

TUNICPUB00296  
02/04/2015

TUNIC  
pp 00296-00348

PUBLIC  
HEARING

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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE MEGAN LATHAM

PUBLIC HEARING

OPERATION TUNIC

Reference: Operation E13/1800

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON THURSDAY 2 APRIL, 2015

AT 10.17AM

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

THE COMMISSIONER: Yes, good morning. Yes, but before we resume with Mrs Inskip's evidence the scope and purpose of the inquiry is amended as follows. After the reference to 1(d) the additional scope and purpose paragraph (e) is to be added, namely whether Darren Bullock revealed confidential MSB tender information to William Kendall of Willbuilt Homes Pty Limited. Yes. Yes, Mr Naylor.

MR NAYLOR: If the Commission pleases, we'll resume, Commissioner, the evidence of Mrs Inskip.

10

THE COMMISSIONER: Thank you.

<BARBARA INSKIP, on former oath

[10.18am]

MR NAYLOR: Mrs Inskip, you may remember at the end of proceedings yesterday I was asking you some questions about Demo Force?---Yes.

20 Yes. And just before we proceed do you have in front of you the folders that you had yesterday?---Yes, I do.

In particular you should have financial evidence file number 3?---Yes.

And the financial evidence file number 2?---Yes.

All right. And do you have in front of you that large spreadsheet that I was asking you some questions about yesterday which is in file number 3 and it's behind - - -?---72 was it?

30

Yeah, quite right, behind tab 72. And I, I put to you yesterday this proposition, that if a payment had been made by cash to Demo – well, and it had been recorded in the books as a payment to Demo Force that it was likely to have been a payment to Mr Bullock, do you remember me putting that proposition to you?---Yes, I do.

And you had indicated or your response was to the effect, was to an affirmative effect, that is that if there was such a payment then it was likely to have - - -?---Yes, I don't ever recall paying Demo Force in cash.

40

All right. That's what I wanted to explore with you?---Ah hmm.

Sitting here today you don't have a memory of making any cash payments to Demo Force that were legitimate payments?---No.

All right. If, if there was a legitimate payment made by cash to Demo Force would you expect to receive an invoice from them for it?---Um, yes.

Yes. The way business was usually conducted with suppliers was if they supplied goods or services to you they would invoice you and you would pay on the invoice, that's right?---That's correct, yes.

And there were some suppliers such as Brett Piesse who you paid by cash?  
---Yes.

And I think your evidence yesterday was that there was perhaps a handful of other suppliers who from to time you paid in cash?---Yes.

10

And did they render invoices, do you remember?---Yes.

All right. And other suppliers who you didn't pay in cash but who you paid by way of electronic transfer or perhaps by cheque you would have received invoices from them as well?---Yes.

All right. So can we return to Demo Force?---Yes.

And can I just put this to you, if the records show that the payment by  
20 Plantac is made by way of cash and you didn't receive an invoice from  
Demo Force but it's recorded in the books as a payment to Demo Force - - -  
?---Yes.

- - - it's likely to have been a payment to Mr Bullock. Is that right?---That  
is correct, yes.

Okay. I just need to take you to a couple more transactions in those folders.  
So if you can go first of all to tab 57 which you'll find in file number 3.  
You have that, Mrs Inskip?---Yes, I do.

30

And the first page behind tab 57 appears to be a cheque butt in your  
handwriting dated 8 April, 2013. See that?---Yes, I do.

And the initials in brackets MSB. The amount is \$1,980. The cheque  
number is 4-0-4-1-5-5?---Yes.

Over the page please. That's a bank statement for the Plantac cheque  
account. There's a highlighted transaction 8 April, 2013. A withdrawal in  
the same amount, same cheque number is noted on the bank statement. See  
40 that?---Yes, I do.

And over the page there's a copy of what would appear to be the cheque in  
your handwriting with your signature for that amount on the same date,  
yes?---Yes.

And over the page. This, this looks like a receipt that you or that someone  
was given by the bank when the cash was withdrawn using the cash cheque.

Is that correct?---Yes. Sometimes they provided you – the bank provides you with a printout.

All right. And if you go over the page. This is an extract from the Plantac BAS worksheet. There's a highlighted transaction for 8 April, 2013 and the payee is designated as Demo Force. The same cheque number, the same amount \$1,980?---Ah hmm.

10 Is it likely that this was a payment to Mr Bullock?---I would say yes.

Well, if, if, if you didn't receive an invoice - - -?---An invoice.

- - - from Demo Force - - -?---Yes.

- - - was it likely to have been a payment to Mr Bullock?---Yes.

20 If you could go to the other volume of financial material and go to tab 12 please. I'm moving on from, from Demo Force related transactions. There are just a couple of other transactions I want to clarify with you. So behind tab 12, behind tab 12 the first document is a bank statement on the Plantac cheque account?---Yes.

There's a highlighted transaction, 20 February, 2009, a withdrawal of \$7,350, using a cheque 4-0-3-2-8-3. If you go over the page that would appear would it not to be a copy of that cheque written out to cash in your handwriting with your signature. Yes?---Yes.

30 Over the page a copy of an extract from the BAS worksheet for Plantac with a highlighted transaction 20 February, 2009, described as a withdrawal, and then there's a further notation, "DB and wage, \$350 private." The same cheque number appears in the next column then the same amount, \$7,350 a couple of columns over. Is that likely to have been a payment to Mr Bullock do you think?---Um, I couldn't be 100 per cent sure.

All right. What, what do you think the initials DB signify?---Well, I would say Darren Bullock, unless, but it's all been allocated to our wages account which um, unless the 350 was supposed to be wages and then maybe the 7,000 was for Darren.

40 Right?---But I couldn't be 100 per cent sure.

Okay. All right?---I couldn't.

Well, did, has Plantac ever employed anyone with the initials DB?---No.

Right. Do you know anyone with the initials DB other than Mr Bullock?  
---Not, not off the top of my head, no.

You kept this spreadsheet, did you not?---Yes.

All right. Go to tab 18 of the same volume, please. The first page, a copy of a bank statement, Plantac cheque account, highlighted transaction, 21 October, 2009, withdrawal of \$4,650, cheque number 4-0-3-4-9-3. Over the page that would appear to be a copy of the cheque with that number and in that amount, made out to cash and in your handwriting with your signature. Yes?---Yes.

- 10 Over the page a copy of an extract from the BAS worksheet, highlighted transaction on 21 October, 2009. The payee is Austral Bricks and then there's a description, "MSB job." The cheque number and the amount correspond, do they not?---Yes, they do.

Is this likely to have been a payment to Mr Bullock?---Yes.

Why do you say that?---Because I wouldn't have taken cash out, I wouldn't have gone and cashed a cheque to give to Austral Bricks.

- 20 Right. How would you have paid Austral Bricks?

Well, they – I was – would have been either given a cheque or um, paid online.

Okay. Let's just go back to the third volume with the spreadsheet in it and go to tab 49. The first page behind tab 49, Mrs Inskip, would appear to be a cheque butt in your handwriting dated 23 July, 2012 and on the cheque butt is written the description MSB Demo Force sum of \$4,837 - - -?---Yes.

- 30 - - - cheque number 0-4-0-4-7-9. If you go over the page there's an extract from, well there's a bank statement rather from the Plantac cheque account, 23 July, 2012. The amount corresponds with the amount on the cheque butt as does the cheque number and it's a withdrawal. If you go over the page there's, what would appear to be a cash cheque written by you and signed by you with the same date and the same amount. That's right?---That's correct.

And over the page would appear to be a receipt provided by a bank for the dispensation of \$4,837 in cash?---Yes.

40

And you see the receipt sets out the denominations of the cash received or of the cash given?---Ah, yes.

Yes. But then over the page, extract from the Plantac BAS worksheet, the highlighted transaction is 23 July, 2012. The payee is described as Demo Force with a description of MSB and the amount 4,837 is the same. Is this likely to have been a payment to Mr Bullock, do you think?---I would say so, yes.

Right. And what's the basis for you saying that?---Because I've cashed a cheque I never used to cash cheques for Demo Force.

Right. All right. Mrs Inskip, you can put now to one side those two financial volumes. I don't want to ask you any more questions about particular transactions. Mrs Inskip, was there a visit to your home by Julie Bullock last Saturday?---Yes, there was.

10 And you were home at the time?---Yes, I was.

All right. And can you tell the Commission what happened?---Um, yes. I was upstairs and my son came to me and said there was a Julie downstairs that wanted to speak with me.

Yes. So - - -?---And I, um, asked my son whether she was tall, because I've got a tall girlfriend. And he said, "No, she's not tall she's short." And I thought, ah, and I said, "Well what did she say?" And I just sort of, I didn't, and he said, "Ah, she asked for dad." And I said, "Well, what did you say?"  
20 And he said, "I told her he was at Woollooware Golf Club." And I went, "Ah, okay." And then it dawned on me that it was Julie Bullock. So I went, I walked halfway down the stairs, the internal stairs inside and, um, and she was at the bottom of the stairs.

And did you speak with her?---Yes, briefly.

And what was said?---Um, she said, "Ah, we've," I don't, she said, "We've got your cheque books," which I thought was a bit odd. Um - - -

30 Pardon me. She said, "We've got your cheque books?"?---Yes.

All right?---And asked me what um, what B Bros meant.

B Bros?---Yeah, B Bros - - -

Right?--- - - - meant. I said, "Brush Brothers." I said, "I can't talk to you, Julie, and I won't. I'm not able to speak with you." I was still standing on the stairs and she was, well didn't move. And, um, and then she said, "Ah, what's this all MSB stuff?" Well, "What's all this MSB?" And I said,  
40 "Well it's my accounting." I said, "Julie, I really can't talk to you. I'm sorry, but I just cannot talk to you." And she said, "Will Kevin speak with me?" Um, and I said, "No, he can't speak with you either." And I think that was basically about it.

All right. And - - -?---And I just stood there and just, and then she burst into tears and left.

Right. And did you see her again later on that day at all?---No.

Okay. Did you have a conversation with your husband after that encounter with Mrs Bullock?---I tried to phone him at the golf club - - -

Yes?--- - - - because I knew he was down there and, but he didn't answer his phone.

10 Okay?---And when he, I don't know whether I phoned him again or he rang me later and he said that he'd, he'd already seen Julie down at the golf course.

Okay. Was there a visit by Mr Bullock to your home late last year in the evening - - -?---Yes, there was.

- - - that you can remember?---Yes.

Do you remember when, when last year that might have been?---It would have been, well, in December, early December sometime.

