000 in cash to Mr Fitzgerald Senior. Do you remember that evidence being given?---I do.

20 Do you have any knowledge of a payment of \$75,000 in cash to Mr Fitzgerald Senior?---No, I don't recall, I think Mr Goodman gave evidence that he rang me, I don't recall that at all. Whether there was any cash payments made to Mr Fitzgerald I don't know. Sometimes when they went on trips there would be sustenance payments and those sorts of payments made - - -

THE COMMISSIONER: Sorry to interrupt Mr Latham, I think Mr Goodman went further than that.

30 MR LATHAM: He did.

THE COMMISSIONER: I thought his evidence was that in fact, took the cash into Ms Cullinane's - - -

MR LATHAM: I was going to get to that Commissioner.

THE COMMISSIONER: Yes, I know but I mean she's saying that she doesn't recall it I would have thought that was a relevant matter to raise with her.

40 MR LATHAM: I was going to raise it, Commissioner.

THE COMMISSIONER: All right.

MR LATHAM: Sorry to interrupt you.

THE COMMISSIONER: Well, at this stage she's just talking about trivial payments to do with sustenance allowances and things like that.

MR LATHAM: Yes. But if there had been a payment of \$75,000 in cash raised with you, that would have rung a whole series of alarm bells, wouldn't it?---I just don't recall \$75,000 but yes, yes.

Yes, it would have.---Yes.

10 In fact you would have reported it there and then wouldn't you?---If it was, if Mr Fitzgerald had asked for that money for a reason, I wouldn't have, I wouldn't have, I would have taken that to be Mr Fitzgerald but I don't ever remember um, Mr Goodman drawing a \$75,000 cheque and cashing it, no I don't recall that.

See, Mr Goodman actually gives evidence, not only that he discussed it with you on the phone but in fact he showed it to you.---I don't recall that.

It's a bit more than I don't recall isn't it, because that is an issue that - - -?
---Well, he wouldn't - - -

20 - - - have you ever seen \$75,000 in cash?---No, no.

Sorry, there was, you might have confused my confused my questioning and that's my fault. Have you ever seen the amount of \$75,000 in cash?---No.

Did Mr Goodman ever show you an amount of \$75,000 in cash?---No.

And if he had showed it to you, you would have reported it wouldn't you?
---I would have reported it to Mr Fitzgerald.

30 Well, you would have done more than that wouldn't you, if Mr Fitzgerald's answer hadn't been adequate, you would have reported here, wouldn't you?
---That's correct, if Mr Fitzgerald's answer wasn't adequate.

Okay. Now I want to ask you about this discussion that you say occurred in relation to the cashing out of annual leave for Mr Goodman, for Mr Thompson, Mr Byrnes, sorry Byrnes and for yourself. Now you said, I think, that you were sure that there was a document signed by Mr Fitzgerald, is that your evidence sorry, in relation to those payments?---In relation to the cashing out of the annual leave?

40 Yes.---Yes. And I think that's on the file that Mr Fitzgerald approved those payments.

Sorry, on which file?---I think there's on the file that I think we've seen here, I think he approved annual leave payments. I think there was three payments we were talking about. The first one, I think, referred to only Mr Goodman, Mr Byrnes, Mr Thompson and myself and that was a cashing out of, I think it was recorded as long service leave. That's the, that's the payment that I didn't have any knowledge of and I have no recollection of.

That's the amount that I paid back. The second one was the payment of some annual leave and that wasn't restricted to those four individuals it was for a number of individuals and that was at a time - from my best recollection it was after an audit and there were leave liabilities and the general manager approved the cashing out of annual leave for a number of employees and I think um, from memory, you had to maintain a minimum of six weeks annual leave, I maintained more than that. So Mr Fitzgerald did authorise those payments but they were to a number of people and they went through the payroll.

10

Right.---Then there was a third issue where they raised the payment to me of that um, leave loading for lack of a better word or during that period time that I was contracting of which I filled a form in and Mr Fitzgerald signed that for me. They're the three.

We'll come to that in just a moment. The question in relation to the cashing out of annual leave is this, isn't it, that as, you say, there is excessive amounts of leave, people were required to equip them and you're saying that that was documented, that process.---Yes, to the best of my knowledge and that was paid through, it must have been because it wouldn't have been paid through payroll had it not had the proper authorisations.

20

Yes, so it was paid through payroll.---That's correct.

Okay. And you are saying Mr Fitzgerald approved that.---That's correct, for a number of people.

Okay. And then there's the issue of cashing out of long service leave, now was that only in relation to Goodman, Thompson, Byrne and yourself?---

30

That's correct, ask I understand it, ask I understand.

Okay. And was that raised with Mr Fitzgerald Senior?---Um, I don't remember the payment at all so I don't remember, I don't remember receiving the payment, I don't remember anything about it. I know different people have different recollections of it so some people might have a recollection that Peter Fitzgerald approved it. I myself have no recollection of it at all.

Okay. And then, there is a third issue which you've discussed which is a question in relation to payments for you, for a period when you were engaged as a contractor prior to the time that you became an employee of the Council.---That's correct.

40

Now let's just go through that for one moment. You gave some different versions today as to what that payment was for. One version you gave was that you're entitled to casual employment for the time that you were a contractor, were you saying there that you were entitled to a casual loading?

