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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE MEGAN LATHAM

PUBLIC HEARING

OPERATION GREER

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON THURSDAY 19 MAY 2016

AT 2.05PM

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

THE COMMISSIONER: Yes, we could have Ms Maltby back in the witness box. Yes, Mr Fitzpatrick.

<KAREN MALTBY, on former oath

[2.06pm]

MR FITZPATRICK: Thank you, Commissioner. Ms Maltby, do you have volume 11 still in front of you?---Yes, I do.

10

Yes, thank you. Could you please open it to page 55.---Sorry, what page?

55.---Yes.

And that's the cash disbursements journal for GLALC that we looked at earlier. There's two transactions that we looked at before at the bottom of the page, the one – let's focus on the one at 7 June, 2010.---Yeah.

20

You see the number there, the total which comprises what's called a contractual payment and a GST component comes in at \$9,241.66.---I see that entry.

If you turn over please to page 58 and do you see amounts – do you see entries for the same amount as we go down on 26 July, 2 August, 27 September, 5 November?---Yes, I see that.

30

This appears to be some sort of periodic payment from GLALC to Waawidji. Do you agree with that?---There appears to be payments to him, yeah – to Waawidji, yes.

And they're all in the same amount and they're almost monthly?---It appears that way, yes.

Is it your evidence that those would have only - - -?---Sorry?

Is it your evidence that those would only have been paid in response to an actual invoice?---I only processed payments when I had an invoice, yes.

40

And this is – these examples that we're looking at on page 58 are again in the period after May, 2010 when the contractual arrangements change over for Mr Johnson. Do you see that?---Yes.

So do you have any explanation for these payments other than that you received an invoice requesting payment from GLALC to Waawidji in these amounts?---I just honestly can't remember these transactions I'm sorry.

That wasn't my question. Do you have an explanation for them other than that you would have been paying in response to an invoice that GLALC

received from Waawidji?---I would have received an invoice for all transactions that I processed.

Okay. So it wasn't that there was some sort of automated payment set up at any point?---No. I didn't have that set up.

Okay. If you go to page 57. Now, I appreciate that you left Gandangara in early 2011, but you see here, at least for February and March and April, we have again those entries for the same amount.---I can see those entries, yes.

10

Okay. The difference here is this is a cash disbursement journal for GMS payments to Waawidji. Do you see that?---I do. Yes, I do.

Yes. Is this again a scenario in which you would have made those payments in response? Or (not transcribable) that first one was while you were still at Gandangara, that it would have been in response to an invoice addressed to - - - ---That was my procedure. I did all payments with invoices.

Okay. Now, looking at that number, turning back to page 55, the one from 7 June. The contractual payment amount there is \$8,401.51.---That's correct.

Okay. Please take it from me that if you multiply that by 12 you get \$100,818.12. That is very close to the amount that Waawidji was to be paid under its contract with GMS. And you'll see that at page 124. We're out by about \$72 on the hundred thousand.---I can see that. I'll take your word for it with the figures, yes.

Thank you. Now, that amount, the 109,000, was payable under a contract between Waawidji and GMS. What appears to have occurred is that on page 55 you have initial payments reflecting that amount coming from GLALC to Waawidji, and then that continues in the second half of 2010, on page 58, and then there's a changeover to payments, the same amount, from GMS in - - - ---Sorry, page 58 is from Gandangara.

30

Yes, that's right.---All right.

So 55 and 58 are both GLALC.---Yes.

And then 57 is into 2011, and that's GMS. Do you see that?---I can see that.

Was it the case that the payments due to Waawidji under the contract from GMS were simply paid from GLALC's accounts in the first part of that period, and then it switched over to being paid by GMS in 2011?---It appears that way.

Do you recall when GMS first had a bank account?---No, I'm sorry. It would've been the end she was created.

If the witness could be shown volume 14. Thank you. If you could turn to page 223. These are the bank account statements for GMS's account. And on page 223 this is the document which indicates on 22 June, 2010, the account is opened?---That's correct.

10 And if you flick forward through the periodic statements the account is initially in debit and it moves into credit at 225. It remains in credit but under \$200 at 227 and 229 and there is then on 231 a substantial influx of money in December of 2010 to indicate it's from Deerubbin, Deerubbin Local Aboriginal Land Council?---I can see that, yes.

You'd agree that that lines with the entries that we've seen in the cash disbursements journal that GMS's bank account was not in a position to make the monthly payments in the order of \$9241 until the end of 2010?---Well there was no funds available, yes.

Right. So - - -?---Going on this.

20 So the inference would be that those payments though due from GMS were made from GLALC's own account?---As I said before, I don't recall seeing the contract between GMS and Jack. So that's why it would've been paid out of Gandangara originally.

Sorry. So your explanation is not that you would've looked to the GMS account and found no money and so therefore look for another account to pay?---I don't know whether I didn't that or not. But as I said I never saw that contract at the time.

30 So you would've paid out of the GLALC account out of habit from the arrangements that applied to Mr Johnson before May 2010?---Yes.

And then at some point later someone must've instructed you to make those payments out of the GMS account instead?---Obviously.

Well, if you say you never saw the contract it wasn't that you came to your own realisation that it was - - -?---No. I was instructed and the accounts were all there for the auditors to see and they saw all the transactions and the tax invoices, et cetera.

40 Who instructed you which accounts you should be using to pay Mr Johnson's payments?---I don't recall, I'm sorry.

Well was it Mr Johnson?---It may have been but I don't recall his words or anything or when it was, when I was told.

If it wasn't Mr Johnson who else could it have been?---No one really, yeah.

So does that mean that – your best recollection is that Mr Johnson would've been the one to tell you?---Yes.

Sorry, thank you. Volume 14 can be returned. I think you still have volume 11. Now in volume 11, look briefly at the email at page 130. Which was Mr Johnson's email to Mr Cronan where he attaches a document where there's a statement as to what the CEO's current base salary package is. See that?---I see that.

10 Did Mr Johnson ask you as to what the value of the CEO's current base salary package was in advance of him sending this email on 3 May?---I don't recall.

Did he ever have occasion to ask you what am I currently being paid, what is my salary package worth?---Not that I recall.

20 Thank you. If the witness could be shown volume 20 please. The – we talked earlier about the results bonus as one of the components of Mr Johnson's remuneration. Now, the results bonus is, there was the performance allowance, the remuneration package increments and the results bonus.---Ah hmm.