20 And what happened?---He came around, he wanted to speak with Kevin.

All right. So did, were you the person to whom he spoke first of all? ---Yeah, I answered the door.

Okay. All right. And what did he say and what did you say?---He goes, "Oh, I need to speak to Kevin," and Kevin was asleep so I went downstairs to wake Kevin up and Kevin came upstairs.

30 Okay. And then what happened?---They were just sitting on the lounge talking.

Mr Inskip and Mr Bullock?---Yes.

Were you participating in that conversation?---I was there for part of it.

40 All right. What, while you were there what did you hear being said and what did you say if anything?---Um, Darren was under the impression that um, early in the piece he may have banked a couple of payments made by us to him - - -

Yes?--- - - - and um, he said to Kevin that, "You can just say that you lent me the money for IVF."

Right. Did he say how much these payments were?---No, he had um, the statement with him but I couldn't remember the amounts.

All right. Is there anything more about that conversation that you remember?---Ah, oh, he'd said that there was um, it looked like there'd been

a transfer of money from my personal account, well, I think it's actually Kevin and I's joint account to his account but I don't, I'm not sure whether it was the period prior to 1 January or not.

I didn't catch the last part of what you said I'm sorry, period prior to 1 June?  
---1 January, '08.

Right?---I don't know whether it was in the timeframe of - - -

10 Okay. Well, is there anything more about that conversation that you remember?---Not particularly, no.

Did you say anything during the conversation that you remember?---No, I was just shocked that um, that there had been that transfer because I didn't recall it.

All right. And is, you, you left - - -?---Yeah.

- - - the conversation at some point did you?---Yes.

20

Right. But Mr Inskip and Mr Bullock continued the conversation?  
---Yes.

All right. Okay. Well, apart from that occasion has, have there been any other recent visits by Mr Bullock to your home that you can remember?  
---Um, yes.

When?---Um, I'm just trying to think, I think it was, it may have been last Wednesday.

30

Last Wednesday?---Yeah.

What happened?---He came to the front door.

You answered the door?---Yes.

Yes. Was your husband home?---No, he wasn't.

40 All right. What, what if anything was said between you and Mr Bullock when you answered the door?---I said, "Darren, I can't talk to you, I won't talk to you."

Okay?---I said, "I'm sorry, but I'm about to have a nervous breakdown, I just cannot and I won't speak to you," and he was a bit taken aback I think and um, he said oh, "If Kevin wants to speak to me later um, I'll be at my mum's place tonight."



Ah hmm?---And I said, “Well, that’s not going to happen because Kevin can’t speak to you either,” and then he left.

Then he left?---I said sorry and goodbye and shut the door.

Okay. All right And any other visits from Mr Bullock recently?---No, that was the most recent one and on Saturday.

10 Okay. What about other conversations with Mr Bullock, not a personal visit but on the phone or any other form of contact?---Um, he rung me once when I was in the car.

Yeah. When did that happen?---Oh, I couldn’t tell you the – what – a couple of weeks ago probably.

20 All right. Do you remember what was said during the telephone conversation?---Um, he asked – he said that Kevin wasn’t where he – because it’s quite well known that Kevin has a beer at um, North Cronulla Hotel.

Ah hmm?---And from what he said I assumed that he was there and Kevin wasn’t there so he phoned me and then he asked me um, Kevin was in the car with me at the time and it was on hands free um, and he asked me where I was and I said, “Miranda.” And he said, “Oh, are you doing some shopping?” I said, “Yes.” And Kevin was doing this one and said, pointing as if to like, try Caringbah Hotel, because Kevin had been to Caringbah Hotel earlier.

30 And sorry, just for the record because we need to record things you’re - - -?--Yeah, sorry. It’s a bit all over the shop.

That’s all right. You’re moving your hands around in – gesturing in the way that Kevin was gesturing in the car?---Mmm.

That is, to indicate that he didn’t want to talk - - -?---Yeah, yeah.

- - - to Mr Bullock?---And I didn’t know what to say and like it was just, yeah, very awkward.

40 Okay. All right. Well, what, what more, if anything, was said as part of that conversation?---Um, I think I said to Darren to try Caringbah, meaning Caringbah Hotel.

Yes?---And that was it.

Right. Okay. Any other contact from Mr Bullock recently that you can recall?---No.

Okay. What about Mrs Bullock?---No, just the visit on Saturday.

Last Saturday?---(No Audible Reply)

Okay. All right. Excuse me. Yes, no further questions. Thank you, Commissioner.

THE COMMISSIONER: Any questions Ms Hogan-Doran?

10 MS HOGAN-DORAN: No, Commissioner.

THE COMMISSIONER: No. Yes, Mr Chalmers.

MR CHALMERS: Yes. Yes. My name is Mr Chalmers. I act for Mrs Bullock?---Yes.

20 Yeah. When Mrs Bullock came to call on you last, sorry, last Saturday, when you came down did Mrs Bullock say to you, "Do you need someone to talk to, a counsellor or psychologist? Would it help talking to me?" Any words to that effect?---Not that I recall, no.

All right. And did – I know you don't recall that but can I suggest to you that you said to her, "I don't want to talk about this. I can't, I can't talk to you." Do you recall saying those words?---That's right, yes.

30 And did my client say, "Barb, we have had a pile of paperwork delivered. There were Plantac cheque butts in there. Who is B Brothers"?---I don't recall her saying the pile of paperwork. All I remember her saying was that they had our – I think she said cheque books.

Yeah?---And um, yeah, she did ask me who was B Brothers - - -

Yeah?--- - - - B Bros.

Is, is it possible she said cheque butts rather than cheque books?---It's possible.

And you said, "Brush Brothers." Is that right?---Yes.

40 And did she then say, "Is there something I need to know"?---(No Audible Reply)

Did she say that after – did – sorry, did my client say that to you, "Is there something I need to know?" after the – you told her it was Bush (as said) Brothers?---I don't think so.

Can I suggest to you that you did say that?---You can suggest it but I don't think it was said.

All right. And then she left after that. Is that correct?---Um, no, she um, also asked me um, whether, what all the MSB was and I assume she was referring to the cheque butts (not transcribable) replied, "That's my accounting."

You replied, sorry?---"It's my accounting."

All right. Yeah. All right. I've got nothing further.

10 THE COMMISSIONER: Yes, Mr Chee.

MR CHEE: Mrs Inskip, my name is Chee and I appear for Mr Darren Bullock. Did you have renovations done to your home in around 2012?  
---Yes.

As part of those renovations did you have work done to your kitchen?  
---Yes, we did.

And was the work done by D&D Kitchens?---Yes, it was.

20

THE COMMISSIONER: Did you say – sorry, do you say D&D?

MR CHEE: Yes.

THE COMMISSIONER: Darren and Darren?

MR CHEE: No, no, just D&D. I think it - - -

30 THE COMMISSIONER: Yes, I know, but I'm just trying to make sure that I can hear which letter it is. It's D for Darren, is it?

MR CHEE: Yes, D, D for Darren. Sorry, I do apologise.

THE COMMISSIONER: Thank you. D&D Kitchens.

MR CHEE: Yes.

THE COMMISSIONER: Thank you.

40 MR CHEE: I'll speak into the microphone. How was the work paid for, Mrs Inskip?---By EFT payments.

Are you sure about that?---I'm positive about that.

I'm sorry, I didn't hear that answer?---Yes, I am sure about that.

Are you aware of the turnover, of Plantac's turnover in relation to MSB jobs from 2008 onwards?---No.

I think your evidence is that you handle the accounts for Plantac?---That's correct.

You would have seen the invoices going out - - -?---Yes.

- - - or prepared in fact those invoices going out. Correct?---Correct, yes.

So it would appear that you would be, you would have some basis to say what the turnover for Plantac would be in those years, wouldn't you?

10 ---Well, not really because I give all the information to our accountants, he would do um, all those financial - - -

Right. Would you look at what the accountant prepares in response to, well, would you review the accounts prepared by the accountant?---The annual returns, not in great detail.

Any accounts prepared by the account, by the accountant?---Yeah, but not in great, yeah, with the accountant.

20 But you wouldn't be able to say which, you wouldn't be able to provide an estimate as to the turnover in respect of MSB jobs, would you?---No.

What about profit margins, were you able to, are you able now to say what the profit margins were for MSB jobs in the period 2008 onwards?---No, I wouldn't.

I have no further questions.

30 THE COMMISSIONER: Thank you.

Anything arising, Mr Naylor?

MR NAYLOR: Yes, Commissioner.

THE COMMISSIONER: No one else? Ms McGlinchey, do you have anything to ask?

MS McGLINCHEY: Just two short matters.

40 THE COMMISSIONER: Well, perhaps if you go first.

MS McGLINCHEY: Mrs Inskip, what training have you ever received in terms of accountable bookkeeping?---Basically self-taught.

So in terms of the, all of the spreadsheets you've prepared, they were basically prepared them on what you taught yourself about bookkeeping? ---And um, yeah, the accountant would send me the format and set it up for me and help me with it initially and then I just carried on with it from there.

Prior to what you've heard in these proceedings, were you ever aware of any MSB matters to do with policy or financial delegations?---No.

Thank you.

THE COMMISSIONER: Yes, Mr Naylor.

10 MR NAYLOR: Commissioner, there was one matter I omitted to deal with, I apologise. I wonder if I might show you a document, Mrs Inskip. It may be, Commissioner, that Mr Chee might have a question arising from this.

THE COMMISSIONER: Thank you.

MR NAYLOR: Mrs Inskip, can I ask you to go to the third page of that bundle. Do you recognise what's on the third page?---It looks like a um, report from MYOB.

20 Which, which MYOB are we talking about?---The one that I'm currently using.

All right. For the Plantac business?---Yes.

All right. And this, and this is headed "General Ledger" - - -?---Yes.

- - - for Plantac Pty Limited?---Yes.

30 So this, and it would appear, would it not, to be a printout of the general ledger for Plantac Pty Limited for the period July 2013 to June 2014?  
---That's correct.

And then if you go, I apologise – oh, yes, if you go to page number 29, see the page numbers are down the bottom left-hand corner?---Yes.

And this would appear to be the same kind of document, general ledger, for Plantac Pty Limited for the succeeding, indeed the current financial year - - -?---Yes.

40 - - - 1 July, 2014 printed up to a date of 23 January, 2015?---Ah hmm.

Does that look right?---Yes.

And just going back to that first page that I drew your attention to, so the third page into the bundle, if one starts there and then looks through the document this records, does it not, sales, that is revenues received by Plantac?---Yes.

