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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE MEGAN LATHAM

PUBLIC HEARING

OPERATION SPECTOR

Reference: Operation E13/0275

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON MONDAY 17 FEBRUARY 2014

AT 11.10AM

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

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

THE COMMISSIONER: - - - Yes, this is (not transcribable) where any person has engaged in corrupt conduct as defined and whether any changes should be made to laws, practices or procedures. Could I apologise to members of the profession and to members of the public for the delay in the start of the proceedings. There were a number of applications that were made this morning in part arising out of a broadcast as I understand it on this morning's news media which referred to allegations of bribery. There are no allegations in this inquiry that suggest that moneys were paid expressly in return for the performance of favours which is the sense of the term bribery as usually understood. Rather the allegations raise questions concern the capacity of payments as loans to influence public officials in the performance of their duties. Without further ado I'll call on Counsel Assisting to deliver an opening address. Yes, Mr Polin.

MR POLIN: Thank you, Commissioner.

Commissioner, this public inquiry is being held pursuant to section 31 of the Independent Commission Against Corruption Act 1988. The purpose of this inquiry is to establish whether any person has engaged in corrupt conduct as defined by sections 8 and 9 of that Act and whether any charges should be, sorry, any changes sorry should be made to laws, practices or procedures to prevent the likelihood of corruption occurring.

More specifically this investigation concerns the question of whether from early 2012 through to early 2013 Joseph Camilleri and his sister Carmen Attard used their positions as public officials to corruptly solicit over \$1.6 million from other persons including other public officials and Government contractors.

At all relevant times Mr Camilleri was employed by RailCorp in the position of General Manager, Maintenance Contracts. He had also been in charge of a reform process that was being undertaken in the maintenance area and engineering department at RailCorp. At all relevant times Carmen Attard was an employee of the Department of Family and Community Services. From at least 2009 Joseph Camilleri suffered severe financial difficulties caused primarily by his provision of large amounts of money to his daughter, Jessica Camilleri, also known as Jessica Adouni.

From 2009 through to 2012 the monies provided by Joseph Camilleri to his daughter came from his own funds or from sources outside of RailCorp or DFACS.

In 2012 Jessica Camilleri already had significant gambling debts as a result of a well entrenched gambling habit. During 2012 Jessica was seeking extensive amounts of money for her gambling. She also claims that she was being blackmailed by a particular person who later demanded money with threats of violence. She claims that she needed money for these purposes as well as to fund her gambling habits.

It's estimated that in 2012 she sought and obtained approximately \$2 million for these purposes. Jessica sought most of this money from her father. The basis upon which Jessica sought the money was quite bizarre. Initially Jessica sought the money to cover outstanding expenses but not related to gambling debts. Later she claimed the money was to be used by her for legal fees and various expenses in relation to legal proceedings she had as a result of her identity having been stolen. Jessica claimed that the utmost secrecy was required as ASIO was involved.

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During 2012 it would seem that the story evolved with Jessica ultimately claiming that she had in fact succeeded in legal claims against various banks apparently as a result of some sort of defamation for wrongly having accused her of fraud. She claimed that she was to receive large amounts of money by way of damages. While she claimed the cases had been finalised she continued to assert however that money could not be released to her until certain legal fees and bank charges had been paid.

20

Jessica created false documents to support her claims with one such document suggesting she was to receive in excess of \$90 million in damages. These fabricated documents were not sophisticated. A cursory inspection of the documents would have raised alarm bells, quick and simple checks would have confirmed their falsity.

Ultimately it's clear that no money was used for the purposes claimed by Jessica and that most if not all of the money had been used to support Jessica's gambling addiction and had been used to maintain her lifestyle including paying for several overseas trips.

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By early 2012 Joseph Camilleri had exhausted his own funds notwithstanding his salary as an executive at RailCorp at the time was over \$300,000 per annum. In addition he sought and had approved by his supervisors on approximately 30 occasions the cashing in at various periods of holiday leave and long service leave at RailCorp.

At this stage RailCorp executives should have had concerns about Joseph Camilleri's actions and their possible cause.

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From this point Joseph Camilleri sought and obtained loans from approximately 55 persons who were either RailCorp employees or persons directly involved in tenders for RailCorp contracts.

Joseph Camilleri made various representations to the contributors about his daughter's need to urgently access funds. At times Mr Camilleri was asked for evidence to corroborate the story of his daughter's financial difficulties. On occasions various documents were produced evidence will be led that the documents were false.

Many of the persons approach provided funds of several thousand dollars. One RailCorp employee provided in excess of \$500,000 and one associate of Mr Camilleri employed by a RailCorp contractor provided over \$400,000.

From records created by Joseph Camilleri it's been assessed that he was provided with over half a million dollars by persons with commercial relationships with RailCorp and over \$1 million by RailCorp employees.

- 10 In early 2012 Joseph Camilleri approached his sister Carmen Attard to assist him in obtaining funds for his daughter. It would appear that he actively encouraged her to obtain funds from her subordinates at DFACS. Ms Attard was an Access and Demand Coordinator at DFACS. She was responsible for supervising between 16 and 21 permanent and temporary staff.

- 20 During 2012 she was responsible for obtaining over \$180,000 from subordinate colleagues at DFACS on behalf of Mr Camilleri. Money was also obtained by Joseph Camilleri from other sources. Documentation obtained by the Commission indicates that the total money provided to him from RailCorp and DFACS sources was over \$1.6 million. In total, however, he appears to have raised nearly \$4 million from all sources. In total less than \$100,000 has been returned to those persons who provided the money.

- 30 Sometime in the first half of 2012 senior RailCorp management became aware that Mr Camilleri was seeking money from RailCorp staff. Although he was warned to desist in June 2012 he ignored the warning and continued to seek money. Senior RailCorp management became aware that he had ignored the warning and in late 2012 an investigation was commenced into his conduct in seeking money from RailCorp employees. He was then asked to provide details of the amounts he had received from various RailCorp employees. Whilst he disclosed details of most of the money he had received from those employees he denied that he had sought and received money from any RailCorp contractors. This denial continued until he was challenged by investigators as to his solicitation of funds from one identified contractor. Mr Camilleri made a limited admission about soliciting funds from RailCorp contractors. He did not divulge anywhere near the full extent of his dealings with contractors.

- 40 Ultimately RailCorp summarily dismissed Joseph Camilleri from his position as General Manager, Maintenance Contracts on 14 February, 2013. The basis of his dismissal was that he acted in a manner that was a clear conflict of interests and directly disregarded clear and lawful directions breaching both the Code of Conduct and his duties under his contract.

The matter falls within the Commission's jurisdiction as Joseph Camilleri was a public official at the time of his solicitation. He was an employee of RailCorp, a public authority. Similarly Ms Attard was an employee of the

New South Wales Department of Family and Community Services. The alleged conduct of Joseph Camilleri, Ms Attard and any contributor of funds may fall within the definition of corrupt conduct pursuant to section 8(1)(a) of the Act as it may constitute conduct of any person, whether or not a public official, that adversely affects or that could adversely affect either director or indirectly the honest or impartial exercise of official functions by Mr Camilleri or Mrs Attard.

