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THE HONOURABLE MEGAN LATHAM

PUBLIC HEARING

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

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AT 9.56AM

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THE COMMISSIONER: Yes. Yes, Mr Campbell, you're on your former oath. Do you understand that?---Yes.

Yes, thank you. Yes, Mr Polin.

MR POLIN: Thank you, Commissioner.

10

Mr Campbell, when did you last speak to Mr Camilleri?---Ah, on the day of his termination.

Right. Commissioner, might this witness be shown Exhibit 1?

THE COMMISSIONER: Yes.

20

MR POLIN: Could you just have a quick flick through those documents firstly. Do you recognise those as being part of Mr Camilleri's employment records?---I do but that's the first time I've seen them packaged together.

All right. And in particular they relate to applications and approvals, applications he made to obtain advances on his wages and leave entitlements?---Correct.

They appear to be from a period of about April 2010 through to January 2013?---Ah, correct.

30

And they appear to be about 30 in number and of the applications you appear to have been involved in approving about 19 of them, would that appear to be about correct?---Um, I counted 18 but I'm sure your work is viable.

Okay. You've, you've actually been through and actually looked at them? ---I saw it for the first time last week.

Okay. So you counted 18?---It might be 19.

40

Now just looking at page 2674 - - -?---Okay.

- - - you can see that's essentially a letter to you - - -?---Yes.

- - - seeking approval to cash in accumulated annual leave and long service leave?---Yes, it is.

And the reason given is due to unpredicted family financial situation?---Yes.

And that of course is approved?---It is.

And within a short - sorry, I withdraw that. The, the gross amount involved in that approval is nearly \$50,000?---Ah, yeah, I must admit I only saw the 20 days, payroll calculate the numbers and payroll didn't give me any information on how much money it was.

But someone's obviously done some calculations on that document, I take it that's the payroll people and am I correct in saying that the gross figure is \$46,230?---Yeah, correct, that's what the payroll people have calculated.

10

And then within a short period of time, on the next page, there's another application?---Correct.

And there's another gross amount, this time in excess of \$36,000?---Ah, yeah, again I approved the annual leave, the annual leave balance was the KPI that, you know, we had as part of an organisation and I didn't see the dollar sign.

20

In any event we have someone there that's sought to cash in in excess of \$80,000 of leave entitlements within a short period of time?---Yeah. Joe had carried out my role before I started, because I'd come in from Qantas I was a newbie at RailCorp, it's fair to say I wasn't warmly welcomed, Joe had ah, um, professionally gone about giving me a handover, provided me information, guidance and then one day, and you know, earned my trust, and then one day he come to me asking um, for the leave. Ah, I looked up the leave policy um, it was, it was, it was allowed. He actually didn't have to give me an explanation so he gave me more, I think he was trying to indicate that it wasn't him, it was, you know, part of his family. Um, I'd also worked at Qantas for 23 years, at Qantas you were driven to reduce executives' annual leave, to reduce balance, balance sheet liability. Ah, I did ask the GM of HR in the public sector was driving down annual leave balances an objective, he said yes um, it had been part of AG reports et cetera so reducing um, executives', you know, annual leave balances was, was, you know, something that was - in the previous organisation it had been promoted and was, was supported.

30

40

And in a normal rational way that may be done by reducing the annual leave in one lump sum because someone may want to do something with a large sum of money?---Um, yeah, there could have been lots and lots of reasons for it.

Right. But he's come to you it would appear, was the first one in March or in April and there's \$46,000 plus, the second one again in April, \$36,000 and he's back again the next month, this is page 2677, 5 May, again a gross amount of \$36,000?---Yeah, and again - - -

Back again 10 May - - -?---Again I didn't - - -

--- a gross amount of \$24,000?--- --- I didn't see the dollars, we had a KPI to reduce the number of days' annual leave, I looked, he requested 20 days, he requested 30, they were all in line with reducing excess annual leave and long service leave so I could see why if you had a personal financial situation, it was, you know, it was a nest egg for a rainy day why he would use that.

10 Yeah, if one gets the nest egg they'd get it in one hit, again wouldn't they? I'm just asking you it's, so it appears in April there's \$46,000, again in April another \$36,000, then 5 May \$36,000, then 10 May \$24,000, then 17 May another \$36,000?---Yeah.

And 19 May another \$36,000, then again on 21 May, then again on 25 May? ---Yeah, I ---

20 Then again on 8 June?---Yeah, I'd assumed maybe incorrectly that it was something to do with building a house or financing ah, home et cetera so a father was helping, you know, one of their children um, you know, get on top of building a house or something to that degree.