---No, what I was meaning was in the period from 93/94 I was a casual contractor so from my memory I was paid a particular hourly rate of pay. In 1995 when I was appointed to the position of Acting Director of Corporate and Community Services, I was then paid at a salary for that amount. So it was whatever the amount was per week and I worked effectively, from memory, full time for that twelve months. That's the period that I discussed with Mr Fitzgerald about being entitled to a loading on in lieu of those entitlements that I would have normally accrued.

10 Well, the only entitlement you would have normally accrued would have been annual leave and sick leave wouldn't it?---And long service leave.

Oh sorry, I'll withdraw that, accept that and long service leave for that period. You also gave a third account which is that in the conversation you had simply said, that you wanted your entitlements to be documented.--- There were two, the meeting, the meeting started about just asking Mr Fitzgerald if he hadn't already done so, could he make sure that my conditions of employment were documented. That was in relation to the ex-gratia payments. When we looked at that, from memory Mr Fitzgerald had a, some sort of database on his computer I can't honestly remember but it had the start date of October '96 as my permanent start date. I then said to Mr Fitzgerald I actually was the Acting Director of Corporate Services for a year earlier than that, would I be entitled to a leave loading for that period of time? I think we discussed something about, I can't honestly recall, but I think there might have been some discussions about that fitted into the employee test in terms of an employee versus a contractor, I can't really recall and Mr Fitzgerald then approved the payment of that leave, that leave loading, that casual loading for that period. I filled a form in and Mr Fitzgerald signed it.

20
30 Well, if that version is correct there must be a document that is signed by you and by him in the Council records.---That's correct and that particular voucher that the payment was made on couldn't be located but it has, I have seen it, I mean I filled it in, it was signed, it was processed.

If you filled in that form it would have been in your interest to at least keep a copy of that document, wouldn't it?---No, I just attached it to the voucher to substantiate the payment.

40 No, no, but your evidence was, wasn't it, that you were seeking to document your entitlements.---That's correct.

Well, if you wanted to document your entitlements, presumably, you would have kept a copy of that document?---I didn't, I was more, I was asking Mr Fitzgerald to document, if he hadn't already done so, the conditions of my employment in relation to ex-gratia payments. I considered the payment that he was making then to be a one-off payment and a substantiation of that payment would be included on the voucher that made that payment.

THE COMMISSIONER: Did you ask Mr Fitzgerald for a copy of any of the documents that he produced in order to substantiate the payments?
---For the ex-gratia payments, no, he just said he was going to document it and it was on my file.

Yes, but you didn't ask for any copy yourself for your records?---No, I was happy if it was on the file, I was happy with that.

10 Well, but you now know that you - - -?---I should, I - - -

You now know that once Mr Fitzgerald left the position and documents that you relied upon went missing you would have nothing whatsoever to produce that would confirm the arrangement.----That's correct.

Right.---I now know that, but I didn't at the time, I trusted that those documents would be retained.

MR LATHAM: And sorry, when you say the ex-gratia payments that you
20 were seeking to document, which payments exactly - - -?---The one's that we were referring to the ex-gratia or the superannuation payments, the annual payment.

Oh sorry, the one's going through the payroll system - - -?---That I was getting through creditors, that's correct.

No, no, there's a big difference isn't there. Are you talking about the payments that went through the payroll system or are you talking about the payments that went through the creditors system?---At the time I believe
30 they were being paid through the creditor system but I accept that they were being paid through the payroll system but we're talking about the same, the same matter.

And it also would have been in your interest, wouldn't it, to, if you didn't have a copy of that document to go and find it at some later period?---That's correct.

And did you try and go and find it at some later period?---In, in July when the matter was raised by the then HR manager about those payments, I then
40 just said to her there's the details are on my, it's an annual payment approved by the general manager, former general manager and those details would be located on my file.

THE COMMISSIONER: Ms Cullinane, the very thing that I suggested to you a short time ago might happen, in fact, happened that is the incoming general manager couldn't understand these payments and asked for an explanation and that's where you and Mr Goodman composed the document that was subsequently given to her, that's how, that's how that document

came about because Ms Kirchner was asking for an explanation?---That's correct. I think it was raised - - -

And so well, just let me finish, and so not only was that document that you composed with Mr Goodman an answer to Ms Kirchner but you would have, I would have thought then gone looking for any other confirmatory document that was in your HR file. Did you do that?---I did, I did subsequently do that, yes.

10 What do you mean subsequently?---I can't, I think it was raised by the manager of HR, I directed the manager of HR that those details would be located on my file. Then not knowing in between times, the general manager had raised it or the manager of HR and the manager of governance raised it with the general manager and they had some discussions - - -

MR MOSES: Objection. I mean, the witness - - -?---I'm sorry.

- - - is saying that - - -

20 THE COMMISSIONER: Yeah. Well we know all of that.

MR MOSES: Yeah. Thank you.

THE COMMISSIONER: We know all of that.

MR MOSES: Yeah. Thank you, Commissioner.

THE COMMISSIONER: But the - - -?---And then - - -

30 The question - - -?--- - - - and then Ms Kirchner asked for that information from Mr Goodman.

Yes. We know all of that. The question I asked was, in the production of the document with Mr Goodman that you've been shown on the screen - - -? ---Yes.

- - - that was the response to Ms Kirchner - - -?---Yes.

- - - inquiries?---Yes.