10 The official functions at issue at the time of the solicitations include Joseph Camilleri's involvement in tender processes involving external contractors as well as his participation in an imminent restructure of RailCorp. At the time RailCorp was undergoing a split into two separate entities. There was therefore the very real prospect of redundancies and/or promotions within the organisation.

20 Joseph Camilleri held a position of authority over subordinate RailCorp staff whose career was subject to his influence in an impending staff restructure. It was implicit that the provisions of funds to Joseph Camilleri by RailCorp staff upon his request was more likely to result in a favourable outcome for a particular member of staff. This is corroborated by Joseph Camilleri's inclination to recommend persons for specific positions after they had provided money to him.

Generally the material gathered by the Commission does not identify specific decisions made by Joseph Camilleri that are directly connected to payments made to him by contractors. The clear exceptions are his dealings with Anthony Courtman and Mark Ross-Smith. Both of whom I refer to shortly.

30 However the fact that Mr Camilleri sought and was provided with money by RailCorp contractors could adversely affect either directly or indirectly the honest or impartial exercise of his official functions with respect to his dealings with those contractors both at the time the payments were made and into the future.

As a middle tier manager Ms Attard's official functions at DFACS included the determination of higher duties and leave applications.

40 In this respect her financial dealings with subordinate staff and DFAC, at DFACS are analogous to Mr Camilleri's dealings with RailCorp staff and draw the same suspicions as to corrupt conduct.

Mrs Attard has not been dismissed from her position at DFACS making disciplinary action one of the available outcomes of the Commission's investigation.

Section 8 (1)(b) of the Act may also be invoked due to Mr Camilleri's suspected deliberate and dishonest failure to disclose his conflict of interest

in his dealings as a public official. Mr Camilleri was aware of his obligations to make appropriate declarations, even making such a declaration with respect to matters unrelated to his financial affairs.

His failure to make appropriate disclosure even when involved in particularly large tenders, including one over the amount of \$1 billion, may be characterised as conduct that involves the dishonest exercise of his official function.

- 10 The conduct under investigation may also come within the definition of corrupt conduct as it could be the conduct of any person whether or not a public official that adversely affects or that could adversely affect either directly or indirectly the exercise of official functions of a public official and which could involve fraud and therefore come within section 8(2)(e) of the Act.

- 20 False documentation was relied upon by Joseph Camilleri to further the solicitation of funds. The dishonesty in creating these documents is admitted by Jessica Camilleri. Joseph Camilleri says that he believed the veracity of these documents at the time he was propagating them. However the Commission may be satisfied at the end of the day that this evidence is belied by the clear false nature of the documentation.

Whilst conduct may be classed as corrupt by section 8 of the Act it will not amount to corrupt conduct pursuant to section 9 unless it could constitute or involve a criminal offence or a disciplinary offence or reasonable grounds for dismissing, dispensing with the services of, or otherwise terminating the services of a public official.

- 30 In the case of Joseph Camilleri his conduct may constitute a criminal offence of fraud pursuant to section 192E of the Crimes Act, and offences of soliciting and receiving a corrupt reward pursuant to section 249B of the Crimes Act. His conduct may also involve disciplinary offences including the failure to declare the conflict of interest.

On the information outlined above Mrs Attard's conduct may also constitute the criminal offence of receiving a corrupt reward pursuant to section 249B of the Crimes Act. Her conduct may also involve disciplinary offences or reasonable grounds for her dismissal.

- 40 The position of some of the RailCorp employees may be caught by Section 9 in that their conduct could constitute not only a disciplinary offence but also a criminal offence under section 249B of the Crimes Act in giving a corrupt reward. The position of some of the RailCorp contractors may also be caught by Section 9 in that their conduct could constitute a criminal offence under Section 249B of the Crimes Act in giving a corrupt reward. The following are just some of the individuals that have been identified as those persons who's payments to Joseph Camilleri are most likely to fall within the definition of corrupt conduct given their professional relationship

with Mr Camilleri at the time of solicitation. The contractors; Anthony Courtman. He was an employee of a RailCorp contractor and is Third Horizon. On 13 August, 2012 he lent \$3,000 to Joseph Camilleri. At this time email correspondence indicates that Mr Camilleri appears to be acting in the interests of Third Horizon. The evidence will indicate that shortly after the payment Mr Camilleri ensured that Third Horizon was invited to tender for a particular RailCorp contract. A contract was ultimately awarded to Third Horizon.

- 10 Kevin McCarthy. Mr McCarthy was an employee of RailCorp contractor UGL. Mr McCarthy loaned \$428,000 to Mr Camilleri between October 2012 and February 2013. Mr McCarthy was the main point of contact for UGL with RailCorp during a tender process for the L3C contract. This was a multi-million dollar maintenance contract. Both Joseph Camilleri and Mr McCarthy had agreed for probity reasons not to interact on a personal level during the negotiations for the L3C tender. Between the L3C contract being awarded in December 2011 and when it commenced in July 2012, UGL received additional smaller contracts with RailCorp. Mr McCarthy was paid a large bonus by UGL for securing the L3C contract. This relationship and
20 the amount owed by Mr Camilleri would on any view of it affect the ability of Mr Camilleri to impartially exercise his official functions on behalf of RailCorp in any dealings with UGL.

- Mark Ross-Smith. Mr Ross-Smith was an employee of a RailCorp contractor known as Everything Infrastructure. It was also involved in the L3C tender. The L3C contract was completed in December 2011 but Mr Ross-Smith's RailCorp contract was extended until June 2012. Mr Camilleri was the direct supervisor of Mr Ross-Smith's manager Reg Graham. On 9 August 2012 Mr Ross-Smith sent Mr Camilleri his CV with
30 respect to on-going work with RailCorp essentially a further extension to help bed down the L3C contract. The next day on 9 August 2012 Mr Camilleri approached Mr Ross-Smith for funds. Mr Camilleri said that his daughter needed money to retrieve millions and that ASIO was involved. Mr Ross-Smith provided \$36,000 in four separate transactions on 9 and 10 August 2012. On 15 August 2012 Mr Camilleri forwarded Mr Ross-Smith's CV to a colleague at RailCorp with a view to him working for RailCorp as a project manager outside the L3C project. A further email a week later confirmed that Mr Ross-Smith would be taken on in that new position. Mr Ross-Smith has denied any connection between the loan and
40 the new position.

RailCorp subordinates, Ray Furfaro. Mr Furfaro was a RailCorp employee who provided \$5,000 to Mr Camilleri. Mr Camilleri had told Mr Furfaro that there was a legal issue with his daughter and that legal bills had to be paid immediately and in cash. Mr Furfaro subsequently told Mr Camilleri that he considered that his approaches breached the RailCorp Code of Conduct. Notwithstanding this, Mr Camilleri still asked Mr Furfaro for more money. At the time he lent the money Mr Furfaro knew that Mr

Camilleri was responsible for recommending voluntary separations for RailCorp staff.

