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THE HONOURABLE MEGAN LATHAM

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TRANSCRIPT OF PROCEEDINGS

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ON MONDAY 17 FEBRUARY 2014

AT 1.48PM

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

<ROBERT FRANK JAMES MASON, on former affirmation[1.50pm]

THE COMMISSIONER: Now, Mr Mason, have you had a chance to read that document?---I have, thank you, Commissioner. Yes.

Right, thank you?---So this is on gifts and benefits, yes.

Yes, Mr Polin.

10

MR POLIN: Thank you, Commissioner. If you could turn over to page 20 of the document?---Sorry, I took it away to read page, section 17 so Gifts and Benefits.

Right. But could you have a look at - - -?---Yes.

- - - page 20 now?---Yes.

That's the Conflict of Interest - - -?---Yes.

20

- - - section. And you're familiar with that?---Yes.

And so in terms of these loans that Mr Camilleri was obtaining from other RailCorp employees it's clear is it not that they would fall within the section of a conflict of interest?---I believe so, yes.

The first step is there identified as a conflict of interest, the second step as I read the code is that if they're acted upon the conflict of interest becomes improper conduct, that's about half down the left hand column. Do you see that?---(No audible reply)

30

Just up, see the bullet point on the left-hand side - - -?---Yes.

- - - the first bullet point?---Yes.

Just at the end of the two paragraphs starts from that?---Okay.

Do you see that?---Yeah.

40 Is that your understanding of the - - -?---Yes.

And then if you go over the page to page 21 you see the second paragraph. Four lines down do you see, "You must notify your general manager or other senior manager immediately in writing if a private interest conflicts could influence or may appear to conflict with your RailCorp responsibilities"?---Yes.

And then at the bottom of the page, on the left-hand side, if that's the case I think the General Manager, you must complete records of the conflict of interest and how it's going to be managed, you see that?---Yes, yes.

And those records are to be kept, do you see that?---Yes.

And I think the right-hand column of the page, halfway down deals with the same situation involving contractors?---Yes.

- 10 So it's the case isn't it that with each of the loans that Mr Camilleri obtained immediately I think as you've indicated there was a conflict of interest arose?---If they were within the line of management.

Well, I think no matter where it was under the Code - - -?---Yes.

- - - the conflict arose because there was a potential conflict but then if it possibly could be acted upon or it was acted upon that became improper conduct, that's the way it appears to work isn't it?---Yes, yes.

- 20 So in relation to each of the loans it would appear under the, the Code that this conflict not only needed to be declared, it needed to be declared to the person's general manager or senior manager and then recorded, is that correct?---That's the way it is written, correct.

And then I take it its recorded because it may not be for some period into the future that the conflict may potentially become improper conduct, that is it may not be acted upon until the future, is that correct?---Yes.

- 30 And in the case of Mr Camilleri am I correct in saying that none of the loans to RailCorp employees were - sorry, I withdraw that. Most of the loans to RailCorp employees were not in fact reported to their general managers, either by Mr Camilleri or the person who lent the money?---Not to my knowledge, I am not aware of that.

There are certainly some that were reported I think quite quickly?---Okay.

But most of them weren't?---Not to my knowledge, no, I mean to my knowledge no, they weren't.

- 40 And is it the case that none of the loans in terms of the none of the loans were records completed to be kept to manage those conflicts?---Not to my knowledge.

Right. Indeed, even in terms of your loan to Mr Camilleri, notwithstanding the fact that he was in fact your subordinate it would be caught by the conflict of interests provision in the Code too would it not?---I didn't realise that at the time.

But - - -?---But reading this the letter of it, yes.

And so I take it that that's something that should have been documented as well?---In hindsight I understand that.

Now I was asking you some questions as well about the L3C contract and in terms of the conflicts that may exist in terms of that. You were aware, weren't you, that Mr Camilleri was involved quite heavily in terms of the L3C contract tender process?---I am aware of that and I was aware at the time, yes.

What, what was his position in that process?---He was certainly one of the team leaders and I think he was quite senior in the team overall.

And what, what would be his responsibilities, would he be making decisions in relation to various aspects of the tender process?---Um, not in terms of decisions in terms of valuation but certainly could be with others making decisions or recommended decisions to potentially lawyers about changes in terms of the contract.

Now in terms of your earlier answers you said that he may have made recommendations in relation to certain things but may not have made decisions. Do you remember saying that?---Yes.

I take it that he would have also been on various panels as well that did in fact making decisions. Would that be correct?---They would make scores so that, so that various panels – in terms of the L3C there'd be, there would have been a group of subject matter experts and technical people and financial people and they would be divided into looking at certain sections, there were technical evaluations and the financial evaluation separate and he (not transcribable) I'm not sure which or whether he was above the base.

Right. So he would have been potentially part of panels that actually make decisions albeit not the ultimate decision but decisions in terms of the tender process?---Decisions would be made recommended to a steering committee, evaluations to a steering committee then to an executive committee.

And he was on some of the steering committees wasn't he?---I'm not sure if he was on the steering committee or on the evaluation committee.

Was he on the executive committee at all?---No, not at that stage he was acting at some, on occasions.

And in terms of now moving away from that contract just for one moment the RailCorp restructure and who was to stay and who was to go not only would he make recommendations but he potentially was part of various selection panels that made decisions as well wasn't he?---Well I don't

believe he was 'cause the selections hadn't started by then, it went from top down.

It was anticipated - - -?---But he could have been, would have been anticipated, yes.

That he was going to be part of the selection panels that in fact made the decisions, is that correct?---Could have been, yes.

10 So not only was he potentially making recommendations he was in fact potentially making decisions as well as part of a panel---Potentially had he been successful himself so it went top down, so he'd have to have appointed first before then being part of the selection process below.

Now just going back to that LC3 contract. I was asking you some questions about Mr McCarthy, do you remember that?---Yes.

20 And McCarthy was as I understand it the big manager for one of the main tenderers for the contract. You're aware of that?---I am now.

Were you aware that Mr Camilleri had a longstanding personal friendship with Mr McCarthy?---I knew they had known each other at business not a longstanding personal relationship, no.

If you had known – I withdraw that. If indeed it was in fact a longstanding personal friendship that would be something that would need to be declared in terms of a potential conflict of interest wouldn't it?---Yes.

30 Indeed Mr McCarthy and Mr Camilleri in fact agree between themselves that throughout the tender process they would not speak to each other about matters relating to L3C contract. Were you aware of that?---No.

That would suggest wouldn't it that they were both to some extent identifying a conflict that they had in terms of their personal relationship? ---Well I wasn't aware of their personal relationship so I would - - -?

But the fact that - - - ---expect them to have declared that.

40 The fact that they have agreed between themselves not to speak to each other seems to suggest that they're identifying there is some sort conflict there, is that correct?---It's a suggestion that I, I agree with you but I don't, yes.

But in any event the fact of a longstanding personal friendship you say is enough to create a conflict which should be declared?---It should be declared.

Could I just show you this document, it's page 252. Do you recognise that? I haven't included each page but it is a page from the, you'll see headed up the top, because it's got a lot of names that are not necessary a page from the conflict of interest register for the L3C tender project?---I've never seen this particular version.

But you recognise that's essentially what the document is?---I recognise that's what its proposing to be, yes.

10 And do you see Mr Camilleri - - -?---I do.

- - - there and he appears to have noted some matters and correct me if I'm reading this incorrectly, that potentially our conflicts of interests for the purpose of the tender process, does that appear correct?---Sir, if you just bear with me because I've never seen the form before.

That's all right?---Yes, this appears to be a declaration by Mr Camilleri and on the right-hand side it talks about - - -

20 Yes?--- - - - what that declaration's about.

Well, he seems to refer to firstly a member of the Main Train Alliance Board and whether somehow that may constitute a conflict?---Sir, the Main Train Alliance Board would have been the two organisations, RailCorp and United Group in those days meeting on a regular basis, probably every quarter, the senior managers meeting to discuss the performance of the contract and it was called an Alliance Board.

30 And the second one is he refers to an email from a Peter Edwards requesting Mr Camilleri act as a reference for Mr Edwards who was from Downer EDI. I assume that means that Mr Camilleri is suggesting that there may be a possible conflict in that someone from Downer EDI who I understand was a tenderer for the L3C contract - - -?---They were.

- - - he considered that may have been a conflict and something he should disclose?---That's what it appears to be, yes, correct.

40 That's the extent it would appear of Mr Camilleri's disclosure in terms of that tender process, would that be correct?---That's the actions taken to manage that, correct, yes.

Yeah. So something as simple as one of the employees of a contract asking for a reference is enough to trigger a conflict of interest it would appear in Mr Camilleri's mind?---Yes.

But it doesn't appear that a longstanding friendship with one of the tender managers was something that caused him an issue?---That's correct, yes.

MR SILVER: I object to the question.

THE COMMISSIONER: Yes, the basis - - -

MR SILVER: (not transcribable) Mr Camilleri's, he can't answer for what Mr - - -

THE COMMISSIONER: I'm sorry, I can't hear you.

10 MR SILVER: This witness cannot answer for what is in Mr Camilleri's mind.

THE COMMISSIONER: Well, that's true enough but I don't understand the question sought to elicit what Mr Camilleri thinks. Perhaps it should be restated.

MR POLIN: I'm just asking, I understand you can't say what Mr Camilleri thinks but from looking at this document it appears that is not something at the time that Mr Camilleri thought to disclose?---Well, this is not Mr
20 Camilleri's disclosure, this is a synopsis from a number so I haven't seen his declaration.

