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PUBLIC
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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 MONDAY 29 FEBRUARY 2016

AT 10.15AM

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

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

THE COMMISSIONER: This public inquiry is being conducted for the purposes of an investigation of an allegation or complaint of the following nature, that Gary Goodman, while Chief Financial Officer of the City of Botany Bay Council and other employees of the City of Botany Bay Council dishonestly exercised their official functions to obtain financial benefits for themselves and others by causing fraudulent payments to be made by the City of Botany Bay Council to various entities, that Gary Goodman, while Chief Financial Officer of the City of Botany Bay Council, solicited and received payments as an inducement or reward for showing favourable treatment to contractors, and that Gary Goodman, while Chief Financial Officer of the City of Botany Bay Council and other employees of the City of Botany Bay Council misused the City of Botany Bay Council resources for their own benefit and for the benefit of others.

Unless otherwise varied, the standard directions apply to this public inquiry. Those standard directions can be accessed on the Commission's Website.

Without further ado I propose to call on Mr Thangaraj, a Senior Counsel, to open the inquiry.

Yes, Mr Thangaraj.

MR THANGARAJ: Two areas of the City of Botany Bay Council are of interest in this investigation, the Finance Division and the Business Unit. The investigation is focussed on the misappropriation of a significant amount of ratepayer funds.

The principal person of interest is Mr Gary Goodman.

Until his resignation in October 2015, Mr Goodman was the Chief Financial Officer of the Council.

A number of different types of misconduct are under investigation. They include:

1. Mr Goodman asking for payment in exchange for providing favourable treatment in the allocation of contract work. The evidence strongly suggests that this occurred.
2. Another misconduct concerns Council vehicles and eTags. Persons not entitled to cars, including relatives of Commission employees, seem to be driving Council vehicles. Unauthorised persons, including a family member, also had eTags paid for with Council.
3. Cabcharge vouchers and fuel cards. The dollar value of any abuse was relatively, in these circumstances, not significant, however the issue may reflect an attitude held by certain persons within Council. The evidence

suggests that a few individuals, including Mr Goodman, used these Council cards for personal use, including groceries and cigarettes.

4. Officeworks card. Unauthorised and personal items were bought on this account, including a laptop. Investigations are continuing with respect to other accounts.

5. Council telephones. The evidence suggests that a number of unauthorised people were provided mobile telephones.

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6. The most serious aspect of this inquiry however relates to invoicing by contractors for work. The investigation has estimated that between 1 January, 2009 and October 2015, over \$4 million was paid by Council as a result of false invoicing. Of this amount, \$1.9 million was paid by Council directly into accounts associated with Mr Goodman. Mr Goodman was not entitled to any of this money.

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However, these amounts are only for the period from the beginning of 2009. ICAC has evidence of false invoicing stretching back to 1997. One contractor asserted in writing to Mr Goodman that Mr Goodman had made over \$1 million through false invoicing just with him. This related to a period between 1997 and 2005.

The precise total amount that Council was defrauded will remain unknown, but it is well in excess of \$4 million.

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Mr Goodman will be called as a witness. Other relevant persons within the Finance Division will also be examined during this inquiry. They include the Financial Controller, the Systems Administrator and the Senior Financial Accountant.

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Council has contracts to provide a number of services to Sydney Airport and the Centennial Park and Moore Park Trust. It is not suggested that an person at either of those entities engaged in any deliberate wrongdoing. The Business Unit, situated at the Domestic Airport Precinct, serviced these contracts. Relevant persons who have worked at the Business Unit, including the Acting Manager, Landside Coordinator and a clerical assistant will be examined. The value of the contracts serviced by the Business Unit was substantial. The breadth of the work provided was also varied.

Mr Goodman did not sit within the Business Unit, however his influence clearly extended to the Business Unit work. Mr Goodman effectively controlled a number of important aspects of Council business. Others were denied access to relevant parts of Council business that would be expected to fall within their job description. It may be that denying access to certain financials meant that individuals did not realise how much money was being spent. This of course would have helped hide some of the funds that were misappropriated.

This investigation began last year. A very large amount of documentary evidence has been gathered, including invoices, credit and remittance advices, emails and text messages. A number of persons have been examined or have provided statements. Many significant admissions have been made by various persons during the course of the investigation, often corroborated by contemporaneous evidence.

10 This investigation has uncovered different types of this invoice fraud. On some occasions, invoices were submitted for work that had not been done, on other occasions, otherwise legitimate invoices were improperly inflated. The falsity of the invoices could therefore be complete or partial.

20 The invoices in the first category arose in different ways. There are many occasions when Mr Goodman was complicit with a contractor, for example a false invoice was submitted by the contractor, the false invoice was sent to Mr Goodman who then signed off on it. Payment then was made, often very quickly, if not immediately. Mr Goodman would sometimes tell the contractor what to write on the invoice as to the scope of work. The descriptions were often very general. Mr Goodman would also tell the contractor not to use certain descriptions for work. Presumably this was done to avoid too many similar payments being made in a short period of time. Mr Goodman would also tell contractors on occasions the amounts that he wanted on the invoices. This was designed to avoid the arousal of suspicion. The invoice would be paid, the proceeds of the invoice would be shared between Mr Goodman and the contractor.

30 Abuse of invoices also occurred in another way. Invoices were submitted and paid in the name of companies that had ceased working for Council. The companies remained on the Council system and therefore the invoices were easily approved. These contractors assert that they did not know that their company names were being used for further invoicing. One significant change between the invoices previously submitted by the contractors and the false ones was the account details. The accounts on these invoices belonged to Mr Goodman. It is suspected that Mr Goodman prepared the false invoices, approved them himself and the moneys were then deposited into his account. Contractors in this category will also give evidence at the inquiry. ICAC also has evidence that contractors undertook private work for Mr Goodman and other Council employees. Some of the work was not charged. Other words were paid for by Council, again through false invoicing.

40 At this time – at the time this investigation commenced the acting manager of the Business Unit was Mr Mark Goodman – Mr Goodman’s brother Mark. At this stage no allegation of benefitting from false invoices is made against Mr Mark Goodman. When reference is made to Mr Goodman it should be understood that that refers to Mr Gary Goodman. Reference to Mr Mark Goodman will be made using his first and last names.

Mr Mark Goodman ought to have been the person who signed up on the invoices that came through the Business Unit. It seems that Mr Gary Goodman may have been signing off on invoices which Mr Mark Goodman ought to have signed off on. The inquiry will seek to determine whether or not Mr Gary Goodman signed in place of his brother and whether these signatures were forgeries or not. It may be that Mr Gary Goodman used a scribble signature rather than his genuine one when approving Business Unit invoices. The name Goodman is visible in both versions. The scribble
10 distorts the first and crucial initial.

Ms Marny Baccam was an employee of the Business Unit. She worked in accounts. She also had a relationship with Mr Gary Goodman of varying degrees. Ms Baccam occasionally approved invoices for payment. The inquiry will investigate whether or not she was entitled to approve invoices. Ms Baccam was the sole director of a company called Ari Landscape Solutions Pty Limited. She prepared false invoices. Either Mr Goodman or even Ms Baccam herself approved the invoices. Mr Goodman used his scribbled signature. The proceeds were then shared between Mr Goodman
20 and Ms Baccam. Between 24 September, 2014 and 7 October, 2015 Council made payments totalling \$195,000 into this company's account. It seems Ari Landscape Solutions did not perform any work at all for Council. The entirety of the \$195,000 seems to have been stolen. Two relatives of Ms Baccam not employed by Council were also using Council vehicles on an ongoing basis. Other matters involving Ms Baccam will be the subject of this inquiry.

It seems that a number of different contractors actively participated in false
30 invoicing with Mr Goodman. One was a contractor who supplied computer equipment to Council between 1995 and 2005. Between 1997 and 2005 false invoices were presented by the contractor at the instigation, he says, of Mr Goodman. Mr Goodman later owed the contractor money. He was continually chased for the debt which was now around \$160,000. The contractor made it clear that he would inform others of Mr Goodman's and his own past misdeeds. In September, 2015 Mr Goodman and the contractor came to an arrangement to repay the debt. False invoices would be issue to Council for approval by Mr Goodman. Within three weeks over \$55,000 was paid by Council to the contractor to reduce Mr Goodman's debt. This ICAC investigation then became known to Mr Goodman and the
40 false invoices ceased.

Another contractor is a smash repairer who did work on Council vehicles and another one includes a contractor who supplied telephony to Council. Mr Goodman also authorised payments for a company he owned called the Truck Service Centre. He did not tell anyone at Council that he owned the company. Between June, 2011 and July, 2013 Council made payments totalling \$536,000 to Mr Goodman's account. Investigation strongly

suggests that Truck Service Centre did not perform any work at all for Council.

10 Some of the various misbehaviours engaged in only ended once this ICAC investigation became known. It seems inevitable that further millions of dollars would have been misappropriated in the absence of this investigation. Mr Goodman should not have been able to engage in the type of misconduct with which this investigation is concerned. He was able to do so because of the extremely poor corporate governance that was in place at Council. Obvious areas of improvement were not undertaken.
20 Recommendations from external auditors were not followed.

Mr Goodman was very familiar with the weaknesses in the system. Some of the weaknesses may have been created by him. Suggested improvements may not have taken place because of him. The problems were ripe for exploitation. Senior management at Council will be asked about these weaknesses. The blame for structural deficiencies cannot be sheeted home to Mr Goodman alone. It is intended that the evidence to be obtained during the course of this investigation and public inquiry will be used to make
20 recommendations that will significantly reduce corruption risks, not only the City of Botany Bay Council but all Councils across the State.

THE COMMISSIONER: Thank you, Mr Thangaraj. The inquiry will take a short adjournment to allow the cameras to be removed and then I will resume and take the appearances of Counsel. Thank you.

SHORT ADJOURNMENT

[10.26am]

30 THE COMMISSIONER: Yes, Mr Thangaraj.

MR THANGARAJ: Commissioner, I was proposing to call Mr Gary Goodman first as per the original witness list but I understand my friend, who appears for Mr Goodman has an application?

THE COMMISSIONER: Yes.

40 MR OVERALL: Commissioner, my name is Overall.

THE COMMISSIONER: Mr Overall.

MR OVERALL: I seek leave of the Commission to appear for Mr Goodman with my instructing solicitor, Mr Michael Abhoud.

THE COMMISSIONER: Yes, that leave is granted.

MR OVERALL: Commissioner, late last week, Mr Abhoud was placed in hospital and was subject to a - - -

THE COMMISSIONER: Mr Goodman?

MR OVERALL: Yes, Mr Goodman was hospitalised and has part of his foot amputated and is unavailable to appear today. I've been advised by my instructing solicitor who obtained the latest information that he will be in hospital for at least one week from today due to the infection that remains and will be reassessed by medical staff at the Liverpool Hospital in one week. Commissioner, accordingly I wish to make an application that Mr Goodman be granted leave to appear at a later date subject to a medical certificate of fitness?

THE COMMISSIONER: Well, Mr Overall, when you say late last week he was hospitalised do you know what day last week that occurred?

MR OVERALL: I think it was Friday morning.

20 THE COMMISSIONER: And has your instructing solicitor ascertained whether or not that was a scheduled admission or whether he - - -

MR OVERALL: No.

THE COMMISSIONER: - - - presented to outpatients?

MR OVERALL: He presented to outpatients, Commissioner. I had a conference with him on the Thursday. He showed me his foot and even I as an untrained medical – untrained in medicine realised that it was very, very serious. It looked gangrenous to me and indeed when he did present to hospital they took him to immediate surgery and removed the big toe on his left foot.