How would that be regarded as an unpredicted family financial situation? ---I can't remember what I speculated at the time um, him building a house and um, you know, expenses get higher than you think or you, yeah, so you, as a father you don't expect to go and um, put a large amount of money into your child's house but you may have to because of various reasons.

But there are repetitive large amounts that are being cashed in over a reasonably short period of time?---Yes.

30 Did you ever make an inquiry as to what the unpredicted financial, family financial situation in fact was?---Um, I used to meet with the general manager of HR once a month and we'd go through the various people issues um, and we'd talk about their situation and again, the feeling was Joe was a long term employee, trusted, he had a family situation and he was using his built up leave to you know, help one of his children out.

40 Did you ever ask, when you say helping one of his children out, what it actually was in terms of the help he was giving?---Um, no I didn't when I read the policy he didn't have to explain and I thought, you know, it wasn't really my, I'd be going beyond to delve into his personal matters when he didn't have to tell me those.

Well, why did you think he was actually providing a reason, he's actually telling you isn't he, that's there's an unpredicted financial family situation? ---So I assumed he was helping someone out in his family, I didn't know what it was.

As far as you're concern in terms of the RailCorp policy, it was that anyone could ask to cash in their annual leave, could ask to cash in their long service leave, no questions would need to be asked, it would be approved without question?---As long as it was within the policy and at Qantas I'd seen a similar thing happen um, so it didn't strike me as unusual someone cashing out their long service and annual leave.

THE COMMISSIONER: Mr Campbell, can I just ask you a moment ago you said that you discussed the situation with the manager of HR.---Yes.

10

Can I take it that you specifically discussed these large advances by Mr Camilleri?---No, we would meet monthly and discuss, at that time there was 3,600 people in the maintenance directorate and we would discuss all the issues relating to people and with such a big work force there was quite a few um, and then one or two times we did mention Joe because, I'd ask questions about each of the general managers, I was new, all of the general managers that reported to me were mostly long standing RailCorp employees so I'd be asking questions as to their capability, their appetite for change and when we talked about Joe, it was that he was a strong character, he wanted to change the business, he wanted to make improvements. We also discussed him reducing his um, leave balances.

20

When you say you discussed him reducing his leave balances, was the discussion in the context of these large withdrawals being something unusual within the organisation?---Um - - -

I mean, was it something that you discussed in terms of it being out of character either for him or for other senior executives?---I think, we said there must have been something going on because he had been 37 years a very reliable character, there must have been something going on at home. I asked Rod O'Donnell had Joe divulged what it was to him and he hadn't divulged it to him so we didn't know what it was.

30

So it was conduct that drew the attention of the manager of HR and it was something that you discussed that is this pattern of large withdrawals?---Yes.

It was?---Yes, amongst lots of other issues, yes.

40

And yet no one thought to ask him the question as to what they were for? ---Well I think we both felt that because it was part of the policy and we didn't really have a legal right to ask that question.

Okay. It's certainly not part of the policy at RailCorp or correct me if I'm wrong, for people to get paid in advance?---Correct.

Right. So if you move to page 2705 and this is December 2011, I dare say Mr Camilleri didn't have much in the way of long service leave and holiday entitlements and he appears to be taking his wages in advance.---Yes.

He's a highly paid executive at this stage, is that correct?---He is, yes.

That would suggest that he is unable to live on his \$300,000 a year plus salary, does it not?---I didn't think that at the time.

10 Why not?---Assumed to be, we get paid on the 15th of the month and he was asking to get the money normally two weeks earlier so again, it kind of worked to me that he was supporting a family member with loan repayments and they were on a different schedule to his salary.

Doesn't it mean that he was in a position where he essentially did not have a liquid cent to his name and he needed to paid in advance to actually put himself into a position of liquidity?---I didn't think at that time, I thought he was supporting a family member in some kind of trouble.

20 Can there be any other explanation for it, he obviously wants the money in advance, is that right?---Yes.

And obviously Mr Mason is aware that this is happening at this time if you look at 2705?---Correct.

From him. If you go over the page in February there's again a request to cash out annual leave and long service leave. This time we're looking at a net amount of only about \$3,000, I assume that's what he's accumulated from when he cashed it all out the previous year up until now?---Yes,
30 because Joe had 37 years experience, he was accruing annual leave and long service leave it'd accrue about six weeks, a little higher than six weeks leave a year.