Right?---I would have seen it on the term evaluation form and the final submissions but this is not what I have seen.

But you would have expected on his disclosure form to have a longstanding personal relationship with a tender manager disclosed?---I would.

I tender that document, Commissioner.
30

THE COMMISSIONER: Yes. The document is Exhibit 3.

#EXHIBIT 3 - COPY CONFLICTS OF INTEREST REGISTER

THE WITNESS: Commissioner, may I - was the question a personal relationship or a business relationship?

40 MR POLIN: Personal?---Personal.

I think I - - -?---Personal means friend.

I described it in fact as a longstanding personal - - -?---Yes.

- - - friendship?---Yeah.

I think you did say that if it was a longstanding business relationship it's not necessarily something you'd expect to be disclosed?---That's right, yeah.

Now you're aware that the loans involving the RailCorp employees to Mr Camilleri are in the order of 50 to 55 individuals?---That's, that's what I've heard, yes.

10 And there are also loans from contractors as well?---That's what I've heard today, I knew about two in, from the, the, in RailCorp, I didn't know about any more than that.

And is that, the reason why you only know about two because you've decided or been asked not to be involved in it because you in fact made the loan?---No, no, so when the first - you mentioned one contractor who lent a small, a relatively small amount and then a larger one, when we found the larger one the case was handed over to the Commission.

Right.---So I haven't been involved since then.

20 But you've said in terms of each of those loans under the code dealing with conflicts of interests they should all have been reported and documented.---I believe so, yes.

But that hasn't been the case?---To my knowledge, no.

30 So what has RailCorp or the new entity it now is known by, what has it done since the investigation that it undertook in terms of these various matters?---So the organisation changed on 1 July and both organisations have reiterated the need for the code of conducts of the new recruits and all people inducted into the organisation in my own business, New South Wales Trains have had part of the code of conduct in their induction and explained the conflict of interest and drugs and alcohol and things like that and have signed for them. Even in RailCorp we had very high compliance with the, accept, knowledge, receipt and having read the code of conduct.

40 But it seems as though in terms of the code of conduct it's reasonably clearly worded yet on, it's more than 55 occasions because there were multiple loans from several people and indeed with yourself, there were many, many loans made that weren't reported or documented in breach of the code. What's been done to deal with that?---Um, I'm not aware specifically because we haven't talked about this specific case and didn't want to breach any Commission rules but certainly, we've re-emphasised the code of conduct throughout both organisations and these lead by City Trains they are putting in a fraud and corruption plan as well.

You engaged independent lawyers to undertake the investigation in relation to the matter on behalf of RailCorp, did you not?---They were engaged, yes.

And I take it there was a report in relation to the investigation?---There was.

Was anything specifically done in relation to that investigation and the report following the investigation?---I'm not aware.

Excuse me Commissioner. Just finally, I think you said the gifts and benefits section, the section you read over the lunch break.---Yes.

10 And I was asking you earlier about in terms of what Mr Camilleri had done, whether he had, you'd believed he'd breached the code of conduct in terms of that section, I think you said that you'd believed he had but you weren't that familiar with it and you wanted time to read it. Having read it now, is that the case that you believe in terms of what you did and what you've heard this morning that he breached the code of conduct in terms of Section 9 involving the gifts and benefits?---Certainly, Mr Camilleri breached the Section 9 gifts and benefits by receiving gifts from contractors but my concern earlier was whether in fact other people who had lent money should have declared it, I think having read this over lunch and taking the opportunity 95% of this implies it's about suppliers but there is one
20 paragraph that makes it clear you must not seek any gifts or benefits including hospitality from any person or organisation.

So you believe Mr Camilleri did breach that section, but then when you deal with the people that actually lent the money that would fall within Section 12 of the Conflict of Interest section. I have no further questions at the moment.

THE COMMISSIONER: Yes, Mr Chee.

30 MR CHEE: I have leave to.

THE COMMISSIONER: Yes you do.

MR CHEE: I have a few questions for you, I represent Mr Joseph Camilleri. You said that you've known Mr Camilleri for about seven to eight years, is that right?---Since 2005, February.

And you've described him as a good workplace employee but not a friend?
---A good workplace employee, yes.

40 What do you mean by that?---He was a trusted workplace colleague who did a lot of very good work as I said earlier in terms of running the rolling stock depots and making reform and driving through those reforms in very difficult circumstances.

So he was someone who had earned your trust?---I said that.

When he approached you for a loan you've also given evidence that you had concern for his, your concern for him was paramount and that was one of the reasons for giving him the money in cash at such short notice, is that correct?---I'm not, I'm not sure I'd use that word paramount but it come out. So I was concerned for him and his situation.

10 Right. Could you describe, wouldn't, wouldn't it be the case that you have concern for him, you have his trust, you've loaned him \$10,000, would you describe that as a friendship?---This was a workplace colleague who had earned by trust, I do not consider Mr Camilleri as a friend because I never socialised with him, never talking about anything about families, so a workplace colleague who I lent some money to.

Have you loaned money to any other workplace colleagues?---No.

Have you loaned money to friends?---Um, I don't believe so but I - - -

20 But it's possible isn't it, you could have loaned some money to a friend, it might be a small amount, it may not be 10,000 but did you loan in your recollection any money to a friend?---Not to my recollection.

THE COMMISSIONER: Can I just ask have you ever been asked by any other employee for a loan?---No.

Have you been asked by friends for loans?---It depends on the definition of a loan, so have I paid for somebody's holiday going with them on holiday - - -

30 I see. So we're distinguishing between paying for someone or actually transferring cash moneys to another person?---I don't think I've ever cash transferred.

All right. Thank you.

MR CHEE: But you do agree that you could have paid not by cash but paid for someone else and they could have paid you back, a friend that is?---So yes, so you can ask that question - - -

40 They could have advanced you, they might have given you, you might have given someone an advance and that afterwards they would have paid you back, not in cash but, you know, a loan?---It could have been, I don't remember one but it could have been.

When he approached you to ask for the money is it possible that he asked for just 10,000 and not 17,000 as you have stated?---My recollection of the interview was it was 17 but I said no.

And did he offer to pay interest or out of pocket expenses?---No, nothing asked, I just thought it was going to be paid back very soon.

All right. You've also given evidence this morning that it was a private loan. Mr Camilleri emphasised to you at the time that he approached you that this was a private matter, a private dealing that was unrelated to work, isn't that correct?---He did mention that.

10 He didn't attempt to exert any influence upon you or make any threats or making any promises or offer inducements did he?---He promised to pay me back.

Well, apart from the promise to pay him, to pay you back but he didn't offer any other inducements at all?---No.

At the time that you loaned him money did you believe that there was anything wrong with loaning him the money?---I thought it was a private matter otherwise I would have declared this, as has been pointed out.

20 At the time you loaned him money were you familiar with section 9 of the Code of Conduct, section 9 if I can refer to page 17 of Exhibit 2?---Yes, gifts and benefits.

So it was your understanding that he should not be seeking gifts and benefits including hospitality from any person or from an organisation, is that right? ---As I said earlier that I read this as being 95 per cent suppliers and goods and services but those words are clear there, I had not seen that in that light before.

30 You approved this Code of Conduct didn't you?---I had not see – I did it and I did not see it in that light.

Do you normally approve documents that you don't see?---Certainly not, I'm known as being very diligent in RailCorp.

I certainly would assume you're very diligent but in respect of this document you've approved it but you don't, you've said that you haven't seen it?---I didn't say that. I did not see it that way.

40 You didn't see it in that way, right. So at the time that you gave him the loan you didn't consider the loan a benefit, is that right?---In this sense of this document page section 9 I saw section 9 at that time as being around supplies and goods and services.

It must also - - -?---And I - - -

- - - follow that you didn't think it was contrary to the Code of Conduct at the time to give him that private loan?---I did not think it was contrary at the time.

10 Could I ask you to turn to section 15 of the Code of Conduct which is on page 25 and going onto page 26 of the Code of Conduct. You can see there that in the second column there's a section concerning reporting of corrupt conduct, maladministration or seriousness and substantial waste. You can see there that suspicions of possible corrupt conduct should be reported to your supervisor or manager or other manager, the manager internal audit, corporate council, manager corruption prevention or corruption prevention line and over the page the general manager RailCorp and lastly the chief executive?---Yes.

So if someone was to make a report of suspected corrupted conduct you would be the most senior person within the organisation to receive that report and also to deal with it as you see fit. Is that right?---If I received that report I'd go to my general counsel, yes.

20 When you provided the loan to Mr Camilleri you didn't refer to any of this Code of Conduct or section 9 or section 15 to him did you?---No.

And it would be expected that in your position you would be familiar with a Code of Conduct, you approved it and you would be pointing out to him if you honestly believed at the time that he was in breach of the Code of Conduct wouldn't you?---As I said at the time I did not believe I was in the breach nor he.

30 Sure, that's my point. It would be the case therefore that any person in Mr Camilleri's position could quite reasonably form the view that a personal loan from someone who he considered a close work friend that particular private loan was not subject to the Code of Conduct?---Depends as I said earlier if it's in the direct line as I said earlier I would see that would be and
- - -

The question was is it possible for him to form that view?---I can't answer that for him.

40 You're the CEO of RailCorp this is your Code of Conduct. If someone approaches you for a loan, a private loan you'd be in the best position to say whether or not this person could believe that this is something which is approved or accepted or at least condoned underneath the Code of Conduct?---I can't answer what he believed.