THE COMMISSIONER: And from what source have you obtained that information namely that they removed the big toe on the left foot?

MR OVERALL: I have photographs of the operation which were taken by his, his de facto and I will tender those, your Honour if your Honour wishes?

40

THE COMMISSIONER: Well photographs I don't think is going to explain to us anything about the operative procedure.

MR OVERALL: Yes.

THE COMMISSIONER: It's a photograph of him lying in bed as I understand it?

MR OVERALL: And the foot, you Honour.

THE COMMISSIONER: Right. Well let me just - - -

MR OVERALL: It will show the foot and the operative procedure, your Honour.

THE COMMISSIONER: All right. Let me just indicate that from the Commission's perspective if that was your observation at a conference on
10 Thursday the Commission is somewhat at a loss to understand why we didn't receive any information about the inability of your client to attend at all from your instructing solicitor until after the Commission received a call from Ms Marny Baccam telling the Commission that Mr Goodman was in hospital. It was that phone call that caused a solicitor of the Commission to ring your instructing solicitor to find out what was going on. The next thing that we heard was on Friday, when we received what looked to be a very badly scanned letter from a resident of Liverpool Hospital who referred to Mr Goodman's operative procedure without telling us what it was, without
20 telling us when he was admitted, without telling us what the prognosis was, without telling us how long he'd remain in hospital, without telling us who his treating doctor was. Now I think you've been around long enough, Mr Overall, and your instructing solicitor has been around long enough to know that there are things called admission records and there are thing called medical certificates that come from treating physicians. If this information was going to be at all helpful to the Commission, that is information you're providing today, it should've been provided in documentary form from the relevant people. Because as you would now know we have a large number of witnesses who are lined up some of whom are coming from out of state and the result of this is that we're going to call witnesses who I assume will
30 be left standing around all week waiting for your client to come in to determine whether or not they'll be cross examined. So it's not just a case of Mr Goodman appearing as and when he can, it's a question of every witness in the course of the next week being held in limbo. So what are we going to do about it? Are we going to actually see some documentary evidence which is capable of proving the matters that you've stated from the bar table?

MR OVERALL: I'm instructed, Commissioner that my solicitor is in the process of trying to get a report from this surgeon and his treating medical
40 practitioners. He attempted to do that on Friday and over the weekend and was unable to contact them and is still in the process of attempting to obtain those documents about, about him. The only advice we have at the moment is what I just read out to the Commission that he is to be hospitalised for at least one week from today. The infection apparently remains. Various medical procedures will be used to correct the infection and speed up the healing process and he won't be reassessed for a further week by medical staff.

THE COMMISSIONER: Well, as I said, until the Commission receives documentary evidence which is capable of proving those matters, I don't know that there was – there is much I can do. I'm certainly not prepared at this stage to indicate that your client is excused for a whole week until I see evidence which proves the matters that have been asserted. And I'm not criticising you, Mr Overall, I know you're acting on instructions. But you would appreciate that there is a way in which these things are established and whilst we are not bound by the rules of evidence we would have to have very cogent evidence to sustain an application to adjourn an inquiry or the person of interest or adjourn the appearance of the person of interest in an inquiry for as long as a week. And even after a week no guarantee that he's going to be able to appear in the following week.

MR OVERALL: Yes. All I can say is, Commissioner, that my instructing solicitor is doing whatever can be done to obtain some documentary evidence about Mr Goodman's status and - - -

THE COMMISSIONER: You indicated – sorry, you indicated that there was some photographs, when were they taken?

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MR OVERALL: Friday, your Honour, Friday, Commissioner.

THE COMMISSIONER: And sorry, who were they taken by?

MR OVERALL: They were taken by Mr Goodman's de facto wife who is Ms Holden.

THE COMMISSIONER: So I take it from that that your instructing solicitor has not been out to Liverpool Hospital to see your client?

30

MR OVERALL: No, he has not.

THE COMMISSIONER: All right. Well, I'll stand the application down Mr Overall until we get some further information and in the meantime we'll see how far we can progress.

MR OVERALL: Commissioner.

THE COMMISSIONER: Yes, any other appearances that I can take at this stage?

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MR LEWIS: Commissioner, I seek your authorisation to represent Mr Keith Mark.

THE COMMISSIONER: Yes, Mr Lewis.

MR LEWIS: Thank you, Commissioner.

THE COMMISSIONER: Yes, Mr Moses.

MR MOSES: Commissioner, I seek your authorisation to appear for my learned friend Ms Alderson of Counsel, instructed by Sparke Helmore Lawyers for three parties the City of Botany Bay Council, Lara Kirchner the General Manager of the Council, and Councillor George Glinatsis. We have satisfied ourselves that there is no conflict in those three parties. As I understand it, Ms Kirchner and Councillor Glinatsis have been called in respect of corruption prevention issues.

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THE COMMISSIONER: Yes, thank you, Mr Moses. That leave is granted. Yes, anyone else?

MR DHANJI: Commissioner, I seek authorisation to appear on behalf of Mr Zoran Gajic. Dhanji, D-h-a-n-j-i, instructed by Nyman Gibson Miralis.

THE COMMISSIONER: Thank you, Mr Dhanji. That leave is granted. Yes.

20 MR MAHENDRA: Commissioner, I seek leave to appear on behalf of Mr Mark Thompson. It's Mahendra, M-a-h-e-n-d-r-a.

THE COMMISSIONER: Sorry, could you spell that for me again.

MR MAHENDRA: M-a-h - - -

THE COMMISSIONER: Yes.

MR MAHENDRA: - - - e-n-d-r-a.

30

THE COMMISSIONER: Thank you, Mr Mahendra. That leave is granted.

MR HICKEY: Commissioner, I seek leave to appear on behalf of Mr Malcolm Foo. My name is Hickey, H-i-c-k-e-y.

THE COMMISSIONER: Yes, Mr Hickey. That leave is granted. Yes.

MR TITMARSH: Commissioner, I seek leave to appear on behalf of Marny Baccam. My name is Titmarsh, T-i-t-m-a-r-s-h.

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THE COMMISSIONER: Thank you, Mr Titmarsh. That leave is granted.

MR FAGIR: If it please the Commission, my name is Fagir, F-a-g-i-r. I seek authorisation to appear on behalf of Mr Barry Byrnes.

THE COMMISSIONER: Mr Byrnes was it Mr Fagir?

MR FAGIR: Yes, Commissioner.

THE COMMISSIONER: Yes. That leave is granted. Anyone one else? Yes.

MR VELCIC: Yes, Commissioner. I seek authorisation to appear for Ms Mishra. My name is Velcic, spelt V-e-l-c-i-c, and I will instruct Mr Viney of Counsel.

10 THE COMMISSIONER: Mr sorry, who?

MR VELCIC: Viney.

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

MR VELCIC: Thank you.

THE COMMISSIONER: And that – sorry, that was for which witness?

20 MR VELCIC: Mishra, M-i - - -

THE COMMISSIONER: Mishra. Thank you. Yes.

MR HARRIS: Commissioner, my name is Harris.

THE COMMISSIONER: Yes, Mr Harris.

MR HARRIS: Seeking authorisation to represent Khim Leong Seng.

30 THE COMMISSIONER: Yes, thank you, Mr Harris.

MR HARRIS: Thank you.

MS SATHANAPALLY: Commissioner, I seek leave to appear for Mr Alex Subeski. My name is Sathanapally, spelt S-a-t-h-a-n-a-p-a-l-l-y.

THE COMMISSIONER: Yes, Ms Sathanapally, that leave is granted. That was for Mr Subeski.

40 MS SATHANAPALLY: That's correct.

THE COMMISSIONER: Yes. Thank you. Anyone else? Yes.

MS HUGHES: Commissioner, my name is Hughes. I seek leave - - -

THE COMMISSIONER: Yes, Ms Hughes.

MS HUGHES: - - - to appear on behalf of Adrijana Gligorov.

THE COMMISSIONER: Yes, Ms Hughes, that leave is granted.

MR STEWART: Yes, good morning, Commissioner. Stewart, solicitor.

THE COMMISSIONER: Yes, Mr Stewart.

MR STEWART: I seek leave to appear for Mr Maton.

10 THE COMMISSIONER: Yes, thank you, Mr Stewart. That leave is granted.

MR CHALMERS: Good morning, Commissioner.

THE COMMISSIONER: Good morning.

MR CHALMERS: My name is Chalmers.

THE COMMISSIONER: Yes, Mr Chalmers.

20 MR CHALMERS: I seek leave to appear for Sharon Dale.

THE COMMISSIONER: Thank you, Mr Chalmers. That leave is granted. Yes.

MS McNAUGHTON: My name is McNaughton.

THE COMMISSIONER: Yes, Ms McNaughton.

30 MS McNAUGHTON: I seek leave to appear for Lorraine Cullinane. I'm instructed by Houston Dearn O'Connor.

THE COMMISSIONER: Yes, thank you, Ms McNaughton. Anyone else? Yes.

MR DUNNE: Commissioner, my name is Dunne. I seek authorisation to appear on behalf of Mark Goodman.

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

40 MR DUNNE: Thank you, Commissioner.

MR CHEE: Commissioner, my name is Chee, C-h-e-e. I seek authorisation to appear for Sam Alexander.

THE COMMISSIONER: Thank you, Mr Chee. That leave is granted.

MR FLITCROFT: Commissioner, Flitcroft, solicitor, F-l-i-t-c-r-o-f-t. I seek leave to appear on behalf of Mr Jeremy Sham.

THE COMMISSIONER: Yes, thank you, Mr Flitcroft. That leave is granted. Is that everyone? Thank you. Yes, Mr Thangaraj.

MR THANGARAJ: I call Keith Mark, Commissioner.

THE COMMISSIONER: Just take a seat, Mr Mark. Mr Lewis, I take it that Mr Mark has been told of the effect of a section 38 order and he wishes to take advantage of that order.

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MR LEWIS: Yes, he does, Commissioner.

THE COMMISSIONER: Mr Mark, can I just make sure that you understand the limits of the order that I'm about to make. The order protects you from the use of your answers against you in any future civil or criminal proceedings. It doesn't however protect you if it should be found that you have given deliberately false or misleading evidence to the Commission because if that were the case your answers could be used against you in a prosecution under the ICAC Act. Do you understand that?

20

MR MARK: I understand.

THE COMMISSIONER: Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by this witness and all documents and things produced by this witness during the course of the witness's evidence at this public inquiry are to be regarded as having been given or produced on objection and there is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

30

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

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

MR MARK: I'll be sworn.

THE COMMISSIONER: All right. Thank you. Swear the witness.

THE COMMISSIONER: Yes, Mr Thangaraj.

MR THANGARAJ: Mr Mark, could you give the Commission your full name?---Yeah. Keith Raymond Mark.

And are you working at the moment?---No.

10

Can you give us a short background history of your working life?---Well, from school – do you want to go back that far or - - -

Sure?---Okay. I went into a PMG Engineering College for five years. From there I worked for several different computer companies, Honeywell, ICL, ACI Computer Services, over a period of I guess 10 or 15 years, something like that, and then I finally formed my own company in 1995, Computer Intersection, 1992 I beg your pardon I formed the company. I started working for Botany Council in 1995.

20

All right. Just, in 1992 when you set up Computer Intersections what sort of work did that company do?---That was computer consulting and, and I had three main customers there I believe. Um, supply of computer hardware mainly, computer cabling, anything associated with a computer. Some software.