40

Did you at that time then go looking for other confirmatory documents to support those entitlements?---Well at that stage then they confirmed there was nothing on the file and so, and so - - -

Well, no, no. Did you, I'm asking did you then go looking for other - - -? ---Well I - - -

10 - - - confirmatory documents?---The only document would've been attached to my personnel file and I was told it wasn't there. So there was nowhere else for me to look. I did, I did ask Ms Kirchner that I remembered it was audited so I said perhaps the auditors have got some record. I thought that it may have actually been included on Mr Fitzgerald's file, because Mr Goodman had thought Mr Fitzgerald got a similar payment. So I thought it may have been located there. I asked the General Manager's secretary could she check the General Manager's records in case there was anything located in his area that hadn't made its way to the file that was perhaps – and a staff folder that was located in his area. When none of those inquiries yielded a result I then said well the only other alternative because Mr Fitzgerald had told me he documented it was to actually ask Mr Fitzgerald, which I did subsequently at that lunch at the Botany Bay Hotel.

MR LATHAM: Yes. But in relation to the payments of superannuation we've already seen these emails today, haven't we?---Yes.

20 Where he did document it and it is authorised?---Yes. I hadn't seen those though at the time.

Okay. But what I'm asking you, in relation to – and was that the only issue you were concerned about, the documents that we have now seen today, that authorisation?---A document that actually just documented that that was, that was part of my conditions of employment, yes.

30 Okay. All right. And in relation to the question about the cashing out of annual leave to Goodman, Thompson, Byrnes and yourself - - -?
---And others.

Sorry, withdraw that. In relation to the cashing out of long service leave, you say that you have no memory of ever being authorised by Mr Fitzgerald or not?---I have no memory of it, of, of the payments at all.

Commissioner, I don't have anything further.

THE COMMISSIONER: Thank you. Yes, Mr Overall.

40 MR OVERALL: Ms Cullinane, you heard yesterday that Mr Goodman gave evidence that he and you visited the property of Drummoyne Council and obtained diaries that belonged to Mr Fitzgerald. What do you have to say about that evidence?---I have no knowledge of it.

Just bear with me?---Yeah, sure.

One other issue that's been raised by my instructing solicitor relates to the \$75,000 in cash?---Yes.

And that was shown to you in Mr Barry Byrnes's office by Mr Goodman?
---I, I, I honestly don't recall Mr Goodman showing me \$75,000 in cash. I just don't recall it.

No further questions, Commissioner.

THE COMMISSIONER: Anyone has any other questions of Ms Cullinane?

10 MS MCNAUGHTON: I do.

THE COMMISSIONER: Ms McNaughton.

MS MCNAUGHTON: But could I have a short time just to speak. And I'm talking five minutes?

THE COMMISSIONER: Yes. All right. Well let me know when you're ready, thank you.

20 MS MCNAUGHTON: Thank you.

SHORT ADJOURNMENT

[12.04pm]

MS McNAUGHTON: - - - it's relevant. You've already indicated you went on reduced hours for a period of time last year?---Ah hmm.

30 And was that between 1 July and 7 August, 2015?---That's correct.

And why was that?---Can you ask me other questions first.

THE COMMISSIONER: I'm sorry, I didn't hear that.

MS McNAUGHTON: She asked me to ask her other questions first.

THE COMMISSIONER: All right.

40 MS McNAUGHTON: Okay. You've heard – you've been asked quite a lot about your repayment in February of this year of a figure of about \$87,000. Are you okay?---Yes.

Do you want a break?---No.

Can you tell the Commissioner why you decided to do that, make that repayment?---Because it was identified – at the private hearing I was asked about it. I then went home that night and I checked my bank records and I did receive that payment. I inquired at work as to what that payment was

about and it did have a notation long service leave. I didn't have any knowledge of that payment. I advised the General Manager that it had been raised at the private hearing. I had in fact received that money. I had no knowledge of what it was for and, and so I wanted to pay it back so I did on the basis that if it was, if it, if it turned out that I was entitled to it they could give it back to me. If I was never entitled to it then I'd made restitution for that amount.

10 Can I ask you about – just to clarify something that Mr Byrnes said in his evidence. You've already been asked a bit about that but I just want to clarify one of the allegations he made. He said that he in 2007 or thereabouts he raised – it was brought to his attention that Gary Goodman had obtained blank cheques signed by one signature by Mark Thompson, this is transcript 731 about line 38, and he was able to complete the cheque and sign it and countersign it and the concern was whether the documentation that was supplied for those cheques matched the actual details on the cheque, the payee. That's what Mr Byrnes said was concerning him. He also went on to say that Mr Thompson had raised that with him and that he went on, that is, Mr Byrnes went on to raise it with the
20 Deputy General Manager. Now can you recall whether or not that was raised with you in or around 2007 or indeed at any other time?---I don't, I don't recall that, that issue being raised with me. I don't know – if that issue was raised with me I would have raised it with the General Manager. The only – something obviously was raised in terms of signing of cheques. It may have been that Mark and Gary were signing all the cheques, I'm not sure, but I issued an instruction to say that the cheques in the first instance should be signed by the two main cheque signatories which was Gary Goodman and Barry Byrnes and that Mark Thompson or myself would only sign those cheques when those individuals weren't there. That's the only
30 recollection I can have of anything to do with signing of cheques.