So there are various sales to Australia Post and on the page numbered 66 down the bottom left-hand corner you can see a number of sales to MSB, that's right?---Yes.

And so that's income that Plantac has received from MSB, that's what that signifies?---I would say that would be invoices.

Invoices sent?---Yes.

10 All right. Okay. So this document doesn't show payments received, it just shows invoices sent?---I think so.

Okay. And if I can draw your attention next to the two pages at the front of the bundle, so these are tabulations made using the information contained in the general ledgers that I've just drawn your attention to?---Yes.

We've just added up essentially the sales to MSB - - -?---Ah hmm.

- - - for that period, 1 July, 2013?---(No Audible Reply)

20

Yes?---Yes, sorry, yes.

Through to 4 June, 2014, you see on the front page, total sales invoices to MSB \$541,978.18, do you see that?---Yes.

And then for the following financial year 16 July, 2014 and it would appear the last sale for the current financial year up to the date of these records was on 12 November, 2014, you see that?---Yes.

30 And the total for that period is \$147,039, you see that?---Yes.

And you go over the page and those figures have been converted into these pie charts, you see that?---Okay, yes.

Is there any reason to think that these tabulations are inaccurate from your perspective?---No, if the, if the information's been obtained from that that would be correct.

Yes. I tender that document.

40

THE COMMISSIONER: Yes. That document will be Exhibit T15.

#### **#EXHIBIT T15 - ANALYSIS OF PLANTAC SALES INCOME**

MR CHEE: Commissioner, I do have one, a question arising if I may?

MS HOGAN-DORAN: And Commissioner, I also have a number of questions.

THE COMMISSIONER: Yes. Yes. All right. Well - - -

MS HOGAN-DORAN: I don't know whether you would prefer that I go first?

10

THE COMMISSIONER: Yes. It might be preferable. But before you do that, Mrs Inskip, can I just ask you. Can you give me an estimate of what the renovations that you carried out in 2012 cost, a ball park figure?---To our home?

Yes?---Um, probably about 120,000, I'd say. I've never - I haven't kept - - -

20

No, that's all right?--- - - - a financial - - -

And of that what would've been the cost of the kitchen renovation, roughly?---Ah, the kitchen was, I think 35, 40, something like that.

All right. Thank you.

THE COMMISSIONER: Yes, Ms Hogan-Doran?

30

MS HOGAN-DORAN: Mrs Inskip, could you just go to the third page of the documents, the first page after the pie chart, which is the general ledger detail for July, 2013 to June 2014. I just want to ask you some questions about the sales figures that I identified there. There's a large number of listings for Australia Post, sales to Australia Post?---Yes.

Are they in reference to a building job?---They're all different Australia Post, um, sites that we do reactive maintenance works for.

40

I see. And just looking through, if you would, looking that list of services income for that financial year period. Can you identify any that are referable to a building site or building work, not repairs and maintenance, but building work of the kind, of just of any kind?---Sorry, I don't - - -

You've indicated that the, the sales to Australia Post - - -?---Yes.

- - - are in relation to repair and maintenance work done by Plantac?---Yes.

Other than the MSB, is there any building work done or recorded sales for building work recorded in this financial year period?---What do you mean by building? Like new buildings or - - -

Yes?---Um, no, most of it's just either quoted works or, um, with Australia Post it's mainly we, some of the work's quoted. Um, Australia Golf Club get us to do various repairs to their pro shop or whatever.

I see. And just turning back to the first page of the bundle, or the first page of the document and just looking at the total sales figure for the last financial year and - - -?---Yes.

10

- - - this financial year. Has there been a scaling back in the operations of Plantac in recent years?---Well, Kevin's trying to, um, not work as much at the moment so he's wanting to cut down on the works a bit.

And has that coincided all with the closing of the Caringbah Office and moving the office back to your home?---No, not really.

I see. All right. There's no other questions.

20 THE COMMISSIONER: Mr Chee.

MR CHEE: Mrs Inskip, I'd like you to direct your attention to page 1 of the document that you have just been given?---Yes.

It lists sales to MSB. Are you able to identify whether any of these sales or which of these sales are referable to matters which have involved Mr Bullock as opposed to other members within the MSB?---No, I'm not.

Okay. No further questions.

30

MR NAYLOR: Commissioner, I tender the two financial volumes that I was asking Mrs Inskip questions about, being described as financial evidence for public inquiry file number 2 and file number 3. May I just explain, Commissioner, that there are documents in here which I didn't take this particular witness to - - -

THE COMMISSIONER: Yes.

40 MR NAYLOR: - - - but which will be relevant for later in the inquiry, including a spreadsheet at tab 1.

THE COMMISSIONER: Yes. Folders 2 and 3, the financial information, is Exhibit T16.

**#EXHIBIT T16 - FINANCIAL EVIDENCE FILE 2 AND 3**



MR NAYLOR: As the Commissioner pleases.

THE COMMISSIONER: Can we excuse Mrs Inskip?

MR NAYLOR: Mrs Inskip may be excused.

THE COMMISSIONER: Thank you, Mrs Inskip. You may step down. You are excused?---Thank you.

10

**THE WITNESS EXCUSED**

**[11.01am]**

MR NAYLOR: Commissioner, I call William Kendall.

THE COMMISSIONER: Just take a seat, Mr Kendall. Mr Eurell, have you informed Mr Kendall of the effect of a section 38 order?

20

MR EURELL: I have, Commissioner, and he seeks such a declaration.

THE COMMISSIONER: Right. Thank you. Mr Kendall, can I just make it abundantly clear to you that the section 38 order protects you to some extent, that is, it protects you from the use of your answers against you in any civil or criminal proceedings but it does not protect you if it should be found that you have given false or misleading evidence to this inquiry because if that were to be the case you would nonetheless be liable to prosecution under the ICAC Act for an offence of lying or misleading the Commission and your answers would be evidence that would be tendered in that prosecution. Do you understand that?

30

MR KENDALL: Yes.

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.

40

**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.**

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

MR KENDALL: Sworn.

10

THE COMMISSIONER: Yes. Can we have the witness sworn please.

THE COMMISSIONER: Yes, Mr Naylor.

MR NAYLOR: Sir, what's your full name?---William Matthew Kendall.

And your occupation?---Self-employed builder.

10 All right. You are the principal, are you not, of Willbuilt Homes?---Yes.

And you've been a builder for how long?---Approximately 15 years.

All right. So you started work as a builder in about 2000. Is that right?  
---Um, probably 17 years.

Yeah?---Yeah.

A bit, a bit sooner than that?---Yeah.

20

THE COMMISSIONER: Mr Kendall, can I, can I ask you to speak into the microphone so that everyone including people at the back of the room can hear. Thank you.

THE WITNESS: Around 17 years then.

MR NAYLOR: All right?---Yeah.

30 So a little bit before 2000, 1998?---I got my, I got my builder's licence in probably '97, '98.

All right. Can I just run through what I think your personal chronology is and you can tell me if I'm wrong in any respect. You left school in about '91. That's right?---Yeah.

Worked at Woolworths or for the Woolworths corporation for about a year or so?---Yeah.

40 All right. Then you undertook a four-year building apprenticeship with a man name Greg McGrath?---Correct.

And it was after that that you formed Willbuilt initially as a sole trader. Is that right?---Yeah.

Okay. And then for a period of time, indeed as I understand for about 10 years Willbuilt as a sole trader essentially subcontracted to Mr McGrath. Is that right?---Yeah.

Okay. But thereafter you went out on your own?---I did.

Yeah. And last year you converted the sole trader entity into a company. Is that right?---Correct.

Okay. Do you know Darren Bullock?---I do.

When did you first meet Mr Bullock?---In 2009.

10 What were the circumstances in which you met Mr Bullock?---Um, that was at a tender meeting.

A tender meeting. Do you know where?---In Tahmoor.

On a particular property?---Ah, I can't -- I know it was a cul-de-sac, it was the first, the first um, tender I ever did.

20 All right. Am I right in thinking that before that you had been appointed to the list of selected tenderers for the Mine Subsidence Board as a building contractor?---Yes.

Right. Long before that?---Um, I think I applied ah, I think that was in about March and I applied for, to be on the tender list around June or July the year previous and then, I don't know, it took, took a few months till, till I got a letter from the head office saying that I was on the selected tender list.

30 All right. So what's your understanding of the time from which you were on the selected tender list?---To, to my first job?

Yes?---Oh, it was months.

Right?---A few months, yeah.

All right. Well, if the records show that you appear to be on the selected tender list from June 2009, does that sound right to you or not?---Is that what the records show?

40 Well, let, I'll ask you to make that assumption for me, that the records seem to indicate that you were on the selected tender list from June 2009?---Oh, yeah, so I got, yeah, then -- that's right, and then it was 2010 when I did my first quote, yeah. So - - -

Are you sure about that?---Yeah, yeah.

You didn't do any work for the MSB before you got onto - - -?---Never.

- - - the selected tender list?---Never, never.

Right. How did you get onto the selected tender list, do you know?  
---Um, had to fill out a lot of forms and um, have a safety policy and um, got to give all the Workers' Comp details and um, public liability details.

Right. Pardon me?---It was a lot of work.

10 And do you remember who informed you or how you became aware that you'd been successful in your application to be appointed to the selected tenderers list?---It was just a letter from the Mine Subsidence Board in the mail.

Right. And am I right in thinking that as a consequence of being appointed to that list that you then became eligible to be invited by the Mine Subsidence Board to quote for particular jobs?---Yes.

Right. And you subsequently did receive quotes?---Yeah.

20 Right. And do you know, just trying to understand how many invitations to quote you received and how many jobs you received, so if you went onto the, onto the selected tenderers list in say June 2009 and you got the, the first meeting was sometime after that, how, how much work did you get, just sitting here now, doing the best you can with your memory, how much work did you get in that first 12 months that you were on the list, June 2009 to June – July 2009 to June 2010?---Um, I did get a few jobs.

Yes?---Um, I've worked out the percentages of um, jobs that I did each year.

30 How have you done that?---Um, just on um, turnover.

Right. So are you able to say what your turnover was from MSB-related work for the first 12 months that you were on the selected tenderers list?  
---It was \$458,203. That was from '10/'11.

2010?---I think, yeah, because the '09/'10 year was only like I think from memory about \$30,000, it wasn't much at all.

40 All right. Well, what about the 2010/2011 year, \$458,203 - - -?---Yeah, yeah.

- - - what percentage of that if you're able to say of your total turnover?  
---66.

Right. What about the next financial year, 2011/2012?---It was um, \$611,681.

And as a percentage of total turnover?---It was 85 per cent.