10 Sam Cassar, a former RailCorp employee who lent \$56,000 to Mr Camilleri. At the time Mr Camilleri was his manager. Mr Camilleri hired him in 2008 having known him for just under 20 years. Mr Cassar said that he was told several stories by Mr Camilleri concerning his need for funds. He says that he lent the money in part because Mr Camilleri was a senior executive at RailCorp. Mr Camilleri's in deciding staff movements was instrumental in his decision to hand over funds as requested thereby raising the prospect of corrupt conduct through the impartial exercise of official functions.

20 Theo Vavayis. Mr Vavayis was a RailCorp manager who provided \$2,000 to Mr Camilleri. He was told by Mr Camilleri that his daughter was in trouble with lawyers due to identity theft problems and that the Australian Federal Police were involved. Mr Vavayis was later repaid. Mr Vavayis says that he felt pressured to lend the money. He was concerned that Mr Camilleri was going to be an influential person in the changing environment at the reformed RailCorp.

30 Pierre Rochecouste. Mr Rochecouste was a RailCorp employee who provided \$11,000 to Mr Camilleri. Mr Rochecouste was Acting General Manager for Maintenance and Contracts from December 2011 to June 2013. He states that the reason he provided Mr Camilleri with money was due to Mr Camilleri's need to pay a lawyer from Melbourne. There was also a need to pay off debts to release substantial funds. Mr Camilleri showed Mr Rochecouste a fabricated ANZ letter as proof to solicit additional funds. Mr Rochecouste says that in his role at RailCorp Mr Camilleri was influential in deciding which RailCorp staff would be eligible for voluntary separation payments during RailCorp's restructure. This highlights how Mr Camilleri's official functions were adversely affected by his financial dealings.

40 Ray Oweis. Mr Oweis was a RailCorp employee employed as a quality systems programme manager. Mr Oweis provided \$17,000 to Mr Camilleri. Mr Oweis had concerns about Mr Camilleri being put in a position handling large contracts whilst having financial problems. He was also concerned about Mr Camilleri's borrowing from subordinates. Mr Oweis had expressed some of his concerns in an email to Gavin Campbell who was Mr Camilleri's direct manager.

Finally, Commissioner, the reason for this public hearing is to determine whether corrupt conduct has occurred. Where corrupt conduct is established individuals involved must be identified and removed from decision-making positions. In addition to this the purpose of this public inquiry is to attempt to prevent further corruption. Other than identifying corruption it's hoped that the inquiry will result in recommendations being made that will assist in preventing corruption of this kind in the future, particularly where it

involves financial dealings that impact upon sizeable procurement processes.

Commissioner, the first witness to be called is Mr Robert Mason who was at the relevant time the Chief Executive Officer of RailCorp and who is currently Chief Executive Officer of Sydney Trains.

10 I anticipate that Mr Mason will give evidence that in August 2012 he was approached by Mr Camilleri who told him that he required \$17,000 to quickly settle a case about the identity theft of his daughter and that ASIO was involved.

Mr Mason gave Mr Camilleri \$10,000 from his own funds. This occurred after another senior executive had apparently unknown by Mr Mason instructed Mr Camilleri not solicit funds from RailCorp staff.

20 Mr Mason will be asked by the circumstances in which he made the payment to Mr Camilleri, his knowledge of any financial difficulties facing Mr Camilleri and whether Mr Camilleri's conduct alerted him to any possible corruption risks.

I'm just wondering, Commissioner, whether it's now an appropriate time for an adjournment to - - -

THE COMMISSIONER: Yes. I'll take a short adjournment and allow the other members of the profession to organise their affairs and then I'll take the appearances after the adjournment. Thank you.

30 MR POLIN: Thank you, Commissioner.

SHORT ADJOURNMENT

[11.41am]

THE COMMISSIONER: Yes. Could I just confirm that the standard directions apply to this inquiry, I understand that all legal representatives have seen those directions and that there are copies on the bar table. Could I just take the appearances please.

40 MR CHEE: Commissioner, my name is Chee, C-h-e-e. I'm a solicitor from the legal representation office and I'm appearing for Mr Joseph Camilleri.

THE COMMISSIONER: Thank you, Mr Chee.

MR HARRIS: Commissioner, my name is Harris and I'm seeking authorisation to represent Ray Oweis.

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

MR SILVER: Commissioner, Peter Silver seeking leave to represent RailCorp and Sydney Trains together with Theo Vavayis and Peter Rochecouste.

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

MR MACKAY: Commissioner, Mackay for Mr Mason.

10 THE COMMISSIONER: Yes, Mr Mackay, thank you.

MR O'BRIEN: My name is O'Brien, Commissioner. I seek leave to appear for Anthony Courtman.

THE COMMISSIONER: Yes, thank you, Mr O'Brien. That leave is granted.

MR GOODMAN: Commissioner, my name is Goodman. I seek your leave to appear on behalf of Mr Gavin Campbell.

20 THE COMMISSIONER: Yes, thank you, Mr Goodman. You're granted leave for that purpose.

MR EURELL: Commissioner, my name Eurell. I seek leave to appear for Mr Mark Ross-Smith.

THE COMMISSIONER: Yes, thank you, Mr Eurell. You're granted leave.

30 MR OATES: Commission pleases; my name is Oates I seek authorisation to represent Mr Furfaro.

THE COMMISSIONER: Mr Furfaro. Yes, thank you, Mr Oates, you're granted that leave.

MR OATES: Commission pleases.

MR BUCHEN: If it please the Commission; my name is Buchen and I seek authorisations to appear for Andrew Rogers and Third Horizon Consulting.

40 THE COMMISSIONER: Yes, thank you, Mr Buchen. I grant leave. Anyone else? No.

Yes, Mr Polin.

MR POLIN: Commissioner, I call Robert Mason.

MR MACKAY: Commissioner, Mr Mason will take an oath, will take an affirmation and also Mr Mason had prostate cancer a few years ago and may need to take a break if he's in the witness-box for a lengthy period.

THE COMMISSIONER: Yes, thank you. Mr Mason, just take a seat. Just indicate will you if there's a need to take an adjournment at all before quarter to 1.00 otherwise we'll adjourn for lunch at quarter to 1.00. Mr Mason, I just should inform you that it's a serious criminal offence to refuse to answer or give false answers to the Commission. You understand that?

10

MR MASON: (No audible reply)

THE COMMISSIONER: And I'm merely indicating to you that the penalty for giving false evidence is a gaol term of up to five years.

Could the witness be given the affirmation please.

THE COMMISSIONER: Yes, take a seat.

MR MACKAY: Commissioner, are you going to give Mr Mason a section 38?

10 THE COMMISSIONER: Well that was the next order of business. Have you told Mr Mason what - - -

MR MACKAY: I've discussed, I've discussed - - -

THE COMMISSIONER: - - - the effect of that section is?

MR MACKAY: I have.