And I'll go to a different issue now. Did you ever cause to be inquired any issue about duplicate payments or duplicate bank accounts?---No. No. I don't – not in the terms that Mr Byrnes raised and I don't – I can't recall exactly what the circumstances were but it was sometime probably seven or eight years ago when we had a consultant at the Council.

40 Who was that?---I think his name was Yahn and the only thing I recall any discussions was I got a – Yahn to run a duplicate bank account cheque through the creditors so I'm not sure of actually what was conveyed or, or whatever but I did do that cheque but certainly nobody ever raised it with me as, you know, Mr Goodman's bank account was on a particular creditor. It was never raised with me in those terms.

Well, what was raised with you such that you asked Mr Yahn to - - -?---I can't - - -

- - - make that inquiry?---I can't actually remember. It may have been just some discussions about – I mean I don't know. It could have been to do with procurement and we had companies that were operating with the same bank account under different company names. I'm not – I honestly can't recall but it was nothing that – I just ran that report as an internal control means but certainly nothing was raised with me about anything fraudulent otherwise if it was, notwithstanding the General Manager being on leave, I would have done a report but I would have also reported it to Mr Fitzgerald.

10 Can I ask you about another issue raised by Mr Byrnes just to make sure that it's covered. He also indicated that information came to him about a bank – sorry, a credit card. This is page 735. In late 2000 or early – sorry, late 2011 or early 2012 Mr Byrnes was asked by Counsel Assisting was there some concern raised about a credit card being used by Mr Fitzgerald. He said yes, there was. Clarified it was Mr Fitzgerald Senior and he went on to say, "The concern being raised that there were some entries on there that looked like they belonged to – well, I don't know if it's a company but something associated with Gary Goodman called Gas Motorsport". And he went on to talk about that and he said it was a CBA MasterCard, a corporate
20 MasterCard and he said – he was asked did he or Mr Thompson speak to anyone about that problem and he said, that is, Mr Byrnes said he spoke to you about it. Now do you recall being spoken to about that issue?---No. The only thing – going back through my records the only thing I could find is that Mr Fitzgerald's credit card must have still been active in January, '12 and I wrote a letter to the Commonwealth Bank in January, '12 cancelling that card. But Mr Byrnes and I have had some conversations since then about - - -

30 Since when, sorry?---Sorry, since – over the last probably month before he left because - - -

You mean sometime this year?---Yes. So in February, 2016 the investigators for Council seemed to be quite certain that we'd made a payment to Gas Motorsport. It didn't come up on the creditors. There was nothing on the creditors and I actually said to Barry well, if you're so certain that a payment has been made to Gas Motorsport how else would we have made it and, you know, I thought well, it could only have been like a BPAY payment or a credit card payment and Barry at that stage didn't volunteer to me at that stage anything about do you remember and I actually said to the
40 General Manager if you can give us a date that the payment was supposed to have been made, if SINC Solutions have a record of that then we could actually go back and, and request copies of either our bank statements for that period or credit card statements for that period. That's the only thing I recall about discussing credit cards with Mr Byrnes.

So as far as he said there was a discussion with you around about late 2011 or early 2012, you say you have no recollection do you?---No. No. And if Mr Byrnes had that concern and I didn't address it then he could have raised

that with the General Manager or even with the General Manager and I'm presuming he didn't but even with the General Manger during the course of the ICAC investigation but I don't think it was ever raised or certainly wasn't raised with me.

Can I go to your leave dates. Did you have reduced hours between 1 July and 7 August, 2015?---Yes.

10 And why was that?---Because my mum was very sick.

And did she pass away?---Yes.

And was that on 7 August, 2015?---Yes.

Did you take some leave?---On the day, the day that she passed away I went into work. I didn't realise she was that sick but she passed away that night and then I didn't go back to work until early September, a week before the General Manager went on her holiday.

20 But you were taking reduced hours prior to her death. Why?---Because she was sick.

So you were in a carer role?---My mum hasn't been well probably for a number of years but particularly the last 10 years. But over the last – all of 2015 she was quite unwell.

And you were very close to your mother?---Yes.

30 And you lived with your mother for what, your whole life?---Pretty much so.

In relation to your money it's been – you've been asked questions about why you hadn't noticed a payment of \$87,000. You've already indicated in your answers today that for example you didn't have Internet banking. Is that the – is that right?---That's correct.

You've never had Internet banking?---No.

40 And, and you also said you don't live week to week?---No.

Can you explain what you mean by that?---I don't – I mean I don't have a lavish lifestyle. Clearly being a carer – my sister used to care for my mother during the daytimes which allowed be to work and she would stay on, you know, nights when I had meetings et cetera. I don't have a lavish lifestyle. I don't go out a lot. I earn good money and there's always enough money in the bank account to, you know, to cover any, any expenses that I have so I don't really have a need to look at the bank account.

All right. So did you for example have mortgage payments coming out of your bank account?---Not really because it's an offset account so I have a mortgage but it's offset by the money in my bank account.

So it was interest only in relation to that other [REDACTED] property?---So I don't, I don't pay interest but I don't earn interest on that.

And you don't pay interest because it's – you've got a lot of money in the offset account such that there's no interest charged. Is that the position?---
10 That's correct. That's correct.

And apart from that did you have to pay any rent whilst your mother was alive, to your mother?---No, no, I just met, met, met the normal living expenses.