But do you agree that it's possible that he could have formed that view?
---Anything's possible.

MR MACKAY: Objection. His belief, Mr Camilleri's belief I mean it's just not relevant.

THE COMMISSIONER: I'm sorry, I can't hear you.

MR MACKAY: Objection. The question about Mr Camilleri's belief he might have formed a view is just not relevant to the Commission's - - -

10 THE COMMISSIONER: Well we'll get there won't we, Mr Chee, because your client will have to give that evidence that himself.

MR CHEE: He will give evidence about that, yes.

THE COMMISSIONER: But I think you're on firmer ground if you stick to what Mr Mason knew or understood at the time.

MR CHEE: Certainly, Commissioner.

20 If you had believed that Mr Camilleri had breached the code of conduct, would you have discussed the matter with his supervisor?---I discussed it with my general counsel and his supervisor.

But you didn't discuss with Gavin Campbell, did you?---No.

Okay. Could the record show that Mr Mason shook his head to deny - - -? ---No, I said, no.

30 Yes, deny. Did you meet Mr Camilleri thereafter later in 2012 to briefly discuss the allegations of loans?---So when um, Mr Camilleri rang me once to say that he had been requested to create a list of the RailCorp employees who had um, loaned him money. And on that occasion I said, well, in that case my name needs to be on it and on one other occasion I met on 22nd floor and he said could I have your bank account numbers so I can potentially re-pay you, and I said, "Pay other people back first."

Those words, pay everyone back first, could that possibly have caused Mr Camilleri to think that the problem could be resolved if he paid everyone back?---At that stage I thought that was the issue to be addressed, yes.

40 There was a real possibility that if he paid everyone back the matter would have gone away, isn't that right?---My understanding was that would have been the case at that time, we were investigating whether this was a breach of code of conduct.

Was Mr Camilleri awarded a lifetime achievement award in 2011?---He was by the Australasian Railway Association.

Did you personally hand him the plaque?---I believe I did in one ceremony, I was certainly there at the ceremony I don't know if I, I might have done.

Do you think that Mr Camilleri would intentionally set out to deceive or defraud a colleague or work friend?---Are you asking my opinion, I did not believe that when I lent him the money.

Thank you.

10 THE COMMISSIONER: Mr Mason, what's the Australasian Railway Association?---It's a peak body of all the railways in Australia.

An industrial organisation?---No, no, businesses so Pacific National and all the other railway associations.

All right. Thank you. Yes, does anyone else seek to cross-examine?
Mr Silver.

20 MR SILVER: Yes, thank you. Mr Mason, can I just clear some things up. There's been mention of a contract called the L3C contract.---Yes.

I trust you're familiar with it?---I'm familiar with the process we went through but not all the document that you have perhaps in front of you at this stage.

Is it correct, The Commission hasn't heard about the timing of this. Can I hand up a bundle of documents to which I might make reference.

30 THE COMMISSIONER: Yes.

MR SILVER: This is just a bundle of some of the mirror of documents that exist in relation to the L3C project. If we could just give some background to it perhaps one could go to Tab 2. Just bear with me a second. In fact if you go to Tab 1 with the introduction, Tab 1 is a document called Source to Contracts S2C process, initial procurement strategy, level 3 electric rolling stock maintenance contract. Is the level 3 electric rolling stock contract called the main contract, the L3C contract?---Yes.

40 And if you turn over the page, now this a document about approval for certain appointments and it says, "Document purpose. The purpose of this document is to seek approval to conduct two industry briefings and undertake an industrial consultation process prior to re-rendering on the level 3 electric rolling stock maintenance contract." Now to put that into context one goes to paragraph 1.2 where it says that for the past many years that contract was, had been given to UGL, United Group Limited, correct?
---Yes.

And is it correct that Mr Camilleri himself was the main driving force for the revision of that arrangement and to retender the process to the market generally?---Sir, this was something that Mr Camilleri and I had discussed when I was, I was his boss so in the rolling stock division, that this had been a contract that had been renewed and renewed and renewed and we needed to go to tender.

Right. So Mr Camilleri is at least main driving force to put this open to the market?---Yes.

10

In a tender process which UGL may not succeed in obtaining?---Correct.

Correct. And if you turn over the page to 1.3 and that is made clear there, the contract has been not been competitively tendered for over 17 years, retendering is required to ensure that RailCorp is receiving the overall best value for money for the scope of the works. Prior to retendering the works RailCorp needs to ensure that the industry understands the type of work et cetera. So it was wide open to the entire industry to tender for this job?

---Yes, yes, there was expression of interest to all industry.

20

Correct. And we then turn to the next document, and by the way what was this, it was a really big contract, what was the contract for, was it to maintain - -?---It's essentially heavy overhauls of electric trains so bogey changes, component chain out, change out, things that happen every sort of six, seven years, long term things rather than the day to day maintenance.

So to assist the railway entity in maintaining its stock?---Maintaining reliable and safe trains.

30

Now there's been mention about Mr Camilleri's role in the tendering or possible influence or not in the tendering process. Have you even now that you've heard of the loans et cetera, knowing the tender evaluation methodology, do you think that there was a place within that complex methodology for Mr Camilleri to influence this tendering process to UGL? --This tendering process was very, very, very thorough, well thought out and well executed. We had a number of independent advisors and many, many layers of governance over it.

40

I see?---It would be - I can't imagine how it could be done but clearly I can't answer if it has been done.

And that is because as we will show the Commission in brief overview terms, because it is a very complex document, that the tendering process involved among other things scoring of points for various attributes that a tenderer might have not by one person for each scoring process but by two people on each occasion, correct?---Correct.

And that scoring process was done by a highly objective series of questions determined by experts and panels of people in respect of which scores were then generated and given to the next level, correct?---That's the general concept, yes.

And there were external experts involved?---There were external financial experts, procurement experts and probity.

10 Correct. And the probity was internal and external wasn't it?---Probity is primarily external - - -

Correct?--- - - - in terms of external probity auditors.

Correct. So did you have total confidence that this tendering process would certainly address any probity issues which may arise in respect of someone's involvement along that complex chain?---I could never guarantee that but I certainly was very confident that we had the right levels of checks if somebody's - - -

20 And can I pause to interrupt this question by another one. Is it correct in your mind that probity and conflicts of interests and matters of similar like, are a moving feast rather than something that is set in stone that can be addressed on every occasion by a code of conduct?---If somebody decides to lie you can't cover that with any procedure.

And if there are ambiguities in a document, is RailCorp primary response of the ambiguity must be cured so that the, for example, conflict, code of conduct is clarified going forward?---Certainly that's always the state.

30 And if someone even as distinguished and experienced as yourself as we've seen today has may be looked at the code of conduct in way one and others in another way, what is RailCorp's response that possible ambiguity to address the code of conduct, is there a mechanism where it can be addressed and clarified going forward?---There is so both governance teams have worked together to address that.

40 Thank you. And just another thing before I go back to this, you've (not transcribable) some investigations which your organisation took place and then the involvement of ICAC. Is it not correct that your organisation, the RailCluster or RailCorp stopped actively taking steps and investigating this at the request of ICAC?---I'm not sure of that, the answer to that.

I will be showing some communications to that effect a little bit later but perhaps through a different witness. If we go back to the tender evaluation methodology at Tab 2. This is the methodology which governed the selection of the ultimate contracting party with the Railway organisation, correct?---Yes.

And going to Tab 1, in fact it's the first document, it's not in front of Tab 1, it's a coloured document, it says process project timeline, do you confirm that this is accurate that the stakeholder consultation started in June 2010, there was industry consultation in November 2010, then there was a long process involving all of those different steps, registration of interests, expressions of interests, preparing a submission of expression of interest et cetera which ended in a contract awarded in December 2011?---I can't confirm all the dates but the general process is what I would understand to have happen.

10

Do you confirm that the contract was awarded in December 2011?---I can confirm that, yes.

Yes. Going back to the tender evaluation methodology, if one has a look first of all at the index which is over on the first page the index describes the tender evaluation team personnel which is very comprehensive, there's a steering committee, there's the tender assessment committee, tender evaluation panels, RailCorp representative, subject matter experts, other staff including different managers, probity auditor and specialty advisors. All of those committees had functions with the tendering process and the tender evaluation process, correct?---Correct.

20

And Mr Camilleri was not party to each and every one of those committees or bodies was he?---I don't believe so, no.

No. And in fact, if one has a look at page 25 of the, 26 of the document, the place where Mr Camilleri's name appears in a box headed evaluation group, tender assessment committee, it says Joe Camilleri general manager Maitland contracts and commercial, he was the chair. Do you see that?---

30

Yes.

Do you recall that that's what his position was in this tendering process? ---That's my understanding.

And you did not play a role in any of the other steering committee, panels, experts, probity auditors and speciality advisors?---I would have to check on whether he sat on any of the steering committees there were (not transcribable)

40

I have checked this document and his name doesn't appear there, does that mean he did not participate in it?---Shouldn't have done, no.

And in that tender assessment committee there are six other persons all of whom look to me like experienced and reliable officers, do you agree with that?---I agree.

Were you familiar with those people?---Um, the first five, yes, the last person not so familiar.

I see. And going back to the index there's the tender evaluation methodology which consists of seven sub sections and I won't read them all onto the record they apart there but they include initial tender compliance and different forms of evaluation and we'll go into those shortly. But then paragraph 8 in the index goes to confidentiality, confidentiality and conflict of interest declarations. Now you've been asked about conflicts of interest and conflicts of interest declarations but this document if one goes to paragraph 8 of the document now contains a safeguard in paragraph 8.2 that any RailCorp representative will obtain a written confidentiality and conflict of interest declaration from each member of the evaluation team including specialist advisors who participate in the valuation process and (c) that probity and conflict of interest are high on the least of priorities with all parties, correct?---Correct.