And the 2012/2013 year?---Ah, MSB was \$254,923.

Yes?---And that was 27 per cent.

And the 2013/2014 year?---Was 611,188.

Yeah?---And that was 61.5 per cent.

10 And the current financial year, are you able to day?---I, I haven't done that at all.

Okay. Are you able to say why the turnover seemed to dip from the 2011/12 year to the 2012/13 year?---Yeah, I did, I built a doctor's surgery, I, I didn't build the actual building, I did a fit out for, for a doctor's surgery.

Which meant you were unavailable to do MSB work?---Well, yeah, you take, you take the jobs, you know, while they're there.

20 Sure.

THE COMMISSIONER: Was that a particularly lengthy job on the doctor's surgery?---It was the same as the year before when I, like when I was at 85 per cent, like I did one big job, it was a knock-down rebuild which took up, you know, nearly the whole year.

So the year that you did the doctor's surgery work, that took quite some time out of your, your year?---Yeah.

30 Right.

MR NAYLOR: Has the rate at which you've been receiving MSB work for the current financial year changed significantly from the rate at which you received MSB-related work for the previous financial year ending 30 June, 2014?---Um, it's probably slowed up a little bit but no, not really, I'm still, you know, I've still got work, you know, whether it's private or with the MSB.

40 All right. How many jobs have you got on at the moment do you think in relation to MSB?---Um, well, it might be finished as we're speaking now so one, maybe none.

Right. What's the particular property that you've been working on?---Um, it's 31 Tickle Drive, Thirlmere.

Have you been working on any other properties at the same time?---Ah, we just had to repair a job at Struan Street, Tahmoor and that's, that's about it.

And both those jobs you've been working on this year, since 1 January, 2015?---Oh, the Struan Street one I did that at the end of last year.

Right?---When you, yeah.

Am I right in thinking that the process that is involved is you receive one of these invitations to tender from the MSB, that arrives in the post does it?  
---It either arrives in the post or if they haven't got time to send them they'll give them, they'll email you and ask if you're available to attend a, a um, a meeting - - -

10

Yeah?--- - - - and you meet on the job at a allocated time and, and go – like they might hand you the scope of works then.

Right. And you meet do you with the district supervisor or the district manager from the MSB Picton office who is handling the claim?---You do.

And you meet with other prospective tenderers who have been one may assume invited to put in a tender as well?---Yes.

20

And you inspect the property?---Yes, you go step by step through the scope of works of what needs to be rectified.

And the scope of works is a document that you're provided by the MSB which sets out the work that needs to be done?---Correct.

So on the basis of that scope of works and your experience you subsequently submit a tender or a quote for the work?---Yeah.

30

Right. How do you, how do you go about submitting those tenders or quotes?---Well, it just goes on experience and of how long it takes you to do the actual works.

All right?---Um, yeah.

But physically in terms of submitting the tender, submitted the quote, what do you do?---I fill the forms out and then drop it into this, the tender box.

Right. The tender box is the tender box at the Picton District Office?

40

---Yes, that's - - -

There's always a closing time, isn't there, a nominated closing time that you have to have your tender in by?---Correct.

And is it your understanding that if you don't get your tender in by the closing time it can't be considered?---That's right.

Right. All right. Are you aware as to what the financial delegations are of the district manager or the former district manager of the Picton District Office before December last year, do you know what his financial delegation was to approve the selection of a tenderer?---Well - - -

MR EURELL: Sorry, Commissioner, does Counsel Assisting mean is the witness aware now having heard the evidence in this Commission or is the question before that?

10 THE COMMISSIONER: Well, no, it would have to be at the relevant time I assume.

MR EURELL: Yes.

MR NAYLOR: Yes.

20 THE COMMISSIONER: So at the time that you were carrying out this work for the MSB, did you know then what the financial delegation was of the district manager?---I didn't, I don't know whether I knew it was exactly 50,000 but I knew, if it was a big job they had to be sent up to head office.

And what did you call a big job?---Like, like say a house replacements and um, knockdown rebuilds or, like, the, the one that I'm doing at the moment, that's just finished, was like knock down a garage and rebuild it which was like close to \$100,000, like, they had to be sent up, up to Newcastle.

But you didn't have or you weren't aware of a dollar figure, a dollar amount?---It might have, no, no.

30 MR NAYLOR: How did you know they had to be sent up to Newcastle? ---Because that was a bigger job.

Yeah, but you must have been told or you must have received some correspondence or something to say, to say that they had to be sent up to Newcastle?---Like I've heard this week that it was \$50,000 but I can't recall that I ever knew that it was a figure of \$50,000.

40 Righto. Do you remember ever having a conversation say with Mr Bullock about what his financial delegation was in respect of the approval of tenderers?---No, never.

All right. These site inspections that you attend with the district supervisor or the district manager and the other prospective tenderers, has there ever been an occasion when the relevant person from the Picton District Office has been Mr Bullock?---Um, yeah, there has been a few times, yeah.

Yeah, a few times. When was the last time do you think?---Ah, the last one was the job that I'm doing now.



What job is that?---30 Tickle Drive.

Yeah?---It was actually um, John Rawes' job.

Ah hmm?---Um, I remember the day because it was raining like very heavily um, and John and Darren were there that day with myself and two other contractors um, and then Darren took that job over because John was going overseas.

10

All right. And do you have a memory sitting there now of what Mr Bullock said to you and the other prospective tenderers? You might not remember everything but do you have a memory of anything that was said by Mr Bullock on that occasion?---No, nothing, no.

All right. Well just step me through the process that would happen on site, if you don't mind?---Well, everyone was under their umbrellas and it was raining very heavily and we just went through the scope as quick as we could and sort of got back in our cars and got on with on our day.

20

Did you go and look at the property?---We did go around to the property, yeah.

Yeah?---Inside and out.

All right. And what, do you remember, what was the particular works that were needed on that job?---Um, basically fix the eaves, paint the eaves, um, new ensuite, um, internal painting, knock down the double detached garage, rebuild the garage, um, had to straighten the fences, ah, and then redo the kerbs on their driveway.

30

Sounds like a big job then?---It was, yeah.

Yeah. All right?---Time consuming.

Okay. Since meeting Mr Bullock in 2009, and I take it sir, that you've developed a professional relationship with him in your capacity as a builder and contractor and his capacity as the, now the former district manager for the Picton District Office. That's right?---Yeah.

40

Yeah. So you'd have telephone conversations, would you from time to time?---Ah, not like social, it was always business.

Right. And you'd meet each other as well on site?---Ah, only sometimes when you're doing, like the bigger jobs he might come and just check on, check on the works that you were doing at the time.

Right. Would you meet him on a social basis at all?---No.

Right. In 2010, 2011 you constructed an extension to Mr Bullock's home. That's right, isn't it?---Correct.

Can the witness be shown T1, volume 6, page 2743. Have a look at that page and the next?---Yeah.

View pages up to page 2751?---Yeah, that's the plans that were given to people to quote.

10

All right. And - - -?---And that's what we built.

And if I just go back to the first of those pages - - -?---The 27 - - -

- - - 2743?---Yeah.

If I'm reading these plans correctly, the extension was described here as a new pool bungalow. That's right?---Yeah.

20

And it's sitting on the property between an existing pool and the existing house?---Yes, it's attached to the house.

Okay?---Yeah.

And - - -?---With a breezeway.

- - - you submitted a quotation, did you, to Mr Bullock to perform the work being to construct that pool bungalow?---I did.

30

All right. And if you go just back a couple of pages in the bundle, 2741, 2742?---Yeah.

Was that a copy of the quotation that you submitted to Mr Bullock?---I did.

All right. And was that quotation accepted?---It was.

All right. How do you know it was accepted?---Um, Darren told me that I got the job and, um, I just got, um, contracts and had to get homeowners warranty for the, for the job and, yeah.

40

All right. Do you know, did he tell you if he sought quotes from other building contractors or was it just you?---I presume he got other people to quote it.

But you don't know, he didn't say?---No.

All right. And if you go forward in the bundle to 27 – after the plans 2752 and following through to – oh, there's a blank page there, 2792?---2792?

Yeah. That's the bundle that I'm – I want to refer you to but the first page is at 2752 and then if you go over to 2754 there's a home warranty insurance certificate, there's a contract price inserted \$182,000 plus GST?---Yeah.

And over the page there are particulars of the contract?---Yeah.

And over the page again 2756 there's signatures?---Yeah.

10 That's your signature is it - - -?---Yes, it is.

- - - appearing as the builder on that page?---Yeah.

So you entered into a contract with Mr Bullock - - -?---Mr Bullock.

- - - for the construction of this pool bungalow on his property?---Yeah.

And this contract is signed – 2752 records dates of 30 August, 2010. That's when the contract was entered into. Is that right?---Yes.

20

And you started work on the job a short time after?---Yeah.

All right. And it's the case, is it not, that as work progressed you submitted a number of invoices for progress payments?---Correct.

Was a deposit paid at all before the work commenced?---Yes, the deposit was paid on signing the contract.

30 All right. How much was the deposit that was paid do you remember?---It was 9,900 cash.

Where was the cash – whereabouts was this exchange of cash made?---Oh, in his kitchen or family room in his house - - -

Okay?--- - - - where we signed the contracts.

All right. And if you go next to page 2796. Does that appear – have you got that?---That was the – that's the first invoice that I, I actually gave him.

40 Right. Okay. So you've set out – the invoice sets out the contract sum and then it says amount received. Is that the deposit - - -?---Yes.

- - - the \$9,000?---That's my – the way I started doing my invoicing which isn't very clear. Um, that's the amount – that's the sum without the GST.

Right. So you in fact received \$9,900 which is the 9,000 plus GST?---Yeah.

In cash?---Yeah.

Right. And you've then invoiced for \$20,000 plus GST a total of \$22,000?  
---Correct.

Right. And you see there's some handwriting underneath?---Yeah.

As I read it, it says paid \$12,000, 17 September, 2010. Do you see that?  
---Yeah.

10 Yeah. What does that signify to you?---Well, my records that that progress payment was – I had \$10,000 deposited from Macarthur Credit Union by Darren Bullock - - -

Yes?--- - - - and I received \$12,000 cash on the 24<sup>th</sup> of the 3<sup>rd</sup>.

Right. And Mr Bullock handed you the cash?---Yes.

At his home?---Yeah.

20 And does this date seem right, 17 September, 2010?---(No Audible Reply)

That's three days after the invoice?---Yeah, well, the invoice, yeah, yeah.