And until your mother died, in the evenings did you have carer responsibilities for her?---Yes.

Did that mean that apart from meetings did you go out and socialise and
20 spend money?---No, not really, no.

And what, any other expenses that you can think of apart from what, food and utilities?---I, I used to buy um, a lot of things like DVDs and things like that so mum had – she wasn't able to get out so she had those sorts of things and um, just medical expenses for her virtually.

What about holidays?---No, I didn't, didn't, didn't go on holidays.

I'll go now to the meeting at Botany Bay Hotel with Mr Fitzgerald and Mr
30 Goodman. I think you've indicated that you paid by cash for that lunch?
---That's correct.

And can you, can you say – I think you've indicated it was set up in relation to Mr Fitzgerald wanting some documents or photos returned to him and that was done, was it?---That's correct.

And what else was discussed at that meeting?---Initially the purpose of the meeting um, Mr Fitzgerald contacted me earlier, he contacted me twice
40 actually about just um, some information, I think it was some tennis trophies and a few things of his mum's that he'd left in our storage shed after his mum passed away and um, he just asked could I get them back. So the General Manager's secretary had gone over there and got them and they were just in a box in the GM's office. When um, so he contacted me and I said, "Yes, yes, we'll do that." Um, and then when the issue of my ex gratia payment came up with the General Manager um, that's when I said, oh, well, I'll discuss that with him at that meeting. I'm pretty sure Gary arranged the meeting, so at that meeting we just, I gave Mr Fitzgerald the box containing his mum's stuff um, we had some general chats about

amalgamations et cetera, I asked Peter had he, had he documented my conditions of employment, he said yes, he had, I said they couldn't locate it and he told me just to check with Jenny, which is the General Manager's secretary, he said there would be an electronic copy of it, just check to see if there's an electronic copy of it um - - -

Did he say anything further about – when you said had he documented it, was that how you put it or did you mention anything in more particular terms?---I said, “Did you document all my conditions of employment?”
10 And he said he'd already done so. He said, “Yes, I've already done that um, it should be on your file.” And I said, “Well, they've had a look at my file, it's not there.” And he then said, “Well, see Jenny,” that was the General Manager's secretary, he said, “See if there's an electronic copy of it.” And um, they haven't been able to locate that.

Can I now ask you – actually if the witness could please be given Exhibit R69. Now, this, this is a folder, R69, it has in the front of it an index and that's called Botany Bay ICAC Public Hearing Documents Located in the Former Deputy General Manager's Office 12 March, 2016. In particular
20 you've been taken to a document about four-fifths or more of the way through the folder and it's entitled CND?---That's correct.

You recall being asked questions about that?---I do.

Now, there may be some confusion as to whether that document itself, which is a two-page document, is itself called the shit file or whether or not the shit file is being referred to as the whole of Exhibit R69. Now, can you explain your understanding of what this folder contains?---It contains a
30 whole lot of documents that appears to have been in my, or were in my office.

And to your understanding, were these in a folder as they are now or how were they?---They would have been just loose located at various, in various areas of my office, so there would have been more documents where they've got transaction history listings um, and I think they've pulled it out for one particular creditor um, that's not the only credit history listing that was located in my office, there was a pile of them probably that high.

So you're indicating about how many centimetres?---Probably a foot.
40

A foot?---About a foot, yeah. Um, and they were copies of the creditor history listings of a number of creditors that had been produced and when we produced their history listings, because it took a little bit of time to produce them, we did some photocopies of them and I retained the photocopy set so we always had a copy if, if, if, if somebody needed it um, it also contained um, other information like at that first page.

So it contained – are you talking about this folder now?---Sorry, sorry, no, no, my office contained.

Your office contained?---So where the information is, there's one there about Avis um, during the course of going through um, some of Gary's records and also Suman's records there were a number of documents that related to matters that weren't called for by ICAC so weren't in the um, schedule of other creditors um, such as these, and they were located in a pile just as you walk into my office, which, and the General Manager had just
10 said to leave those because they were going to form part of the Council's claim against Mr Goodman um, as opposed to the creditors that ICAC had asked for, so there were those documents there. There was also a folder of sustenance I think, all the sustenance payments um, that had been made um, some of the information there was from Ms Mishra's - - -

Can I just stop you there. Just in terms of explaining the documents contained within the folder, are you saying that they were located different parts of your office?---That's correct.

20 And they're not the entire number of documents located in your office?
---No.

In relation to the document headed CND, is that what you understand was being asked about you when you were being asked about whether or not it was the shit file or what, what's your understanding?---That particular file as a – it was a number of documents contained in a yellow lever arch file.

What particular file, the shit file, is that what - - -?---Yes, yes.

30 Right?---Of which that CND document is one of those documents that was contained in that file. I thought - - -

Right. There was a yellow lever arch folder - - -?---That's correct.

- - - which contained a number of documents, one of which was this document headed CND?---That's correct.

Okay. What happened to that yellow lever arch folder to your knowledge?
---Um, at, at some stage, and I can't remember when um, it was just - - -
40

Can you give us an estimate of time, at least a - - -?---Probably a year or so ago um, maybe less um, I was cleaning out some stuff in my office and I came across that folder um, and I asked the General Manager did she, did she want it um, that was some excessive expenditure that we'd gone through with Mr Fitzgerald and Mr Goodman um, she had a quick cursory look through um, she indicated she didn't want it and just said, "No, it's, it's not required." So to the best of my knowledge I just took the pages out and they were shredded.