And I trust that give you comfort?---I would give me comfort.

And just going back to the index, paragraph 9, "Minutes of tender assessment meetings have got to be kept." Did you ever see those minutes? ---Um, not the assessment's committee no.

But it does indicate that there was a very transparent rigorous process?---It was and there's probity all through, all over it.

And then there was clarifications which is just one of the various situations that might happen, record keeping once again transparency, contact with tenderers all regulated and one of the tenderers would be UGL and evaluation scoring framework. This is the framework very, I've read it, it is very complex and technical where criteria for points are generated and points are given to various weightings which are then evaluated by panels. There is also a mechanism was there not for external checking of those points?---Correct.

And if any of scorings by any member was out of whack there'd be an inquiry into it, correct?---It'd be looked at.

Hence if anyone was trying to influence in a meaningful way the scoring and they were out of whack that would be immediately picked up?---Any vast differences would be picked up.

Turning to the overview on page 1 of the document, in paragraph C it talks of the industry briefing which, to which a reference has been made and D that this document subscribes the methodology and E the methodology is based on the waited attribute criteria analysis. And that's been reviewed and agreed by all members of the Tender Assessment Committee. In other words people's personal opinions counted for very little in the tender assessment process when points and weighted attributes were taken into account, correct?---It'd be very difficult.

Yes. And we then get to paragraph (f) where there is the structure of the tender evaluation team plus a list of all of the other methodologies and criteria which are going to be referred to later. And then paragraph 2 the whole aim and object of the document describe a fair and partial rational and transparent process for the assessment of all tenders received. Now at paragraph 3 is a probity auditor provision. What was the role of the probity auditor in the most general of terms?---To be, to challenge, to witness meetings, to witness minutes of meetings, to witness the tender opening, to witness many things and to pro, to support the value for money for, and ethics RailCorp.

So as I understood it and I understood your answer, they had free reign to attend meetings?---Yes.

And make entirely independent investigations?---Absolutely.

And they issued a certificate if you turn or a declaration at tab 6 at the end of the process, this was O'Connor Marsden, it was addressed to Mr Camilleri this letter dated 22 December and it gives a clean bill of health to the process?---It does.

Now just to go back to tab 2 to this document, the tender evaluation team structure is set out in paragraph where one can see where the tender assessment committee, it's in a green box, is situation, before they even have a look at what is offered to them there are panels which evaluate the various scorings which includes, among others, team leaders and subject matter experts which are experts not necessarily involved in the line of management but who are brought in because they know what they're talking about, correct?---Technical people from engineering rolling stock or any other discipline.

Correct. Introduced in order to ensure that the tendering process is rigid, rigorous and transparent?---Yes.

The steering committee is then described at 6.1, we don't have to deal with that, it's above the tender assessment committee and the tender assessment committee is described in paragraph 6.2 and it is formed for evaluation of tenders and in paragraph 6.2(c) that gave you comfort I trust was that all evaluation team members will be required to complete RailCorp compulsory training in relation to probity and ethics before they commence their respective roles, correct?---That's something that started in 2009 after the Monto inquiry that all panel members had to have extra training before they could be on any evaluation.

And the Monto inquiry was an ICAC inquiry?---Yes.

There was a Chaucer inquiry?---Yes.

Which was an ICAC inquiry and without going into that there were 41 recommendations in the one and I think five in the other about probity, have they all been complied with?---They have.

10 And we then turn over the page and if necessary all of this can be addressed later if it comes up in any detail but the subject matter (not transcribable) 6.5 and their description is made and there is provision for other staff to be involved, procurement managers to be involved, the evaluation officer to be involved. Now the probity auditor is referred to at 6.7 and then the methodology is at paragraph 7. Now we have described in general terms how there was a points system, a double checking of the points system then, by two different people, then a checking of the, of the scores and then giving those scores to the tender evaluation committee and then as far as you understand it it goes up to the steering committee, correct?---The steering - correct, yes.

20 Now I don't intend taking you through very complex tendering evaluation methodology at paragraphs 7.1 and 7.2 but I'm just going to refer to a few sentences. Paragraph 7.2(b) reject or elimination of any tenderer due to non compliance at a high level will be referred to the TOC for ratification and the steering committee. We then go to 7.3, complying tender evaluation where there's a long process for someone to actually comply and we then turn over the page to paragraph 7.3(h), sorry, (g), (h) and (i) where the scoring in respect to prices, the point scoring in respect of prices is reference to normalisation of the score apply to each tenderer, combining of the scores of each team member, the combined scores should reflect the views of the majority of the SMET team leaders et cetera and then there's a weighted overall comply which is called WOCS and there's a, over the page to page 30 13 there's the weighted overall option scores which is WOOS and if there's a discrepancy between WOCS and WOOS then there's an investigation about that. Correct. And so it goes on and this no doubt gave you and the organisation confidence that no one person was likely to be in a position to have an effect on the tender - to whom the tender was ultimately granted? ---I agree with that.

40 And if one turns to Tab 3 there's the tender evaluation report and once again, one doesn't have to go into this in great detail but are you familiar with the document?---I'm familiar with the summary that came to the steering committee.

Correct. And the first section the executive summary which just describes that whole process, for example, on page 1 after initial tender evaluation, you go to the third paragraph, tenders were initially evaluated and scored against the non-financial, non-commercial and non-cross criteria which involves scoring, it was scored by a minimum of two people. Scores were reviewed by various team leaders et cetera. As an activity fully independent

of the non-cost evaluation various other investigations were carried out, correct?
---Correct.

And negotiation meetings on page 3, those negotiations were not conducted by the tender evaluation committee, correct?---Not sure who did those but it will be in the document here.

10 Yes. So the document continues with a full description of the whole process and from pages, from attachment 1 onwards, there are summaries of all of the results, is that correct?---Correct.

In objective transparent form. The LC3 agreement itself is at Tab 5, once again, this is what has been scored at pretty valuable contract both for the tenderer and for RailCorp or the Railway Authority and if one turns to paragraph 6.3 of that contract there is provision for conflicts of interests and fair dealing and 6.4 probity warranties.---Yes.

20 I trust those were incorporated in order to take into account and deal with any perceived or actual conflicts which may have arisen?---Correct.

One term about a long term relationship with someone from UGL, do you remember some questioning about that?---Yes.

30 The fact that Mr Camilleri cauterised himself from dealing with that gentleman during the tender process also, if you'd known about it, it would also have given you some comfort, correct, in that it would have created a distance between himself and someone with whom may have had a close business relationship with him?---The question I think, originally was close friendship rather than business relationship. Nothing wrong with a business relationship, we all have those.

Correct. But the fact that he - - -?---Declared.

- - -took a conscious decision, if you'd known about that, that would have also given you comfort.---Give me some comfort.

40 Now, reference has been made to what is called, we've heard that today that there are some other contracts which were being awarded subsequent to the L3C contract. Now whoever those might be awarded to, whoever those might have been awarded to they would either be awarded to individuals or to companies, correct?---Well - - -

Contracts with RailCorp would either be engaging white collar personnel or companies, correct?---I thought you said in the original question that other L3C contracts for that, do you mean, non-L3C.

Whatever contracts?---Yes.

If they were related to the LC3 contract in some way, if they were peripheral. Are you confused with the question because the letter LC3 contracts being awarded to UGL were provided for originally in the main contract?---Certainly there are provisions in the main contract for extra works to be done.

10 I see. So the contracts that you were, that you were asked about or that were referred to that arose after L, the LC3 contract was entered into in which the contracting party had an interest, were those provided for already and foreshadowed in, within the LC3 main contract?---I believe there are options placed there to give enough - - -

20 Now moving towards contracts entered into with either individual contractors or with companies generally with RailCorp, we've heard of some loans being made to entities which, or persons and this inquiry is investigating whether or not the, there's been any conflict of interest or perhaps even corruption. Now as with the LC3 contract are you confidence that there, perhaps as result of Monto or Chaucer but there are processes in place and have been during the currency of Mr Camilleri's employment in 2012 and '11 which gave you confidence that the process of acquiring those services and contracts was rigorous, transparent and subject to probity checks?---It was, there was certainly rigorous and transparent, not all probity check, not all contractors would have a probity, based on a probity advisor but certainly we were very rigorous.

I see. And before moving on, Commissioner, perhaps that previous folder could be made as – and could we tender it?

30 THE COMMISSIONER: You want to tender as an exhibit?

MR SILVER: Yes. And with the proviso that is done on a commercially and confidence basis because there's material within the contracts which certainly be of benefit to third parties if we can - - -

40 THE COMMISSIONER: I'm just whether wondering the tender can be deferred until Counsel Assisting has an opportunity to, to see what's in the folder. I don't know that he's had that opportunity but can we re-visit that perhaps first thing tomorrow?

MR SILVER: Yes, and I've got a note to remind me, thank you.

THE COMMISSIONER: Thank you.

MR SILVER: So going, if one could just deal with this, if you're not the right person to ask these questions please let me know but the first thing, the first area where the rail entities may engage people who might be subject to conflict of interests or corruption et cetera would be part of what I believe is

called the WCCL process or policy?---WCCL stands for White Collar Contract Labour I think or contract to labour. So it's for individuals rather than services.