And the results bonus is the one that's referable to a surplus in the GLALC accounts?---Yes.

Okay. And I believe your evidence before lunch was that you don't recall ever having calculated a bonus of that kind?---No, I don't recall.

30 Okay. In volume 20 at page 215, now, this is in relation to a bonus that was paid after you left.---Yes.

Now, the – there's an invoice at 215 and that's one of two that make up the relevant amount of Mr Johnson's bonus but you can pass over that to 216. These are the calculations of your successor, Mr Gundar, of the results bonus for the financial year ended 30 June, 2011. Does the format of this worksheet look familiar?---No.

40 Did you ever create a worksheet for the calculation of a results bonus under any contract for - - -?---I don't believe so. I don't recall doing one.

The calculation at the top, I think the, the first entry, the first line on this page reads future funds reconciliation as at 28 June, '11. Do you have any understanding of what the significance of future funds or a reconciliation of the future funds was for the purposes of calculating a results bonus for Mr Johnson?---No, I don't.

Thank you. We were talking also before lunch about the process by which Mr Johnson claimed reimbursement for expenses. Was it ever the case that

you knocked back an expense claim?---I don't recall if I did or I didn't I'm sorry.

Was your - - -?---I, I do – did ask questions when I did get claims and – but I don't know remember if I knocked any back or not.

Do you recall an incident in which he made a claim for a snorkel for a four-wheel drive?---No, I don't recall that I'm sorry.

10 You have no recollection of that?---No.

So you don't have any specific recollection of any occasion on which - - -?
---It's a long while ago now. I don't remember a snorkel.

THE COMMISSIONER: Do you have any recollection of taking any of the expense claims to a member of the Board and seeking their clarification about whether or not the expense claim came with in the relevant duties?---I had a Board member sit with me once a week or month or – who came to look through the payments that were made.

20

Was it the same Board member each time?---No, it varied.

And can you remember who those persons might have been?---In the beginning, it was probably Tracey Ontiveros, Danny Thorne. Sandra Williamson there, she did that for a couple of years, like, on and off. And Cindy Cronan. Yeah, and I would just show them my working folder and they'd go through it with me.

30 And when you say your working folder, was that after you'd received all of the claims and you'd produced a spreadsheet?---I didn't have a spreadsheet.

Well - - - ---But it showed the claims and the payments of those claims.

And the amounts?---Yes.

And I'm assuming that was before they were paid.---Not all the time.

Sometimes after they were paid?---Yes.

40 MR FITZPATRICK: When you were presented with a receipt, what steps did you take to verify the legitimacy of the claim?---That would vary on what the receipt was for.

Well, for example, a car hire receipt.---Well, I would get a tax invoice. It would say who the driver is or whoever organised it, and usually it was – I didn't have a lot of reimbursements back then. It was mainly all Jack Johnson's reimbursement, and he gave me tax invoices.

So when Mr Johnson presented you with tax invoices, did you check that they were valid claims?---There was usually no reason. He had given it to me and he would say, "That's for my trip up in Queensland."

So you took at face value the receipts that you were given?---Yeah, he was my boss. I don't question the boss in everything he did.

10 THE COMMISSIONER: So did it amount to this, really? At the end of the day, if he gave you a document and said that it was an expense that was work-related, you took him at his word?---Yes.

Right.

MR FITZPATRICK: Did the Board ever see Mr Johnson's expense claims?---Yes, when they went through them with me.

20 That was individual members of the Board? Was the month's expense claims presented to the Board at meetings with the accounts?---I don't recall the actual way I presented everything to them. The accounts books were there if they wanted to ask questions as well. I took the folders in with me. But they had looked at them during the month as well.

And when Board members sat with you and okayed expense claims, did they have questions for you about "Why was this claim being made?"---I can't recall, no.

Would they have checked with Mr Johnson as to why - - - ?---Oh, I can't say if they checked with him or not.

30 Well, whose responsibility was it to make sure that Mr Johnson was only being reimbursed for legitimate work expenses?---They weren't made up invoices. They were invoices he gave me and said that he was entitled to be reimbursed for them. So I didn't question - - -

But whose responsibility was it to make sure that that was what was happening?---I really don't – at the end of the day, maybe mine.

40 If the witness could be provided with volume 35, please. 35. And page 145, please.---Sorry, what page?

145. Now Ms Cronan, I'd like to step through some examples of what we've been discussing about the process by which Mr Johnson's expense claims were made. The document at page 145 and the page numbers are at the top, is a document from the car hire company, Avis?---Yes.

And this appears to be a record of a booking. You can see at the beginning at the top of the first line it says "Your car is reserved"?---Yes.

And there's an estimated total?---Yes.

So you'd agree that this isn't a tax invoice?---Yes, I do.

Now the page preceding this in the volume is a spreadsheet of Mr Johnson's expense claims. You see the third row of the spreadsheet there's an entry dated 22 August, 2010 for Avis?---Yes.

And it's for \$179.66?---Yes, it is.

10

This is the invoice that's been presented supporting that entry on the spreadsheet. Do you agree with that?---It appears that way, yes.

So notwithstanding that there isn't a tax invoice presented there's only an estimate of a future booking. That amount has been entered on the spreadsheet on page 144, is that right?---Sorry, can you ask the question again?

20

The amount of the estimated total rental for a future car rental booking - - - ?---Yes.

- - - has been entered for reimbursement on the spreadsheet on page 144?---I can see that, yes.

The number there at the bottom is 10,832.50?---That's correct.

And then the page before that there's, that's 143, this is a record of a transfer from the GLALC bank account to Waawidji in that same amount, 10,832.50?---It is.

30

Is that your signature authorising the EFT transfer?---It is.

Would you agree this is an example of Mr Johnson being reimbursed for something not based on any tax invoice?---From memory he would then give me an invoice later on and if there was any difference I'd change the next spreadsheet and adjust it.

40

Okay. That's different to what you told us before was the process?---Okay, well, I'm sorry, it was a long while ago.

Okay. That is actually what happened on this occasion. If you turn now over to page 152. Sorry, those spreadsheet documents, the one that we just looked on 144, who created that document?---I believe I did.

Okay. So let's go now over to 152. This is the actual tax invoice for that car booking?---Yes.

And the amount is \$111.28?---Correct.

And if you look at the previous page, 151, there is a credit?---A deduction, yes.