But you're saying that this CND document - - -?---That was, that was - - -

- - - was, was originally part of the yellow lever arch folder which was - - -?
---That's correct, that's correct, there was a whole lot of other documents in
there, but of this, this folder, that's the only document that I can see was
located in what's been referred to as that file.

Do you know why that was not shredded along with the rest of it?

10 ---No, no, unless it, unless it fell out or I may have – honestly, I don't know,
I don't know.

So the yellow lever arch folder was something that you had taken to the
meeting about the excessive expenditure?---That's, that's correct.

And that was – this document had been part of it?---Yes.

Yes, thank you, they're my questions.

20 THE COMMISSIONER: Does that – oh, yes, Mr Thangaraj.

MR THANGARAJ: I might have asked this, but who, who did you tell that
you did not want your ex gratia payment for, and you wanted the car
instead?---I would have discussed it with um, Mr Fitzgerald and then Mr
Goodman um, as, as well afterwards, but I would have got the authority
from Mr, Mr Fitzgerald.

All right. And was that in 2007?---Yes.

30 And what about 2010?---I, I, I can't remember 2010 because I'll have to go
back and actually check in relation to the payment of that car. I can't
honestly recall. I recall getting one car in lieu of my ex gratia payments. So
I have to check the 2010 payment.

40 All right. Do you remember what words you may have said or paraphrasing
with respect to telling, sorry, seeking approval for Mr Fitzgerald? Because
you understand that for him to approve what you're saying, you sought
approval for, meant that he would have to know there were ex gratia
payments. So what do you say you said to him about that?---We just
discussed it. I think, Mr Goodman and Mr Fitzgerald always had an interest
in cars. You know, it was a - - -

No, we're talking about the approval?---No, no. But it was, it was a, a
general thing that they spoke about and I think Mr Fitzgerald said something
like, you know, a Lexus would be a nice car to take your mum out in. That
was a conversation and then later on I spoke to Mr Fitzgerald and said
"Would it be possible to do that in lieu of the ex gratia payments"? I think
at that time there was – Mr Fitzgerald, the time he approved it there was –
used to have to send the salary reviews to the Mayor's office. It would just

go over for an initial. And I think he said to me at the time that the Mayor was going to give me a, a larger increase. And then Peter said something, I've already helped her out with something else.

Why would you even need to do it in lieu, why wouldn't you spend the ex gratia payment on it?---You know what, that's been put to me and you're precisely right.

10 Well, maybe it's because the ex gratia payments were improper and the Lexus was an additional improper benefit?---No. No, it wasn't. It wasn't.

All right. Well I just want to ask you some process questions. How did you ensure that recommendations from the internal audits were implemented?--- That was a matter for the internal auditor to follow up with the various risk owners in the, in the audit report.

20 All right. Does that mean that you have no - - -?---I have, I have asked, I did ask the internal auditor to put a, a report together, that was last year of all the outstanding recommendations. In other words the status of all those reports so it would go to the, to the Audit Committee and she was working through that with the Manager of Governance. So the Manager of Governance has only been on board for the last 12 months. So prior to that the Manager, it was the Manager of Human Resources and Governance. But really that, that didn't work out effectively because really the Manager of HR is a job in itself. So even though Mr Perry had the Manager of HR and Governance he really had no time to spend on governance it was all HR. So we made the decision to recruit a temporary on a 12 month contract, HR Manager. And because Mr Perry wanted the opportunity to be seconded to 30 governance to see if he enjoyed that as a full-time role. And Mr Perry's job over that, that, that first 12 months was really to embed the enterprise risk management and to work with the internal auditor of getting all those risk, the risk registers and the risk committee, et cetera up as well as to review our, or to, to complete some delegations. And he had a couple of smaller projects. But over that 12 months that was really his main job.

40 Did you have any role yourself to directly ensure that recommendations were implemented or are you talking about other people were assigned those tasks?---Natasha went individually to those risk owners to follow up those reviews. She was the internal auditor, that was her role. I only had day to day - - -

No, what I'm asking is – maybe we're at cross purposes. What I'm saying is if the internal auditor had a list of recommendations, would you say, all right, how are we going to implement this or would you just say, somewhere to take care of it?---No. That was, that was Natasha's role to liaise with the various - - -

Okay. And then who then checked whether or not the recommendations had in fact been implemented?---I don't think Natasha had actually done a review of that. That's what she was completing.

All right. Well let's not limit it to Ms Rai, because there was an internal auditor before her?---Yeah.

Who - - -?---That would be reported by the previous internal audit to the Audit Committee.

10

All right. So are you saying that – well, I'm asking how were checks – who checked to ensure that the recommendations had been implemented? Who would come back and say, okay, this was supposed to be done in six months - - -?---I'm not sure, but the internal auditor didn't report to me. She only reported to me like on a day to day basis.

No, no. I'm asking you – it may not have been you?---The General Manager.

20

Sorry. If the internal auditor has a recommendation are you saying that the General Manager checks to ensure that that particular recommendation has been - - -?---No, what I said is the internal auditor would do that. But I didn't check those internal audit reports other than there would be a report from the previous internal auditor but he, he did status reports to the Audit Committee but I didn't personally direct that work.