Did it strike you as unusual that someone as well paid as Mr Camilleri needed to seek their wages in advance in January 2012 and then in February 2012 needed to cash in \$3,000 long service leave entitlements?---Um, it didn't, again, I was thinking whatever support he was giving his family members executives sometimes have kids with high expectations as well as far as spending money et cetera so again, I thought, it was, it was a high
40 number - - -

Mr Campbell, it clearly shows someone in financial distress doesn't it?---I didn't pick it up, in 2011 he only came to me twice and he went to other people to get approval so, I guess um, I didn't see the full picture sure I had a big chunk of the picture but I didn't have the full picture.

Well let's keep moving to see what that chunk was. On the next page 22 February 2012 he wants an advance on his March pay.---Yes.

So he's had an advance on his January pay, he wants an advance on his March pay, starting to ring bells at this stage that he might be in financial distress?---Well, looking at it now it should have but at the time I thought, it was a loan cycle payment that was out of whack with when we get paid at RailCorp.

10 The next page 2708, the 12 March seeking advance on his April wages. Ringing bells at this stage?---No, I guess is still thought it was his money, he'd been a long standing employee he was helping a family member, at the end of the day it's his money to decide how he helps his family member.

So if that be the policy of RailCorp all employees could just turn up and ask for their wages in advance whenever they want them and repetitively, is that right?---Employees can do it um, um, so but it's not done frequently.

He's done it frequently hasn't he?---Yeah.

20 And then if you go over the page, 2709, in March 2009 he's cashing in as little as \$1,600 in long service leave, a person on over \$300,000 a year, aren't there warning bells at this stage?---Um, well, yeah, perhaps there should have been, I didn't, I didn't pick them up at that time.

April 30, the next document, cashing in long service leave of again \$1,600, warning bells at this stage?---Well, on that, he'd gone to Dave Spiteri so Dave Spiteri was the acting group general manager so that time he went to someone else to get that one approved.

30 So is it the case you can just go to whoever you want to or what - - -?---No, I don't know if there was something in the timing but he went to different people at different times.

So the next page, 10 May he appears to go to Gary Pedersen?---Correct.

And he's cashing in his June wages or getting them paid in advance and then we go to the next page, 4 June he's back to you I think and he's cashing in long service leave of \$1,500?---Yeah.

40 Isn't it by now, aren't the warning bells ringing that there's something wrong?---Um, again because he was a longstanding employee, he was helping out a family member I believe um, ah, it was unusual but I could understand why a father would do that for - - -

THE COMMISSIONER: Mr Campbell, sorry, could I just ask you, could you go back to page 2707 - - -?---Yes.

- - - and in the letter on that page that's addressed to you it opens with the words "With reference to our conversation regarding my current financial

issues”, do you recall what those current financial issues were that he was referring to?---Um, I do remember we had a business planning session up at Macquarie University and during one of the breaks he came up to me and talked about him assisting his daughter, um, um and that might have been the first reference to a, a legal case that had been far more expensive um, than he thought um, and he was keen to, you know, support her in that, that legal case.

10 And so am I right in thinking that on every other occasion that he discussed advancing moneys to him that whether or not a reason was given you assumed that that was the continuing rationale if you like, that he was assisting his daughter?---Correct.

MR POLIN: Indeed, on the next page you appear to have had a further discussion with him on March 12, was that about the same thing or was it some other discussion?---No, I'd suggest it was about the same thing.

20 Okay. Then going back to 2713, 4 June, he's asking for an advance on his July pay, by this point aren't you thinking when's this ever going to stop? ---Um, well, you know, he kept on saying yeah, you know, it's, it's, it's nearly over, we've just got to get through this last piece. Ah, I didn't have any payroll reports, I didn't have summaries so, you know, looking at this when I first got it last week the whole picture with the numbers, yes, there was a lot of warning but I didn't, you know, because it happened over a three-year period and I didn't have the dollars um, and you know, I didn't have a kind of trend or any kind of analysis, I didn't pick it up.

30 Well, when you say you only saw it last week, 2713 is a letter to you back in June 2012 so I take it you saw it then?---Yeah, I, I did, I saw, I saw them individually as part of managing 3,500 people with um, you know, signing off lots and lots of material.

How many of the 3,500 were regularly each month seeking their pay in advance and seeking to cash in leave entitlements?---Ah, I couldn't tell you. Leave entitlements was done regularly. You'd have to talk to HR about how often pay in advance was taken.