Yes. And that's the difference between the one we looked at before - - -?---Correct.

10 - - - and this (not transcribable). And so that's reflected as against the other expenses that are claimed on this spreadsheet and paid which you see in the reference on page 150, there's the bank transfer?---Yes.

Okay. Now, once a tax invoice had been presented, did you ever confirm that it hadn't been presented before?---I would look back on the previous spreadsheets.

Okay. The - if you go to page 147.---Sorry, 1?

47.---Thank you.

20 This is a different spreadsheet where we have about 12 lines down an entry on 22 August, 2010 for Avis and the amount there is now \$111.28. ---Ah hmm.

Which is now the tax invoice number in the document at 152.---Just, this isn't my spreadsheet. I don't believe I was at Gandangara at the time. I was recouping from a operation.

30 THE COMMISSIONER: The operation?---Yeah. It would have been the lady that was doing my work.

How long were you away when you were recuperating?---I can't remember if it was four - six or eight weeks. It was major surgery.

MR FITZPATRICK: So there's an approval by the Finance Manager there and that's someone who was doing - - -?---Susan White.

Susan?---White.

40 White. So it appears at the very least that the same charge has been reimbursed a second time.---It appears that way.

Was Ms White instructed to check for double reimbursements in any training she was provided?---I was told Susan White was an accountant, a trained accountant so - - -

Did you overlap with her at all?---I think there was a few weeks. Yeah, a couple of weeks.

MR DOCKER: Excuse me, Commissioner.

THE COMMISSIONER: Yes.

MR DOCKER: Could I just ask my learned friend to raise his voice again. We just can't hear him.

THE COMMISSIONER: All right.

10 MR FITZPATRICK: Sorry. Thank you. We'll look at another example and it's in a different volume. Volume 38 please. We start at page 266. You will see there in the – or actually perhaps we should check the authorities. On page 265 there's a stamp.---Ah hmm.

Is that – are those your initials approving this transaction?---No.

Do you know whose those are?---No, I don't.

20 This is an approval in March of - - -?---It looks like 22 March it was processed.

So the – so if this – the reimbursement on this occasion occurs, this is after you've left?---I believe so, yes.

Do you recognise the signature of the authority?---No, I don't, I'm sorry.

30 Okay. I apologise. If the witness could be given volume 36. And could you look at page, sorry, I'll just ask you a question first. Were you responsible for generating pay slips?---Yes.

And the information included on pay slips often included, recorded when someone was on leave, on holidays?---If they were entitled to annual, yes, I put that on.

But the fact that they took leave was reflected in a pay slip by processing it as hours of leave pay?---If they were on leave, yes.

40 If I can show you page 223 of the volume. This is familiar in the form of a GLALC pay slip?---Yes.

This is Mark Johnson's pay slip and you'll see on the third entry in the description, there's holiday pay and there's 30 hours?---That is correct.

And that's for the week of, for the pay period 25 August to 31 August, in 2010?---That's correct.

Okay. The next two pay slips are relevant and you'll find those at page 226 and 229. On 226, again Mr Johnson's pay slip for a period 1 August to,

sorry, 1 September to 7 September. And there's holiday pay for 37 and a half hours?---Yes.

And that's, so that's the full week?---Ah hmm.

And then on page 229, there's the pay period 8 September to 14 September, and we have 30 hours of holiday pay?---Yes, I see that.

10 Okay. So in this period between 25 August and 14 September, Mr Johnson took leave?---I don't recall if he did or not because as I said I, I was in hospital in September, so I'm just not sure of the dates. And I can't recall the exact time he took annual leave.

So you don't know one way or another if you were responsible for entering information for (not transcribable)?---So these exact periods, no, I can't confirm it.

20 Okay. Now if I can show you page 244. That's a document reflecting charges for flights for - - -?---It appears that way.

- - - Mr Johnson from Sydney to Bangkok, Bangkok, and Bangkok to Manilla. Is that right?---Yes, it appears that way.

Now, those amounts are then reflected in a spreadsheet that you find at 243.-
--That's correct.

And that's paid under your signature on the bank transfer - - - ---Yes.

30 - - - 242.---Yes, it is.

Now, the dates of those flights fall into the period of Mr Johnson's holiday.
---It appears that way, yes.

Do you have a recollection of why you reimbursed him for his flights not on work days, as you mentioned?---From memory, he went to an Indigenous health conference, and I was told that it was agreed that he'd take annual leave, but the flights while he was there was to be covered by Gandangara.

40 And who told you that?---He told me himself, and I believe I would have checked that with Cindy Cronan.

Cindy Cronan. And can you confirm, at least, the date of the Indigenous health conference? And do you remember where that was?---I'm sorry, no.

I think it was in Hawaii. Page 232 of the bundle, there's an email from Mr Johnson with an indication of a schedule for a conference there, which is now appearing on the screen. That's page 232 of the bundle.---Ah hmm.

And Mr Johnson then flew back from Hawaii to Sydney. And, sorry, can I ask you again about what you understood to be the authority that had been provided for - - - ?---The invoices, as you can see, was given to me. They were given to me by Jack. And I asked him why and he told me about the conference, and that it was approved.

That his attendance at the - - - ---Indigenous conference.

10 And did you have instructions about the scope of how long he was to be in Hawaii for?---No, I don't recall any of that. I don't recall.

Sorry, Ms Maltby. Did you have any understanding of why Mr Johnson travelled not directly to Hawaii and back for the conference?---No, I didn't. I don't.

Did Ms Cronan tell you that it was okay for him to travel indirectly to Hawaii and be reimbursed for those flights?---I don't recall the wording. I know that she said that they'd approved to fly him over there.

20 And you don't – and you weren't told or you don't recall how long in Hawaii he was going to be?---No. I was pretty sick at the time and it – I just don't remember everything from then I'm sorry.

Thank you, Ms Maltby. I have one last topic to discuss. If the witness could be given volume 24 and there's an email at page 24, an email string. The email string begins at page 25 of the volume with an email from the Chairperson of the La Perouse Local Aboriginal Land Council.---I see it.

30 And that email is sent to Mr Johnson. Mr Johnson at the top of page 25 forwards the document to you and asks you to advise what can be done to help. There seems to have been a computer meltdown is how it's described at the La Perouse LALC. There's your email dated 11 August, 2010 at the bottom of page 24 where you ask for Mr Johnson's permission to have someone – to have GLALC cover the costs – sorry, carry costs for the repair or replacement of a computer.---I see that.