And what was the first Council that you started doing work for?---Was Drummoyne Council.

30 Was Mr Goodman, Mr Gary Goodman there?---Yes, he was.

And what role did he have there as you understood it?---I think he was Finance Manager. I'm not sure of his title but I think that's what it was.

And what were you doing for Drummoyne Council?---That was supply of computer equipment, like computers themselves, physical computers and some software. I think that was the main focus at Drummoyne.

40 And where you providing your own computers or computers that you sources elsewhere?---I sourced the computers and I badged them under my company name and then on-sold them to the Council.

All right. At some point did Mr Goodman leave Drummoyne Council? ---Yes, in 1995 I believe it was. He went to Botany Council.

And after he left did you continue to do work for Drummoyne Council or not?---I did for a short period of time I think, I'm not sure, but if I did it

would have been only for a short period and then I was invited to go over to Botany Council.

And who invited you?---That was Gary Goodman.

All right. Have you known him for some time?---Oh, yes, a long time. Forty-odd years.

10 And how is it that you knew him originally?---He used to go to school with my sisters.

All right?---And he would turn up at my mother's place and, you know, we got to talking and eventually a friendship came from that.

All right. And you became good friends did you?---Yes.

Did you ever live together?---Yes, we did, for several years in Ashfield.

20 Did you have some shared interests?---Shared interests as much as car racing.

Yeah?---Oh, usual sports like football and that sort of thing but, yeah, and working on our own cars. We, you know, you'd tinker on the weekends.

30 Did you lose contact with him for some time?---I did. Before Drummoyne Council I lost contact for several years and then I, I think it was at a Bunnings car park, I was walking into Bunnings and he was coming out at, I think it was around Ashfield somewhere. I can't remember the suburb. And g'day, how are you going? Haven't seen you for ages. And that's when he mentioned he about Drummoyne Council.

And that's how you got into Drummoyne and then Botany?---That's right, yes.

All right?---Yeah.

40 And what did you start doing for Botany Council?---It was a similar sort of thing, it was the supply of computer equipment, software, I think a little bit of cabling but also looking after the, the users there, virtually a mobile help desk. If they had problems they'd ask me to go out to the various depots around the place and offices and look after whatever faults they had there.

Were you there doing various jobs such that you were there for a number of hours a week?---Oh, yes, yeah. Do you want an actual number of hours?

No, no, that's okay?---Okay.

And did the amount of hours you were working at Botany Council lead to anything different with the way you were retained?---It, yes, it led to a contractual arrangement where the Council asked me to, to physically be on the Council premises for eight hours a day for five days a week, Monday to Friday, and that was under the direction of Gary and do whatever was needed to be done.

And what was the length of each contract?---It was 12 months renewable.

10 And how many years or how long did that continue for?---Oh, 10 years.

All right?---I physically only signed the first contract, from then on there was no actual physical contract presented then, it was just an acceptance, acceptance I think of, you know, ongoing continuance.

So you're working basically full-time at Botany Council for about 10 years?
---Yes.

20 All right. From '95 to 2005?---'95 to 2005.

And what happened in 2005 such that that couldn't continue?
---I had a car accident in, oh, I think October, something like October, late in 2005, and I just wasn't able to, to do anything for, for several months, I was under rehabilitation, so I just terminated my employment with them.

And after that accident in 2005, did you do any physical work - - -?---No.
- - - again for Botany Council?---No.

30 Did you remain living in Sydney or did you move away from Sydney?
---Remained living in Sydney until - I won't be able to state an exact year, but in I guess about 2008, 2007/2008, my wife and I moved to Bundaberg. We had been building a home up there for retirement - - -

All right?--- - - - and because we were renting in Sydney and I had no income, there was a, an insurance case going on, I couldn't afford the rent anymore so we moved into the house in Bundaberg.

40 Right. Now, what happened to the company, Computer Intersection?
---I just kept that registered. Whenever the registration came up for renewal I just kept renewing it, just to keep it active.

And did you file Business Activity Statements?---Yes, I still do, yes.

All right. Filing zero?---Zero.

All right. Have you done any work for Botany Council since 2005?
---I haven't done any - physical work, do you mean?

Yeah?---No.

Have you done anything for Botany Council since 2005?---Apart from the, the Business Unit, the, the invoices that we were, we've spoken about previously - - -

Yeah?--- - - - I haven't done any other - - -

10 I'll come to that?---Oh, I beg your pardon, there was, for the Business Unit, they needed a replacement printers/copier/multifunction machine.

Yeah?---I supplied that for them.

Yeah. And there were two invoices in relation to those, that hardware?
---Yes, that's right.

Apart from supplying that hardware on a one-off, did you do any other - - -
?---No.

20

- - - anything else for Botany since 2005?---No.

All right. I want to bring you forward to last year. By September 2015 you'd had conversations with Mr Goodman about something in particular?
---Yes.

And what was that about?---That was about – I'm assuming you're talking about outstanding moneys that he owed me?

30 Yes?---Yes.

All right. By September 2015 did he owe you a significant amount of money?---Yes. Do you want me to name the, the figure?

Yes?---Yes.

How much did he - - -?---A hundred, I believe 162,700 I think it was.

40 Right. All right. I'll come to how that arose in a moment, but I want to start by showing you this email. Just re-read that to yourself, Mr Mark?---Yes. Is it, can I read it off the screen?

You've got a hard copy, or off the screen, whatever you want?---The screen is actually easier for me to read. Yes, I remember this email.

All right. Just go through it again?---Yes, I've read that.

All right. Is that an email that you sent to Mr Goodman on 5 September last year?---Yeah, I couldn't, I couldn't mention a date, but yes, that's definitely an email that I sent.

Well, have a look at the top of the email?---Yeah.

Can you read that date?---Yes, yeah.

10 All right. So you agree that you sent this email on Saturday, 5 September, 2015?---Yes.

All right.

I tender that email.

THE COMMISSIONER: Yes. That will be Exhibit R1.

20 **#EXHIBIT R1 - PUBLIC INQUIRY BRIEF (FOLDERS 1-36)**

MR THANGARAJ: All right.

Can I do, can I also tender all the bundles while I'm doing that, Commissioner?

THE COMMISSIONER: Oh, yes. All right. Well, I think at this stage we'll mark – how many folders are there, Mr Thangaraj, just the one?

30 MR THANGARAJ: 36.

THE COMMISSIONER: Are you tendering all 36 at this stage?

MR THANGARAJ: Yes.

THE COMMISSIONER: I think so. Have they yet been placed on the Intranet?

40 MR THANGARAJ: They're on the restricted Website.

THE COMMISSIONER: They're on the restricted Website. Thank you. All right. Exhibit R1 will be folders 1 to 36, of which this email forms a part, I take it, Mr Thangaraj?

MR THANGARAJ: I don't believe it does, so if this could have a separate
- - -

THE COMMISSIONER: All right. I'll mark it separately as Exhibit R2.

**#EXHIBIT R2 - EMAIL FROM KEITH MARK TO GARY
GOODMAN DATED 5 SEPTEMBER 2015**

MR THANGARAJ: All right. Mr Mark, can I just take you through this email. The second – I've numbered these paragraphs, so I'll take you through them like that. The second paragraph starting, "Hopefully your emails," you were, you understood the significant ramifications of this email?---Yes.

Is that right?---Yes.

For both Mr Goodman and yourself?---Yes.

All right. And why were you prepared to take that risk?---I was getting to the point of, well, I was angry and annoyed I suppose, through being ignored. I couldn't, couldn't get him on the phone, he wouldn't return any calls or anything, and I was watching our savings gradually diminish, we were living off savings, we were getting to the point of there not being much left there and I was looking at this amount of money that he owed me over several years and I thought it was high time that he, he paid me back. He was in a better position than I was to not get it.

All right?---So that highlighted.

In your, in this email you refer to the debt of around \$160,000, can you tell us how that debt arose?---Yes. That was through various – there was some vehicles. I think I've, I've given you a copy of the, the list I had. There was some vehicles I'd, I'd - - -

Sorry, if I can say this, Mr Mark?---Yeah, sure.

People hearing this evidence for the first time and including interested parties - - -?---I beg your pardon.

So don't worry about what you might've - - -?---Yes.

- - - told us before. I'll be asking you a lot of questions you've been asked before?---Okay.

So just assume no one understands - - -?---Okay.

- - - the background of this and you just tell us your evidence?---Well, there was some – there were two or three vehicles, I'm not sure how many that I purchased from him that I hadn't received. There was a - - -

So let's just do it step by step. Are you saying you paid the money but you did not receive the vehicles?---Yes.

All right. And do you remember what cars they were?---There was a Porsche, there was a van, a Ford Econovan, I think it was. There was an RX7 that we were going to, to convert into drag racing. The two of us were going to, to race that, not drive that ourselves. That was going to be prepared for us. I bought that, I never got – it was going to be joint. I never got any money back from that. The most significant amount was \$90,000 worth of extra tax that I'd, I'd paid on invoices that had gone through that were inflated above what the actual work was that I've, I've done and extra invoices as well. At the time I hadn't realised it of course the turnover of my business had catastrophically gone, gone through the roof.

After your accident?---This is a bit prior to the accident.

Okay?---Yeah. So the turnover had gone from say \$200,000 to seven, \$800,000 each year, something of that order and of course I paid tax on that amount. I didn't have any, any benefit from that at all. It was only after the accident when I started looking through all my papers and everything then I realised that I hadn't – because I was getting a regular income up to that time, I hadn't particularly looked closely. But after the accident when I did I noticed how much extra tax I had paid and that's when I started to get in touch with him and try and get the money repaid.

All right. Well, I'll come back to how it is that the extra tax arose when I come to the invoicing issue from '97 onwards. But was there anything else that related to this \$160,000 debt?---I would have to look at the, the list that I have. I haven't committed it to memory because I had a physical list. I can't remember everything that was on it, to be honest with you.

All right. So with respect to the cars, did you see the cars before you bought them?---Yes.

And what happened then to the cars?---The, the van I drove down the, the M5, I think it was. I picked it up from him and gave him the money, drove it to the end of the M5 and realised then that was meant to be a method of moving some of our possessions up to Bundaberg. It was rattling and coughing and spluttering at the end of the M5 so I just turned around and took it straight back and said "Look, this has got to get me to Bundaberg. It hasn't even got me to the end of the M5, take it back". And I didn't get my money back then. And to this day I haven't got the money back from that. There was a Porsche that he bought and I went with him to country New South Wales, I can't remember the town. He bought it, he bought it back and over a period of months, I suppose it was, eventually I said "How about I buy that off you"? The idea was to, to get it resprayed and clean it up so my wife could use it. And I paid, paid him about, I think it was about \$14,000 or something for or 13, something like that for the car itself and

then there was about \$4,500 with respraying and detailing the car and that, so it was about \$17,500, something like that. And I haven't even started the car, I've never seen it since then. That was when we were up in, in Bundaberg and I was battling my, my injuries from that car accident I had better things to – well other things to worry about, more important things personally to me at the time. It was only later on I tried to chase that up.

10 So why did you buy the Porsche or give him money for the Porsche if you hadn't yet received the money back for the van?---I just wanted it for my wife. It was a Porsche, it was a cheap for what it was.

Were you concerned that you hadn't yet been paid for the, repaid for the van?---It wasn't unusual to, to not see payment for things and then in time receive it back for, for much less. There were things like a computer that he wanted for – a laptop, and it took ages to, to (not transcribable). I don't know about \$2,000 or something like that. It took a while for me to get that back from him himself, eventually I got it. But it was the way he, he was. He just, he didn't pay upfront, it took him ages to pay.