30

All right. What I'm saying is, is this what – is this your evidence. That if the internal auditor makes a recommendation and steps were taken to implement the recommendation or not, the person who checks whether or not the recommendations have been implemented is the General Manager? ---No, it would be reported to the Audit Committee.

Right. So who then says, has this been done or not?---Well the answer is I don't know.

40

Okay. In the 2013 audit of the Business Unit, there was described with respect to the purchasing processor complete breakdown of the purchasing process. Were these the sort of issues that you were to address in any way? ---That came under – I think Gary was the, the owner of that particular recommendation and I was the Director. And in relation to that we engaged somebody from, I think it was Local Government, Local Government Employment Services. It was a finance person for six weeks to work with the Manager of the Business Unit and the CFO to implement any improvements that were necessary. He worked solely at the Business Unit for six months, six weeks, sorry.

And did you retain that person, were you involved in retaining that person? ---HR engaged them.

Yeah. I mean the fact that that person was needed, was that something that you - - -?---Yes. I arranged it. We - - -

10 You initiated that?---We brought two people in because I think at that time Mr Byrnes may have been ill so we got one person who would, who came in for six weeks to assist in the finance area and we wanted someone with rating experience. Because Barry was the person who had rating experience. His name was Heath. So he came in for a period of six months to help us get through the budget and the rating strategy for the, for the following year. And there was a chap called, I think his name was Matt Rigby and he worked at the Business Unit. So I, I approved that but I didn't – it was done through HR. So I didn't chose the people.

Okay. I'm not suggesting you choose the people but this was obviously something that came within your area of responsibility which is why you did what you did?---That's right. I think it was in April.

20 Okay?---I think that report came out in March and I engaged him in April.

All right. And did these people prepare reports at your request?---They reported through to the Manager of Business Unit and the CFO.

30 Yeah?---So any of their recommendations would have gone through there. In terms of Heath, I didn't have a lot of contact with. In terms of Matt, I recall meeting him a couple, a couple of occasions when he would come back over, because he was working obviously at the Business Unit. And during the course, I would just say how's everything going, and he said, yeah, we're getting, you know, we're making some progress. But he didn't raise any, you know, issues of any significance with me.

40 All right. Well what changed from the 2000 audit and '13 audit of this area saying there was a complete breakdown, how were you satisfied that it had gone from a complete breakdown to an acceptable purchasing process?--- Only that, that Matt said he'd had – he was making progress at implementing that and I guess the truth would be when that audit was rechecked it would've then demonstrated whether those controls that had been put in place were appropriate. But really, a lot of that stuff is transactional stuff and internal controls really that the responsible accounting officer is responsible for which is - - -

No, no. Well whatever the mechanics of it are, these are – purchasing involves millions of dollars, doesn't it?---That's correct.

So it came within your area of responsibility, right?---Some of that area, yes. It was – I mean there was also dual responsibility. I mean somebody had to be managing the Business Unit. Like I didn't manage the Business Unit. The Business Unit had never fallen under my control.

Ms Cullinane, this is an audit of the Business Unit.---That's correct.

So someone has to take responsibility for that, it's not the person who's being audited, do you agree with that don't you?---No, I'm talking about the director responsible for the position and not the manager of the Business Unit.

10 All right. Okay.---So as Gary is the chief financial officer and he reports to me, the manager of the Business Unit reports to another director.

Okay. So were you and the other director doing this as a joint corporate governance initiative or were you taking responsibility for it?---That was left to the CFO and that's why I engaged the finance person so the CFO was then, Gary Goodman, was then ensuring that those processes had been put in place. So I relied on him and the fact that I didn't get any further negative feedback from the person we'd engaged to help make sure the processes were put right there, I didn't receive any negative feedback so I never went back and reviewed that.

20

Well, would the negative feedback include Mr Byrnes and Mr Thompson raising concerns of, at the very least you say, excess expenditure?---Yes, but we'd addressed that in 2011.

But you're relying on the same person about whom they are complaining?---No, no, no, I wasn't. In terms of, following the meeting in 2011 I met with the manager of the Business Unit and we went through all of their fuel cards, and there was a number cancelled. We went through a number of fuel cards, not just in the Business Unit but throughout the Council and there were a number of fuel cards that were cancelled at the Business Unit. I think we, I think their Bunnings cards may have been cancelled all bar one or two and I think they had an Officeworks card that was cancelled. So I was, I was working through some of those issues subsequently in relation to that excessive expenditure with the manager of the Business Unit.

30

At the time that you left, were there any outstanding recommendations from the Business Unit Internal Audit?---I, to be honest, I don't know.

40 Were you aware that the external auditors management letters were not finalised in 2014 and 2015?---Well, 2015, I think, has been by the current co-ordinator of financial services, I think we'd, I'd worked through those, those with her not that long ago and 2014, I'm not sure.

Well, did you receive the external auditors draft management letters?---On occasions I did but I usually just talked through those with Mr Goodman. He received the drafts and then once the management response went in, it was then sent to the general manager.

All right. Well, who's responsibility was it to finalise internally, for the purposes of the external auditor, who's responsibility was it to finalise the draft management letter?---Probably the CFO.

And you knew that it was outstanding at some point the 2014 one, what did you do about it?---Well, I didn't know it was outstanding until just recently.