40 There's – Mr Johnson replies, “Please ensure that everything is done to get LaPa up and running immediately. We'll sort out – sort through the protocols later.” Do you recall this incident, did you - - -?---No, I don't recall it I'm sorry.

Was it usual practice for GLALC to be carrying costs for other Land Councils?---We did do work for other Land Councils, mainly Deerubbin or Deerubbin and they were invoiced accordingly.

The - - -?---The other LALC had to reimburse but you – so I would raise an invoice charging that LALC.

In this instance where it's a question of GLALC spending its own money for the benefit of La Perouse to have this computer fixed or replaced, was, was that something that was surprising to you as a - - -?---I don't recall this incident to be truthful.

Do you recall any other incidents in which Mr Johnson authorised GLALC money to be spent for the benefit of another Land Council?---We did for Deerubbin for land title searches and then the cost would then be invoiced to – each month to him – sorry, to the Land Council.

10

And so is Deerubbin the only other example that you - - -?---It's so long ago. I don't remember any others off the top of my head.

That's all my questions. Thank you Ms Maltby.---Thank you.

THE COMMISSIONER: Any questions? Yes, Mr Mack?

MR MACK: I've just got one question for you Ms Maltby. My name's James Mack, I represent the Registrar of the Aboriginal Land Rights Act.
20 My question is did you ever enter into a confidentiality agreement with GLALC? Can you recall signing a confidentiality agreement?---No, I don't recall.

You don't recall?---No.

Can I just show you this document. It's from an ICAC identifier E-1-4-/-0-3-6-2-/-2-9-/-7-2 and it's just a, I'll just hand you the one document. And if I can just read the title out to you. It's from a GLALC Board meeting in
30 October, 2009. Do you see that?---Yes, I do.

Can you just take those document out of that folder and have a look at the final document in there. It's a confidentiality agreement?---Which page do you want me to go to?

The final, it's the final document in that sleeve, do you see that?---Okay, yeah.

And you accept that's a confidentiality agreement between Mr Bloomfield and GLALC?---It appears that way, yes.
40

And if you just turn to the final page?---Yes.

You'll see your name there as a witness?---Correct.

Can you just tell the Commission the date that was signed by you?---12 October, 2009.

All right. And that doesn't refresh about entering into a similar agreement with GLALC?---No, it appears that I have signed that as a JP and as a JP I don't need to know the contents, I'm only witnessing the signature of the document. That this document has been signed.

They're all the questions I have for you. If you could just put that back in the sleeve and hand it back to me.

10 THE COMMISSIONER: Any other questions of Ms Maltby?

MR DOCKER: Yes, Commissioner.

THE COMMISSIONER: Sorry, Mr Docker.

MR STEWART: I'm sorry.

THE COMMISSIONER: I'll just wait. Yes, go on.

20 MR STEWART: I'll be short.

THE COMMISSIONER: Go on, Mr Stewart.

MR STEWART: Thank you. Ms Maltby, my name is Mr Stewart and I appear for Ms Cronan. You've just given some evidence recently about the flight to Bangkok and then the on flight to Hawaii. And you also ---?--- Well the paperwork I saw only was Bangkok.

Sorry, yes?---Yes.

30 You've said also just before that, that you were I'll at this time, is that the case?---Yes.

When did you leave your employment or when did you leave the employment for your illness?---When I finalised my employment with Gandangara?

Yes?---Yes, that was in March, 2011.

40 Right. And at this time were you off in September, in August/September, 2010?---I believe I was off early September through to sometime in October.

Yes. And see I suggest to you at no time did you speak to Ms Cronan in relation to her authorisation of this flight to Hawaii via Bangkok?---I would not have paid that money without asking her.

And you've got nothing in writing from Ms Cronan to show that?---I'm not sure if we've got anything on my paperwork. I haven't seen all the paperwork but I can't recall if she signed something or not.

Nothing further, thank you, Commissioner.

THE COMMISSIONER: Anyone else before Mr Docker? No?

10 MR DOCKER: Thank you.

THE COMMISSIONER: Yes, Mr Docker.

MR DOCKER: Thank you, Commissioner. Ms Maltby, my name is John Docker, I appear for Mr Johnson. Now the whole time you were employed by Gandangara were you employed by the actual Land Council or were you ever - - -?---Yes.

20 Never employed by any of the entities, other entities?---No. My contract was with Gandangara.

And you were always the finance manager?---While I was there?

Yes?---Yes.

And when – in respect to the other entities did you act as the finance manager for them as well?---Well the entities were a part of the Gandangara Land Council, so, yes.

30 So would it be fair to say for accounting and bookkeeping purposes it was Gandangara Land Council and the entities were treated as one?---Yes. In a sense.

Now in relation to your role as the finance manager, you've already said that you had a role with the paying of wages and pay slips, that's right, isn't it?---Yes.

40 And it's true, isn't it, that some of the employees of the Gandangara group were actually officially employed by entities within the group that weren't Gandangara Land Council itself?---Yes.

And in terms of pay slips, would they be given a pay slip with that particular entity's name on it?---Yes.

Right. So, whoever was the official employer would issue the pay slip?
---At the time, yes.

And I think, if I could just ask you to look at volume 34. You may not – now, Ms Maltby, could you please turn to page 3? Rather confusingly, it's up at the top right.---Yes, I have it.

Now, in terms of how payments were actually made, they had to be signed off by you before they were made. Is that right?---Yes.

10 And this stamp here that's on this page, at page 3 of volume 34, that's an example of your stamp with your signature and the date on it. Is that right?
---That is, yes. Yes.

And so an expense wouldn't be paid until you did that? Is that right?---That was my procedure.

Right. But you were the person that was in charge of making all of the payments for the Land Council while you were working there? Is that right?---No, not for the periods that I wasn't – if I wasn't at work.

20 Yes, that's right. But leaving aside the times you were absent because of illness or leave or whenever, when you were actually at work it was your job to give the final sign-off on any payment that was made. Is that right?
---Essentially, yes.

Right. And if I could just ask Ms Maltby to be given volume 12, please. You can keep volume 34, Ms Maltby, because I'm going to come back to that a little later on. But if you could turn to page 14 of volume 12.---Page 14, did you say?