40 If we narrow it down how many people who held very senior positions at RailCorp were looking to get their wages in advance regularly at this time?--I, I didn't see it that way. I saw again a father trying to support their daughter in a situation and using the money that they'd built and had, you know, coming to them.

Is the answer to the question that Mr Camilleri was the only senior person at RailCorp who was doing this at the time?---Ah, I don't know that but he was the only person in the maintenance directorate that was doing it and I'd suggest he was the only person.

And then just moving over 22 June he's cashing in again \$1600-odd worth of leave entitlements?---Correct.

Now at that time you wouldn't have thought 13 hours of annual leave or seven hours of long service leave would be worth that much would you?---
(No Audible Reply)

It would be essentially 20 hours of pay?---Correct. That's a half a week's -
- -

10

Wouldn't you be thinking at this stage why is this person on 300,000 plus a year needing 20 hours pay cashed in?---Um, ah, again I thought he was supporting his daughter.

How long did you go on with that sort of thought, right up until when he left?---Ah, no. On 26 June, ah well no, just before 26 June Tony Eid came to me and said that Joe had approached him to borrow money. He, Tony said that Joe told him not to tell anyone. He told him that he was helping, he needed to help his daughter. And Tony came to me and said he felt he needed to let me know.

20

That sounds as though he was acting in accordance RailCorp's Code of Conduct doesn't it?---Well at that time when I found out about both, and in two days Tony Eid and John Minchin, I was acting CEO, I was running the RailCorp business, it's pretty challenging, and there was a big reform so I went and sought counsel. So I went and talked to the chief legal representative and also the director of HR at the time.

30

It sounds like does it not from our discussions yesterday that Mr Eid has recognised that the two of them have been conflicted and in accordance with the Code he's gone and reported it to his manager?---Um, yeah I think Mr Eid, an experienced person, I think he wasn't sure so um - - -

He erred on the side of caution?---Yes, correct.

All right. What then as his manager did you do in terms of the Code firstly in documenting this conflict?---The first thing I did was sought advice.

40

Yep?---And the advice I received was that because they were personal loans between the individuals and Joe Camilleri that RailCorp really wasn't part of that but it was suggested to me that I should call Joe Camilleri in and ask him to explain the situation.

Who told you that? Who gave you that advice that you're referring to?
---Um, I went into Irene Rusak's office, who's the legal counsel. And then later on that day I went into John Cahn's office, the director of HR.

Right. So are you saying that either the director of HR or the legal counsel told you you didn't have to document what Mr Eid had told you, you didn't essentially have to do anything about it other than speak to Mr Camilleri?--- Yeah. I think they said it was a personal matter and so it didn't impact RailCorp at the time but I should actually put it that two people had raised this with me and I should put that to Joe Camilleri.

10 In your discussions with the head of HR and the legal counsel was the Code of Conduct and conflicts of interest every discussed?---Um, not to my, not to my memory.

Right. In any event, by the 26 June, you knew that Mr Camilleri was in some financial distress, didn't you?---I did and he was borrowing money from employees of RailCorp of two employees of RailCorp.

A clear indication that he's in financial distress?---Yeah well, again I thought the situation with his daughter, whatever it is, it's escalating.

20 So you thought there was a problem and I take it you were told about the two loans that he had sought but you also already then knew that he had cashed out all his long service leave, all his holiday entitlements didn't you by this stage?---I did at that time.

And you knew that he was regularly asking for his pay in advance?---I did.

30 So that you knew that you had a senior executive at RailCorp who was in financial distress?---I, I still put it as, my thoughts at the time it was a father supporting a daughter and doing what the best he could and again, my logic was that whilst he was using his own money I could understand that, that's his business but once he approached two other people that that was a different issue.

Right. So it's a different issue, what did you do?---I sought advice and a situation in my career I'd never come across again, before, so I sought advice.

40 THE COMMISSIONER: Mr Campbell, sorry, can I just ask you something. If Mr Camilleri had said that he had a gambling problem and that this was the reason for all of these monies being advanced to him, would you have taken a different approach?---Defiantly, but I didn't know his daughter had a gambling problem at the time.

No, I'm not talking about whether his daughter had a gambling problem, you seem to be resisting the proposition that you knew that Mr Camilleri was in financial distress because you're putting it down to the reason that he provided, namely, that he was assisting his daughter but does the reason really matter? He was in financial distress wasn't he?---Yes, well, yes.

So that if he had said the reason I'm asking for all of this money is because I have the gambling problem, would you have done something different?--- Yes, if he had of come forward with either or his daughter had a gambling problem I would have done something completely different.