20 THE COMMISSIONER: And you wish to take advantage of it, Mr Mason? All right.

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 accordingly there is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

30

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

Mr Mason, do you understand that the order that I've given protects you from the use of your answers in any criminal proceedings but it does not protect you against the use of your answers in any prosecution for giving false evidence? You understand that?---I do, Commissioner.

Thank you. Yes, Mr Polin.

MR POLIN: Thank you, Commissioner.

Is your name Robert Frank James Mason?---Correct.

And, Mr Mason, do you still reside at [REDACTED]
[REDACTED]?---I do.

10 And, Mr Mason, I believe you're currently the Chief Executive Officer of New South Wales Trains?---Chief Executive of New South Wales, yes.

What was your position back in 2012?---I was Chief Executive RailCorp.

I take it Mr Mason, you know Joseph Camilleri?---I do.

How long have you known him for?---I arrived in Australia February 2005 and I would have probably met him the first week.

20 Did you work with him then from 2005 through to 2013?---He was, I was a group general manager at that stage so we call that a Level 2 and he was at that stage a Level 4 but I did work with him first, that first six months and then he was Acting General Manager reporting directly to me in my role as group general manager train services.

So over that period that's from 2005 to 2013, what was the level of contact you had with him on a daily basis?---When he reported to me in 2006 and probably 2007, probably once a week may be twice a week, at management meetings or I would go down to his site.

30 And after that?---Less so but during the 2008/9 reform of the rolling stock depot quite close relationship.

So it was close in 2008 and 2009?---Close in terms of working relationship.

And what about after that?---He then probably once every two weeks, once every week may be.

40 So through the period 2012, were you actually physically within the same building?---Yes, I was on level 20 Mr Camilleri was on Level 22.

In terms of that period, are you able to describe him in terms of an employee of RailCorp?---Certainly since I've known him 2005, he appeared to me to be a trusted employee, very thorough and a probably one of the more reforming type of managers we had in the organisation and trying to make positive changes for the organisations for the customers.

Over that period 2005 through to 2013 did you socialise with him?---Not at all.

Would you have called him a friend?---I would call him a good workplace colleague, not a friend.

Did you observe him to socialise at all with other people who worked for RailCorp in that period 2005 to 2013?---No, I did not, in fact, he was one of the few you saw leaving the building very, on time.

Right.---Early in, early to home.

10

Was there any reason that you were aware of why he didn't socialise particular with people he worked with?---No.

In 2009, what was the position that Mr Camilleri held at RailCorp, do you recall?---I don't recall exactly, he was originally being grouped general manager rolling stock and I'm not sure if he then moved into the maintenance and contracts, but I doubt, I think I'll have to check.

Right. Mr Gavin Campbell, you're aware who he is?---I am.

20

Was he Mr Camilleri direct supervisor?---Mr Campbell joined in about 2009 and he would have then been Mr Camilleri's direct supervisor, correct.

And in 2012, were you aware of what Mr Camilleri's position was?--- Mr Camilleri became maintenance, general manager maintenance and contracts but was seconded into the reform team to design the organisation and the contracts.

30

And just basically, what was the nature of the reform that was taking place? ---The reform was making us more customer focused, more efficient wherever possible and improve our safety record.

And how was that being done?---So we had, we had done some base line work, we recall, as is, base line work, bench marking to see what other railways were doing and had done in terms of improving their efficiency and we, at that stage there was a decision made to split RailCorp into two operating railways – Sydney Trains and New South Wales Trains – and Sydney Trains would be the maintainer and New South Wales Trains being the operator.

40

And do I take it that that meant with that process there would be people who would be made redundant?---There would be people made redundant.

And there would be people – I take it – who would also receive promotions within the new organisations?---There would be promotions through a very clear spilling and filling for all management positions including my own.

And what was Mr Camilleri's role in the reform process from the staff?---
He would have been involved with potential design of an organisation
because the organisation made this department only and looking at where
we could potentially source goods.

Was he involved in the separation of the business into two separate
businesses?---He would have been, he was on the team but he wouldn't
necessarily have been involved with separation, I think separation was done
more at the executive level and Transport for New South Wales.

10

Was he regarded as someone who was influential in the reform process and
in a position to make decisions?---He was in a position to make
recommendations.

Yeah. I take it when you say that a single person wouldn't be the, making
the decision initially off their own bat but recommendations would be made
to someone?---Recommendations on organisational structure which was
then very thoroughly gone through with a steering committee including my
own executive team and Transport for New South Wales people as well.

20

And he was one of the persons who would make recommendations in
relation to the reform?---Yes.

And I take it that he was an influential person at RailCorp?---He was seen as
being an influential person and, and - yes.

He'd been there for a long period of time?---He'd been there I think now, it
would have been 38 years now.

30 And he was a senior person at RailCorp wasn't he?---He was, correct.

Is it correct that at the time that his salary was in excess of \$300,000 per
annum?---I'm led to believe so, correct.

So would it be fair to say that he would have been in a position to make,
make recommendations that influenced in terms of the staff who might get
redundancy packages, who might get promotions and the like?---Certainly
not promotions because there was a very clear spill and fill process for all
jobs down to level 5 I think it was so promotions, there would be, there
would have been a specific panel set up for any, any job interviews.

40

But in terms of who was kept and who was let go and who was given
redundancy payments his recommendations would have been highly
considered I take it?---There were recommendations made but they had to
be signed off by a group director in those, those days, we'd moved from
group general managers to directors so it was a very thorough process and it
had very thorough internal audit processes.

But I take it the internal audits and processes are only as good as the information that's been provided to you?---Yes.

And you had in place provision to give notice of any conflicts of interests and those sorts of things?---Very, very clearly conflicts of interests were, throughout the whole organisation the Code of Conduct and conflict of interest was very clearly spelt out to all people in authority.

10 But if people did not notify you of a particular conflict of interest I take it the recommendations would go through and would be acted upon?---Not necessarily, sir. I know a number of cases where directors or group general managers would have rejected those recommendations because the business needed those people.

Right. I'm not saying they'd be accepted but they'd be acted upon?
---They'd be acted but - - -

Yeah?--- - - - but it may be positive or negative.

20 In terms of the reform process and the, whether staff were retained or let go are you aware as to whether Mr Camilleri provided noticed of any conflicts of interest he had in relation to any recommendations he made?---I'm not aware.

Now Mr Mason, I just want to show you some documents. These are pages 267 through to, sorry, 2674 through to 2717. If I could just show you a hard copy of those and one for the Commissioner?---Thank you.

30 If you could have a quick flick through them, do you recognise those documents?---I saw these, many of these documents for the first time last week.

Right. But do you recognise them?---Yes.

These are, would it be fair to say, it's about 30 applications that were made in writing by Mr Camilleri for advances of holiday and long service leave at RailCorp?---Yes.

40 And it would appear at the 30 that approximately 19 of them have been dealt with or approved by Mr Campbell. Is that correct?---Yes, that's correct.

And if you just quickly looking at them, the first, the first one is a typed out letter to Mr Campbell and it refers to unpredicted family financial circumstances and a commitment. Do you see that?---Yes. Yes, I do.