30 Yeah, page 14. This time it is at the bottom right, the number.---Yes.

Now, this is also a payment that you approved. Is that right?---Yes.

That's your signature and the date down there at the bottom of it?---It was.

And is this a different kind of stamp that you used for the making of payments?---I don't recall the two different ones, to be truthful.

Right.---But it's my signature.

40 Okay. So, the question I was going to ask you is, were there any other kind of authority stamps that you used for the making of payments?---Not that I recall.

Right. But is it fair to say that the one that you usually used is the one on page 3 of volume 34?---I don't recall the second stamp. So, the first one on page 3 looks like my original one, yeah.

Right. So, if I could just ask you to turn to page 4, then, of volume 34.

---Yes.

And this is a spreadsheet that you prepared.---I may have.

But – I withdraw that. Is it the case that it was your practice when you had to make a payment – I withdraw that. When you were asked to authorise and make a payment that involved more than one expense that you would prepare a spreadsheet like this as a summary of what had actually been paid?---Yes.

10

And in order to make such a summary it was necessary for you to go through each claim or expense wasn't it?---Yes.

And you'd type that out yourself wouldn't you?---I can't tell you if I typed this one out but if it was me that was doing the spreadsheet at the time, yes, it would have been me typing it.

Right.---I may have got one of the girls to type on occasionally for me and I'd check it or something like that.

20

Right. But mostly you did it?---Oh, I can't - - -

But if you didn't do it you checked them?---Yes, I believe so.

All right. Before you signed off on them?---I believe so.

Now, Ms Maltby, your role did it also involve liaising with the Land Council auditors?---Yes.

30

And are you able to just outline in a general fashion what that actually involved?---The auditors came twice a year. They came in – towards the end of February/early March to do the interim audit which covered the first six months – first – and sometimes eight months of all the accounts. They would ask for documents and they were produced or they were given the folders and they'd find them themselves. They stuck themselves in a room and they were – whatever they wanted we gave.

And so their auditing process occurred on-site at the Land Council office? ---Yes. Well, not all their work but their preparation I believe.

40

Right. And when you say they were given all the documents, what documents were they given?---They would have had access to all our folders with our payments, our payroll. They sat – I believe they sat with Jack over his contract and they had a copy of my contract.

Right. And were they given bank statements?---They had access to it so, yeah, they would have.

And just coming back to the document that begins at page 3 of volume 34. Would they have had access or been given the documents that contained expenses claims and the authorisation of them such as the document beginning at page 3 of volume 34?---Would they have had access, is that what you're asking?

Would they have been given that?---They would have but I would not have been present for that audit.

- 10 No, I understand that but I'm just asking – well, let me take a step back. These documents – if I could just ask you to look at the documents that start at page 3.---Ah hmm.

And I suggest to you that the documents from page 3 through to page 15 are one particular expenses claim and authorisation for payment of it.---Sorry, can you - - -

- 20 If you could just go, just flick through the pages from 3 through to 15 and in particular you can look at 16 because you can see that the next claim starts at page 16. But if you look between 3 and 15 my – what I'm suggesting to you is that that makes up the records for the payment of \$4,633.69 that was made on 2 - - -?---It appears so, yes.

Right. So is it the case that you would keep records for the Council records of each payment that was authorised just as they're kept like this?---Yes.

That is, with the - - - ?---Supporting documents, yes.

- 30 - - - with the transfer document at the front, with the authorisation, and then the spreadsheet and the documents behind it?---Yes.

Right. And would they all be kept, all those expense payment documents, would they all be kept in a particular place in the Land Council records? ---Yes.

Would they be kept together, away from everything else or - - - ?---The current folder might be in my office, and the other one, like, from previous months, might be in the archive room.

- 40 Right. So when the auditors came, they could just be given those folders and they could check the expense payments?---Yes.

THE COMMISSIONER: Mr Docker, I don't want to state the obvious, but, I mean, I think none of the evidence that this witness has given is really subject to much challenge in terms of whatever supporting documentation is present. The real issue is, does the supporting documentation tell us anything about whether they are expenses incurred in the course of conducting relevant CEO Gandangara duties? So, I mean, I don't quibble

with anything that you want to put about the supporting documentation. The problem is, is the expense legitimate? And apparently this witness can't tell us that.

MR DOCKER: I accept that, commissioner.

THE COMMISSIONER: Yeah.

10 MR DOCKER: That's not the only purpose of me asking these questions.

THE COMMISSIONER: All right. Go on.

MR DOCKER: Now, Ms Maltby, in terms of the auditors, was it your understanding that the auditors would go through these expense claims and check them?---I didn't sit with the auditors, but they asked for folders or documentations, I gave it to them.

20 Did they ever discuss with you these expense payments?---They discussed probably a few things but I can't recall what they discussed.

Right.---Like, individual ones.

Did they ever come to you and question you why a particular expense had been paid?---Not that I recall.

Did they ever come to you in respect to an expense and ask you whether it was a legitimate expense of the Land Councils?---Not that I recall.

30 And was it part of their role to check the expenses against the bank account statements?---My knowledge of what they did and how they did it, or what they were supposed to do and that, I can't say. That was their job, not mine.

Right.---Does that make sense?

Yes. And in terms of once they'd finished going through the documents on site at the Land Council office, they went away and they produced financial statements. Is that right?---That's correct, yes.

40 And did you have any role in liaising with them in the process of producing those financial statements?---No, they produced them.

Right. And so they didn't ask you for comments on the drafts or anything like that?---They used to send a draft and I'd have a quick look and make sure the balance sheet balanced to what I had, et cetera, and that, and look for any obvious errors.

Right.---And that's about it.

So there was a process of interaction with the draft financial statements, but it's fair to say it was fairly superficial on your behalf. Is that right?---Yeah, because it wasn't my role to produce them and I had no real, how do I explain it? I didn't put the figures in there, if you know what I mean.

Yes. Now, could Ms Maltby please be shown volume 8.

10 THE COMMISSIONER: While that's coming, Ms Maltby, can I just ask you, were you aware that under Mr Johnson's contract of employment, specific allowance was made for reimbursement of things like motor vehicle expenses?---I don't recall if I was, to be truthful.

THE COMMISSIONER: All right.

MR DOCKER: Now Ms Maltby, could you just please turn to page 77. And this is a copy of the financial statements for 30 June, 2008?---Yes.