And why?---Well, you know, a gambling problem is, you know, again, I've done the Code of Conduct training, you know, gambling is something that needs to be reported straightaway and I had no sense that there was any gambling going on at that time.

10

But if that was the case you would have seen it as a problem because someone's addiction to gambling places the organisation at risk, does it not, because you would be afraid that they would take every opportunity to feed that addiction, isn't that why you would something different?---That's correct but at that time had no indication there was gambling occurring - - -

20

I'm not suggesting you did, I'm just exploring the reasons why you would have something different but you see, at the end of the day if he's asking you for all of this money from the organisation, does it matter whether he's given you an explanation that he's assisting a family a friend or alternatively that he has the problem?---I think it does, I think people wouldn't have lent him money if they knew there was a gambling problem. I think as an organisation we would have dealt with it quite differently if it was a gambling problem. There was no indication at that time there was any gambling problem.

30

Can I just ask you this. People with a gambling addiction do not very often confess that they have one, they provide another excuse for needing the money, do they not?---I agree.

40

MR POLIN: Wasn't that exactly what you were seeing here with Mr Camilleri the pattern of someone who had a gambling addiction or some sort of addiction that constantly required the provision of funds?---No, you know, he told the story about his daughter in June his daughter having had her credit card stolen and huge bills and that he was in a very expensive legal case to get the money back. His daughter was very distressed and he was doing everything else he could to support her, I believed that at that time.

You, you knew that he had borrowed from at least two people at RailCorp at that stage and that he had cashed in all his leave entitlements and the like. Did you ever think to - sorry, I withdraw the. The two people were people that actually came forward and reported it weren't they?---They were.

Did you ever at that stage think to make some inquiries as to whether he had actually gone to other people at that time as well?---Not right at that time, I did later but with only two and because I spoke to him and the reaction I got when I spoke to him and the commitment I got and, and up to that point in

time um, in my day to day dealing with Joe Camilleri he'd always told me the truth. Um, I think after that - well, on the 26th and from, you know, continuing on ah, he started to lie.

It sounds to me as though in your day to day dealing with Mr Camilleri he seemed to put quite a bit of pressure on you?---Ah - - -

Would that be fair?---I don't think so.

10 I think you were suggesting that because you were the new boy and had come over from Qantas and he'd been there for a long period of time you felt compelled when he was asking to cash in leave and the like to approve it?---No, I don't think so.

Okay. Did you ask him the simple question have you lent money to other people at RailCorp?---No, during the meeting I, I explained that both Tony Eid and John Minchin had come to me, I, I told him what both had told me and he instantly apologised, said it's gone too far, he should have stopped it um, a while ago, he was going home this afternoon to stop it um, he
20 wouldn't be lending any money from anyone else, the whole situation of supporting his daughter would be stopped immediately and he was very, very apologetic. He said oh, this is really um, you know, now it's, it's out it's going to damage my reputation, um, he stressed again they were personal loans, they were personal loans in his explanation.

So you never asked him whether he borrowed money from other employees at that stage?---No. And to be honest I, I - at that time which is the day after or so that John had come to me I thought there was only two people
30 involved.

Why would you think that just because two people came to you? Wouldn't you think that there might be others who didn't come to?---Ah, I did later.

Why didn't you at the time?---Ah, ah, 'cause I guess both Tony Eid and John Minchin were both longstanding employees, they were both well over 30 years so I could understand that Joe knew them well and that they were the first people he would approach.

So by the beginning of July I take it you were fully aware that he was
40 suffering from financial problems, is that correct?---Yes.

But he had said to you the whole thing was going to stop and come to an end and you accepted that?---Ah, yeah, Joe had made commitments to me before, he was known for following up um, ah, some people aren't as action orientated in RailCorp as was Joe was, Joe was a person who made a commitment and, you know, generally followed through and up to that time had.

It must have then amazed you when you received the letter on 1 August where he's seeking to cash in further annual service leave and further long service leave?---Um - - -

It must have amazed you?---No, it didn't. The, the logic was he'd stopped borrowing from those two people and he was using his own money.

I thought you said that he said that he was going to put an end to this issue that he had with his daughter, bring that all to an end?---Yeah.

10

That's what you said didn't you?---Yeah.

That is he was putting to an end what was causing him to need money?
---Yeah.

That's right isn't it?---Well, I - yeah.

That's what you said didn't you?---Yeah, for me the end was that he would not approach anyone else at RailCorp and ask to borrow money.