If you go through, that letter appears to re-appear in if not exactly the same terms very similar terms many times through the documents don't they?

---Yes, they do.

When someone's referring to unpredicted financial circumstances isn't a bit unusual that the unpredicted financial circumstances appear to recur many times over over that period of time?---Was it a question?

Yeah. Is it unusual?---Is, you're referring to the word "unpredicted"?

Yeah?---Yes, I'd agree.

10

Mr Camilleri, was a senior executive earning a large amount of money at RailCorp?---Yes.

Yet over this period of time he was regularly seeking to cash in leave entitlements?---I found that out now, yes.

That's not something you're aware of at the time?---I found out last week and I was shocked.

20 Why were you shocked?---Just the frequency and just the frequency and the, and its consistency the message.

If you had been aware of the frequency and consistency is there something you would have done about it?---Yes.

What would you have done?---I'd have put him on a risk watch I believe.

If you go through to page 2705?---Yes.

30 Do you see that?---Yes.

Appears to start off with an email from you?---Yeah. Um, no, it's an email from Mr Peter Thompson.

Have you got 2705?---Yes.

Sorry, at the top of the page it's an email from you?---Yes. That's a second email.

40 Right. The first email is, sorry, an email at the bottom of the page directed to you?---Yes.

And it's about Mr Camilleri's leave?---It is.

So I take it and this was back in December 2011, so I take it were aware certainly at that time that he was applying for the cashing in of his leave?---I was aware of this particular occasion although I had forgotten it later.

Right. But you were actually told in the email that that was in fact the third such advance in the last two months?---Yes.

You see that in the email?---I do.

And do you see that it's suggested there's an element of risk attached. It seems to be the concern there was that he would be overpaid and get some financial benefit?---No, I think - - -

10 Do you see that?---The concern I see, saw then would have been that we were paying Mr Camilleri in advance and he may not turn up to work and therefore he would not have given us the services that we paid him for.

Right. It wasn't concerning you that a senior highly paid executive on three occasions over two months was in need of cashing in his leave entitlements?---As I said in my interview at the Commission I don't remember this particular incidence at the time so obviously it happened at the time but, so I don't remember any great deal of detail about it and I was actually, look at the email I obviously was not in my office, it's a
20 Blackberry response.

Right. The response said that you did in fact discuss it with Mr Camilleri?---Yes.

Do you recall discussing it with him?---The fact -- I don't recall it now, no.

Right. You don't recall whether you asked him the reasons why he in fact needed it?---I don't recall this now and this was over two years, three years ago, two years ago.
30

Right. But you do say in terms of, I'm not just referring to the, the time that you were aware but if you had been aware on the thirty occasions over that period of time that a senior executive was cashing in that amount of leave that something should have been done about it?---If I'd been aware of this I'm sure I would have done something about it.

I tender those documents, Commissioner.

THE COMMISSIONER: Yes, those documents, pages 2674 to 2717 will be
40 Exhibit 1.

**#EXHIBIT 1 - BUNDLE OF 30 WRITTEN APPLICATIONS MADE
BY MR CAMILLERI FOR ADVANCES OF HOLIDAY/LONG
SERVICE LEAVE AT RAIL CORP**

THE COMMISSIONER: Mr Mason, could I just ask you a moment ago you said you would have done a risk watch, is that what you said?---Yes, it's not a technical term I, I - - -

No. But what kind of measures would have been implicit in that?---I would have gone to my general counsel, my HR director and my general counsel saying what is going on here.

Thank you.

10

MR POLIN: Why would you have done that, what was - looking back in hindsight now what, what was your concern?---It was a very solid pattern of requests for advances and cashing out of annual leave, a very, just a very big pattern.

Right?---Which in isolation you wouldn't necessarily notice but if it was a pattern you would certainly notice.

20 Now, Mr Mason, which currently is Mr Campbell, Gavin Campbell's position within the organisation?---Ah, currently Director of Maintenance in Sydney Trains.

And do you remember what his position was back in 2012?---It would have been Group General Manager Maintenance or Director of Maintenance, one of the two, the same, the same title, the same, same job.

30 Were you aware that back in June 2012 Mr Campbell was approached by two RailCorp employees who indicated to Mr Campbell that Mr Camilleri had sought loans from them?---I'm not aware.

30

I take it then you weren't aware that on 26 June, 2012 Mr Campbell had direct Mr Camilleri to desist or stop seeking loans from RailCorp staff? ---I was not aware.

Excuse me, Commissioner.

40 If you had been made aware in June 2012 that Mr Camilleri had at that time approached at least two RailCorp staff seeking loans what would you have done?---I would have probably taken advice.

40

What do you mean by that?---Taken advice from my general counsel, if they were people, depending on who the people were but I'd have taken advice from my general counsel.

Would it have concerned that that had occurred at that time?---That two people had been approached?

Yeah?---Well, I, I subsequently lent Mr Camilleri money myself on a private matter, on a private - - -

I'll come to that in a moment but in your position as the Chief Executive would it have concerned you?---It certainly could be conflict of interest.

Right. And why do you say that?---Because there could be opportunities for, for job advancement - - -

10 Right?--- - - - or, yes, and bringing in favours.

So without even knowing any of the, any of the specifics of it you would consider that the fact that the loan has been made immediately creates a perception?---Not necessarily.

Well, it's, it's a perception that there could be a conflict of interests not necessarily at the time of the loan but at some time in the future?---There always could be.

20 Yeah, that then becomes an issue doesn't it?---Potentially yes.

And what if you'd known at that stage that Mr Camilleri had also cashed in his long service leave and holiday leave and the like on numerous occasions, would that have concerned you further?---It would have concerned me.

Now you referred to you yourself lending some money to Mr Camilleri and I think that occurred did it not on 28 September, 2012?---No, 3 August, 2012.

30 3 August, 2012. Is that when you lent it or that's when he asked for it?---He approached me on the 2nd and I lent him the money on the 3rd I believe.

Now you're obviously aware from the email correspondence in Exhibit 1 that he cashed out leave on at least three occasions over a period of two months at the end of 2011 and he was now seeking a loan from the Chief Executive?---As I said in my interview to the Commission last year I did not remember the transaction in December 2011 and - - -

40 So at the time you made the loan you didn't recall him cashing out - - -?---I did not.

- - - his leave?---I do not recall him cashing out that leave. It was the investigators who reminded me.

So he approached you on the 2 August 2012?---I believe that's the correct date, yes.

What's the nature of the approach, how did it occur?---In my office so I was on my own in the office and he knocked on the door, came in and could I have a private word with you, Rob and this is me Jo Camilleri talking to you Rob as a colleague and I'm desperate to borrow some money, my daughter has had her identity theft and there is due to be some repayments soon as I will repay you the money in due course. He asked me for \$17,000 I believe.

10 Now you've told us that you didn't consider him to be a friend as such rather a good work colleague, did it seem unusual to you that he not as a friend but as a good work colleague approached you for a significant loan like that?---He was a loyal, what I believe to be a loyal work colleague who had earned my trust over the number of years delivering the changes in the organisation.