20 All right. Well, with the van, had he agreed to repay you the van money?---I'm not sure that he actually worded, he agreed to repay. He understood that he should repay it. I don't remember him actually saying, physically or actually saying I will repay you but he had possession of it and I didn't.

Yeah. But why didn't you say, well I'll take the Porsche and rather than giving you the 14, 17,000, I'll offset it against what you owe me for the van?---Yeah. See he was my, my employer. To be very honest with you, I didn't want to get him offside - - -

30 All right?--- - - - and give him a reason to, to, to not have me at the Council anymore.

All right. You were heaving dependent on Council money, were you?---At that time I was solely dependent on Council money, yes.

40 And was there an RX7 as well?---There was an RX7 that I bought for us to race and there was an RX7 body, that was actually on the list, that we bought and that was raced by Joe Signorelli from RotorMaster in Sydney. He raced it – we – he actually built the car, developed the car and we paid the bills for it, Gary and I jointly. And over time they decided that they wanted to go for something capable of higher speeds and look for world records. I wasn't able to, to accommodate that, I didn't have the money for it. So that car was, was mothballed, eventually sold and I was looking for a half of the, the sale money for that car which I hadn't got either.

All right. Where were the cars being stored?---They were, apart from the RX7 that we were going to jointly race, they were, they were all stored at Wetherill Park at – there was a factory unit – the RotorMaster company was

in Wetherill Park and in a factory complex and I think about two factories down from there was a factory that Gary had, and they were actually stored there.

All right. And did you see them again?---I saw them several times, yeah.

All right. I want to ask you, before I get to the invoices about your process of being retained, either at Drummoyne or at Botany did you ever have to put in a tender or a quote?---I know at Botany initially I did.

10

And what were you – was it quoting for work or a rate?---No, it was quoting – I can't remember Drummoyne, to be honest with you. So if you don't mind me mentioning Botany. Initially I, I was asked to quote. The way it was done was three quotes, you know a quote from three different suppliers. It was only later on I'd submitted a few and I thought I'd given a red hot price and was rejected. It was only later on I found that the computer manager there at the time didn't particularly like me or for whatever reason, my, my quote was actually the cheapest but it wasn't accepted and it was through Gary that I found that out in time to, to transpire after that, the computer manager had left and - - -

20

So how did you then ultimately become a contractor at Botany?---Sorry?

How did you ultimately then become a contractor?---I - - -

- - - did you then go, sorry?---No, you're right. I was there doing the work as, as required but I was paid an hourly rate. I would invoice for an hourly rate. People would call me, mainly Gary would call me up, look - - -

30

Sorry, we might be at cross-purposes. What did you unsuccessfully tender or quote for?---Oh, for the tender. I beg your pardon. That was for computer equipment I think, computers.

Was this, was this before you were starting to do work at Botany or after you'd started?---That was when I was attempting to get into the Council, yes.

Okay. So you failed originally because of what you've told us?---Rejected tenders, yes.

40

How did you then ultimately start working for Botany Council?---When it was revealed that, that my quote was actually cheaper and then subsequent quotes were accepted, for a short time, and then it was just, I was granted sole, the rights I suppose, I'm not quite sure how I should term it, but from then on I was a supplier to the Council on a regular basis.

Right. Well, let's go to this email, back to the email. I'll take you to the fourth paragraph starting, "I've given you a list." Can you tell us, what is

that paragraph about?---That's a list of what we were talking about with the, the money that Gary had asked me, had owed me, the cars, the tax, the race car, that sort of thing.

All right. And at the end of that paragraph you refer to "the inflated amount of turnover?"---Yes, that's - - -

I want to take you through that?---Yep.

10 Tell us firstly how that, firstly what it was that actually happened and then I'll go back and you can tell us how it came about?---I would do whatever the work was, on a yearly basis the tax came up of course, so I would do the normal work required, but in, I think it was 1997, it was around then anyway, it was suggested that, could you provide extra invoices, this is to, from Gary, for himself. So some of the invoices I had inflated and then I started producing extra invoices, but the proceeds went directly to him.

All right. Let's do it just one by one. The inflated invoices, does that mean it was legitimate work and then they were artificially inflated?---Yes.

20

All right. And, and the other version was they were, the invoices were completely false?---Yes.

All right?---Yes.

Now, can you just tell us to the best of your recollection how this began. I know you've said that Mr Goodman said this, but was there any discussion as to why it might be necessary, what the benefits of doing it might be?

30 ---I don't believe there was a - I can't remember to be honest with you, but I don't believe there was, there was something like that, it was just mentioning something along the lines of, of can you provide me extra invoices, I need, I need the money, or something. I really don't remember. Something of, of that ilk I would think.

All right. Do you remember whether it started with inflated invoices or false, completely false invoices or both?---Again I'm not sure. It most likely I would have thought would be inflated invoices for a short time and then, then completely separate false invoices.

40 All right. And when did this start do you think?---I think 1997.

And when did it go on till?---Until I would assume 2005 when I, when I left Council.

All right. Can we just jump over and we'll come back to this paragraph, but go over the page. You see the second paragraph from the top starting, I do not want to," which that paragraph ends - - -?---Yes.

- - - "As best as I can calculate it's around 1.3?"---Yes.

Can you tell us what that's about?---That was my estimate of how much money had gone through, through the false invoices.

And do you say that, you've written there, "You should think about the amount of money I've managed to get for you?"---That's referring to the 1.3 million.

10 All right. Go back to the first page then, please. How were you able to, or did you keep a record of what the falsity of the invoices was?---I didn't keep a record, I kept a copy of every invoice that I produced. I didn't keep, if you asked me like a running tally or something, it was, like, I came to the 1.3 million as an estimate, I looked roughly at the figures monthly and it came to somewhere around that figure.

Okay, by looking at the invoices that you'd looked through?---That I could identify myself, but yeah, I know that that's not right, yeah.

20 Looked through, yeah. Yeah. All right. So what was the process then with respect to these – why don't you tell us first, what was the process with respect to invoices when they were entirely legitimate, so the work that you were doing before the false invoicing began. What was the process with respect to the submitting and payment of invoices?---Well, I'd, I'd do the work or, or supply, most likely fit the equipment, run the cable or whatever, then submit the invoice, the following week, they were always very prompt payers, the following week the, initially it was a cheque, I received a cheque, and in later times I think it was, was a direct deposit to my bank account.

30 Right. And you would prepare an invoice with the work, would you?
---Yes.

And how would you then send that to Council?---Almost always I would stick it under – Gary in his office, he had a blotter on his, in his office, I would lift the blotter up, because most of the time he wasn't there, if he wasn't there I would stick the invoice under the blotter and just let him know it was there. I think most of the time he probably, when he came into the office he would look just to see if there was anything there.

40 And this was because you were there so often, was it, that - - -?---Yes.

- - - you were hand-delivering them?---Yes.

Was he – sorry. These were the legitimate invoices we're talking about?
---Yes.

All right?---Yes.

Now, did anything change after the conversation about putting in false invoicing?---No. Do you mean the method?

The process of submitting and being - - -?---No, it was still the same.

All right?---Yeah.

10 And, all right. What about the descriptions of work, I'm going to ask you some questions now about the false invoices, whether they were inflated or not, but so what I'd ask you such as things like, what was the description of work, you know I'm talking now about the work you did not do - - -?
---Yes.

- - - or the services you did not provide?---Yep.

Who decided what would be on the invoices for that, that type of invoice?
---From memory I think I was given a figure, I need X amount of dollars, and again my memory's a bit sketchy, but I think I, I created whatever
20 would equal that amount of, of dollar value.

Right. And what about the - so that explains the numbers. What about the description of work, so - - -?---That, yeah, that would be - - -

Would you make that up or would, or would something else happen?
---I think it was in consultation but it was equipment and services that, that were regularly used by Council. I remember one, one instance though was something referring to the microwave network, there was a significant invoice there and I had nothing to do with the microwave people but Gary
30 needed however much it was, and I think that was about \$60,000 or something, so I just submitted one invoice for microwave upgrade, I think it was, was termed. There were several of those sort of things.

Right. And did you keep using sequential invoice numbers on your documentation?---Yes, yes.

All right. Were you using the same company, Computer Intersection, to do this?---Computer Intersection, yes, yeah.

40 Did you ever use I this period up to 2005 a different company name or a different company name or a different company account?---I had Comprehensive Office Supplies registered with a view of trying to pick up the stationery needs for the council. I'm not sure I ever did anything with them, if I did it might be one or two, but I don't remember doing any, any work at all with that, but I retained that company, that's currently still registered too.

All right. So what would then be the process or what would happen after the money went into your account?---I would either give Gary a cheque, often it would be – in some, some cases he'd, he'd come with me to the bank and just get cash over the counter from the bank and I'd had it straight to him.

Right?---Sometimes I would write him a cheque.

10 All right. Now you've said that – in this email that a figure of over \$1 million was generated in total by this falsity, these false invoices. Did you receive any of that money?---No.

You've told us as part of the \$160,000 debt that he owed you that about 90,000 I think you said was tax related?---Extra tax, yes.

20 If you were declaring these false invoices as part of your income, over \$1 million, wouldn't your tax liability have been in the hundreds of thousands of dollars?---I believe there was quite a bit of creative accounting done. I used – I can't remember their names now. I used an accounting firm in Sydney.

Right?---I just submitted all the facts and figures to them and they came back with the prepared returns for me to sign.

Okay. All right. So is it your evidence that between '97 and 2005 the false invoices amounted to about 1.3 million and over that period you paid an extra \$90,000 tax?---That's right.

30 And you sought the \$90,000 tax back from Mr Goodman as part of the - - -? ---That's right.

All right. Did he – after he got money that you've told us about did he do anything for you financially, did he give you any money or - - -?---No.

All right?---He retained me at the Council. I viewed it as, as securement of employment if that's the right way to do it. I thought if I refuse then I might be on shaky ground with my association with the Council.

40 All right. So are you saying that apart from retaining the contract or retaining the work at Botany Council you didn't receive any other benefit? ---No, none at all.

All right. Were you surprised when he first asked you to do this?---Yes, I would have been surprised but again, you know, I had a – I'd gone from, from struggling with the business in trying to get enough business to make it worthwhile to having the opportunity of regular income coming in so it was, it was an incentive to me to be honest with you.

All right. Well, you agree that you, you got that benefit at least of - - -?
---Of the work?

Yeah?---Yes.

All right. Did he ever tell you or did you ever understand what he was doing with this money that was being made from the false invoicing?---Oh, usually he would just say I need whatever the amount of money was. There were, there were a couple, there was a – again you’re taxing my memory.
10 There was a girl he was aware of that was struggling with cancer I think it was or something and he needed – this is a figure that sticks in my mind – he needed \$10,000 for her to help with treatment or something. I don't know exactly what it was. I remember that. But usually it wasn't, wasn't mentioned. It was just I need this money. I didn't ask him either - - -

All right?--- - - - what he needed it for.

All right. If we can just go back to the email. Paragraph 5, the one that starts, “Remember this is my money” – sorry, “This is my money that’s
20 been given to you”, and you say, “supposed extra income made through Council that’s gone straight to you”, this might be obvious but what are you talking about with respect - - -?---That’s about the invoicing.

All right?---Yeah.

All right. Can I take you down to the paragraph third from the bottom where you talk about other parts of Council assets and fuel cards, et cetera, company car. Can I just go through those with you or some of them. Did you witness any abuse of the Campbells’ card?---Yes. I actually was with
30 him on several occasions in Campbells.