Correct. So RailCorp entered, what did it enter into a service contract with an individual. Am I correct in understanding and forgive me if I'm wrong that the White Collar Contract Labour support team have a technical policy which is applied to each and every contract that is entered into?---I'm not familiar with the technical policy itself.

10

But the WCCL support team would be involved in that process?---Yes.

And that process and as far as you understand is a, is a process once again which is rigorous and transparent?---As rigorous as I could make it at the time, yes.

If you could look at another bundle which is the WCCL material in it.

20 The first document at tab 1 is the procurement technical policy which I believe is currently in force?---Excuse me this is a Sydney Trains document.

Not part of your bailiwick?---No.

Well, could I ask you this, if you would turn to tab number 3, that is a contractor engagement map which deals with the way in which contractors are engaged, are you familiar with that or should I ask someone else?---I think it's best, I am at the front end and the back end of the WCCL process in old role as RailCorp Chief Executive so I wouldn't know the workings in the middle necessarily.

30

I see, so not your bailiwick?---I think its probably best if its not.

Okay. I understand. No, I had to check that. Would you know in general terms that to put it in simple terms without going through all of the detailed engagement processes that if someone was, is to be hired the hiring manager gets financial approval to engage a contractor first?---Correct, yes.

And then the hiring manager notifies the WCCL?---Um - - -

40 Which is that committee or body?---So the hiring manager would then complete a lot of documentation to justify the business justification for hiring somebody.

Correct. And then that then goes to WCCL, that business case?---That goes to WCCL.

And is that justification that all of those forms once again are subject to various criteria and requirements within the organisation?---So my role in

that would have been that the documentation which was called a form B would be brought to me on a weekly basis by WCCL and I'd have my, one of my senior finance managers there and my senior HR manager there as well to scrutinise those forms to see whether (not transcribable) the business justification, secondly, do we really need to buy this or extend in some cases and also was it value for money and that's WCCL's role to get the value for money out of it ultimately but also could we find resources in our ranks to do this particular role.

10 And would WCCL, one of its functions being, be to actually create itself a short list of suppliers and contact them for their best candidates?---They, they have panels.

Yes. So that's out of the realm of the manager who wants to hire them, correct?---There are occasions when the manager can request, if its an extension so they're requesting an extension to an individual or they could request a person in which case we would quite often say go to market.

20 And then that gets put to the panel?---Yes.

Yes. And in terms of organisations rather than individuals there is once again a very complex and detailed regime of analysis independent of any recommendations which has to take place prior to the engagement of companies, between the companies and RailCorp?---Oh, yes, so the, the whole of what we call source to contract is a very, very thorough methodology and tools and framework.

30 And if one turns to tab 2 there is an enormous document, are you familiar with that document, not necessarily its fine detail but its existence and its role?---Ah, it's a Sydney Trains document again.

Yes. But are we familiar with - - -?---Concepts.

- - - the concepts which are the same within your organisation?---Oh, we don't, New South Wales Trains we don't have very much procurement.

40 I see. Now the next question I'd like to ask you or series of questions deals with the, something else we've heard of today which is - the acronym is VSP which is - can you help me?---Voluntary separation programme.

Voluntary separation programme. And we heard some discussion about how perhaps certain people in the big reform that was taking place might be rendered less than relevant to the organisation and it might be attractive to them to - or to the organisation to leave and perhaps get a redundancy payment and there was a reference to Mr Camilleri's possible role in influencing that process. Can I just ask you some questions and once again, could you excuse my ignorance if I get it wrong but that process arose

because there were big reforms in the railway organisation and a big restructuring.---Correct.

And as a result of that restructuring some positions and in fact whole departments as I understand it would become redundant?---Surplus.

10 Surplus, surplus. And as a result of that one individual or groups of individuals would then be part of that surplus need, am I also correct in saying that if any individual wanted to take a redundancy package it would be up to that individual to make an application to receive that outcome?--- So there were only certain parts of the business which were eligible to be considered but it would be up to the individual to put their hands up, yes, if they were in that group.

Correct. So it was not every individual that had a chance, it was only certain specified people or groups of people - - -?---So train drivers, station staff were not eligible for the separation program.

20 And if they wanted to achieve that outcome, did they have to fill in a justification form?---I'm not sure which form, so as an individual wanting, wanting VSP did they have to fill in a form, I'm sure they would have had to fill in a form.

So they apply.---Yes.

And then in broad terms as far as you were aware, there would be the involvement of a number of different I think they were called gateways which would include the business justification, correct?---Correct.

30 There would be, firstly there would be the volunteering to submit, then there'd be a business justification, that would be analysed by a committee or groups of people?---The HR director lead a group.

HR. And then there would be HR involvement, it would be different people, correct?---Correct.

And then there would be the change management team that would be involved?---The change management team.

40 Which would be different people. And then there would be the VSP, VSP team, correct that would analysis it?---I'm not sure, well, yes.

And there was also something called the reform tea who would also analyse it, so there were very many different layers after someone volunteered to put their hand up for this outcome. And then there would be directors who would sign off on the end recommendation?---They would have the ultimate sign off.

And isn't it correct that in practice historically, it has been very unequivocally clear whether someone falls within the category of achieving this outcome, in other words, it had to be very clear that there was no longer a need for that person in the organisations?---There were on occasions job swaps but that was mainly in administration ranks.

But other than that - - -?---We would not let somebody leave the organisation if they were needed to do the job.

10 Correct. And that process I understand commences around about the middle of 2012?---I suspect that's about the right date.

And it's either just finished and it finished in 2013?---I think it's still probably going on.

20 Still probably going, yes. Just bare with me a second. Just one last question which I've been asked to make clear, in terms of what steps have been taking by the organisation having found out about the loans et cetera. Two steps have certainly been taken, one was the matter was reported to ICAC and secondly, what, have many steps been taken in regards to Mr Camilleri? ---He was dismissed from the organisation.

MR SILVER: He was dismissed. Thank you very much. Thank you, Commissioner.

THE COMMISSIONER: Yes. Does anyone else seek leave to cross-examine? No. Yes, Mr Polin.

30 MR POLIN: Just a couple of minutes, Commissioner.

You were just asked some questions about the WCCL program if I can call it that?---Yeah, it's a team, it's a process.

Process. Do you know Mr Gilding?---Gildy?

Gilding?---Gilding. I know the name, is there a first name, it might help me? No.

40 I don't at the moment but anyway I think it was put to you that you would have a hiring manager who would need certain work done, is that correct? They would - - -?---Not put to me, it'd be put on the form which goes through the process, yes.

Just asking you questions about how it actually worked. It's John Gilding? ---Yeah, I don't know the name and I'll probably recognise the face.

And he's part of the WCCL process?---I don't know, sorry.

In any event in terms of the process it was described a hiring manager would need some work done, would get the approvals and the necessary approvals for funding for that work?---There was funding there for it and then it goes through the process of submitting through to me of an approval to go to find somebody.

Right. And when you went to find someone that would go to the, to WCCL?---They would do the doing, yes.

- 10 And WCCL already had the list of preferred RailCorp tenderers?---There are, there is a panel but it doesn't cover everything but the specialist was always required.

But generally what you would expect is that WCCL would then select certain entities from the panel and give those back to the hiring manager and a committee would then decide on which of the entities would actually be chosen to do the work?---I'm not sure the hiring managers involved with any decision about who, I don't know.

- 20 Okay. So it goes to WCCL to nominate the entities that go out to tender? ---Yes, and there may be more than the panel as well if it's a specialist resort.

But that's decided by WCCL?---As far, to the best of my knowledge they, they are the ones who decide who to go to. The hire manager could say I would need that sort of resources, that sort of person but that team or myself or my team which say no, go to (not transcribable) market.

- 30 Right. But there might be occasions where the hiring manager would say it's a complex job or something peculiar where something different is needed, is that what you're saying?---Yes.

Where does it then go from WCCL? They formulate the panel of preferred tenderers?---I'm sorry (not transcribable) got visibility beyond that.

You don't know where it goes to?---I don't have a visibility so I get involved at the stage where we approve, yes, go to get.

- 40 So in terms of that operation it wouldn't be a, a proper working of that operation would it if WCCL nominated the entities that were to be invited to tender and then a hiring manager directed them to add someone else to the tender list would it?---There could be a need but as you'd want to have a bit of a check on that.

When you say there could be a need it may well be the hiring manager saw the tender list and said I don't believe they have for example the necessary qualifications those that have been invited and would give specific reasons why someone would be attended to the list wouldn't they?---But that would

normally be actually the tenderer the valuation would find there was nobody suitable.

So that it would go through the evaluation and then go back again and the hiring manager would be asked for their opinion as to why there was no unsuitable or if they knew someone who was suitable?---I'm not familiar with that end of the process.

10 But it would be a breakdown of the system would it not if after selecting the panel that, was to go to, the tender was to go to that the hiring manager for no apparent reason directed WCCL to add another name to the panel?---As I said I'm not familiar with that end of the process. But it doesn't sound right but I'm not aware of what the precise procedure is for specialist resources.

And it wouldn't sound right if that direction was made to add an entity to the panel from whom the hiring manager actually had received a loan would it?---No.

20 Because that would then not only be the perception of a conflict of interest but that would be I think under the, the Code, the materialisation of a conflict and would be improper conduct?---It would appear so.

That would then not be the proper function of the WCCL process would it? ---That would not be the intent of it, no.