20 And it was a draft of this that you were provided for comment, that's right?--
-I can't say that it was a draft. I got a draft, yes, but I don't understand exactly what you mean?

Well it was - - -?---I can't tell you if it was this exact one I got.

Sure. But it was something in this format that you were given in draft and you were asked to comment on?---Yes.

Right. Now if I could just ask you to move forward to page 105. And you can see here that this is a document that's called a management letter?---Yes.

30 Now this was a document that was provided by the auditors after the financial statements were completed, is that right?---I'm not sure exactly when it was given to, to us.

Sorry, I should've asked you this first. You're familiar with management letters provided by the auditors of the Land Council to the Land Council, aren't you?---I believe they came with the final statements - - -

Well one came every at the end of - - -?--- - - - or after, yeah. Every year.

40 Sorry, at the end of every financial year?---Correct.

Right. And what was your, sorry. I'll just ask you to turn, the numbers unfortunately are not showing up in terms of the volume itself. But if you look at the numbers in the middle of the page and go to number 6 in this document?---Yes.

It's actually page 112?---I can see that.

You can see there that you're one of the people whose assistance and cooperation is being thanked?---Yes.

In the audit process. Can you describe what role you had in relation to the management letter that was provided each year?---Can I have a minute to read the management report?

10 Yes, please do?---My understanding of the management letter is that they wrote that in course with the audit. It wasn't a separate meeting or anything it was a part of the audit process.

Right. But if you look at on page 2 of this document, which I'm sorry, I can't see the - - -?---I've got it.

20 You can see that there are – there's a table there and it says "Observations result". And in the result there's a reference to you. Is it a case that the auditors in the course of the audit raised particular issues about the bookkeeping and records and then came and asked you questions about it?--
-It's fair to say that they did ask me questions, yes.

And then your answers to those were recorded in the management letter?
---Where's my wordings in the management letter I'm sorry?

Well, if you just look on page 2 for example, in result you can see that there's a record of a discussion there - - ----Yeah.

30 - - - with you and - - -?---So in other words they probably came up to me and said look, there's been a few incorrectly allocated to the wrong ledger account and I've said O.K., I'll look, I'll look at it and make – and try to improve.

Yes. So was it - - -?---So there would have been discussions between myself and the auditors.

Yes.---But what was said I don't know.

Right. But the auditors were concerned weren't they particularly with the, the accuracy of the financial records?---They're only saying a minor here.

40 No, I'm not asking you about that entry in particular, I'm just asking you generally. The auditors were interested in the accuracy of the financial records?---Well, that would be a part of their process, yes.

Yes. And that they were also keen to ensure that all the payments that were made were properly authorised. Is that right?---Yeah.

THE COMMISSIONER: Is this only in relation to the tenancy payments under the rental system?

MR DOCKER: No, no. I just said to her that I'm not asking her about that, I was asking her more generally.

THE COMMISSIONER: So this is not something that you're drawing from the document on the screen?

MR DOCKER: No.

10 THE COMMISSIONER: All right. Do you understand that, Ms Maltby?
---No, I did not, sorry. Yeah.

No, you didn't understand that.

MR DOCKER: I apologise.

THE COMMISSIONER: Go on.

20 MR DOCKER: Ms Maltby, in relation to the audit process and the inquiries that were made of you by the auditors, the auditors were concerned weren't they – and this is just in a general way. I'm not asking you particularly about that entry on that page that's in front of you. The auditors were concerned that the financial records accurately recorded what happened?
---That's a part of their audit process, yes.

Right. And they were also concerned to ensure that all the payments that were made were actually properly authorised?---One would think so. That's a part of an audit process so – but that's their job not mine.

30 Right.---You're asking me at somebody else's job.

Yes, but they would ask you questions about - - -?---Yes, they did.

- - - those issues wouldn't they?---They, they did ask me questions but I can't recall what exact questions they asked me. It was so long ago.

All right. Now, if I could just ask you to turn to page 187 and this is the management letter for the next year, that is, the year ended 30 June, 2009.
---Yes.

40

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

Do you recall this document?---I know there was a management letter so - - -

Right.---I don't - - -

But you don't recall this one in particular. Would that be fair to say?

---Yeah, I can't remember what it looked like from, you know, quite a few years ago.

All right. Now, if you just turn to page 191.---Yes.

You will see that there is a heading there, Issues from the 2008 Management Letter.---Yes.

10 And that they set out each of the issues that was raised in that letter and then in the right-hand column or the far right column whether it's been addressed or not. Do you see that?---I do.

Now, do you remember that process being followed by the auditors with you for – in each audit?---I honestly can't remember back that far I'm sorry.

20 Right. But can you remember them going back to the issues from last year and making sure that they had been sorted out?---They sat in a separate room so they would have gone through and checked that I had addressed them.

Right.---They may not have asked me whether I had addressed them because that would be word for word.

Right.---Whereas they would test it.

Okay. I accept that. So – but you would, you would address them would you because you would have the management letter and you would take that on board going forward.---Yes.

30 Is that right?---Correct.

Okay. Now if I could just ask you to turn to page 200. I'm sorry, Ms Maltby, just to assist you with this so that I don't take you – I shouldn't take you to the middle of the document first. I'm sorry about this, but if you can go back to 192 you can see that there is a heading "2009 audit matters identified"?---Ah hmm.

40 And those matters continue on to the next page and then at 194 there's a page which has the thank yous on it, do you see that?---Yes.

And then it's got "Other specific matters required by the New South Wales Aboriginal Land Council", and there's two pages of that?---Yes.

And in particular if you go to page 196 you can see that the auditors say that they haven't noted any evidence of misappropriation of funds. It's your understanding that they were - - -?---Where does it say misappropriation of funds? Oh, yeah, right, the bottom line is it?

Can you see that?---Yes, okay.

Did you understand that the auditors were in the course of their audit looking for whether there was any evidence of misappropriation of funds?--- Wouldn't that be a normal process of auditing?

That's what you expected, is it?---Yeah.

10 Right. And then if you look at page 197, it refers to a secondary report?--- Yes.

Right. Now what did you understand this to be?---I don't recall.

Okay. Now if I could just ask you turn to page 200. You can see there at the first entry "General cash controls continued without being an authorised payments, please detail the nature of such payments. Comments, there have been no unidentified unauthorised payments"?---Yes.