And what did you witness?---He was buying – in bulk he was buying items for, for home for his own use like toilet paper - - -

What sort of items?--- - - - and general domestic things. I think canned goods, toilet paper, paper rolls, general things that you would need around the house.

Food?---Food, yes, yeah.
40

All right. Do you know who lived with him at that time?---I know he was with Dianne, Dianne Holden.

We don't need the names but do you know what family members were living with him at that time?---He was, he was living with his girlfriend at the time in Hoxton Park. I don't know about arrangements after that.

All right?---This is up until about - - -

Who was at the, who was at the former family home at that stage then?
---The family home of where Gary - - -

His former wife and was his – any other relative living in that house?---I don't think he – if he has a former wife I'm not aware of him having been married before.

10 All right. Sorry. Well, then, was he ever living with his father to your knowledge?---Not to my knowledge, no.

All right. All right. And you talk also there about company cars. What do you know of with respect to company cars that might have been a misuse?
---I know his father had a Council car and a fuel card I believe. He had full use.

20 All right. And this is the – you knew his father by – how come?---I've known his father for years and years. I have had meals at the – where they are now the family home used to be around the corner - - -

All right?--- - - - in Catherine Street in Leichhardt and I've had meals with the family. I knew the whole family quite well.

Did you know whether or not any other member of his family had a fuel card who did not work for Council?---I'm not – no, I don't know.

All right. What about his – did he have a brother?---He's got two brothers, David and Mark, yes.

30 Does one of them not work for Council?---I know that Mark does. I don't know about David.

All right. Do you know if David ever had a fuel card?---I don't know for a fact, no.

All right. Do you have a belief about something do you?---I should say I'd be surprised if he didn't but I don't know for a fact if he did.

40 All right. Well, let's not worry about that then. Do you know how the supplying, receiving of fuel cards worked at Council?---From what I know, I don't know for a fact but I think Gary was the, the overseer. He would order the fuel cards and distribute them to whoever he, he deemed.

And did you have an understanding of who paid those bills?---That was the Council as far as I'm aware, yes.

And do you know who at Council organised for the Council to pay those bills?---Yeah, that was Gary from what I know, yes.

All right. And who was in charge of Cabcharges?---That was Gary as well.

All right. Now by September, 2015 you've told us that Mr Goodman at least in your view owed you about \$160,000. Did you make any further attempts towards September of last year to get that money back?---Yes. I was trying to get in contact with him, left multiple messages and eventually it led to me sending the email that you've been referring to.

- 10 Okay. And how were you trying to contact him?---It was usually on the, on the phone I was trying, I've got his voicemail dozens of times, and I would text him. I'd email him at the Council and a couple of times I rang reception at the Council to speak to him but they said he's not there. We can pass the message through to his mobile and I said well, don't worry because I've already left messages on his mobile.

All right. And did you finally speak to him about how to resolve this problem of the \$160,000?---Eventually, yes.

- 20 And was it the case that you had – why is it that you were – what was happening for you to have to chase up the \$160,000 to the extent that you did?---Oh, diminishing bank account. We, we were down to very low money. My wife had separate money from, from her mother but I had very little money left in my own right.

- All right. So what then happened with respect to the \$160,000 debt, did you speak to Mr Goodman about that?---Yes, I did. He said he was, he was applying at the time, he was applying for three separate credit cards. This is as I remember it. One with a credit limit of \$20,000 one with a \$25,000 credit limit and another with another \$20,000, I think it was, so 65,000 in total. He was going to, to use that credit to give me that money to offset against the debt.
- 30

And did that happen with the credit cards?---No, subsequently he put a direct deposit of \$2,000 into my account.

And is that the \$2,000 you've referred to in that email?---That's what I'm referring to in the email, yes, yeah.

- 40 All right. So after, after 5 September, 2015, the date of the email did you come then to some arrangement with Mr Goodman about - - -?---Yes, he mentioned - - -

- - - decreasing. All right?---He mentioned about landscaping at - - -

What did he say?---At the, the business unit at the airport. He said look, if you can provide them with some, some invoices - this is not word for word

but, if you provide me with invoices of a landscaping company then I can start to pay you back the money.

And did you ultimately agree to that?---Yes.

All right. We'll just go back a step. Did you have a landscaping company?--No.

10 Had you ever done landscaping?---No. Only at home like everybody, you know. Not, not professionally, no.

All right. You'd never, you'd never charged anyone to - - -?---No.

All right. And from 2015 onwards, did you do any landscaping for Botany Council?---No.

All right. From 2015 did you do any work for Botany Council, September, 2015?---No, I don't think so, no.

20 All right. Are you trying to work out when that hardware was sold, are you?---Yes, yeah. I think it was earlier.

All right. Well setting aside the printer that you might've obtained for Council - - -?---Yeah. I don't think there was any other work, no.

All right. All right. Can I show you this document, it's volume 5, page 39?--I can see it on the screen.

30 Is this an invoice that you ultimately sent to Botany Council?---Yes.

And that money was deposited into your bank account?---Yes, it was, yeah.

All right. Now just before you sent that invoice was there toing and froing between yourself and Mr Goodman as to how the, how the invoice should be put together and what should be on it?---Yes, there were a few – I think mainly text messages, to be honest.

To decide the content of the - - -?---Yeah.

40 All right. Now we see the date 28 August, which is before the email of September, can you tell us why that date is on that invoice?---That was backdated. I think the first three invoices, I think were to, to give me some decent money to – as a, as an act that, you know, he was going to continue to repay the debt. So the first, I don't know if it was two or three were backdated to, to allow me to get that money. From then on it was week by week, I think.

Now you wanted the money – you expressed to Mr Goodman why it was there was some urgency with at least - - -?---Oh, yes.

- - - some of this money?---Yes.

10 Did the backdating mean that more invoices could be put through in a shorter period of time?---The understanding as it was explained to me was I could submit one invoice a week from, from then on. The first – I'm sure it was the first three, were the initial bundle that would enable me to repay debts and, and we would be able to live while the rest of the invoices were being processed.

All right. Now the information that's on that invoice, can you tell us – we'll go, we'll start at the top. The company name, whose idea was that?---I think that was a bit of toing and froing. It was like an agreed company name.

Is it a legitimate company or does it exist?---I don't believe so.

20 What about the ABN?---The ABN is of a, of a legitimate company in North Queensland but not - - -

And was there, sorry?--- - - - not relating to, to landscaping.

Was there a discussion that a legitimate ABN was required?---Yes.

30 All right. What's the address, the PO Box?---The PO Box is from a friend of mine. I needed an address in Sydney or in New South Wales and the PO Box was a friend of mine. I just thought if any documentation was, was sent I needed somewhere where it could be, could be retrieved.

All right. The phone number?---The phone number is my mobile number.

The email address?---And the email address is just a - - -

Was that - - -?--- - - - a made up email address.

Was that created for the purpose of this?---Yes.

40 And did Mr Goodman ask you to do that or did you do that?---I'm not sure, to be honest. I'm assuming in conversation it was – it's obvious that you need a company name and an ABN, an a address and phone number and an email these days. So, I'm not sure, I'm assuming it was in consultation. I might've provided it myself knowing it, it should be there.

And what about the description of work, City of Botany Bay Business Unit, supply labour and materials as required?---That was – in fact I think that was a text. It's what Gary said, look, use this as the description of the work.

All right. And I take it that the bank account details are yours?---That's my, yes.

All right. Now this is obvious of course, but I just need to – that invoice represented – that was an invoice sent by you and contained work that you did not do?---That's right.

10 And there were other invoices that were lodged after 5 September, that were exactly the same, work that had not been done by you or anyone associated with you?---Yeah. I believe six in total.

All right. And it was done for the purposes of?---Of the repayment of the debt to me.

All right. And do you remember what the total amount was that went into your account from 5 September onwards as a result of this false invoicing?--I believe something in the order of \$55,000, I think.

20 And did it get to the stage where after a number of weeks you were not able to contact Mr Goodman anymore?---Yes.

And do you know why that was in the end?---You mentioned to me that you actually had his phone. My method of contact with him was always mobile phone, text or, or voice and I thought oh, here I go again, I'm leaving messages and they're not getting, getting answered again. But as you mentioned previously, you actually had possession of his phone.

30 All right. And you then realised later when this became public that the investigation had commenced?---Yeah. My brother actually, he lives in the New South Wales south coast, he rang me and he said there's an article in the Sunday Telegraph or Daily – one of the newspapers anyway and it stated the investigation.

All right. Now what was the process with respect to the submitting and payment of these invoices from September last year, how you prepared the invoice?---I'd prepare the invoice and I emailed it to Gary and then I don't know what process it goes through to Council now but eventually it was paid into my account.

40 And was there an understanding between the two of you as to how long this would continue?---Until the debt was repaid. That's how I understood it.

All right. And how frequent would the invoices be?---Again, as I understood it as was agreed, was weekly.

All right. So there was another 100-odd thousand dollars to go?---Yes.

All right. Did you have some concern that there was something pressing with respect to Mr Goodman's health that meant that you wanted to be paid as quickly as possible?---Yeah. He mentioned to me that he had a cancer, stomach cancer, I think it was. And he had been told by doctors that he had eighteen months to live. And we were four months into that eighteen month period. So I think I, I joked to him about well, you know, you better pay me before you die. But you know, that's – I don't know whether that was, that was true or not the illness or whether it was said for effect.

10

Okay. That email that you sent if, if he'd repaid you the debt, if we go to the last sentence of that email. Is this what you were saying, effectively, no one needs to know if you pay my money back?---I was happy just to, to have the debt repaid and I think I said in a text, go away and die, he didn't need to, because obviously he didn't wish to continue the friendship from the way I'd been treated so, well I'll just leave you totally alone.

20

Well, I just want to ask something a bit more about that. See the previous page, see the bottom of the previous page you were threatening effectively to expose what you and Mr Goodman and Mr Goodman separately had done in the past to the general manager and to Lorraine who's the deputy general manager.---Yes, yes.

If he had paid you \$160,000 after this email before you'd done anything, would you have done anything?---No.

All right. And that's what the last sentence of the emails - - -?---That's right yes.

30

All right. The bank account that you were using with the Landscape Creations document from 2015 onwards, were they, is that the same account that you 'd been using for Computer Intersections? ---No, Computer Intersections was a separate account under the name Computer Intersection.

All right. Nothing further.

THE COMMISSIONER: Who wishes to go first, yes Mr Moses.

40

MR MOSES: Yes, mam Commissioner.

When did you start defrauding Botany Council?---In 1997 I think it was.

So that's when the fraud started? ---Yes.

And your wife Lea, is she the former wife of Mr Leong?---Yes, pronounced Lee (as said).

Yes?---Yes.

Now you live in Bundaberg?---Yes.

And when did you start living there? ---I'm not sure, it was about eight years ago, seven or eight, something like that.

When did you cease residing in New South Wales?---At that time when we left New South Wales to go to Bundaberg, I'm not sure, I can find out, I'm not sure of the exact date when we went.

10 You've got a memory problem, sir?---I don't remember when we left.

Okay How many properties do you own?---We own, that property that we're currently have the house on and I own two other blocks of land.

Where?---In Moore Park Beach in Queensland.

Thank you. When did you last file a tax return?---Um, several years ago.

When?---Several years ago.

20

You don't know the exact date?---I don't know the exact, it would have been 2005 probably.

Okay. And you said that you're not presently employed?---No.

When did you cease working?---In 2005, the end of 2005 when I had the car accident.