Right. So you didn't consider it unusual that he approached you?---I never had it before and I've never had it since so this was unusual.

It was unusual?---Yes.

20 What about the story that he gave you? You've said that his daughter was involved in some sort of identity fraud?---Identity theft I think was the word he used, yes.

What did you understand that to be?---It was a confused conversation, um, I saw a man, a work colleague in severe distress.

But just in terms of the reasons been given, you said an identity theft? ---Theft, yeah.

30 You've obviously taken that as the reason. What did you understand that to be?---He used the other words that you know he'd been with a bad group and identity theft I presume meant somebody taking your money without your knowledge so that those sort of things that you read about in newspapers nowadays.

I don't quite understand what you mean by an identity theft, what it was he was telling you?---That somebody else could take your identity and take money out of your bank account or use your funds or name for other reasons.

40 So it's one thing to take money out of the person's bank account but what, what did you understand it to be in terms of using her name?---Nothing more than that so, could you sign documents in somebody else's name, I didn't really go much further than that.

But did you really give it much of a thought as to the story that he was telling you?---In hindsight in reflection not enough.

If you gave it some thought do you consider it a credible story that was given to you?---Um, I don't think I'm really in a position to answer that, I mean not, sorry, I'm not trying to avoid it I, it was an explanation given to me which I thought was credible enough at the time.

You were lending him \$10,000 where did you understand the \$10,000 was going to go?---I understood it was going to him and then to his daughter to pay off legal fees.

- 10 So you understood it was for legal fees?---Or fees, I believe it was legal fees but my recollection isn't that great but I think it was fees or legal fees.

Did you actually question him at the time about it, try and ascertain more specifically what it was that he wanted the money for?---No, but I did say that's, yeah, you're, do you need any help in terms of employee assistance.

Did you ask him at that stage whether that was the extent of the money he was borrowing?---No, I didn't. Well he'd asked me for 17 and I gave him 10 so.

20

How did you understand then that he was going to raise the balance of the \$17,000?---I didn't.

You didn't ask him whether he would then be approaching other people at RailCorp at the time?---I didn't.

Are you able to describe how you actually gave him the money?---Yes.

- 30 If you could do that?---So I went home and, to my family and made phone calls to the bank to release that amount of money for me to pick up the next day and the bank gave me the details of which bank to go to and I took my passport with my cash card and they released the funds to me.

In the ordinary course of events if someone was asking you to borrow some money one would have thought just giving them a cheque for the money would have been the normal way that it was done, would you agree with that?---There was a sense, there was a sense of urgency in Joe's, Mr Camilleri's request.

- 40 Right. Did that of itself concern you?---I thought it brought pressure on me at the time.

Right. So you, you felt pressured to actually make the advance by him?
---No, no, just the speed was a pressure.

Well, you said it put pressure on you?---To do it quickly rather than to do it.

Right. And you went down to the bank to get it in cash?---Yes.

Why cash?---Ah, the, the requirement for speed so a bank transfer would have taken probably longer but I think he asked for cash, I can't remember.

Right. Wasn't this concerning you, that you were going down, you had to go down to a bank, you had to go and get \$10,000 in cash out to give to him?---In retrospect and reflection I could have done it a different way but -
--

10 Do, do you often withdraw amounts like \$10,000 in cash out of a bank?---I don't think I've ever done it before.

Right. So that in itself, wouldn't it have been giving you some concern?
---Not the amount, no, not me drawing that much from a bank account.

Right?---If you go on holiday you spend that much money.

You do but you're spending it, you're not giving it to someone who works for you?---Correct.

20 Did Mr Camilleri go to the bank with you?---He did.

Why was that?---'Cause, so I could hand the cash over.

Did that seem unusual that he actually came to the bank with you?---I might have actually requested it so I didn't have to walk around the street carrying that much money.

30 Right. Do you recall whether you did in fact request it or in fact he wanted to go with you?---I don't recall.

Do you recall whether he actually went into the bank with you?---He did.

He did?---He did.

And the money was handed over at that time?---Correct.

40 Was anything done in terms of documenting the fact a loan was put in place?---The only documentation I did at the time was I got him to sign the bank of the till receipt saying RM, Rob Mason to JC and he signed it and then put his name underneath it.

And was there some sort of agreement struck as to whether he'd pay interest on the money?---There was no interest expected nor offered.

I take it then there was an agreement as to when the money was going to be repaid?---As soon as possible, weeks.

And was anything said about how the money was going to be paid or when it was going to be repaid?---No.

How is it then that you had an expectation that it was going to be repaid at as soon as possible or indeed in weeks?---I trusted Mr Camilleri as a workplace colleague I'd known for eight years at the time and he'd earned my trust and I trusted him at that stage.

10 So you're saying there was a conversation, he said it would be paid back within a short period?---Yes, weeks.

And now at the time of him borrowing the money from you and giving the explanation to you as to why it was needed he referred to ASIO didn't he? ---He mentioned it in passing when I said how long will this take, what's, what's the money, what's the problem with the money coming back to your daughter, ASIO are involved.

20 Okay. So you actually did ask him about the problems with the, that his daughter had in getting the money and the reason it was needed?---Um, as a part of that conversation, yes.

Well, you obviously asked to the extent that he told you that one of the problems was that ASIO was involved?---It wasn't a strong part of the conversation.

Whether it was strong or not, something that would strike you as quite unusual wouldn't it?---In retrospect and reflection, yes.

30 Why just in retrospect, why not at the time, why wouldn't, at the time, the senior executive telling you his daughter was having problems with ASIO, why wouldn't that cause you some concern at the time?---I think I was, my concern for Mr Camilleri was paramount at that stage.

What do you mean by that, he was asking to borrow some money, why was your concern paramount?---Because he was a distressed individual and that's what I saw at that stage.

40 Did that of itself concern you in terms of your professional position that Mr Camilleri as a high level executive of RailCorp at that time in a distressed position and seeking to borrow money from you?---And that's why I offered what we call EAP Employee Assistance Program to support him if need be.

Right. That's offered to him, but what did you do as the chief executive in terms of your concerns for his well being and his ability to do his continued job at RailCorp at the time?---Nothing more than that.

Do you think that you should have done more than that at that time?---I think, I don't want to surmise as to what I thought at the time.

Well I suppose, do you often in your position get senior executives who are, to use your language, distressed and need of borrowing money?---No.

Mr Camilleri's position was a very responsible one wasn't it?---It was.

The kinds of contracts he was dealing with, I think one in particular was worth over a billion dollars, was it not?---Amongst other people, he was involved in that one, yes.

10

And other contracts and multi-million dollar contracts he's dealing with?---Yes.

Didn't it concern you that a high level executive, highly paid executive who's involved in contracts of that level was coming to you in a distressed state seeking to borrow \$10,000?---On reflection I should have done more.

20

Indeed, I think when you were previously asked some questions you described him, as someone he appeared to be a desperate man who was very much in distress. Is that how you would have described him at the time, a desperate man?---Desperate to get the funding.