20 Do you recall being asked about this topic by the auditors?---I didn't work with them on this management report. This is – sorry, this is compiled from their audit process. So - - -

THE COMMISSIONER: So this came after the audit, you didn't have anything to do with it?---No. It's actually prepared by the auditors. I don't prepare it, it turns up. I've got no, I couldn't have any – change any of the content or anything like that.

30 MR DOCKER: Right. But you accept, don't you, that some of the information in it could come from questions that the auditors have asked you and information you've given them?

MR EKSTEIN: Your Honour, I do object to this line of questioning. These are documents, they speak for themselves.

THE COMMISSIONER: I would've thought so. They do speak for themselves, don't they?

40 MR DOCKER: Well the question was something that went outside the document speaking for itself?

THE COMMISSIONER: Well I'm just struggling to understand how this witness who had no input into this particular process would know or be able to answer whether or not anything she said to the auditors found its way into this report, short of them telling her that they'd based the report on something that she said?

MR DOCKER: All right. I'll withdraw the question, Commissioner. Now if that, Ms Maltby, I just want to ask you about another topic in relation to

your role. And that was reporting to the Board of Gandangara Land Council?---Yes.

Now it's true, isn't it, that part of your role was to give a finance report or a finance manager's report at each Board meeting?---Yes, it was.

And can you describe for the Commission what that actually involved?---I prepared a PowerPoint that usually a detailed one and it was sent to Jack before the meeting for him to distribute.

10

So when you say “distribute”, do you mean – because a PowerPoint presentation goes up onto the projector.---Correct.

When you say “distribute”, do you mean also in hard copy?---Yes, I believe Tina did hard copies for the meetings.

Right. So that each director received a hard copy of your presentation, and there was also a copy of it put up on the screen. Is that right?

20 MR HENRY: I object.

THE COMMISSIONER: Yes.

MR HENRY: There's a difference between this witness saying she gave the document and what's implicit, or not expressed in the question, that the directors received it, particularly against the background of evidence that they've (not transcribable).

30 THE COMMISSIONER: What was the question again, I'm sorry?

MR DOCKER: The question was that each director got given a hard copy as well as it being put up on the screen in a PowerPoint presentation.

MR HENRY: No, the question was each director received a hard copy. It's different.

THE COMMISSIONER: Well, are we talking about the financial reports, are we?

40 MR DOCKER: Yes.

THE COMMISSIONER: Well, I don't understand that every witness has been completely uniform on that issue. And again, doesn't it assume that this witness knows in each and every case what was in the folders that were given to each and every Board member?

MR DOCKER: Not necessarily. She was in the meeting, Commissioner.

THE COMMISSIONER: Well, are we talking a particular meeting or every meeting?

MR DOCKER: She just said she went to every meeting and gave a finance report.---Sorry, I didn't go to every meeting. I prepared for the meetings a financial report.

Right.

10 THE COMMISSIONER: And I just reminded Mr Docker, I don't remember seeing Ms Maltby's name on the minutes. But, mind you, that doesn't tell you anything, because we know that people were there who weren't noted as being in attendance. But for more abundant caution, Ms Maltby, you prepared a financial report. You weren't necessarily there to present it.---In the early days, in maybe the first 12 months, I was there at each meeting. And then after that, Jack would say I didn't have to be there. He'd present them for me or that. But I wasn't at every one, no.

20 Right. So you would prepare the report and then Mr Johnson would do what he needed to do to present it to the Board?---Correct.

Right.---Yes.

MR DOCKER: So, just so that we've got this right, Ms Maltby, did you say for the first 12 months you used to - - -

THE COMMISSIONER: She said for the first few months, but anyway, go on. I think she said for the first few months, but go on.

30 MR DOCKER: Did you? Did you say "few months" or "12 months"? ---I think it was, you know, I can't remember that I was at exactly every meeting. But for the first 12 months, I think I was.

THE COMMISSIONER: All right.---I may have been at all of them that I was involved with.

MR DOCKER: And is it the case that you say you went to no more meetings after the first 12 months?---No, it was selective meetings.

40 So you went to some of the meetings after the first 12 months?---Correct.

And are you able to say approximately how often per year you went to meetings after the 12 months?---No, I'm sorry. Too long ago.

And just dealing with the minutes of the meetings you went to, you just gave some evidence earlier about your presentation being copied by Mr Johnson's assistant. Do you recall giving that evidence?---I recall, in the early days, it used to get copied and they may have been given a copy to go

through with me, while I was going through it. But 95 per cent of the time it was up on the – it was always up on the board anyway.

Yes. But did you see Board members at the meeting with hard copies of your report when you were there?---Very early in my time, yes. That might have been even before it was a – oh, I'm having trouble remembering all that.

10 All right. Now, if we just come to what was in these reports. You said earlier that they were detailed reports.---Ah hmm.

And did they descend to the detail of each expense that had been authorised and paid?---I honestly can't remember the format.

Right. So what did you have in your mind when you said they were detailed reports?---Well, they would go through the bank accounts, they would go through what was spent, P and L balance sheets, et cetera.

20 Right. And in terms of what was spent, was that – that wasn't just a global figure was it, it was broken down?---I honestly can't remember how much I broke it down to.

But you did break it down?---I believe so.

And do you recall if you broke down the payments of expenses to Mr Johnson for the Board?---No, I don't.

What about to Waawidji?---No, I don't.

30 Now, if I could just ask you about your contract – about your own employment, Ms Maltby. You said earlier that you started work at the same time as Mr Johnson?---That's correct. The same day.

The same day. And at that stage was the only other employee of the Land Council a person by the name of Allan Hudson?---He was a consultant I believe.

All right. But was anyone else working there other than him?---Yes.

40 Who?---We had a lady, can't remember her name, looking after housing. We had the CDEP participants. And you're talking about when I first started. Is that correct?

Yeah.---They're the ones that stick out that I can remember at this time.

Right. And before Mr Johnson got there Mr Hudson was the – was acting in the position of the CEO. Is that right?---That was my understanding.

Right. And did – in terms of your contract, did you negotiate that with Mr Hudson?---I think he was involved. He was on the selection committee that selected me for the position.

Yes, but did – is he the one that – I withdraw that. You didn't draft your own employment contract did you?---No, I didn't.

It was given to you by someone wasn't it?---Correct.

10 And that was Mr Hudson wasn't it?---I believe it might have been.

And did you understand that he had drafted it himself?---I don't – I can't say who drafted it I'm sorry.