And do you know when the, the \$10,000 was put into your account, was it before or after you got the cash?---Um, it was probably the same day, I'd have to check my bank records but normally the bank records are maybe a day after as well.

Do you know why you were paid part in cash and part bank transfer?  
30 ---Ah, um, the first time he passed me the, the 9,900 I must have looked shocked because I've never had that much in my hand before and he, he said, "I just keep my money at home because I don't want my ex-wife to see how much money I've got in the bank," and I went, "Okay."

Did you see him take the money from somewhere in his home to give to you?---No.

Right. All right. Pardon me, Commissioner.

40 THE COMMISSIONER: So in the space – effectively in the space of two weeks between 30 August and 17 September he's given you \$21,000 in cash?---Give or take \$100, yeah, yeah.

MR NAYLOR: Commissioner, I note the time, I note also that we're, we're going to finish at 1.00, a matter for the Commissioner if you want to have a short adjournment at an appropriate time.

THE COMMISSIONER: You're about to move to another area?

MR NAYLOR: Not, not yet, I've still got a little bit to go with, with these invoices and then I'll move to another area after that.

THE COMMISSIONER: All right. We'll take a short break and resume at quarter to 12.00. Thank you.

**SHORT ADJOURNMENT**

**[11.31am]**

10

THE COMMISSIONER: Yes.

MR NAYLOR: Thank you, Commissioner. Mr Kendall, I was asking you some questions about the first invoice that you submitted and the payments that were made - - -?---Yeah.

- - - in response to the first invoice. So you received a payment of \$12,000 in cash and you were paid \$10,000 into your bank account?---Correct.

20

That's a Willbuilt bank account, is it?---Yeah, cheque account.

Cheque account?---Yeah.

Which bank, do you know?---Commonwealth Bank of Australia.

Right. And what did you do with the cash, the \$12,000?---Um, just helped out around the house. My wife was ill at the time and I think I bought a lounge.

30

THE COMMISSIONER: So, sorry. The \$12,000 in cash was not banked into any of your accounts?---No.

MR NAYLOR: Why wouldn't you deposit the \$12,000 in cash, which was income from work you'd done as a building contractor into the Willbuilt bank account?---Just a cash payment. I didn't declare it.

Did you subsequently declare it in your income tax return for the - - -?---I don't know - - -

40

- - - financial year ending June 2011?---No. But since I've, I've notified the ATO and I've done a voluntary disclosure.

Right?---For the cash received.

I'll just move on to the next invoice, 2797?---Yeah.

This is an invoice for an amount of \$33,000, is it not?---Yeah.

And there's a handwritten amount thereof 25,597.17?---Yeah.

What does that handwriting, that handwritten amount indicate?---Well, that was deposited from Macarthur Credit Union on the 1<sup>st</sup> October, 2010. And on the 30<sup>th</sup> September, 2010 there was \$7,402.83 deposited into my account as well.

10 All right. Do you know why the payment for this invoice was made by two separate deposits of - - -?---I've - - -

- - - rather strange looking amounts?---Yeah, it is strange. But no, I don't.

Who deposited the smaller amount on the 30<sup>th</sup> September - - -?---Must've been - - -

- - - was it you?---Must've been Darren.

20 Was it you?---No, it wasn't me.

Right. Did you receive an amount in cash of \$7,402.83?---No.

MR NAYLOR: Did you have a conversation with Mr Bullock about why you were being paid in two separate instalments of rather strange amounts? ---No, not at all.

30 When did you – just going back to the earlier invoice, when did you inform the Tax Office that your tax return for the 2011 year was inaccurate and you needed to amend it?---After being to ICAC.

Go over to the next invoice, page 2798, dated 25 October, 2010. Another invoice for a progress payment, \$33,000 including GST?---Yeah.

What does the \$27,000 in handwriting indicate, do you know?---That was from Darren Bullock, Macarthur Credit Union.

40 So you mean to say that Mr Bullock deposited an amount of \$20,000, \$27,000 into your bank account- - -?---Yep.

- - - by way of electronic transfer?---Yep.

And that would be the Willbuilt cheque account that you've referred to? ---Yep.

All right. Well, what about the balance, the \$6,000?---It was \$6,000 cash not declared.

And you were handed the cash at Mr Bullock's home?---Correct.

Not declared for that financial year?---Correct.

Since declared?---Yes.

When?---On 24 March this year.

10 MR EURELL: Commissioner, sorry to interrupt Counsel Assisting midstream but could I ask the Commission to please make a suppression order with respect to the tax related matters that Mr Kendall is giving evidence about.

THE COMMISSIONER: For what reason?

MR EURELL: His tax affairs are confidential with respect to the ATO. I would ask that until those matters are finalised with the ATO that records in this public hearing be suppressed.

20 THE COMMISSIONER: I don't understand that to be the case. I mean his taxation details are confidential to the extent that they might reveal a tax file number or personal identifying information but he hasn't done that yet. He's simply said that he's only just recently disclosed these undisclosed amounts.

MR EURELL: Yes.

30 THE COMMISSIONER: Well, look, the view the tax office takes about that is – it's a federal matter but I understand it's been put on credit and it's available for that reason, is it not?

MR EURELL: What is available? I don't think I understand Your Honour's question.

THE COMMISSIONER: The questions in relation to when he declared the undeclared income are being put as I understand it on credit as much as anything else so why should that be suppressed?

40 MR EURELL: I didn't understand them to be put on the basis of credit. I'm not sure how it would flow that they would impact on Mr Kendall's credit in the present circumstances.

THE COMMISSIONER: Oh well, really I can. I mean – anyway look, it's – that's a matter for submissions.

MR EURELL.: Yes.

THE COMMISSIONER: But for present purposes I don't see that I have the power to order that this aspect of his evidence be suppressed because I can't see that there's any necessary confidentiality attaching and I don't think that it's in the public interest so that application is refused at this stage and we'll see where we go. All right. Thank you.

MR EURELL: I might indicate if necessary I'll revisit the application.

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

10

MR EURELL: And provide the Commission with the relevant provisions of the - - -

THE COMMISSIONER: All right. Thanks.

MR EURELL: - - - Tax Assessment - - -

THE COMMISSIONER: Yes.

20

MR EURELL: - - - and Tax Administration Act.

MR NAYLOR: Mr Kendall, move onto the next progress payment invoice if you wouldn't mind at 2799?---Yeah.

Dated 8 November, 2010. It's another invoice for a sum of \$33,000 including GST. That's right?---Correct.

30

And were you paid that invoice amount?---That was from – it was paid on the, the 10<sup>th</sup> of November. It was \$33,000 from the Macarthur Credit Union, Darren Bullock.

How do you know it was paid on the 10<sup>th</sup> of November?---Well, that's what was on my bank statement.

All right. Whose hand – is that your handwriting on the top of the page, it says A-C-7-7-3-8-1 and then there's something else which I can't quite read?---No, it's not, not mine at all.

40

Do you know whose it is?---No.

All right. All of that, all of that invoiced amount was paid by way of an electronic transfer?---Yes, well, it came out Macarthur, M-A-C-U.

All right. You don't – do you have a memory of receiving any, any portion of that by way of cash?---No.

All right. Move onto the next page 2800, 2-8-0-0?---Yeah.



Invoice dated 25 November, 2010. Invoiced amount \$33,000 including GST. Do you know whether you were paid - - -?---Yes, I got - - -

- - - that invoiced amount?---I got paid \$33,000 from the Macarthur Credit Union, Darren Bullock.

Do you know when you were pad?---Well, mine says the 25<sup>th</sup> of November.

10 And when you say mine, what does that, what are you referring to?---Well, my, my bank statement says.

All right. Next page, next invoice 9 December, 2010, page 2801. This is a slightly smaller invoice in the sum of \$22,000 including - - -?---Yes.

- - - GST. Then there are two, two amounts in handwriting, 17,000 and 3,000?---Yeah.

20 Do you know first of all whether this invoice was paid?---It was paid. My records say that I had \$17,000 from Macarthur Credit Union, Darren Bullock.

Yeah?---And then there was \$5,000 banked.

THE COMMISSIONER: Sorry, when you say \$5,000 banked was that in cash?---Well - - -

You got \$17,000 from Mr Bullock that came into your credit union account? ---Electronically, yeah, and then there was five, it just \$5,000.

30 MR NAYLOR: Could it have been a cheque?---I didn't receive a cheque, no.

Did you ever receive a cheque from Mr Bullock for any components - - -? ---Never.

- - - of the payments for the house extension?---Never.

40 Let's go to the next page, it's what is said to be the final payment invoice, 18 March, 2011?---Yeah.

Page 2802 and this invoice is for an amount of 8,800 including GST? ---Correct.

Did you get paid for this?---I got \$1,800 from Macarthur Credit Union, Darren Bullock and \$7,000 cash.

7,000 in cash?---Yeah.

Do you know when you received the \$7,000 in cash?---Not a, not the exact date but probably around that time.

What, what, the time that we're talking about is the date of the invoice, 18 March, 2011?---Probably the final, probably around, yeah, March.

And do, do you know why you received the payment in this way, \$1,800 into your bank account and \$7,000 in cash, do you know why it was paid in those two different ways?---No, no idea.

10

And did you receive the cash directly from Mr Bullock at his home?---Yes.

What did you do with the cash?---Well, it helped with household items and, yeah.

You didn't deposit it into your bank account?---No.

All right. And have you since declared to the tax office that you received that income?---I have.

20

When did that happen?---On the, that \$7,000 one was on the 26<sup>th</sup> of March this year.

Did you ever have a discussion with Mr Bullock about not declaring the cash income?---No, I think it was the opposite, that I said I've got to bank it to pay bills but I didn't.

You said you said to him, did you, I've got to bank it - - -?---Oh, I think I said - - -

30

- - - to pay bills?---I think I said once when, I said yeah, I think I'll have to, I have to bank money because I have to pay bills.

And what did he say if anything?---Nothing.

Was it your idea not to bank it?---No, yeah.

It was?---Yes.

40

Are you sure about that?---Positive.

Right. It wasn't Mr Bullock's idea?---No.

Right. So I'm just trying to work out how much you received in cash all up for the job?---34,900.

How do you work that out? Have you got - - -?---I've just gone through my invoices because I know that I got paid - - -

Yeah?--- - - - and just added them up.

Right. And 34,900 is the cash component?---Yes.

And the rest of it was by the way of bank transfer?---Yeah.

No cheques?---That's correct.

10 Right. And the total amount, do you know what the total amount was that you received?---Well, it was \$5,000, that last invoice was \$5,000 short of the original contract price but - - -

The original contract price I think - - -?---Of 182,000.