Right. So desperate to get it?---It was a word I used evidently at the interview.

And wouldn't that be causing you concern at the time that that was the level of his need at that time?---I used the word in the interview.

30

I understand you did but was that - - -?---May be.

- - - fairly depict the level of need you were perceiving at that time that he had for the money?---I think I would have use the word distress better.

Desperate?---It's a very strong word.

It is a strong word, that's why I'm asking you I think you used it on two occasions, on the second occasion you described him as looking horribly desperate. They are strong words?---They are.

40

I'm just wondering why in your position you didn't then do anything other than suggest that he could get some counselling from one of the in-house services? No?---Sorry, I didn't actually hear a question there.

Sorry, being a man who's horribly desperate to get the money you didn't think you needed to do more than simply refer him to one of, I take it, one of the in-house services?---I'd say the word desperate is strongly used in that interview, whether in hindsight it's the right word, I don't know, but he looked distressed.

Did you go and talk to Gavin Campbell about him?---I spoke to Gavin Campbell after the, when the investigator reminded me, I had spoken to him when he came back from leave saying I had advanced that money.

So when was that you spoke to Gavin Campbell?---January that year.

Right. So that was well after you had leant the money to - - -?---No, January, January after I'd advanced the monies.

10

You advanced it in August of 2012?---No, it was December 2011. The advance, his pay?

Sorry.---Sorry.

I shouldn't have used the word advance.---So I spoke to him after the advance of the salary.

You then made the loan to him?---Yes.

20

In August 2012?---Yes.

Did you go and speak to Gavin Campbell, who I think was his direct superior at that time?---No, I didn't.

Any reason why, why you didn't?---I considered it a private loan, private matter.

30

But it was a private loan given in circumstances where you considered that he was desperate for it? You suggested that he should go and get some counselling, you didn't think that was something worthy of speaking to his direct supervisor about?---I didn't mention it to him, I don't believe. I certainly didn't mention my loan.

But I think as I indicated earlier I think Mr Campbell became aware in June 2012 that Mr Camilleri was seeking loans and he was told to stop, you're aware that occurred now?---I am now aware of that, yes.

40

And you're aware in August 2012 Mr Campbell was again approached by others at RailCorp and I think indeed again October 2012 was approached again indicating that Mr Camilleri was continuing to seek loans from people at RailCorp?---I'm aware of that now and about November that year I was made aware of it.

Right. So when was it that you were made aware of it?---When either Mr Cairns or my general counsellor came to say that they were starting to, that there'd been reports that Joe Camilleri had been borrowing money from

members of staff and that they were going to call him to account because he had refused a direction to stop doing this.

What was the extent of the borrowings of Mr Camilleri that you were aware of then in November of 2012?---So when I was made aware of it I first of all declared that I had been one of the lenders so therefore I was not involved in any of the detail in the investigation, however, I was made aware there was a list being drawn up of those who were RailCorp employees who had lent Mr Camilleri money.

10

And what was the extent of the amount of money at that stage that you're aware of?---I now know it be something around \$400,000.

Sorry, you now know, but what was, what were you aware of back in November?---I was not part of the investigation, I knew a list was being drawn up because Mr Camilleri rang me saying I've been asked to nominate all the people who have leant money and I said, in that case you must use my name because I did lend you money.

20 But are you aware, obviously, there was your \$10,000, was it a lot more that you were aware of in November?---So I think, I believe I saw the list but not any details, not part of the investigation.

And so what did you do then in November 2012?---So I was kept out of the investigation by my own request because I was potentially conflicted and that the, I am aware the organisation then called for an investigation.

30 And what was the nature of that, what actually happened?---I now know that the investigation was undertaken by a lawyer to interview Mr Camilleri as to why he continued to resist the instruction to stop approaching RailCorp employees and to find out the reasons for it.

And so is it the case that you then didn't have any further part in that because of the fact that you had leant Mr Camilleri some money?---I believe that I was potentially conflicted in any investigation.

Right. Now could I just show you these documents it's page 1 to 74. Now I think if you, the first documents goes from page 1 through to page 32.---
Yes.

40

Do you recognise that to be the RailCorp Code of Conduct- - ?---I do.

- - - effective as at 1 July 2011?---Yes.

And the next document I think is page 33 through to page 64?---Yes.

Do you recognise that as being the RailCorp Code of Conduct effective as of May 2012?---I do.

Then pages 65 to 66 do you recognise those as the RailCorp Gifts and Benefits Declaration form?---I do.

And page 67 through to I think 74 that's the RailCorp Gifts and Benefits Policy?---Procedure, yes, yes.

10 Yeah. And is it the case that the essentially in terms of gifts and benefits and the Code of Conduct and conflicts of, sorry, gifts and benefits and conflicts of interest that the Code of Conduct is essentially the same in terms of the July 2011 edition and the May 2012 edition?---Um, I actually don't know what the different is but I can't remember what we changed but there was the general thrust is certainly the same.

It appears to be I think actually an identical terms, could that be right?---I think the latter one may have been a booklet we issue to each staff.

20 And if you look page 17 that's the, that's indicated that the acceptance of the gift and benefit has the potential to comprise to employees and their role at RailCorp because they may not be able to make an unbiased decision in the future with respect to the organisation. Do you see that?---Yes.

And further down it says, "You must not seek any gifts or benefits"?
---Yes, I believe this refer very much to external parties but you're correct. This is gifts and benefits between RailCorp employees and potential suppliers that was certainly the main focus of it.

30 Does it say anything there about it being restricted to - - -?---No. I - without going through detail I'm sure you're correct.

Well you wouldn't look to place that sort of restriction upon it would you?--
-It was certainly gifts and benefits was all our thrust since 2008 the Monto Report done by the Commission was about our relationships with suppliers and the gifts and benefits was very clearly about in my mind but may not exclusively have been now it's the main focus.

Right. But you're not suggesting that it would be limited in any way would you?---Um, I had never, I never thought about it in that way.

40 Well - - -?---That would have been covered by the overall Code of Conduct.

If someone was to obtain an interest free loan for example there's no doubt is there that that is a benefit to the person who obtains the loan, is that correct?---Correct.

Indeed if interest was charged the, the fact that a loan is given is a benefit to that person isn't it?---It could be, yes, yes.

But it's more so if it's an interest free loan. Is that correct?---It is but - - -

There can't be any doubt about it can there?---Gifts and benefits incurred any goods or service of other arrangements which have a value to the recipient and for which RailCorp does not pay.

Yeah. So if someone receives an interest free loan just in general terms and there's no doubt it's a benefit to them is it?---Yeah.

- 10 They're getting money, they don't have to pay interest on it, someone else's money they're able to use?---Yes.

That's correct isn't it?---Yes.

And I think you yourself said that you would have been concerned if you'd heard earlier that Mr Camilleri had borrowed money from subordinates because it immediately created a conflict of interest. That's correct isn't it? ---Yes, yes.