30 No. Just a couple of questions, you were asked about the, the complex and technical nature of the, the tendering for the L3C contract and it was a very large and complex contract. If the controls were so strict and foolproof why would you need to ask for anyone to give a conflict of interest declaration? ---Well, first of all its part of our procedures but we always want people to declare conflicts of interest, it should be up there right at the beginning.

I mean ultimately contracts may be won and lost by the very smallest of margins may they not?---They could be, yes.

And ultimately there are people sitting on committees that do this, what's been described as complex scoring but nonetheless do the scoring on the relative tenderers?---Yes.

40 And it may well be just the highest score here or there which ultimately means one company wins a tender over another, does it not?---Certainly could be some very small differences in scores.

And I take it that's why in addition to all the checks and balances and controls that you've been referred to in the documentation, it's important that all the people that actually make those decisions disclose any conflicts that they have?---I'd expect everyone to disclose their conflicts, yes.

And UGL had had this contract for about 17 years I think before it was put to tender?---Correct.

And I take it it's conceivable that going out to tender UGL could have won the contract again at indeed increased rates in the previous 17 years?---They could have done, yes, if the market had moved that way.

10 And just finally the VPS, VSP sorry, in terms of getting a redundancy I take it that in some ways it worked two ways, some people didn't want to lose their jobs, other people wanted to obtain a redundancy?---If people didn't want to lose their jobs they - - -

Some, some wanted to retain their jobs?---Yes.

Other people actually wanted to lose them because they wanted to get a redundancy?---Yes.

20 And that's because there were large pay outs associated with the redundancies?---Or their lifestyle, yes, there was an incentive certainly.

And critical to whether a redundancy was to be given was whether the person's position was obsolete to needs in terms of the future reformed corporation?---Well, that's part of it and the other they had to volunteer.

Yeah. But it was the person's manager who would have a big say in whether their position was in fact needed in the future?---There were certainly be some, some say in that recommendation as I said earlier.

30 So that if it was known that someone particularly wanted to be made redundant, to have a manager who supported the fact that their position was not necessarily needed would be of some benefit to them?---If that was the case.

Yes, nothing further, Commissioner.

THE COMMISSIONER: Yes, thank you, Mr Mason, you may step down, you're excused.

40 **THE WITNESS EXCUSED** **[3.14pm]**

MR MACKAY: Commissioner, could Mr Mason be excused?

THE COMMISSIONER: Yes, he is excused, thank you.

MR MACKAY: I also might take my leave as well, Commissioner.

THE COMMISSIONER: Yes, you are excused also, thank you.

MR POLIN: I take it, Commissioner, we'll leave all those documents, the second bundle as well.

THE COMMISSIONER: Yes, I think we'll revisit them tomorrow. I think - Mr Silver are you content if we revisit the tender of that folder tomorrow morning?

10 MR SILVER: Yes.

THE COMMISSIONER: You didn't seek to tender the other folder, you, you don't - - -

MR SILVER: I don't think it's necessary.

THE COMMISSIONER: Not at this stage, all right, thank you. Yes. The next witness as I understand it is Mr Campbell.

20 MR POLIN: Gavin Campbell, yes.

THE COMMISSIONER: Thank you. Just take a seat Mr Campbell. Mr Mackay is it - - -

MR GOODMAN: Mr Goodman for Mr Campbell.

THE COMMISSIONER: Sorry, Mr Goodman, I'm sorry. Have you explained to Mr Campbell the benefits of Section 38, Mr Goodman.

30 MR GOODMAN: I have Commissioner.

THE COMMISSIONER: And he wishes to take that objection.

MR GOODMAN: He does.

THE COMMISSIONER: I'll just do that before we proceed to the evidence.

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 witnesses' 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.

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 WITNESSES' 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.

10

THE COMMISSIONER: Mr Campbell, do you understand that that order protects you against the use of your answers in any criminal proceedings against you but it doesn't protect you from prosecution for giving false evidence to The Commission.

MR CAMPBELL: I do.

20 THE COMMISSIONER: And you appreciate that giving false evidence to The Commission carries serious penalties.

MR CAMPBELL: Yes.

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

MR CAMPBELL: Affirmed.

30 THE COMMISSIONER: Could he be affirmed please.

THE COMMISSIONER: Take a seat. Yes, Mr Polin.

MR POLIN: Is your name Gavin David Campbell?---It is.

Mr Campbell I think you started working for RailCorp back in January of 2010, is that correct?---No, it's November 2009.

10

Right. And at that time what position did you start in?---I started at RailCorp as the Group General Manager Asset Operations.

Do you still work for RailCorp on of it's now different entities?---I do, I do.

Whereabouts do you now work?---I'm now the Director of Maintenance for Sydney Trains.

20 For Sydney Trains. And in terms of your position from 2009 through to 2013 did that stay the same or did it change during that period of time? ---No, there was lots of changes occurring so it changed, at one stage we bought the asset operations group and the engineering projects group together and I assumed responsibility for both groups.

30 Well, can you tell us, starting from November 2009 what your position changed to and when it actually changed?---I was Group General Manager Asset Operations all the way through and as part of the Sydney Trains reform we agreed to consolidate two groups and in about November I think 2012 we brought the two groups together.

And did that mean you went into a new position at that point?---Yes, I went into the position of director of maintenance at that stage.

And at, sorry.---At that point in time.

And at one stage during the course of that period from 2009 to 2013 were you also in a position as Acting Chief Executive of RailCorp?---I was.

40 So do I take it that, did you hear Mr Mason giving evidence?---I did.

He was the Chief Executive, you were acting in his role?---He went on annual leave I assumed his role for a period.

Right. Was it a certain defined period you did it or was it every time he was on any leave?---No, he had various people do his role when he went on leave, in that particular period it was, well, it was 13th of 6th 2012 to the 9th of the 7th 2012.

Now you know Mr Camilleri?---Yes.

When did you first meet Mr Camilleri?---When I started Mr Camilleri was the Acting Group General Manager of Asset Operations, he'd done that for about three months up until the time I started.

And does that mean when you started you started as his immediate supervisor?---I did because he'd been acting in the role he provided me with a hand over into the role as I was new to RailCorp.

10

Nonetheless you then went on and you were his immediate supervisor?
---Correct.

And is that the case right up until when he left RailCorp in early 2013?
---Correct.

Now am I correct in saying that Mr Camilleri in the period in 2011 say through to 2013 in fact had two roles with RailCorp?---Yes, he did.

20 His first role was the, was it the Manager of Rolling Stock?---Was the General Manager of Rolling Stock.

Yeah. Now what did that involve?---Um, it was, it was a big role, it involved managing the internal rolling stock business which was approximately 750 people and it also involved managing all the big rolling stock contracts.

30 There's been reference to the LC3 contract. That's, was that the main contract for the rolling stock?---It was a big one at the time, we were also bringing in the Waratah trains so as a General Manager of Rolling Stock we were heavily involved in Waratah project that was PPP that was \$ 8 billion so it was considerably bigger than the L3C.

So he was responsible for all of those contracts I take it, many of them being involving very large amounts of money?---Yeah, there was considerable – well, RailCorp spends about \$600 million a year with various suppliers.

40 The L3C contract is referred to as being contract worth in excess of \$1 billion. Are you suggesting there was also a contract with the rolling stock that was worth in the vicinity of \$8 billion?---Well over the 30 years - - -

Over the term of the - - -?---Over the 30 years. The L3C contract was worth about \$200 million a year approximate.

And I take it there were various steering committees that dealt with the administration of these contracts?---It was.

And Mr Camilleri was on most of if not all of those steering committees that dealt with the administration of the contracts?---Yes. And so was I.

And so I take it there's no doubt he had a critical role to play in terms of these maintenance contracts?---Yes.

10 In addition to that role he was also heavily involved in the reform program, was he not?---Yeah, he had a track record of driving reform so across RailCorp over a number of years, so he was ideally suited with those skills to join the, the larger reform and he'd started.

When did the reform process start within RailCorp?---Um, I can't remember the exact date um, it was launched by Government in May 2012 but there was lots and lots of preliminary work being done and in the maintenance directorate we had been planning reforms you know for, for a number of years before the official reform started as well.

20 Now what was his actual role in the reform process?---When the reform kicked off (not transcribable) and Co came in with a methodology for a restructuring, driving efficiency, making the business you know a success and they asked for various people to get involved and they proposed a structure and Joe's role was to, to lead the maintenance part of that and work with the (not transcribable) consultants who were experts in maintenance.

So in terms of the maintenance section of RailCorp he was the person that was in charge of the reform process and dealing with the external people? ---Correct.

30 And it's been suggested that in terms of the reformed process that that involved four RailCorp staff potentially redundancies, potentially promotions, potentially moves within the organisation, is that correct? ---Yeah, it was like any major reform program there was going to be a lot of change.

40 And I take Mr Camilleri had a significant role to play in those three, three matters, the redundancies promotions and movements within the corporation?---He, he and others. I actually put three general managers on the maintenance reform team and then there was lots of managers seconded to the project.

I'm not suggesting that he did this all by himself, what I'm suggesting is he appears to be very heavily involved in a senior position, is that correct?--- Yeah, he was a key part.

Indeed in terms of the maintenance section it appears that he was the most senior person?---He was at that time.

Now just coming back to the L3C contract can you just quickly tell us what actually was it, what was involved in it?---It was, it was rolling stock, heavy maintenance so in simple terms if you put your car in for a service you have a light check and a heavy check, rolling stock has the same, a light check is what they call level 1 and level 2, a heavy check is what they call level 3 so it's graded maintenance level.