- - - was 182 plus GST?---Yeah.

20 Right. So - - -?---But I said that was my mistake and I couldn't remember, last time I couldn't remember why, whether it was just a, a calc issue or whether it was about PC items or whatever.

Right. Am I right in thinking the total amount including GST for the price of the contract was, two thousand, sorry, 200,200?---Yeah.

Right. And you're saying you received everything but the \$5,000?---Well, the 5,500.

5,500?---Including GST.

30 Well, did you expect to receive that?---Well, I said before it was my - I couldn't remember why I did, why that happened, that \$5,000 um, figure and then since I've gone home and I've worked out, because in the quote there was \$50 a square metre for tiles and I've worked out all the different quantities and tiles - - -

Right?--- - - - and it was in Mr Bullock's favour of, I think it was \$2,556 that was in his credit, but I can't remember why that figure was different to the original one in the contract.

40 Okay. I'm not fully understanding. Are you saying that there was some kind of variation to the contract to reduce the contract price by \$5,500 or are you saying no, the contract price didn't change, it was still \$182,000 plus GST but there's been some sort of accounting oversight or error such that you failed to recover \$5,500?---Yeah, it was, it was an accounting issue, yeah, with, on my behalf.

Right. So that means does it not that Mr Bullock, according to the contract, still owes you \$5,500?---Well, possibly.

Right. Well, I think I need to put this to you. Is it the case that you provided \$5,500 worth of works to Mr Bullock gratis, free of charge?  
---Not at all.

Right. Have you done any other work on Mr Bullock's home apart from the pool bungalow?---We built a wall in his bedroom.

10 When, when did that happen?---Um, I can't remember the exact date.

Well - - -?---Probably - - -

Which year was it?--- - - -18 months ago, 18 months ago, two years ago.

Righto. Who's we, who's - - -?---Oh, there was myself and my apprentice and tradesman.

And who's your apprentice?---Matthew Rawes.

20 Who's your tradesman?---Steven Brown.

And it involved a construction of a wall, I think you said?---Yes.

Right. And Mr Bullock engaged your, your firm, Willbuilt Homes, to do the work. That's right?---Yes, yes.

And how much did he pay you for the work, if any?---He didn't.

30 He didn't pay you for the work?---No.

Was that the arrangement, that he wouldn't pay you for the work?---Um, no.

No?---No.

Well, what, what was the arrangement?---We'd put the, put the wall on, on a, on a job.

On a job?---Yeah.

40 An MSB job?---Yes.

Right. Do you know which job you put it on?---Um, 1B Tahmoor Road.

Right. How much did you put on that job for the cost of erecting this wall in Mr Bullock's home?---Um, \$3,000.

THE COMMISSIONER: That was a job that you undertook for the MSB, was it?---Yeah. I've only, I've just gone through, after coming to ICAC

before I've gone through on my records and just noticed what had happened.

So the \$3,000 was absorbed into the invoice that was rendered to the MSB for that work on Tahmoor Road?---Yes.

MR NAYLOR: Whose idea was it that you should bill the MSB for the work in relation to Tahmoor Road, 1B Tahmoor Road, for that wall being erected in Mr Bullock's bedroom?---I don't think it was ever spoken about.

10

Well, did you come up with the idea?---No.

Who did?---Darren.

Right. Was there a conversation that you had with Mr Bullock in which he suggested that you should put the cost of the wall on the 1B Tahmoor Road job?---Might have said something along the lines, "Just add it to the vary."

20

Add it to the vary?---Mmm.

Do you know when this conversation took place?---No.

Well, was it before or after you'd built the wall?---It was probably during the wall.

Right. Did you pay either your apprentice and, or the tradesmen for their work in building the wall?---Yes.

30

Right. You arranged for an invoice to be submitted to the MSB for a variation on the 1B Tahmoor Road job that included the cost of building the wall, \$3,000?---Yes.

You got paid on that invoice?---Yes.

Right. Do you remember who authorised the payment? You may not know?---No, I don't.

40

Right. Am I right in thinking that – withdraw that. I had asked you some questions before about the tender process, yeah?---Yeah.

And that process involves you being invited to submit a quote and then if you take up that invitation, you submit a quote after a site inspection?---Yeah.

And you would be informed, would you not, by way of letter or perhaps by email, in due course, whether or not you were successful with the tender?---Yes, or sometimes like you could ring, like if you, you could ring and see, see how you went.

And if you rang – withdraw that. Would you ring to find out how you went?---Um, not all the time. Sometimes I'd, I'd, I was, you know curious whether you know, had, had extra work or not extra, like work coming up. Because you're - - -

Yes?--- - - - competitive with your pricing to, to get work.

10 All right. But if you phoned up – I'll withdraw that. Were there any occasions when you have made one of these telephone calls to find out about a tender that you'd submitted and you were told that no decision had yet been made?---Um, yes.

Yes. Do you remember what was said on that occasion?---Um, I think I ran John Rawes and I asked about, ah, what, I'm trying to think of the, the address. It was in Moorlands Road and I said, "How did the tenders go, John?" And he said, "They were close." And he said, "Ah, it's got to go up to Newcastle," or something along those lines.

20 Didn't tell you, didn't give you any more information on that?---Um, no.

Didn't give you the prices that other, other contractors had quoted?---Not on the Mooreland, not, no.

THE COMMISSIONER: When you say not on the Mooreland Street job were you given prices in relation to other tenders on any other job?---I don't, sometimes if you ask like was it close or something along those lines like they would tell you what the, what the prices were, yeah.

30 MR NAYLOR: But is that before or after the decision's been made as to whose going to get the job?---I don't know. That's not, it's after the tender's been opened.

All right. But would I be right in thinking that the tender process is confidential, is it not, up to the point in time that a decision is made about who's going to be successful in winning the tender?---Well you, yeah.

Does that sound right to you?---Yeah.

40 And if it, if it's, if it were to occur that information was disclosed from the MSB about prices quoted by other tenderers, before a decision had been made about who was going to be successful in winning the tender, that would not seem to be appropriate, would it?

MR EURELL: I object to that, Commissioner, that's a matter for submissions. I think the better question is whether or not information was disclosed before or after a determination has been made and whether or not

it has some impact but, again, that's a matter of – that's a matter for submissions on whether or not - - -

THE COMMISSIONER: Yes, all right. Well, I mean, look he's a builder. I mean he's carrying out this work regularly as I understand it on behalf of the MSB.

Mr Kendall, you always knew that the tender process was confidential otherwise - - -?---You wouldn't - - -

10

- - - it would be too easy to manipulate the tender - - -?--- - - - it wouldn't, wouldn't be worth - - -

- - - wouldn't it?---You wouldn't tender.

You wouldn't bother, would you?---No, because you'd - - -

Unless you were going to deliberately come in as the lowest quote because you had knowledge of the other prices that had been submitted?---That's confidential.

20

Right. That's the way it works?---Correct.

Right.

MR NAYLOR: And it would be inappropriate for you to try to obtain that information wouldn't it?

MR EURELL: Again, I object, it's the same objection as before.

30

Mr Kendall's been asked to express legal conclusions which are a matter for submission.

THE COMMISSIONER: No, he's not.

MR NAYLOR: No, I'm not.

THE COMMISSIONER: It's not a legal conclusion.

MR NAYLOR: No, I'm not.

40

THE COMMISSIONER: He's acknowledged that the process is confidential, he can express an opinion as to whether or not he thinks it's appropriate or otherwise to get that information in advance of the tender closing. Can't he? It's his opinion.

MR EURELL: Again, in my – it seems to me it's a matter for submissions, it's a matter which goes to whether or not there's some wrongdoing by discussions occurring between persons who may or may not be actually part

of the decision as to who is a successful tenderer, the nature of the conversation, it's a very general question.

THE COMMISSIONER: All right. Well, we might, we might get to that point then. Go on, Mr Naylor.

MR NAYLOR: I'll move on. Has it ever happened that you've made a telephone call and spoken to Mr Bullock at the Picton District Office and asked for information about a tender in which you were involved?

10

THE COMMISSIONER: Before the tender had closed.

MR NAYLOR: Before the tender had closed?---No, never, never before.

All right. Well, what about after the tender had closed and before you've received a letter or any other communication indicating to you that who, who the successful or what, what, whether or not you'd been successful in receiving the job?---Um, I remember there was once, it was with John, oh, with Darren.

20

Yes?---I don't know whether Darren rang me or I rang Darren, it was about a job, it was in Abelia Street, I think the, I think there was a new tenderer or I hadn't, hadn't, hadn't met the person before, I think um, he was – like the price that he put in for the, for the quote he, he, I don't think you could possibly do the job for the price that he did, I think it was – Darren just asked me questions about, I think about how much things would cost to do the job.

30

And this is a telephone conversation that took place before the decision had been made about who was going to win the tender, that's right isn't it?  
---Oh, I hadn't received a letter yet.

Yeah. Well, what else do you recall Mr Bullock saying during the telephone call if anything?---I can't, I don't know.

Did you ask any questions of Mr Bullock about the tender process?---I, I knew that they were, the tender process is very strict, I've made a calculation um, mistake before on the tender thing and yeah, my tender got um, ripped up basically.

40

In relation to this particular job?---No, a different job.

Oh. All right. Do you remember if any information was disclosed to you by Mr Bullock about the prices quoted by other tenderers?---On which job?

Oh, on this particular –you're telling me about the telephone - - -



THE COMMISSIONER: The Abelia Street job I think it was?---The Abelia Street job.

MR NAYLOR: The telephone conversation with Mr Bullock about the Abelia Street job?---Um, I can't remember, I can't remember exact figures but it was, I don't know, seven, I think \$7,000 or something that the, the tenderer was, put a price in for.

10 You were told that by Mr Bullock, were you, over the phone?---I think so.

Mmm. Do you remember if any other prices were given to you over the phone?---No.

Right. I want to play you a tape, Mr Kendall.

**AUDIO RECORDING PLAYED [12.21pm]**

20 MR NAYLOR: Just pause that tape.

**AUDIO RECORDING PLAYED [12.24pm]**

MR NAYLOR: Mr Kendall, you may have noticed from the transcript that was appearing on the screen that that conversation was recorded on 8 September, 2014. Just assume that for me?---Yeah.

30 Is this a conversation relating to the Abelia Street job that you were just giving some evidence about?---Correct.

All right. And am I right in thinking that a decision had not yet been made about to whom the contract was going to be awarded at the time of this intercepted telephone conversation?---Correct.

40 All right. And when – just the first, the first line of the, of the recording sounds like you speaking when you say “Did they open those tenders that were due when you were away?” Yes, you agree with that?---Yeah.