10 So if those sort of matters went to the CFO, what check was there to make sure that he was getting back to the external auditor?---The external auditor would meet with the audit committee and also with the general manager and myself and the chief financial officer after the end of the audit. So any issues that were raised, it provided an opportunity for the external auditor to raise any issues or concerns about that and I don't remember any significant concerns being raised.

20 All right. Did the external auditor tell you at any point that the draft management letter for 2014 was outstanding?---No, I think I noted it in the um, in the, might have been in the final letter for that year, but no, it wasn't raised, it wasn't raised at the meeting with, it wasn't raised with me and it wasn't raised at the meeting with had with, to the best of my knowledge or recollection, at the meeting with the CFO and the general manager.

And what about the 2015 letter, you became aware that that was outstanding because you were working on the response yourself, is that right?---Well, I, I wasn't aware that we'd actually received it um, but it was still in draft. I hadn't seen that in Mr Goodman's time at the Council.

30 I'm talking about the draft.---That's right, Miss Rowe had it. It was actually sent to Miss Rowe not to Mr Goodman. She had that, it was only when we were doing the finalising the statements that we realised that we hadn't received it. Went back and I think the general manager actually gave me a copy of it and found out that it had actually been sent to Karen Rowe.

Did you, when you realised that you hadn't got the final 2015 letter, did you check what had happened in 2014 at that point?---No, it was only, it was only in more recent times, no.

40 It may well have been recent times but when did you first know that the 2014 draft management letter was not yet finalised?---I think just in, just in course of our um, preparing for um, the ICAC hearing the general manager had us all working on some, you know, some reviewing some documents and I think at that stage that's when I noticed it.

All right. Did you raise that with the audit committee or the general manager?---Well the general manager gave it to me, the letter, so um, I hadn't actually, I think the 2014 from memory, I think that's the one that the general manager said we hadn't received and I think she got a copy of it. So I'm not really - - -

Sorry, when I say discuss it, I don't mean simply point out that the matters were outstanding, well why are these outstanding, what are we going to do about it, who are we going to speak to, were those matters discussed?---In relation to the 2014 one?

Either year?---The 2015 one certainly, yes.

- 10 What about 14?---We only recently received that. But normally what would happen the auditors would come in, Mr Goodman - - -

Don't worry about what normally happens. So when you found out that 2014 was still not finalised, what happened, what steps were taken to one, get to the bottom of it, and two, respond?---I worked through the issues with the co-ordinator of financial services.

That's the 2014 letter as well?---The 2015 one.

- 20 I'm talking about 2014?---We only received the 2014 in, in I think the general manager only got a copy of that from memory, I think there was one of the years that was missing that the general manager concluded that we hadn't received um, and I think she got a copy of it, may have even got a copy of it from the auditors as part of some of the stuff that they submitted. I can't really recall.

Are you talking about receiving the draft or the final?---Well, I'm not sure what it was, I didn't, to be honest, I haven't seen it.

- 30 It had to be the draft because it wasn't finalised.---I haven't seen it.

All right. Nothing further at this stage.

MR LATHAM: Commissioner, there's just one question I need to ask arising out of my friend's re-examination I suppose.

THE COMMISSIONER: Yes.

- 40 MR LATHAM: Ms Cullinane you gave some evidence in relation to an agreement with Mr Fitzgerald Senior for a car being given to you instead of the, as you describe them, the ex-gratia payments being paid to you and that this agreement occurred in 2007. Do you remember giving that evidence just then?---Yes.

I put it to you, you never had that conversation with Mr Fitzgerald Senior did you?--I did.

Nothing further Commissioner.

THE COMMISSIONER: Could I just ask one additional question. Ms Cullinane do you know what the value of what your share portfolio is? ---Shares isn't very much, it's Telstra, I've got, a couple of thousand dollars, it's not much.

All right. Thank you.

MR THANGARAJ: Just before we, I'm sorry.

10 THE COMMISSIONER: Yes.

MR THANGARAJ: Ms Cullinane can leave the witness box unless you want to, Commissioner, say anything further.

THE COMMISSIONER: Oh no, I have nothing further. Ms Cullinane you can step down, you're excused.

THE WITNESS EXCUSED

[12.58PM]

20 MR THANGARAJ: Just two matters before we break, one is, that I've been referred to Volume 37 that's Exhibit R55, so that it's been pointed out to me just to make that abundantly clear. And also, I've told Mr Goodman's lawyers this, they need to understand that the propositions I put at the end to Ms Cullinane about the impropriety, sorry of the ex-gratia payments now applies equally to him. That is, he gave evidence that it came from Volume 37 documents 97 and 98 pursuant to a calculation I've put them on notice on about that and we'll deal with that in due course but they will take that under consideration.

30 THE COMMISSIONER: All right. Do I take it that at 2 o'clock we'll start hearing from Mr Fitzgerald?

MR THANGARAJ: Yes and I imagine he will be only an hour or so and that will be it for the day.

THE COMMISSIONER: And you'll just complete your examination and then we can move - - -

40 MR THANGARAJ: When we come back we'll have the investigations that we need conduct in relation to various matters.

THE COMMISSIONER: Yes.

MR THANGARAJ: And then I'll continue when we come back.

THE COMMISSIONER: All right. Thank you. I'll say 2 o'clock.

LUNCHEON ADJOURNMENT

[1.00PM]