It's a contract that had been with UGL for about 17 years prior to this point in time?---Correct.

10

Am I correct in saying that there was a general feeling at this time within RailCorp that UGL were on a reasonably good deal?---I wouldn't put it that way, I think we believed because there was lots of reforms occurring across the rail industry in Australia that if we went back to the market we could extract much greater value.

20

Was it the case that people thought, felt that they weren't getting their, the right benefit for their dollar from UGL at that time?---No, I put it like the rail industry's following the auto industry but further behind so lots of lots of efficiencies have been driven in the auto, not as great efficiencies have been delivered, driven through the rail and there was an opportunity to accelerate those efficiencies in the, in the rail industry.

And indeed I think Mr Camilleri was one of the people heavily involved in bringing the contract out for tender?---As, as an experienced rolling stock general manager he could see the opportunity as well as other people in the organisation.

30

Right. But I suppose in terms of whoever ultimately had the L3C contract it was probably a good thing to have the most senior person in maintenance on your side so to speak?

MR SILVER: I object to that question, on whose side?

MR POLIN: Sorry, I'll make it clear.

THE COMMISSIONER: Yes.

40

MR POLIN: Whilst UGL were the, the company that held the contract it no doubt was a good thing to have Mr Camilleri on their side?---Oh, I don't get

MR SILVER: I object to that question as well, I'm not sure what it means.

THE COMMISSIONER: Well, is it being suggested, Mr Polin, that, that Mr Camilleri was advocating for the maintenance of the contract by UGL?

MR POLIN: No, your Honour, I'm just suggesting that it was a good thing in terms of continuing with the contract that the contractor was on good terms with - - -

THE COMMISSIONER: On good terms, that is, that is in a positive relationship with UGL?

MR POLIN: That's correct.

10 THE COMMISSIONER: All right. I'll allow that question.

THE WITNESS: I'm not sure, it's - you know, it was a professional relationship um, um, we had many suppliers and the relationship with consistent with the relationship we, we had with other suppliers.

MR POLIN: If the contractor did not get on well with Mr Camilleri I take it it made for a fairly rocky road for the process of the contract?---No, the contract had a governance structure, there was a set of KPIs, it was tracked year to year. If a contractor or a supplier wasn't performing yes, there'd be
20 ramifications, if they were performing then it would continue on.

But who's deciding whether they're performing or not?---Well, in, in, in this instance there was a main train governance board so there was a, you know, a number of people from different areas of RailCorp who oversaw the performance of the contract.

Once the contract was in place and indeed whilst UGL held the contract before it went out to tender there were other contracts associated with the contract that were given as well weren't there?---It's not quite true. The
30 L3C contract was quite innovation, it was born in best practice contract management and there was a provision in it to, to secure very good labour rates and also increase the workload associated with it so as what happened the Government announced a programme to refresh the V set trains could be put through the L3C contract and what we actually did, we did half the work internally within RailCorp and half the work went to the L3C contract so we could compare performance et cetera. I should also mention that one contract came back during that period so the Oscar maintenance was with UGL and we decided that we would bring it back in house during that period and RailCorp now does, Sydney Trains now does that maintenance
40 work.

And do I take it that equally could have been brought back and given to another contractor at that point in time?---No, because it was part of a reform program going on internally within RailCorp if the internal business hit some performance targets there was an agreement to consider bringing it back in house.

But as I think you've already indicated, the L3C contract was not the only maintenance contract that RailCorp had at the time?---No, I think we've got something like over 350 maintenance contracts.

And there are many companies that are vying for those contracts at any particular point in time?---Correct.

10 Notwithstanding that, I tell you when the L3C contract went to tender it was a large thing for the companies that were tendering for it?---Yes, it was.

And I take it, you'd agree, that in terms of the tender process it needed to be as transparent as possible, is that correct?---Correct.

And one of the things you needed to do was certainly have the people who were fundamentally involved in the tender process declare whether they had any conflicts of interest?---Yes, RailCorp there was a policy where every major tender people had to declare any conflict of interest.

20 In terms of the RailCorp personnel, for example Mr Camilleri, what is the nature of conflicts of interests that would be anticipated that he might be declaring?---It could be - - -

I just mean in a general sense.---Could be, could be anything.

Right.---It could be people declare if they have family members that work for another organisation, people declare if they've worked for another organisation themselves in the past so yeah.

30 One of the big things seems to be whether, I withdraw that. There's some evidence that Mr Camilleri appears to disclose that a employee from Downer EDI who I think were one of the tenders had at one stage asked him for a reference, is that the kind of thing that you would anticipate that someone would be disclosing as a conflict of interest?---Yes there is but there was a variety, I would get declarations that people had received a Christmas card from a supplier so there was a wide variety of things that people would declare.

40 So you would anticipate then if someone heavily involved in the tender process from the point of view of RailCorp if they had a long standing close friendship with one of the tender managers from the contractors, that's something that would be disclosed as a conflict of interest?--- Yes.

Were you aware that Mr Camilleri may have had a long standing personal friendship with one of the tender managers?---No, I wasn't.

THE COMMISSIONER: Mr Campbell, can I just ask for the period of time during which UGL was performing this contract, who was their point of contact within RailCorp just in terms of discussing how the contract was

being performed or problems that they might strike, with whom would they communicate?---They had a general manager for the main train and L3C and then that person would communicate, we had local people on site at Auburn and there was a process for communicating with any issues with those local people. There was also a person for escalating issues et cetera.

MR POLIN: Thank you, Commissioner. Might the witness be shown Exhibit 2, your Honour?---Is it the one?

10 Yeah, that's the one. Do you recognise that document pages 1 through to 32?---I do. I do.

32?---Yeah.

The RailCorp Code of Conduct enforced July 2011 and 33 through to 64 the RailCorp Code of Conduct in force May 2012?---Yes.

And 65 and 66 of the RailCorp gifts and benefits declaration form?---Yes.

20 And the pages 67 through to 74 the RailCorp gifts and benefits policy? ---Yeah, I do.

And I take it you're familiar with those documents?---I am.

And in particular you're familiar with the, those parts of the documents that deal with gifts benefits and conflicts of interest?---I have read them and I've already been trained by RailCorp on those things.

30 Would you agree wouldn't you that there's no doubt that an interest free loan from a contractor to a RailCorp employee would be an interest or benefit that would be caught by the Code of Conduct?---I agree that from a contractor it would be.

There's no doubt equally that it would create a conflict of interest? ---Between a contractor and employee, yes.

Yeah. There's no doubt then in terms of the code that contract conflict of interest would required to be reported into senior managers?---Correct.

40 There's no doubt is there that if the conflict of interest is acted upon it would become improper conduct under the code?---Correct.

And I take it the reporting of the conflict of interest and the keeping of those records is because the acting upon the potential conflict may not occur until sometime well after the conflict arises?---Yes.

Now dealing with RailCorp subordinates there's no doubt is there that an interest free loan from a subordinate to a superior gives the superior person a benefit?---Um, in my opinion not necessarily.

So if I was to give you an interest free loan you are getting a benefit aren't you?---Um, um, yeah, well I perceive at the time.

10 Is there anywhere you can get money without having to pay interest upon it?---No. When I became aware that Joe had borrowed money from subordinates I looked at it as a perceived conflict of interest and that's where I honed in first.

Right. Well just dealing with the code, it's not a perceived conflict of interest is it's, is it a perception that his behaviour may be influenced in some way and that's why it becomes a conflict of interest doesn't it?
---Yeah, I guess I saw it as taking a personal loan from someone who's a friend as not a conflict of interest but when that friend or subordinate raises the issue that it may impact them on their future career then it definitely is a perceived conflict of interest.

20

But just getting back to the basics of it there's no doubt that an interest free loan is a benefit is it?---Not necessarily.

What do you mean not necessarily?---Well I don't perceive it to necessarily be.

30 I, I want to borrow money from you and you give it to me interest free you don't consider that's a benefit to me?---It's personal, um, and I go and, if you buy me lunch or I buy you lunch um, or you know you lend me the money for lunch no, 'cause you know I'd pay you back, it's a mutual transaction.

Whether it's a mutual transaction or not it's a benefit isn't it?---No, not necessarily.

Well how can it not be a benefit?---Because we just having, having lunch together.

40 Well, let's forget the lunch, let's talk about an interest free loan. I was to borrow \$500,000 from you interest free, that's a big benefit to me, isn't it?
---Yes.

If you're to borrow it from anyone it's a benefit to you, isn't it?---Ah hmm.

Is that correct?---I can see how people perceive that differently, on the amount of money on whether it's personal or not - - -

Does it matter about the amount of money whether it's \$5,000 or \$500,000, does it matter, one's a smaller benefit than the other is it not?---If I don't have my wallet and I borrow \$10 off you for lunch, I think it does vary depending on the size and - - -

Notwithstanding that, even if you borrow money for your lunch, it's still a benefit isn't it?---Well, I wouldn't call it a benefit, I'd just call it friends helping each other out.

10 So when does it range from the sandwich to \$5,000 to \$500,000 when do you say the benefit kicks in?---I don't know I'm not an expert I wouldn't just to be an expert.

I'm not asking you to be an expert I'm asking you when you say one moves from not being to a benefit to being a benefit?---I don't have a rule.

20 THE COMMISSIONER: Mr Campbell, can I just suggest you focus on the fact that this is interest free I mean, one would not expect to charge interest on a loan of \$10 to purchase lunch but at some point if you want to receive a large sum of money by way of a loan and commercially you could not borrow that kind of money without some interest accruing is not the alternative that is demonstrated by what Counsel Assisting is saying, namely the loan of that sum of money without having to pay interest, is that not a benefit?---Yes it is, yes.