All right. What, what was your purpose in asking that question?---Well, just whether the tenders have been opened or not yet.

Well, did, did you ask the question because you thought that you had some kind of entitlement to information after the tenders have been opened?---No.

All right. Well, why did you ask the question?---To see whether it, it's – yeah, ask if the tenders have been opened to see if you've, you know, won or lost the job.

Well, why wouldn't you ask whether or not a decision had been made in relation to who had been selected to do the work rather than asking whether the tenders have been opened?---Well, I've just – I don't use that type of language.

10 Well, because as it reads, sir, what it suggests is that, at least one interpretation, is that you're attempting to obtain confidential tender information in respect of a matter in which you'd tendered. That's right, isn't it?---I didn't intend to do that, no.

All right. Have you had – did you ask the question because you expected that Mr Bullock would inform you about the prices which had been submitted by other tenderers?---No, I asked him the question so I could, I've got, you know four blokes and if I know that those people that lived in that house wanted the job done quick because they were selling it. The lady had  
20 health issues, she had, she didn't exactly tell me but she had, took tablets for everything, whether it was asthma or something like that, and they were moving down to the Highlands somewhere, where the, where the, um, air was a lot better so she didn't get sick. So I was trying to plan, that's what I do. I try and get the jobs done as efficient and as quick as I can to – for the client.

Well, you've asked that question and then there's some further exchanges and then Mr Bullock says, "So your price was 13,900, yeah?" Then Mr Bullock says, "Kieran was 30,500." You say, "Yeah." Mr Bullock says,  
30 "And Asset Trade Services was 7,800. There's no way they can do it for that." Then you had a discussion about whether that price is a reasonable price, yes?---Yeah.

All right. Did you think to yourself, when Mr Bullock told you that Kieran's price was \$30,500 that he perhaps shouldn't be telling you that information because it was confidential tender information?---Well, yeah, probably.

40 You did think to yourself that?---I didn't, I didn't think anything of it, no.

Didn't – has this happened before?---No.

You didn't think, you didn't think anything of it because it's happened before?---Well, I've, yeah, I've heard of, yeah, other prices of jobs before if you asked.

THE COMMISSIONER: From Mr Bullock? That's what's being asked of you. This conversation as it reads or as one listens to it, suggests that this is

a conversation that you've had with Mr Bullock on other occasions. That's what's being put to you?---I can't remember. I don't, I can't - - -

MR NAYLOR: Well were you surprised, at the very least, when Mr Bullock told you that Kieran's price was \$30,500?---Well, it wasn't very competitive, was it?

10 No. But I'm asking you, sir, whether or not, when Mr Bullock disclosed to you the other two prices, you thought to yourself, "Gosh, I don't think he should be doing that and I'm surprised he told me." Did you have those thoughts in your head when he revealed that information to you?---No.

And is that because he's done this before in conversations with you?---Possibly.

20 Possibly. All right. So you've – you knew at the time that you had this telephone conversation with Mr Bullock, that it would be wrong for him to disclose confidential tender information, being the prices of other tenderers, in circumstances where, no decision had yet been made about to whom the job was going to be awarded. You knew that, didn't you?---It didn't, it didn't cross my mind.

Commissioner, I tender the DVD of that intercepted telecommunication together with the transcripts - - -

THE COMMISSIONER: Yes. Of the call of the 8<sup>th</sup> September, 2014?

MR NAYLOR: Correct. At 8.49am, Commissioner.

30 THE COMMISSIONER: Thank you. Exhibit T17.

**#EXHIBIT T17 - AUDIO AND ACCOMPANYING TRANSCRIPT OF INTERCEPTED TELECOMMUNICATION FROM 8 SEPTEMBER 2014**

40 MR NAYLOR: And then accordance, Commissioner with what I'm told, are the relevant procedures for control of the documents. We are unable to distribute copies of the transcript to the parties, however they will be able on the website.

THE COMMISSIONER: Thank you.

MR NAYLOR: Might the witness be shown T6, please. Have you seen that document before, Mr Kendall?---No.

The evidence that the Commission has received so far is that this is a document generated within the Picton office of the MSB?---I've heard of this document being, you know, this week.

Have you actually looked at it before?---No.

10 Right. And you'll see it's not in chronological order, but, and my copy at least is a little bit hard to read, but what it lists is properties that are the subject of rectification works by the MSB Picton Office in the Tahmoor area?---Yep.

And it has various bits of information on it, including the address, the amount that was approved for the rectification works, the date on which the claim is accepted, the initials of the MSB officer who's got carriage of the matter, some comments describing the nature of the works and the contractor. Do you see that?---Yes, I can.

20 And just take a moment to look through those pages, and I'll particularly draw your attention to the column headed Contractor?---Yep.

As I read the document there are a lot of mentions of Willbuilt homes in the Contractor column?---Correct.

And it's a little difficult, sir, I appreciate to form judgements or make assessments about the degree to which Willbuilt appears in that column relative to other contractors in the column, but you agree with me that Willbuilt appears there, you know, a fair bit?---Yes, it does.

30 Yeah. And that would give an impression that Willbuilt was, at least relative to the information contained in this document, it seemed to be getting a lot of work from the MSB relative to other contractors?

MR CHEE: I object to that. The witness has given evidence that he hasn't looked at the document, it's a very dense document and quite a lengthy document, he can't be asked to form an opinion which - - -

THE COMMISSIONER: Well, he can be - - -

40 MR CHEE: - - - is what he's been asked to do - - -

THE COMMISSIONER: All right.

MR CHEE: - - - given that it's a very - - -

THE COMMISSIONER: Well - - -

MR CHEE: He wouldn't have the opportunity to inform that opinion.

THE COMMISSIONER: All right. Well, look, he can agree with the proposition that's put to him in general terms, whether he's relying on the document or not. But look, this witness has already said that in 2010 it was 66 per cent of his turnover, in 2011/12 it was 85 per cent of his turnover. The document speaks for itself in many ways. But anyway, we'll go, go further then, Mr Naylor, if we need to.

MR NAYLOR: Yes, Commissioner.

10 Sir, you've given some evidence today already that Mr Bullock invited you to add the cost of the wall which you installed into his bedroom to the - - -?  
---Yes.

- - - cost of a job at 1B Tahmoor Road. That's right, isn't it?---Yep.

And did you have any other arrangements with Mr Bullock in respect of any other jobs?---Never.

20 Are you sure about that?---Positive.

Did he ever at any time ask you to add an amount to the cost of a variation, apart from the one that you've already given evidence about today?  
---Never.

Did he ever invite you to add an amount to the, to a tender price before you'd submitted the tender price?---Never.

30 THE COMMISSIONER: Mr Kendall, am I right in understanding your evidence to be that the only time in all of your association with Mr Bullock in relation to MSB jobs, the only time it was ever suggested that you add anything to an invoice that did not properly belong there was the time when he suggested that you add the 3,000 to the Tahmoor Road job for the purposes of the, of paying for the wall in his bedroom, is that the one and only time he's ever done that?---Yeah. There was only, there was one other time, my wife's - can I have this out, it's not public?

40 Well, just a minute. Before you go there, the other time that you're about to mention, is that where he suggested that some money be added to an invoice that you were submitting to the MSB?---Not directly.

Not directly, what, but indirectly?---Mmm.

So was that before or after he suggested that you add this \$3,000 to the Tahmoor Road property?---After.

After. So the very first time he ever raises this is when you're installing this wall about 18 months to two years ago?---That's it, yeah.

So when he suggested this you didn't say, well hang on a minute, mate, that's not right, that means the MSB's paying for it not you, you didn't say anything like that?---No.

Why not? It would have come completely out of the blue?---I should of now.

10 MR NAYLOR: You see what, what I need to suggest to you, sir, is that you agreed with Mr Bullock's suggestion to add the cost of the wall to the 1B Tahmoor Road job so that you would get preferential treatment from Mr Bullock in his capacity as Picton office district manager and he would assist to get work for you, that's right, isn't it?---No.

Well, why then did you agree to the suggestion to add the cost of the wall for his, his home onto a job that the MSB was going to pay for? Why else do it?---I don't know.

That, that's the best you can do?---(No Audible Reply)

20 What, what other possible reason is there for agreeing to an arrangement whereby the MSB gets defrauded? What other possible reason is there except that you would get something out of it?---I didn't do job, many jobs for Darren at all.

What does that mean?---Well, this is - - -

30 I don't understand what you're saying?---Well, I didn't, I can't, like it says I didn't, I haven't done many jobs for Darren at all for the Mine Subsidence Board.

So that's even more of a reason not - - -?---And all, and all the - - -

- - - to agree to the arrangement that he suggests I would have thought?  
---But all these little, they're just little jobs.

40 I'm sorry, you're trying to make a point and it's escaping me. The question is why agree to Mr Bullock's suggestion that you add the cost of his, the wall for his home, \$3,000, onto an MSB job? Why agree to an arrangement that involves defrauding the MSB if, if you weren't going to get something out of it?---Oh, I suppose we had work, yeah.

You had an expectation didn't you that you would get more work from the MSB whether from Mr Bullock or anyone else who might have had carriage of the job, that was your expectation wasn't it when you agreed to defraud the MSB?---No, because you had to tender the jobs anyway.

Well, if you had to tender the jobs anyway there wouldn't be a reason for adding the \$3,000 to the Tahmoor Road job would there?---No.

There must have been a reason for adding the \$3,000 to the Tahmoor Road job?---(No Audible Reply)

Yes?---Well, when you put it that way, yes.

And that reason was an expectation on your part that you'd get some more work from the MSB.

10 MR EURELL: I object, Commissioner, that question has been asked twice already and answered.

THE COMMISSIONER: No, it hasn't been answered in fact.

MR NAYLOR: No. No.

THE COMMISSIONER: He couldn't come up with an answer.

20 MR EURELL: No, no, the question that is being put is was it Mr Kendall's intention in applying the \$3,000 - - -

THE COMMISSIONER: No, it wasn't. It was - - -

MR NAYLOR: No.

THE COMMISSIONER: It was that he, it was that he, he acceded to Mr Bullock's suggestion in the expectation - - -

MR EURELL: Yes.

30

THE COMMISSIONER: - - - that he would receive favourable treatment.

MR EURELL: Yes.

THE COMMISSIONER: That was what was put.

MR EURELL: That answer, that, an answer has been given to that question twice. The answer has been no.

40 MR NAYLOR: Commissioner, it's the first time - - -

THE COMMISSIONER: Mmm.