Right. But he just gave it to you?---Yeah.

And do you recall a man by the name of Anthony Ashbury from Lawler Partners?---Ashbury.

20 They're the Land Council auditors.---It rings a bell but I don't know what – why it does. Look, it does ring a little bell if that makes sense.

Right. Would this assist you, that he was the person involved in – or a person involved from Lawler Partners in the first audit that you were involved with for the Land Council?---I'm sorry, I can't remember the names of all the auditors back then.

30 Right. Do you recall sitting down with him and – or with someone from Lawler Partners and Mr Johnson to explain to the auditor how your contract worked?---No, I don't recall I'm sorry.

Now, if I could just – could Ms Maltby please be given volume 11. If you could turn to page 72 please.---Yes.

And now Ms Maltby, this is a copy of Mr Johnson's 2007 contract. Was your contract in a similar format?---Oh, jeez, now you're asking. It may have been, I can't confirm.

40 You can't remember your contract?---No. I can remember a few things of it but not how it was set out.

Right. And so you remember that you had a base salary?---Yes.

A provision for a performance review?---Correct.

A provision for a performance bonus based on the performance review?---Yes.

And a provision for an annual increment in your base salary based on the performance review from the previous year?---That's correct, yes.

Right. And it's correct, isn't it, that as a result of that process your income increased every year when you were with the Land Council?---That's correct.

And would it be fair to say that it increased substantially over the time you were there?---Yes.

10

And you started work in February, 2007, didn't you?---That's correct.

And you were given a performance review and then a bonus at the end of that 2006/2007 financial year, weren't you?---Yes. In the, yes, that's correct.

And that didn't include any discount did it from the fact that you didn't work for the whole of that previous financial year?---No. It wasn't prorated.

20

And do you remember what your salary was when you started?---I can't remember if it was 55 or 60 or somewhere in that vicinity.

Right.

THE COMMISSIONER: What was it when you left?---I honestly don't remember. It's sad to say, isn't it.

What kind of ballpark figure did you - - -?---Oh, it was over a 100, I think.

30

It was over 100?---Yes.

And what kind of ballpark figure did you ever receive as a bonus?---It was, I think it was about 20 per cent of that, that year before.

20 per cent of your salary the year before?---Correct, yes.

40

MR DOCKER: And that was on the basis that if you got over a 75 per cent rating you would get the whole of the bonus, is that right?---I can't remember what the percentage rating was but if I was successful as per the contract, yes.

Right. But it wasn't a situation where you would get that percentage of the bonus, as long as you got over the threshold you'd get it all, is that right?---That's correct. And if it was under it would be prorated to that.

Right. Now if I could just ask you to turn to page 20 of volume 11. You can see that your wages were 120,000 for 2010/'11?---Ah hmm.

Does that accord with about what your final pay was?---It may, it reads that way, yes. That would include the bonus from the previous financial year.

Right. Now, in terms of Mr Johnson's contract, you're aware, aren't you, that in the time that you were employed by Gandangara, he had a contract that went from 2007 until May 2010. You were aware of that?---Yes.

10 And then he renegotiated his contract, or he – withdraw that. In May 2010, Mr Johnson entered into new contractual relations with the Board. Did you know that?---I believe that to be correct.

And you asked some questions about – well, the fact is that there were two contracts, but I think you said earlier today that you weren't aware that there were two. Is that right?---That's correct.

Okay.---I understood it to be \$180,000.

20 That is 180,000 as a base starting in May 2010?---Yes. I presume it was May 2010, anyway.

Yes. With bonuses and increments on top of that going forward?---Yes.

Right. And in terms of the bonuses, do you recall whether the bonuses were paid to him personally or to his company Waawidji?---No, I can't recall.

Would that have been a matter of no importance to you?---As long as the correct amount was paid, and if Jack nominated it to go to his company, that's what I did.

30 Right. And if a payment was made to the company, there had to be a tax invoice. Is that right?---Correct.

Right. And that goes for any payment to the company?---Well, that was my procedure.

Yes. Now, just in relation to payment of expenses, it's true, isn't it, that Mr Johnson had a personal credit card, on which he paid expenses and got reimbursed for them?---Yes.

40 It's also true, isn't it, that expenses for other employees were paid on that credit card?---There may have been.

Well, if I can give you an example, if one of the other employees had to travel somewhere and a flight had to be booked for them, the usual procedure, wasn't it, was that that flight would be paid for on Mr Johnson's credit card?---It may have, yes.

And then he would be reimbursed for that expense?---That's correct.

Even though it wasn't his own work expense. It was an expense for another employee?---That's correct.

I'm sorry, just bear with me, Ms Maltby. I think I – excuse me, Commissioner. Thank you, Ms Maltby. Thank you, Commissioner. That's my questions.

10 THE COMMISSIONER: Any more questions of Ms Maltby?

MR FITZPATRICK: Nothing arising.

THE COMMISSIONER: Thank you. Thank you, Ms Maltby. You may step down. You're – I'm sorry, I should have asked you, Mr Ekstein, do you have any questions?

MR EKSTEIN: I don't. Thank you very much, Commissioner.

20 THE COMMISSIONER: All right. Yes, thank you, Ms Maltby. You may step down.---Thank you.

THE WITNESS EXCUSED

[3.50pm]

THE COMMISSIONER: I think Mr Bloomfield has been put off a couple of times hasn't he?

30 MR HENRY: He has and he's here but he's also going to be here tomorrow he's indicated.

THE COMMISSIONER: All right.

MR HENRY: I can spend 10 minutes with him but it's probably - - -

THE COMMISSIONER: Probably not worth it.

MR HENRY: Well, also for his sake to be held over.

40 THE COMMISSIONER: Yes. All right. I appreciate that. Mr Patterson.

MR PATTERSON: Yes, Commissioner.

THE COMMISSIONER: I'm sorry to do this to you but we'll commence with Mr Bloomfield tomorrow morning.

MR PATTERSON: Very good, Commissioner.

THE COMMISSIONER: And so we can guarantee that he'll be free by the end of the week.

MR PATTERSON: Thank you.

THE COMMISSIONER: As opposed to the rest of us. All right. Thank you. We'll adjourn until tomorrow. Thank you.

10 **AT 3.51PM THE MATTER WAS ADJOURNED ACCORDINGLY**
[3.51PM]