Did you receive a payout for that?---Yes.

30

How much?---Um, I believe that's privileged information but - - -

How much sir?---?- - - do I need to disclose it?

How much did you get paid?---It was a bit over \$200,000.

Thank you. I'm going to ask you some questions about a business called Auto Acoustics?---You can ask me, I don't know that business.

40 Well, I'm going to ask you. Do you know that business at all?---No.

Sir?---No.

And you said you have known Mr Goodman, since in effect, childhood days?---Not childhood - - -

Well, you went to school with him?---No, no, no, my sister's went to school with him.

No, no, okay. Your sister's went to school with him?---My sister's went to school with him.

And what about Mr Seng, Leong Seng?---I only know him through the association with Gary, we both had RX7 cars and we knew - - -

Who's we?---Sorry?

10 Who is we?---Gary, Gary Goodman and myself.

Thank you.---And we knew Leong through um, an audio company that he put, they sell car radios and stereo equipment, that sort of thing, so we got him to install some stuff in our respective cars. That's when we made contact with him. I don't know how Gary found him, he was in Alexandria I think it is.

20 Okay. And Peter Fitzgerald Junior, do you know him?---Peter Fitzgerald - - -

Junior.---I don't know Peter Fitzgerald Junior, I know Peter Fitzgerald the former general manager of the council.

And when did you first meet him?---When I started work at the Council.

30 And what about Sam Alexander, you've made reference to his name?---I know of him um, Gary has said from what I'd heard, that Sam Alexander supplied mobile phones and telephony to the Council is what I was told and it was hoped that through the Council Sam might pick up some of the computer business through the Council, source the equipment from me and through him I'd in effect be supplying the Council. Sam would take, I think it was one or one and a half per cent or something of the total invoice cost for his services and then I would get the rest. That never eventuated.

Now you've said you've performed work at Drummoyne Council?---Yes.

That was through Mr Goodman?---Yes.

40 Correct. Did you defraud Drummoyne Council?---No.

In respect of working for Botany Council, you've said that there was an initial letter of engagement or contract, correct?---Yes.

And you said you put in a quote for the work?---Yes.

And after that, you just continued performing work for them?---That's right.

Now in respect of the work that that you were doing for the Council, that was in the IT area?---That's right.

And you said that you were providing IT services?---Yes.

And from time to time some equipment?---Yes.

10 Okay. And what were the IT resources you started performing work for Botany Council in 1997, sir?---There was, the supply, is that what you're asking the supply - - -

No, what services did you perform?---Services, not physical, services were I ran the help desk, people would ring in with faults, if you were at a Council office and you a fault with computer they all had my mobile number, mobile that was supplied by the Council. They would ring me on that mobile and ask me, can you come out and my keyboard doesn't work or whatever it might be. I would go around to the different areas.

20 Where were you based?---At the Council in Coward Street.

Now Computer Intersections that's been referred to, that's not a company, that's your trading name?---That's right.

And you issued invoices in respect of the work?---Yes.

And how did you determine what rates to put on the invoices Mr Mark?---What rates in relations to - - -

30 What did you determine to put on the invoices, how did you come up with the figures?---Well, the figures were, I would - in relation to equipment are you talking about or services?

We're talking about your services?---My services, I was under contract at the time so my services were covered under that contract. I received at the end of the week I would receive however much it was, I don't remember how much it was but for my services under contract I didn't submit invoices, it was only hardware/software and associated services for that.

40 So but this is the case isn't it, during the period 2003 to 2007 are you aware that Botany Council paid \$3 million to Computer Intersections?---No.

You're not aware of that?---No.

No, Okay. Now you said you ceased performing work in 2005 for the Council, correct?---Yes.

Did you continue issuing invoices to the Council?---No, there were some outstanding invoices that hadn't been paid, I believe they were in the order of about \$100,000 legitimate invoices.

Well, I'm going to come back to Computer Intersections. So you say the last substantive invoice you issues to Botany Council was in 2005?---Yes.

10 Okay. Now in respect of the invoices that were paid to Computer Intersections, if I can call it the kick back, is it the \$1.3 million from the monies that were paid to Computer Intersections that went to Mr Goodman?---Yes, computer, Computer Intersection.

Yes. Is that correct sir?---Yes.

Okay. And so, how did you mark up the invoices in order to ensure that the \$1.3 million was given to him over that period?---Most of the invoices were false, they weren't marked up, they were just produced.

20 So they were – so basically were just false invoices for work that was never performed or goods never given?---Yes, that's right. That's right.

And did you have a pre-arrangement with Mr Goodman that these invoices would be created by you, fabricated by you so that you could pay him?---He would ring me and give me an amount. He would say look, I need an invoice for \$12,000, whatever it might have been.

30 Okay?---Okay. Well, then I produced the invoice, gave it to him. It went through the normal process of Council.

Okay. Well, the money hits your bank account. Correct?---Goes into my bank account.

Yeah. Okay. We'll just stop there?---Yeah.

And then how were you making the payments to Mr Goodman, were they electronic transfers or were they cash payments?---No, we didn't have electronic transfers at the time.

40 Okay?---So - - -

Well, how did you make the payments to Mr Goodman?---As I said before I would either – he – sometimes he would come to the bank with me.

Ah hmm?---I would give him cash.

Ah hmm?---Sometime I would go to the bank, get cash, go back to the Council, give that to him. Other times I would make out cheques.

In cash or to him?---(No Audible Reply)

In cash, that is cash cheques, or cheques addressed to Mr Goodman?---No, cheques – some to him, some to – yeah, I think the bulk of them were to different businesses.

Gas Motorsports?---Not Gas Motorsports.

10 Okay?---RotorMaster.

What, what was that?---RotorMaster.

Yeah, and what's that business?---That's a Mazda performance centre in Wetherill Park.

So these were payments you were making for bills that were being incurred at that business for Motorsport's cars owned by Mr Goodman?---That's right.

20

Is that right?---Yeah.

Okay. So let's just go back to the start. You say that you legitimately commenced working for Botany Council. Correct?---That's right.

Yeah. And that you were performing work. Correct?---Yeah.

30 So when was the first time that you say Mr Goodman approached you and said I would like you to submit false invoices to Council so that I can get some money and in return you can stay working here?---I believe 1997.

So that's when he first approached you?---I think so, yes.

Yeah. So he came up with the idea?---Yes.

40 Yeah. And did you determine at that stage how much money you would be paying him by way of a kickback or was it just when he would approach you that he needed money?---Whenever he needed the money the invoice would be produced. The money would go into my account, it had to. Then I would – that money I would then give to him.

Yeah. So you commenced engaging in the fraud I think as you've said since 1997?---Yes, I think so, yes.

Okay. Now in terms of your bank records, if we were to look at them and examine them they would – you would be able to determine would you which of those payments you withdrew on particular days went to Mr Goodman for his benefit. Is that right?---I would think so.

Yeah?---I would think so.

And what banks do you hold bank accounts with, sir?---Suncorp now.

Only Suncorp?---Only Suncorp.

Okay. Thank you. Now I'm going to ask you some questions in relation to Australian Landscape Creations - - -?---Ah hmm.

10

- - - that Counsel Assisting took you to and, Commissioner, if I could ask that volume 45, page 46 be brought up on the screen for the witness to have a look at. Volume 5, yes, page 46. That's the ABN search document for the number that appeared on the invoice. Do you see that?---Yes, yeah.

Who are the other people listed on the document?---Don't know. They're the owners of the ABN number.

That's for the trading name Focus Flagstone Pavers?---That's right.

20

Where did you get the ABN number from?---They actually submitted a quote for a fence that we were looking to, to get erected on our property in Bundaberg.

All right. So you just thought you'd use their ABN number?---It was an ABN number I knew was current, yeah.

Okay. Now can I ask that the witness then – we go to page 36 of volume 5 to start with. You've issued six invoices to Council over that four week period September to October, 2015 totalling \$55,495. Correct?---I don't know the amount but that sounds about right, yes.

30

Just look on the screen. The first one there is \$7,920 and then if we go to the next one at page 37, the \$16,000?---Ah hmm.

And then page 39, page 41, page 43 and page 45. Those invoices that you've just been shown on the screen did you work on those invoices together with Mr Goodman in order to fabricate these invoices?---Yes.

40

You did. And in fact, this is the case isn't it, that you've sent him emails and he sent you emails as the both of you conspired to produce invoices that could be submitted into Council?---Yes.

If the witness could just be shown page 13 and page 24 of volume 5. These are samples of some of the emails that the both of you corresponded with in respect of those fraudulent invoices. Are they some of the – that's an example of some of the emails that both of you had going between you in

order to try and produce - - -?---Yes. It's a bit hard to read but, yes, yeah, I recognise that.

Okay. Now these invoices you've said, you've accepted are a fabrication you say to have a debt repaid to you. Now I just want to understand this. In terms of the money you said you had owing to you from Mr Goodman, was this in relation to cars that you say you had sought to buy but were not delivered or were they for something else?---Yes, no, they were for cars that weren't delivered and the race car that we - - -

10

Okay?--- - - - that we jointly owned.

And you've kept a list haven't you of moneys that you say you've given to Mr Goodman?---Of money that I've given to him?

Yeah, yeah. A list of things that you've done for him, you've kept a list? ---I've got a list of the items that he owes me money for.

20

Yeah?---I do have a list of that, yes.

Did you keep a list of the payments you've made to him over the years - - - ?---No.

- - - in terms of fabricated invoices?---No.

No. Tell me, apart from doing work for the Council, are you suggesting that of all the money that you conspired with him to defraud from the Council not one cent of that was a benefit to you?---Not one cent.

30 Not one cent?---Not one cent.

Is that what you say?---That's it absolutely.

On your oath?---Absolutely.

Yes. Okay. Now Comprehensive Office Supplies. I'm going to ask you some questions about that. If the witness could be shown page 7 of volume 5. That's an invoice dated 4 October, 2013?---Yeah.

40 And there's a second invoice at page 9 of volume 5. They both total about \$14,684. That Suncorp Bank account, is that your personal bank account? ---That was an account that I had under the name Comprehensive Office Supplies that no longer exists. I've since closed that.

And the ABN on these invoices is the same ABN for Computer Intersections?---Yes.

And you arranged for these payments to be made, is this right, with whom, was it Mark or Gary Goodman?---This was to the Council.

Yeah?---This was as I was saying before the printer/copier that the Business Unit at the Airport needed.

Ah hmm?---So the first invoice was for the hardware itself and this second invoice is for toners for when the toner ran out.

- 10 Can we just be shown page 6 of volume 5. That's an email from Mr Goodman to Mr Mark – sorry, down embedded below is an email from you to Mark Goodman. Do you see that?---Yeah.

Attached is the invoice re a copier. So you see that?---Yes, yeah.

And then that was sent on 4 October, 2013 and that you will see at the top is then forwarded to Mr Goodman asking for that invoice to be paid. Correct?---Yes, yeah.

- 20 Okay. Mr Fitzgerald is copied in on that. Now did you provide those toners and the laser jet printer to Botany Council?---Yes, I did.

And why did you put these items through that entity Comprehensive Office Supplies – I'll withdraw that. Why did you put these items through that trading name rather than Computer Intersection?---Computer Intersection – for some reason Lorraine Cullinane at the Council wanted no further dealings with Computer Intersection and I had Comprehensive Office Supplies was the – another name.

- 30 Was this to hide, was this to hide the fact that you were doing work?---This was to provide the, the goods to them.

Listen to the question. Was this a way of hiding the fact that you were undertaking the supply of these goods to Council?---I don't know about hiding, but I did supply to the Council under that, that business name.