MR NAYLOR: - - - the question has been put after I've got a response from Mr Kendall to the effect - - -

THE COMMISSIONER: I don't know.

MR NAYLOR: - - - agreeing with my suggestion that he had, he had a certain expectation.

THE COMMISSIONER: All right.

MR NAYLOR: What's the answer to the question, Mr Kendall, that – your answer was that you agreed with my suggestion that you had a certain expectation as a response to – in return for agreeing to what Mr Bullock had suggested, adding the cost of the wall to the Tahmoor Road job. I want to know what that expectation was?---Well, you get, yeah, you get work.

You get work. Okay. Has Mr Bullock ever asked you to submit a dummy or a false quote when you're putting in a tender for a job, that is, you would put in a tender for a job and he'd ask you at the same time to submit a document which would appear to be a tender for another building contractor but it's a false tender?---Never.

Never. Have you ever paid Mr Bullock any money?---Never.

20 Has he ever asked you to pay him any money?---Never.

If, if he was – if your expectation was that you were going to get work from the MSB I'm just wondering if you ever thought to yourself that well, maybe Mr Bullock might want some – something in return for that. Did that thought ever cross your mind?---No.

And Mr Bullock didn't ever say to you oh look, maybe you can give me some money, maybe you can give me some stuff in return for me helping you get some work from the MSB?---Never.

30

All right. Pardon me, Commissioner. Mr Kendall, you've attended at the Independent Commission Against Corruption previously haven't you?---I have.

And you were here indeed on 11 March, 2015. That's right, isn't it?---Yes.

Commissioner, may I have relief from the non-publication order in respect of the compulsory examination conducted with Mr Kendall on 11 March, 2015 in relation to line – page 241. Pardon me. Lines, line 21 through to page 242, line 11.

40

THE COMMISSIONER: Yes. The suppression order is varied to the extent indicated by Counsel, page 241, line 21 through to page 242 line 11.

**SUPPRESSION ORDER IS VARIED TO THE EXTENT INDICATED  
BY COUNSEL PAGE 241 LINE 21 THROUGH TO PAGE 242 LINE  
11**



MR NAYLOR: Mr Kendall, you remember that on that occasion I asked you some questions in relation to the wall that you erected in the bedroom, in Mr Bullock's bedroom. Do you remember that?---Yes.

Right. And I'll just read to you a question and answer. The question was: "All right. And do you know how much Mr Bullock paid for the work that your firm did?" And this is the work in relation to the wall being constructed in the bedroom. Answer: "It was – I can't remember whether it was 250 or \$300 cash. It was – we only worked there for a couple of hours." "All right. And the cash was paid at, at the home, his home?" "Yeah." That answer was, that answer was false, wasn't it?---Yes, I wasn't, it wasn't till I went back through all my files, because I didn't have time to do it before I came before and I, I remembered about what had happened.

But that, that, that answer, sir, was a lie because you must have known at the time that Mr Bullock didn't pay for the work. That's right, isn't it?---Yes.

Right. Pardon me, Commissioner. I have no further questions, thank you, Commissioner.

THE COMMISSIONER: If the questions of Mr Kendall aren't going to be too lengthy we could perhaps sit until he's able to be excused. Before you cross-examine, Mr Chee, does anyone else want to ask Mr Kendall any questions?

MS HOGAN-DORAN: Commissioner, I have questions for Mr Kendall.

THE COMMISSIONER: Yes, go ahead.

MS HOGAN-DORAN: Please excuse me proceeding in this way. Could the witness be shown this small iPad. We've tried in the time available, we have forwarded a copy of this to the Commission but to try and use the time I will proceed in this way. Mr Kendall, my name is Dominique Hogan-Doran and I appear for the Mine Subsidence Board. You've been shown a small iPad with an electronic document. Can you just identify for the record what it is?---It's a tax invoice for variations.

And this is in relation to 1B Tahmoor Road, Tahmoor?---Correct.

And is that the invoice in which is included the \$3,000 worth of work in respect of Mr Bullock's home?---Yes, it would have been.

Right?---But that, but there was a variation on the job as well so we did have to paint – it was, I don't know whether you know like a, it's like a really big two-storey gable - - -

Yes?--- - - - and we did repaint the gable and do what was said on the job, on the invoice.

Just for the benefit of the transcript, do you agree with me that the description of the invoice works is, "Works included internal painting to bed 1 and en suite, external brick and paint repairs, painting of front gable and levelling and laying of turf to rear yard, works completed as instructed by the Mine Subsidence Board?"---Yeah.

10 And that the total exclusive of GST is \$8,700, total inclusive \$9,570?---Yes.

And \$3,000 of that has nothing to do with work done for the Mine Subsidence Board. Is that the position?---Yes.

Commissioner, I propose or would seek my friend would tender that, we'll get hard copies (not transcribable) been provided.

MR NAYLOR: Yes.

20 THE COMMISSIONER: Yes, you can do that on Tuesday, thank you.

MR NAYLOR: Yes.

MS HOGAN-DORAN: Thank you, Commissioner.

In answer to a question, and I'm in Counsel Assisting and the Commission's hands in respect of this line of questioning, you started to answer a question by saying there was another occasion and you sought some protection in respect of, from the Commission in terms of the answer when you, just after  
30 you mentioned or made reference to your wife. What was the other occasion that you were trying to indicate to the Commission?---Can my wife's name and her illness not be publicly - - -

THE COMMISSIONER: Well, you don't need to disclose the nature of the illness do you, you just need to say that your wife was ill at the time?---My wife - - -

Is that the position?---My wife's very ill and she may have to go overseas for a major operation and it was um, mentioned that I could put an extra  
40 invoice in on a job and I just said no and laughed it off.

MS HOGAN-DORAN: So who mentioned that to you?---Darren.

So is your position, so that I understand your evidence, Mr Bullock said to you that you should put in an invoice, an additional invoice on a job - - -?  
---Oh, he didn't say you should, he said, he said you could.

Doing the best you can to assist the Commission could you repeat as best you can recall the words that Mr Bullock used in this conversation with him?---We were talking about my wife um, and he said “There’s a bit of money on this job um, you can put an extra invoice in for 10 grand, that might help you out,” and I said, “No, it’s all right thanks,” and I said no, it’s all right thanks and just went on about, on with my day.

10 Do you recall where, when that conversation took place?---I was doing a job at, it was on Remembrance Drive, it was a doctor’s surgery for Dr

And where did this conversation take place?---It was in the, next to the doctor’s surgery.

And did you have any subsequent conversation with Mr Bullock about that conversation?---No, never.

20 I don’t have any other questions.

THE COMMISSIONER: Thank you. Yes, Mr Chee.

MR CHEE: Mr Kendall, I appear for Mr Bullock. Could I ask you some questions about your - - -

THE COMMISSIONER: Sorry, Mr Chee, you’ll just have to stop for a minute. We’re just, we’re just having a problem with the transcription. Yes, sorry, go ahead.

30 MR CHEE: I’d like to ask you some questions about the contract for the extension works at Mr Bullock’s house. You understand that?---Yes.

Were there any variations to the scope of works?---Oh, there was, he put a, a toilet in his dog wash room, he changed a bit of the wall out the back near his, where his table sits I think. Um, no, I think that’s about it.

40 All right. And the effect of these variations would have been to reduce the contract price, is that correct?---Well, with a, well, it wouldn’t really, well, the tiles, the tiles would, would have reduced the contract price but that was, the, the wall would have made it probably more.

THE COMMISSIONER: Did you say he added a toilet in the dog wash room?---Well, I said, I mentioned to him, like it’s, it doesn’t cost, like the plumber’s putting the plumbing in for a shower.

Oh, I understand that?---Well, basically - - -

But the toilet wasn’t in the original plans and - - -?---He had to get - - -

- - - was added later on?---He had to get amended plans to council because I said well, it was right next to the pool, I said why don't you put a toilet in there and then that way - - -

Right?--- - - - people aren't going in the pool house to go to the toilet.

10 Right. One last thing that I'd like to put to you and it's in relation to a different topic. It's in respect of the wall at Mr Bullock's house. Could I suggest to you that it was in fact your idea that it would be added to a variation on an MSB job?---I don't, don't think so.

Thank you.

THE COMMISSIONER: Mr Eurell, do you have questions?

20 MR EURELL: No, your Honour and Commissioner. But I would seek to revisit that issue of the non-publication order, even if just on an interim basis until the Commission's in a position to hear a more complete application.

THE COMMISSIONER: And what is it precisely that you want covered by the non-publication order?

MR EURELL: Only the matters with respect to tax affairs that Mr Kendall currently has outstanding with the Australian Tax Office in which in those circumstances are subject to confidentiality and secrecy provisions contained in schedule 1 of the Tax Administration Act. I can come back next week and make a more complete application with what I have - - -

30 THE COMMISSIONER: Well can you just, can you give me, if you could, just the general effect of those provisions in the schedules? It's been a long time since I've looked at it. But - - -

40 MR EURELL: The effect is that the communications and the matters which relate to any tax liability that Mr Kendall may have with the Tax Office is confidential and secret. I'd be quite happy to prepare a written submission with respect to the matter that I can provide to the Commission early next week. But what I have in mind is simply preserving the status quo between now and whenever time this Commission might be in a position to hear the more complete application.

THE COMMISSIONER: Do you have a view about it, Mr Naylor?

MR NAYLOR: Well, I, I don't, I don't have the provisions to hand.

THE COMMISSIONER: It's, it's insignificant in the scale of things. No.

MR NAYLOR: I, I don't know, for example, whether or not there may be some – even accepting what my friend says, whether there may be some exception in relation to public inquiries by the ICAC. That inquiry would need to be made.

10 **APPLICATION ON A TEMPORARY BASIS SO THAT THE  
REFERENCE IN THE EVIDENCE TO MR KENDALL FAILING TO  
DECLARE THOSE CASH AMOUNTS FOR THE PURPOSES OF  
HIS TAX RETURNS IN THOSE ASSESSABLE YEARS IS  
SUPPRESSED FROM PUBLICATION UNTIL FURTHER ORDER**

MR EURELL: That, Commissioner, is convenient so I'll - - -

THE COMMISSIONER: Thank you.

MR EURELL: - - - refer to Counsel Assisting.

20 THE COMMISSIONER: All right. Mr Kendall, you're excused from the summons that brought you here today. I'll adjourn the inquiry to Tuesday morning at 10.00am. Thank you.

**THE WITNESS EXCUSED** [1.03pm]

**AT 1.03PM THE MATTER WAS ADJOURNED ACCORDINGLY**  
[1.03PM]

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