- 20 And that's because Mr Camilleri and I appreciate you're in a different position because you're senior to him but Mr Camilleri was obtaining a benefit from people who were beneath him?---Absolutely, yes.

And as soon as that's done there is a perception that decisions may be made that could benefit those people beneath him?---There was a perception, yes.

And however you read the Code would you agree that under the Code Mr Camilleri was obtaining a benefit which created a conflict of interest?

- 30 ---That's what the investigation was about, (a) to find out why he was not desisting from borrowing money but also to see if he'd breached the Code of Conduct.

And I think it was determined that he did breach of the Code of Conduct? ---I've seen the investigation report and believe it says he has.

Did it deal in particular with his borrowing money from subordinates and that being a breach of the Code of Conduct?---I've seen the report quite recently, I believe it mentions that.

- 40 Do you believe that was at the time or indeed is at the present time appropriate behaviour to borrow money from subordinates in the way Mr Camilleri did?---If it was a direct subordinate chain it would be, be different from if you were a different part of the organisation potentially.

But only potentially isn't it because - - -?---Yeah.

- - - no matter where you are in the organisation you always then have the potential to be moved within the organisation, to become under the line of

command, is that not right?---Very unlikely to move into maintenance but I take your point and accept that.

And do I take it that the way you potentially get around that is you identify it as a conflict of interest and then if it occurs you declare it?---Certainly.

And is that the whole point of having the specific form to declare any conflicts of interest?---It's not the specific (not transcribable) a point, the specific point on conflict of interest is also but not exclusively, excluding suppliers as well.

But in terms of Mr Camilleri you do say that what he did was inappropriate in terms of the Code of Conduct?---That's what the investigation found I believe.

Right. Putting aside what the investigation found do you believe that to be the position in terms of what he did?---It was a private matter but it certainly put a risk there and certainly a perception.

20 Do you believe that in terms of your Code of Conduct what he did actually breached it?---I'd like to read it before I answer that in the affirmative or negative but certainly there was, there is a perception of a conflict of interest, I agree.

Once there's the perception of - - -

THE COMMISSIONER: Did you - sorry. Did you say you would like to read it, meaning the Code of Conduct?---Without giving a definitive yes or not - - -

30 All right?--- - - - but I, I don't - - -

That's all right?--- - - - look, Commissioner, I don't think there's any point in me reading it, I think the point is that there is a potential for a perception of conflict of interest and real conflict of interest.

MR POLIN: Do you think that parts of the Code are ambiguous in terms of dealing with the situation that occurred with Mr Camilleri?---I hope not because I approved it, without reading it I don't know.

40 So you would say, would you, that the Code of Conduct should catch the behaviour of Mr Camilleri?---In terms of potential perceived, there is no harm in declaring a conflict of interest, it doesn't mean that somebody is guilty, you're correct, yes.

Well, it pretty clearly says that in terms of employees you must not seek a benefit from any person, that's what it says doesn't it, on page 17?---It does, sure.

I'm just asking you this because there seems to be a bit of confusion about it, I think what you're saying is that you believe that what Mr Camilleri did in borrowing the money from subordinates was a breach of the Code of Conduct but I'm just asking you whether you think that's clearly spelt out when you read the Code of Conduct?---Well, I must reiterate I believe gifts and benefits section number 9 was very much focussed on suppliers, I wouldn't, I would, without reading it again I would have said that was my interpretation, if anyone talked about gifts and benefits it'd be about the supply market, that would be my immediate reaction.

But you would think that the behaviour of Mr Camilleri would be behaviour that should be caught by the Code of Conduct?---There would have no reason why he shouldn't have declared a conflict of interest if he felt that was the case.

Well not whether he felt it was the case I'm asking you whether objectively looking at what he did I think you've said you believe the conflict of interest was created by what he did?---There was a potential conflict of interest.

And as soon as that's done the Conflict of Interest forms should be completed should it not?---Certainly notify your manager and complete a Conflict of Interest form.

Right. And that probably should be done should it not at the time the loan is taken out?---Ah, I'm trying – certainly notifying your manager notifying authority you've done it, um, a form or some note should be made.

And it's certainly something that should be done by the point of time when you come to make decisions that in anyway involve the person who's lent the money?---Yes.

Now in terms of the RailCorp contracts and I'll try not to go into too much detail 'cause we'll ask Mr Campbell as well about them, there's the LC3 contract has been referred to?---Yes.

You're obviously familiar with it?---I am.

It's a very large contract isn't it?---A very large contract.

It's a contract that has a contract value in excess of \$1 billion is it not?
---Over seven years, correct, yes.

I take it that probably one of the largest contracts that RailCorp has, just one - - -?---One of the largest but, yeah.

And I take in terms of that sort of contract it's important to make sure if there are conflicts of interest they're declared early on?---They are declared

early on. The process would not go ahead without people declaring, declaring yes or no to any conflicts of interest.

And with the conflicts of interest of course you're dependent upon people actually being truthful and declaring the true conflict?---You are.

Now there's some evidence that, of a longstanding friendship that Mr Camilleri had with Mr McCarthy, are you aware of that?---I'm aware of it now.

10

You're aware of who Mr McCarthy was?---So he was at one stage when I arrived I think number 2 or number 1 in the (not transcribable) main train depot at Auburn.

Mr McCarthy I think at the relevant time in terms of the, the L3C contract tender was the tender manager for UGL was he not?---Sir, I've heard that this morning but yes, I'm sure he was, yes.

20

UGL were one of the main tenderers?---Yes.

And indeed UGL was the company that held essentially that contract for the previous 17 years?---Correct.

THE COMMISSIONER: Mr Polin, I'm wondering whether that's a convenient time to take the adjournment. I'm conscious of the difficulty of moving in and out of the building. Can I just ask do you wish to tender the Code of Conduct at this stage?

30

MR POLIN: Yes, Commissioner, I'm sorry, I should have.

THE COMMISSIONER: That's all right. So those documents will be Exhibit 2 and just while I'm on the subject of orders, Mr Mason, whilst you did provide your address I will make an order suppressing the publication of your personal address?---Thank you.

40

#EXHIBIT 2 - BUNDLE OF DOCUMENTS CONTAINING CODE OF CONDUCT OF RAILCORP (JULY 2011), CODE OF CONDUCT OF RAILCORP (MAY 2012), GIFTS & BENEFITS DECLARATION FORM AND "1 POLICY: GIFTS AND BENEFITS"

THE PERSONAL ADDRESS OF MR MASON IS SUPPRESSED

THE COMMISSIONER: And we'll resume at - yes, Mr Polin?

MR POLIN: I was just going to say maybe if Mr Mason could have access to Exhibit 2 and maybe have a look at it.

THE COMMISSIONER: Yes, he can read it over the adjournment, yes, that's a, a wise suggestion. Have you got a copy there, Mr Mason?---Just the one - yes.

Yes. If you could read it over the adjournment and as I said we'll adjourn now and resume at quarter to 2.00, thank you.

10

LUNCHEON ADJOURNMENT

[12.49pm]