But you did it because you've just said that the Deputy General Manager - - -?---Yeah.

- 40 - - - didn't want anything to do - - -?---That's right.

- - - with Computer Intersection?---With Computer Intersection, yes.

Who told you that?---I believe Gary.

And did he tell you why?---I don't recall him saying why, he just said, "You're persona non grata with, with Lorraine, so Computer Intersection, you can't do any more business."

So let's go through it again. So you used this different name with the same ABN number - - -?---Yes.

- - - in order to hide the fact that it was you who was performing the supply of these goods. Correct?---Well, I supplied the Council under this business name.

10 Okay?---It was my, my choice.

And you say you did provide these, these toners and laser jet printers?
---Yes.

Okay. Where did you get them from?---I got them from a place called Synnex in Brisbane.

Do you want to spell that?---S-y-n-n-e-x.

20 Ah hmm. And when did you do that?---It would have been shortly before that invoice, it would have been delivered first and then I would have invoiced.

And how did you pay them?---I paid them through my bank account.

Electronic transfer?---Um, I would assume it would be electronic transfer.

When you say you assume, how did you pay it, do you know?---I don't remember. I assume it would be through electronic transfer.

30 And what was the type of printer?---It was an HP, I don't remember the actual model number.

Okay?---It was unusual because it's huge, it's very big.

Who asked you to do that?---That was Gary through Sam Alexander I think, I think Sam forwarded an email on from Gary and then I, I'd directly liaise with Gary, and after that with Mark of course.

40 You told the, you told the Commission in the beginning I think of your evidence that you'd done no work since 2005 for Botany. Correct?---Yes.

So was this an exception, was it?

MR THANGARAJ: No, objection, so - - -

THE COMMISSIONER: He said he provided no physical services.

MR MOSES: Thank you, Commissioner.

THE COMMISSIONER: He did say he supplied hardware.

MR MOSES: Thank you, Commission.

THE COMMISSIONER: Yes.

MR MOSES: Thank you.

10 So you supplied hardware. Was this the hardware you were referring to?
---Yes.

Thank you. And if I was to suggest to you that that printer was in fact not delivered to Botany Council, would that surprise you?---Absolutely.

Yeah?---I know for a fact it was.

You know for a fact it was. Did you deliver it?---I didn't deliver it but the
20 company delivered it, Synnex. You can get in touch with them.

Did - - -?---They delivered it.

So you didn't physically deliver it, did you?---It takes a forklift. I actually got in touch with Mark and asked do you have a forklift on premise, because they're telling me you need a forklift to take it off the back of the truck.

Thank you. Now, I'm going to show you a file of documents concerning Computer Intersections. I just want to go back to that if I can.

30 THE COMMISSIONER: Mr Mark, can I just ask you, was that a, was that hardware that you just spoke about supplied to the Business Unit at the Airport?---At the Airport, yes.

And am I correct in that most of the inflated invoices or false invoices were to the Business Unit at the Airport?---No, no, that was to the Council in - - -

That was to the Council?--- - - - in Coward Street in Mascot, yes.

All right. But this particular equipment was supplied to the Business Unit?
40 ---Yes.

MR MOSES: Thank you, Commissioner.

I'd like to just show the witness this folder. A copy has been provided just this morning to the solicitor assisting the inquiry. We didn't seem to find these documents on the volumes that the Commission had. One of them was the email which is now Exhibit 2 of course behind tab 1, but the items I think behind tab 2 and tab 3 aren't, aren't on the restricted site.

Commissioner, is it convenient if I proceed on this?

THE COMMISSIONER: Yes. Are these documents that we - - -

MR MOSES: So behind tab 1 is - - -

THE COMMISSIONER: - - - have not yet placed on the restricted Website?

10

MR MOSES: Correct. Tab 1 is now in evidence, Exhibit 2, which is that email.

THE COMMISSIONER: Yes.

MR MOSES: And tab 2 and 3, on our understanding, they're not there. We may be wrong but we just haven't been able to locate them in the time since Wednesday.

20 THE COMMISSIONER: These have come from your client, have they, Mr Moses?

MR MOSES: They have, they have.

THE COMMISSIONER: So they may not have found their way into the possession of the Commission?

MR MOSES: They may not, they may not.

30 THE COMMISSIONER: Right. Yes. Go on.

MR MOSES: So can I ask you to go behind tab 3, Mr Mark. So you might recall I asked you a question earlier in respect of Computer Intersections receiving approximately \$3 million between 2003 and 2007, and I think you said, "Well, that's not right." Correct?---Mmm.

40 Okay. So let's just break this up. You say that Mr Goodman was given by you \$1.3 million in relation to fabricated invoices or inflated invoices. So of the money that you took from Botany Council, what were, what was your, your take, if his take was 1.3, what was your take?---Anything that went through Botany Council I provided as a consultant through my business.

Ah hmm?---I bought the, the equipment, I provided it to Council, I put a mark-up on it and I provided it to Council, so anything that I made was from that mark-up of the goods provided.

Do you know sitting here today how much you've actually received in payments?---No.

No, you don't. Okay. Now, there's a lot of computer supplying going on by you for, for a relatively small council, isn't there?---Yes.

Yeah. Where did you get the computers from?---Different places, but as I said, the last one was Synnex.

Yeah?---There was a company - - -

10 No, let's go back between 2003, let's go back even further, 1997 to when you say you ceased doing this, which was 2005, where did you source the computers from?---I was attempting to answer that question then.

Please?---There's a company called Top King Computers in Drummoyne.

Top King Computers?---Top King.

In Drummoyne?---Yes, yes.

20 Ah hmm?---I got, I sourced some from there. In due course the Council, I think Peter Fitzgerald himself, requested can we go to Compaq brand of computers only because these were clones that I'd branded with my own name. So from then on I bought everything from a place called Dicker Data in Taren Point I think they are, so I sourced almost everything from them and some from a place called Alloys in Melbourne.

Alloys?---Alloys, A-l-l-o-y-s.

Did you have accounts with these two entities?---Yes.

30 Okay?---Oh, well, they weren't accounts, they were, they were cash on delivery.

Cash on delivery?---Yes. I didn't have a credit arrangement with them.

Okay?---I would pay upfront and then they would deliver the goods.

40 So you would have a record, would you, if we looked in your bank account, Suncorp bank account would we have a record of – let me finish the question, would we have a record of all the payments that you made to those entities that would demonstrate that in fact you did obtain documents from those entities, sir?---You'd, you would see the, the, the payment to Synnex

- - -

Ah hmm?--- - - - but the Suncorp account I've only had for a few years.

Yeah. So how were you paying those two entities, how were you paying Top King Drummoyne for instance?---That was – when I was in Sydney

- - -

Ah hmm, ah hmm?--- - - - I had accounts, I had one account with ANZ and I had an account with St George, so it would have been from one or other of those.

So you've got an account with the ANZ Bank, you had one?---I did have one, yes.

Have you closed it?---Oh, yes, yeah.

10

Ah hmm?---When we moved to Queensland I closed everything.

And what was the other bank account?---St George I think.

St George bank account?---Mmm.

So the payments went from those two bank accounts?---Yes.

Because we're going to try and trace this through?---Yeah, I understand.

20

In terms of the, the payments went from those bank accounts to those entities. Is that right?

Yes. And that will demonstrate, will it, that you in fact paid for items from those entities?---Yes.

And what were your internal records that showed that those items that you purchased from there actually went to Botany Council?---Well - - -

30

How did you, how, how were they delivered, did you go and pick them up or were they delivered - - -?---Some I did actually pick up.

Some did?---Yes, yeah.

What about the vast bulk of them?---I don't know even if it would be the bulk, probably 50 per cent would be delivered. Often I would go and pick them up because - - -

Often?--- - - - I was at Mascot - - -

40

Ah hmm?--- - - - and as I said, Dicker Data were at Taren Point.

Ah hmm?---It was only a short distance, and always whenever I received a request for, for gear, it had to be delivered there and then, there was always an urgency. So sometimes I would go and pick it up and provide it that same day.

And how would you record this in your expenses for the business?---I had a list, but remember this is 20 and 15 years ago, if you're asking if I can produce records, I don't have them now.

I'm asking say between 2000 and 2003, you've got no records?---No.

10 No, Okay. Now if you go to item Tab 2 for me in the folder there's a remittance advice here which is behind Tab, there's a remittance advice there for 22 December, 2010 for Computer Intersections for \$112,265.67.---
Yes.

That's not a surprise to you is it?---No, no, these were - - -

No, okay. Now you'll see there are 16 invoices attached to that remittance advice.---Yes.

And you note the dates for those items?---Yes.

20 And the various dates are during 2005/2006 and they're for several toner cartridges, printers and for the replacement of various items?---Yep.

And these were all ordered by Mr Goodman were they, Gary Goodman?
---Yeah.

And there's no bank account details on the invoices? Just have a flick through them to satisfy yourself.---Yes, I remember the invoices.

30 Just satisfy yourself there's no bank account details on there, is there sir?
---No.

And there seems to be about 265 toner cartridges per month between November 2005 to May 2006, correct?---I accept what you're saying.

Well, these are fabrications aren't they, sir?---These are not fabrications, these are items supplied to the Council prior and during the time that my accident occurred.

So these invoices were dated 2005 and 2006?---Yes.

40 When did you supply them?---They would have been in 2005/2006.

You supplied them to whom?---To the Council.

And they were only paid in 2010?---That's, was the problem with them because of my accident I was trying to recover from the accident under rehabilitation. These were items that were supplied to the Council that I didn't get payment for.

Right.---After I'd recovered from the accident I got in touch with Gary Goodman and said, look, I have these invoices they haven't been paid, I'm carrying the Council. If you need prove that they were actually delivered, there's a fellow called Mark Thompson that works at the Council. I said get Mark to check and you'll see over that period of time, the cost of consumables to the Council was zero because I'd supplied them all but I hadn't been paid.

Are you finish?---Yes.

10

Do you want to go to Tab 3 and look at the front page, sir. You were issuing invoices - - -?---I can't read this.

Sir, you were issuing invoices, listen to the question then - - -

THE COMMISSIONER: Just sorry Mr Moses, just a minute. The witness has just said he can't read the document.

20

MR MOSES: I'm going to put it to one side and ask him this question.

THE COMMISSIONER: Right.

MR MOSES: You were asked earlier in respect of when you ceased providing services to Council you said 2005 but you continued to provide hardware. Is that what you said?---Yes.

30

Okay. In 2006, is this the case though, you were issuing invoices to the Council and being paid for them, weren't you, at the time?---I wasn't being paid no, no.

Okay. Is that your evidence?---That is these, these invoices that you're referring to here.

Okay. And if I were to put to you a proposition that you issues invoices in 2006 and in fact, the records show that you were being paid amounts of money you would say that would not be right?---I'd need to see what you're talking about.

40

Okay. Well, let's go back then to behind Tab 3. If you look at the items on the first page and if you and you say you can't read this?---I can't read it, no.

You can't read it.

THE COMMISSIONER: I'm having trouble myself Mr Moses and it's just the size of the font. Can we produce a larger copy?

MR MOSES: Can we can blow it up. Now these, this creditor remittance advice that you received as payment, did you chase it up?---Yes, in time I did, yes.

When did you chase it up?---When I recovered from my accident, I can't give you a date.

Can you give me a year?---Um, I'm no, I'm not sure.

10 You can't?---No.

No, okay.---It would have been - - -

Who did you speak to?---Gary. It would have been shortly before they were paid.