30 MR POLIN: And indeed a loan not only interest free but where's there no fixed term for it, it's essentially pay me back when you can pay me back equally, it's a big benefit isn't it?---Yes, I'd say most people expected to be paid back quickly, I think they got that commitment.

There's no doubt is there that reading the RailCorp Code of Conduct that the obtaining of loans by Mr Camilleri from subordinates created an immediate conflict of interests, didn't it?---A perceived conflict of interest, yes, I agree.

40 Well, what it created was a perception that Mr Camilleri had obtain a, sorry. He obtained a benefit which created the perception that he then would not be able to impartially make decisions involving the person who gave him the benefit. That's correct isn't it? That's the perception created?---Yes, that's the perception.

And that perception created is what's known under the code of conduct is a conflict of interest, isn't it?---Yes.

And the conflict of interest doesn't necessarily materialise as anything improper immediately does it?---No.

It does materialise into something improper if it's acted upon.---Correct.

The code of conduct also calls for the conflict of interest even if it's acted, sorry, irrespective of whether it's acted upon to be notified to senior managers, it's correct, isn't it?---Correct.

And it requires the conflict of interest to be document and the documents kept, it's correct isn't it?---Correct.

And that's because although the conflict of interest may not cause a problem at that time, it may in the future.---It could yes.

10

And it may in the future in fact lead to a finding of improper conduct because it's actually acted upon, that's correct isn't it?---Correct

So the position in terms of Mr Camilleri was no different to the loans for contractors than it was to the loans from RailCorp employees, was it? ---I don't know I said, I saw it at the time as different.

20

I understand you saw it at the time as different but in hindsight when you look at it and you look at the Code of Conduct it's not different is it?---Ah, I still see, I think it is different in, in my own mind.

Right?---I, I saw three levels of, of breach. He was lending people at his own level, he was borrowing money from people at his own level who were, you know, strong robust characters who he'd worked with a long time. The second level was when I was informed that he'd borrowed money from a manager and that manager had seen stress and was, was perceiving that it was a problem and then the third level I see is then when I was informed that he had borrowed money from contractors to RailCorp.

30

And indeed, he borrowed money from the head of RailCorp as well?---He did.

He's someone who may have at some point in the future been called upon to make a decision involving Mr Camilleri?---Yes.

How would that decision be perceived in circumstances where that person had in fact lent money to Mr Camilleri, how would that be perceived?---I think different people may perceive that differently.

40

Right. And that's why that sort of conduct should be identified as a conflict of interest and disclosed isn't it?---Yeah, I, yeah, I think there should have been more disclosure of those - - -

Your - - -

THE COMMISSIONER: Mr - sorry. Mr Campbell, can I just, can I just take you back to something you said a while ago. You said that you received a large number of declarations of potential conflicts of interests

including things like receiving Christmas cards from contractors or suppliers, do I take it that those disclosures were made by those people because they were unsure of the extent to which those matters might constitute a conflict of interest?---I think when we rolled out training people did the training, there was lots of examples on the training and people would come back from the training and declare, you know, err on the side of, of over-declaring so that, that was, you know, what was occurring throughout the organisation and there was, you know, a variety of things that people would declare.

10

But the Code of Conduct itself states that if you're unsure whether or not something constitutes a conflict of interest you should take it to your manager or make a declaration to have the matter clarified?---Yeah.

What I'm trying to ascertain is when you keep saying that these loans to Mr Camilleri from various levels might be perceived differently isn't that the point, that if there's any doubt that those declarations should therefore be made in order to clarify?---I think in an ideal world all of those would have been declared.

20

MR POLIN: When you say in an ideal world does it have to be an ideal world, shouldn't they all have just been declared?---Ah, yeah, running a big business, there's variety, there's variations, people interpret things differently. When I, when I got the letter there was 56 people who Joe had either borrowed money from or declined borrowing money and, you know, to this date only four of them actually spoke up about it so four out of 56 were trained, read the policy and in their opinion thought they didn't need to declare it.

30 Right. But in terms of the 56 there were people, and indeed a considerable number of them, were subordinate to Mr Camilleri?---Yes, there was.

And you said that you were aware that a significant amount of, amount of pressure was put on some of them to lend money?---Ah, yeah, reading, well, getting information from, from some of the people that Joe Camilleri borrowed off, reading the HDY report, I'd say, you know, Joe always said it was personal but, you know, he appealed to their good nature because of, you know, they felt for him and his daughter.

40 But you said that a considerable number of them felt pressured to lend the money, is that correct?---Yeah, pressured because the daughter was in trouble and, and they wanted to help him out.

So they've under pressure lent money to a person who is above them?
---Correct.

A very senior longstanding employee of RailCorp. Is that correct?
---Correct.

In charge of the maintenance section indeed where many of them worked?
---Correct.

And those employees could do nothing other than perceive that Mr Camilleri would be influential in making decisions in terms of their future progress within the corporation?---Correct.

10 Is that right?---Correct. And that's why we kicked off an investigation as soon as we found that out.

Well when an employee knows that that the person who may decide on their future is someone who owes them money how is that not a blatantly clear conflict of interest?---I think people were having difficulty with the personal side, the way he put it to them it was a personal loan between them and him so they didn't perceive it as part of the organisation's Code of Conduct.

20 Well how else was it going to be put, it's a personal loan it was going to be put as a business loan?---No, well I'm just you know.

But how else could it have been put it was - - -?---Summarising what occurred.

30 No, I understand that. But you keep saying it well it was put as a personal loan so it makes it somehow different. Why does that make it in any way different whether you call it a personal loan, a business loan, a work loan or just call it a loan. Why does it make it any different?---Well again and I did a conflict of interest training and they gave lots and lots of examples of conflict of interest training personal loans was never an element in that training and those examples.

To some extent you couldn't go through every, every category of benefit within the training could you, you've got to extrapolate, use your own common sense?---No, the, the training we viewed old ICAC investigations, it reviewed incidents that have occurred around Australia and there was lots and lots of what I'd call good practical examples that people could relate to.

40 But giving you this as a good practical example of a person who is able to decide on the future of a subordinate where that's subordinate is actually owed money by the person making the decision. How clearer conflict could you get?---Well that is and I've said that so - - -

Okay. But that's, that's the case isn't it? For each and every employee who lent money to Mr Camilleri?---Well I can see a difference between people in the same level and subordinates because people on his same level feel that he wouldn't be recruiting them, he may not be judging their performance et cetera.

Okay. But then of course people on his same level move from time to time. Mr Camilleri moves up into a more senior position suddenly that's when that conflict of interest clearly materialises doesn't it?---In that situation, yes.

10 But the conflict was always there because it's common sense isn't it that people don't stay in the same position they move up or down or across and one person may be on the same level one day and they might be on a different level the next day?---Or they could be planning to leave and work for another company and therefore there'd be no conflict of interest. 'Cause each situation could be different.

Yeah. And it's pretty basic common sense isn't it?---What's that?

That people move and one day they're the same level, the next day one is the supervisor of the other?---It can happen, it doesn't happen that regularly but it does happen.

20 So the loans to people on the same level as Mr Camilleri were for all intents and purposes the same as loans from subordinates?---Well, yeah, there's a difference and the first three people to come forward were someone on a higher level or on the same level.

Right. Now were you a friend of Mr Camilleri?---I wouldn't call him a friend, no.

You didn't join the business until 2009 I think?---Yeah.

30 Did you ever socialise with Mr Camilleri?---No.

Did you ever drink with him after work for example?---No. He may have attended one Christmas Party at, at, for the, for the area but from memory he only stayed a short time.

40 Did you ever observe him to be the kind of person who used to drink with other employees of RailCorp after work on a regular basis or indeed at all? ---No, in my working life some people put their life into compartments, work family or social and Joe was one of these people who had a work life and a home life.

Were you ever made aware that he had, in essence, some sort of mantra that he would not drink with people at all socially because he used to say one day I'm working with you the next day I might be your boss and have to fire you.---No, no, just what he did.

If that's something that he did, it would show on his part certainly the understanding that he may move within the organisation and indeed one day be on the same level as someone and the next day be their direct supervisor,

does it not?---No, I think he just preferred to go home after work and be with his family.

I'm suggesting to you that this in fact what he would say to people, I'm not asking for what, what you observed because you obviously didn't observe but if it was something he did say to people it shows on his part, does it not, an understanding that he was in a position of power and at times may have to fire people?---No I didn't, I don't see it that way.

- 10 You don't?---We've done psychometric training on all leaders and some people just like to have a work life, some people like to combine them both and go out and some like to have two separate lives.

But if he was to say to you Mr Campbell, I don't want to drink with you after work because one day I might have to come to fire you.---He never said that.

But if he did say it to other people - - -?---Yeah, well that would be different.

20

It would be. And it would show him understanding on his part of those matters wouldn't it?---If he did that, he never did it.

Never said to you?---No.

THE COMMISSIONER: Is that a convenient time Mr Polin.

MR POLIN: Yes Commissioner.

- 30 THE COMMISSIONER: Yes, Mr Campbell, can you stand down and return tomorrow morning shortly before 10 o'clock and we'll resume the evidence at that point. Yes thank you. I'll adjourn.

THE WITNESS STOOD DOWN

[3.57PM]

AT 3.57PM THE MATTER ADJOURNED ACCORDINGLY[3.57PM]