Okay. And these invoices that are attached to the remittance advice, did you resupply them to somebody?---No.

20 No. They disappeared did they?---They were supplied to the Council over that period of time.

Did you email them a fresh to somebody?---Did I - - -

Did you email them a fresh to somebody?---How did you mean?

Did you, did you send them to - - -

30 THE COMMISSIONER: In other words, did you, did you cause them to reissue and send them again to Mr Goodman?

MR MOSES: Thank you Commissioner.

THE WITNESS: The items or the email?

THE COMMISSIONER: Did you cause the invoices to reissue and send them to Mr Goodman?---Oh, I beg your pardon.

40 That's what we're asking?---No, not, I may have had reissued the same invoices I don't believe I did, I think there was the original copy I would have sent. I don't, I didn't reissue them myself.

MR MOSES: Okay. Now, look at the invoice number up the top, did you produce these invoice numbers?---No.

Are they automatic or did you just make them?---No, no, I put them in myself.

Yes. Well, I mean, for instance, if you look at the first page there, the one for 24 May, 2006 we're not supposed to infer from that that we, that by 24 May, 2006 you'd issued 502 invoices, correct?---(No audible reply)

Look at the top right hand corner, Mr Mark?---Of Tab 2.

Behind Tab 2.---Yes.

10 The first invoice behind the remittance advice, invoice number 2006 0502, do you see that?---Yes.

Okay. Are we to infer from that that you issued 502 for 2006?---No, no, no.

Okay. So - - -?---05 is the month, 02 is the invoice number.

Okay. So 05 is the month and 02 is the invoice number?---That's right.

And that's consistent is it - - -?---Yes.

20 - - - following everything else, that's how I'm to look at this?---That's right.

Okay. And did you, the invoice number system, were these automatically generated?---No, I physically put them in.

You physically put them in?---Yes. If the previous was 01 the next invoice would be 02 and I would change the 01 to an 02 to keep them - - -

30 Did Computer Intersection supply anybody else around this period?---Not during that period, no.

Okay. And did you think it was a bit odd that this small Council needed 265 toner cartridges per month during that period?---I haven't seen that figure of - - -

Well, these are on your invoices, sir, in terms of the - - -?---Well, if that's right, then that's, that's correct, that may be some of the - - -

Sorry?---That may be some of the inflated invoicing that I did.

40 Some of the inflated invoicing?---Yes.

So this is part of the fraud, correct?---I don't know, I'd have to - - -

You don't know, you just don't know, it might be fraudulent, you just don't know?---I would have to see the invoices.

Okay. So sitting here today, you can't tell us on oath, you can't tell The Commissioner, whether one invoice is a fraud or a fabrication or whether one is actually what you delivered, correct?---(No audible reply)

Let's be blunt about it, sitting here today, you're not in a position to do that, correct?---Can you restate that.

10 You're not in a position today to sit down and say on your oath, now, behind Tab 2, if I go to each of those invoices and say, what is fraud and what is not, some of them, some of them may be, some of them may not be, you just don't know which ones are which sitting here today?---That's correct.

20 Thank you. Now let's go to your 5 September email, Exhibit 2. This is the one Commissioner, that my learned friend took the witness to. You can look at it on the folder or it would come up on the screen when it's convenient to The Commission. Now just in relation to the second paragraph about the reference to the mails not being monitored, did you communicate with Mr Goodman, Gary Goodman through a private email address, that is to his own private email address or was it always through Council?---I don't know if he even had a private email address, it was always to this Council one.

So when you were doing something dodgy, it didn't really matter, you'd send it to the Council email, correct?---Whenever I needed to communicate with Gary it would be to the Council email address.

30 Regardless of whether it was for something that was being done honestly or dishonestly, you'd go through there?---I didn't have any other email address.

Thank you. Now in respect of paragraph 4, you've said "I've given you a list three times of what I'm talking about and you will know that is all my money that's been spent to provide you with whatever you've wanted over the years". Do you see that?---Yeah.

Where is this list?---I've provided that list.

40 To whom?---To the Commission.

Thank you. Now you say in the fourth paragraph "I've been paid", "I have paid a stack of extra tax since I've put all these invoices through legitimately and fully paid GST". Do you see that?---Yes.

Now just in relation to that, in respect of those invoices in which you misrepresented what you say was your true income, have you done a calculation of what that is?---(No Audible Reply).

Have you done a calculation of the false BAS statements that you put in to the tax office?---I didn't submit any false BAS statements.

You didn't?---No.

No. Okay?---I can show you BAS statements to the full - - -

So you didn't, you didn't put no false BAS statements in?---I paid full GST, I paid full tax on everything that went through the business.

10

Right. For services that, for services that you did not provide, correct?---
Some were.

Okay. And you don't understand that's putting in a false BAS statement, is that right?---I understand that the money that, that I was paid I fully divulged and paid GST and disclosed on my BAS statements.

Okay. Can we go to the inflated amount reference in paragraph 4. You just don't know sitting here today how much invoices were inflated, do you?---

20

No.

Can't remember?---No.

No. Now in the fifth paragraph, "Remember this is my money that's been given to you, for example, cars, van and supposed extra income made through Council that's gone to you". So I just want to understand your evidence. You say that the 160,000 was in respect of cars that you had paid for that didn't come, correct?---Yes.

30

Is that right?---Yes.

And then there's a reference there in the fifth paragraph and supposed extra income. So was the 160,000 to do with something else apart from the cars?--No. The extra income was referring to the invoices.

Okay. And I think you've told us that you gave the money to him through a combination of three ways, I think. Either cash, either through a cheque being paid to a business where monies were owed and the third one, but correct me if I'm wrong, was for a cheque made out to him or his business.

40

Is that right?---Yes, sometimes, yes.

Okay. And in the sixth paragraph "Funny how you can look after everyone else who comes to you, but you're not willing to give me back what I've actually spent for you". Do you see that?---My screen's gone blank.

Okay?---Which paragraph were you referring to?

The sixth paragraph?---The sixth. Oh, yes, I've got that, yeah.

Who else did Mr Goodman look after?---He, that was referring specifically to his father.

Referring to his father?---Yeah. And as I referred to the, the girl before that had the, the cancer problem?

Okay?---And I assumed that, you know, I, I was of a closer association with him and I would've thought that he would've repaid his debt to me.

10

Okay. And the next paragraph is paragraph 9. You were taken to this "You also told me that I would get some business from Sam who I've never heard from"?---Yes.

"And that I'd pick up the deal for the replacement PCs for Council that hasn't happened either", do you see that?---That's right, yeah.

And are you referring that is Sam Alexander?---Sam Alexander, yes.

20

Yeah. It was. Is he also known as Silver Sammy?---I don't know. I know him as Sam Alexander. I've never actually met him, I spoken to him once on the phone.

And then the next paragraph is "Don't know what your", this is paragraph 10. "Don't know what your salary is but it's way better than mine. Not to mention your bucket load of super. I also don't have multiple fuel cards and company cards", et cetera. Do you see all those reference there?---Yes, yes.

30

And again you are making reference to that, I think, as you've told Council Assisting because you had observed him using those items?---That's right.

For personal use?---Yeah.

Did he ever use those items to give you a benefit, sir?---No.

No?---I beg your pardon. A fuel card was provided while I was at Council for and I had used a Council car and I had a fuel card supplied to me four years ago.

40

And did you use that fuel card for personal use?---At times I did, yes.

And if you go – this is, I think in paragraph 10. "If you insist on ignoring, flicking me, I'll ring Council on Tuesday, 15 September, and make an appointment to meet with the General Manager and Lorraine". That's the Deputy General Manager, correct?---That's right.

For the following week and show them all the documentation I have, correct?---Yeah.

And that was in effect your threat to Mr Goodman that if he didn't do what you told him to do you were going to report on him to the General Manager and the Deputy General Manager?---Yeah.

And did you go, and you didn't go see them on the 15th of course, did you?--No.

Because the monies were then being paid to you?---That's right, yes.

10

And the fourteenth paragraph. This is the reference to the 1.3 million. How did you calculate that it was around 1.3 million that you had given to Mr Goodman through the fabricated or inflated invoices? Did you keep a list, well how did you come up with it?---No. I looked at several monthly invoices and took an average and then used that to calculate the figure, but always just an estimate.

Just an estimate?---Yes.

20

Could have been more, could have been less, you don't know sitting here today?---That's right.

Thanks so much. Can I just show the witness this document. Is this the list that you've referred to in your email which is Exhibit 2 that you provided to the Commission?---Yes.

And this sets out does it the expenses which you say you paid for Mr Goodman or for items that you were purchasing with him which you never received?---That's right.

30

And then in item 9 there's a reference there to the extra income tax you've had to pay over the years - - -?---Yes.

- - - because of the inflated taxable income?---That's right.

Okay. Thank you. I seek to tender that, Commissioner, to have that marked.

THE COMMISSIONER: Yes. Exhibit R3.

40

#EXHIBIT R3 - LIST OF EXPENSES CLAIMED BY KEITH MARK FROM GARY GOODMAN

MR MOSES: So in just in summary, Mr Mark, is this, is this the position, on your evidence you say that Mr Goodman requested that you fabricate invoices or inflate invoices commencing in 1997. Correct?---Yes.

And you did so?---Yeah.

And the amounts of money that were then paid – this is your evidence – the amounts of money that were then paid to you by the Council in respect of the fabricated or inflated amounts you gave to Mr Goodman or paid bills for his benefit?---That's right.

10 And that in respect of this fraud that you conspired with Mr Goodman in your evidence is that you did not retain any money in respect of the fraud?
---That's right.

But you allege on your oath that the reason you did this was so that you could continue providing services to Council?---That's right.

And sitting here today you are unable to go through invoices individually and point out which is a fabrication and which is not, you would not be able to do that with any confidence?---I have no invoices.

20 Well, the documents I showed you before in relation to the \$112,000 creditor remittance advice, in respect of those invoices for instance you wouldn't be able to go through them now and say on your oath which is a fabrication and which is not, you're just not able to do that?---I would need – you're showing me a list of invoice numbers. I would need to physically see the invoices.

Okay. Let's do it the hard way. Do you want to go to tab 2. Yeah. Okay. Go behind the creditor remittance advice. Do you have that?---I beg your
30 pardon?

Go behind the creditor remittance advice?---Oh, okay. Yes.

You have that?---Yeah.

What do you think these are, are they invoices?---Yes.

Okay. They're not just invoice numbers are they?---No, they're - - -

40 No?--- - - - they're actual invoices, yeah.

Okay. And sitting here today you would not be able to say which of these are a fabrication and which are not. Correct?---(No Audible Reply)

Remember your evidence earlier when I asked you questions about this?
---Yes, yeah.

Okay.

THE COMMISSIONER: Mr Moses, I understood that you were as it were summarising Mr Mark's evidence - - -

MR MOSES: Correct.

THE COMMISSIONER: - - - and you were concluding the cross-examination.

10 MR MOSES: I was. I was. That tab 3 - - -

THE COMMISSIONER: Can I – yes. Can I - - -

MR MOSES: That tab – I'm sorry, Commissioner. I interrupted.

THE COMMISSIONER: And I know you want to go to that further document. Can I suggest we take the luncheon adjournment.

MR MOSES: If that's convenient.

20 THE COMMISSIONER: Mr Mark can have a look at these invoices and then we can resume at half past 1.00.

MR MOSES: If that's convenient.

THE COMMISSIONER: Yes, thank you.

LUNCHEON ADJOURNMENT

[12.31pm]

30