20

You said didn't you that you got an assurance from him that he was bringing to an end what he was telling you was causing his financial distress?---Well, I, you know, I can't remember the exact words but the end to me was to stop borrowing money from, from other RailCorp employees.

1 August it was clear to you wasn't it that he's requiring more leave to be cashed in? The financial distress is still there? It hasn't been brought to an end has it?---Ah yeah, but I, I assumed that he'd stop borrowing money.

30

Right. Well of course in August further people from RailCorp approached you didn't they?---Ah yes, Tanya Johnson, a general manager of Major Works approached me.

What day did she approach you?---I don't remember.

In August though?---Yeah, it was in August.

40

And you're aware aren't, if you look at page 2,716 that Mr Camilleri had gone to Tanya Johnson on 8 August and asked for his September pay in advance? So I take it he's got his August pay and he's want his September pay paid early in August?---Yep.

Were you aware of that?---Ah, I wasn't when Tanya sat down with me. She talked about um, Joe coming to a, to borrow, and asking to borrow money and that she'd lent him a couple of thousand dollars.

Was she the only one who came in August?---Um, to my memory.

So we know that by August you as his immediate supervisor knew that he was in financial distress, is that correct?---Correct.

That he'd told you that he was going to bring that financial distress to an end?---Yes.

That he had not done that, is that correct?---Correct.

10 He told you that he was not going to borrow money from any other person at RailCorp, is that correct?---Correct.

And he all but immediately then went and borrowed more money from at least one other person at RailCorp, is that correct?---From Tanya?

Yeah?---Ah, yes.

Well, how did you feel at that stage?---Um - - -

20 You've given him a specific direction not to do something and he's disobeyed it?---Yeah, when Tanya told me I, I couldn't believe it.

Right. And so that's when everything would have come to a head wouldn't it, in August, 2012?---Well um, I started watching Joe a lot closer. Um, I started making some inquiries, because he was level 22. And we also, I'm not sure, around that period we brought in a program, a deputy program director and asked him to sit in the same office as Joe. And Joe didn't like that, he didn't want that but ah, we insisted that he - - -

30 Did Tanya Johnson tell you as Mr Eid, was it Mr Eid or Mr Minchin had told you earlier that Mr Camilleri had asked them not to tell anyone that the loan was being made?---Yes she did.

She did as well?---She did.

So you knew by then that Mr Camilleri was borrowing money from employees and asking the employees not to tell anyone, is that correct?---Correct.

40 Yet three employees, Mr Eid, Mr Minchin, and Ms Johnson had come and told you, is that correct?---Um, can you repeat that.

Three, Mr Camilleri had approached three employees - - -?---Yep.

- - - Mr Eid, Mr Minchin, and Ms Johnson and borrowed money from them?---Yep.

He'd asked them all not to tell anyone about the loan. Notwithstanding that those three had come to you and told you about the loan?---At various times.

The first thing you would think then is there are other people out there who he's borrowed money from who have also been told not to tell anyone and they've not told anyone?---Correct.

That's the first thing you'd think, isn't it?---Correct.

10

What did you then do about finding out the extent, this is in August, 2012, the extent of the money that Mr Camilleri had borrowed from RailCorp employees?---Well, I had three people with a couple of thousand dollars each, as they told me. So the first thing I did was to call Joe in again and reiterate the direction that he was not to approach anyone to borrow money because I agree not only could he have approached other people but he could have been continuing to do it.

20

But that didn't work the first time. What was the feeling that, why would you think that was going to work the second time?---Well um, I just needed to reinforce it a second time and to make it very, very clear I was, you know - - -

So what, you said it in a firmer voice or something?---A stronger, yes and made it very, very clear.

30

Where are all the records of all this occurring, where's this all written down the file notes of this meeting with Mr Camilleri, the records of people coming to complain about the loans, where are all the records of this?---I didn't have the records.

So your evidence is the best you can say is that you spoke to him more firmly?---Yes, that was step 1, yes.

What was step 2?---Well, step 2 was when Tanya not longer after came to me and - - -

40

Well, I'll come back to that because you came back again didn't she?--- Shortly after that.

We're just dealing with August where you know that he's got a financial problem, you know that he's borrowing money from people in RailCorp, you know he's disobeying your instructions not to do that, other than from talk to him more firmly, nothing else was done was it?---And bring in a deputy director and have someone else sit in his office that um, you know, can monitor what he's doing - - -

Well, what's that going to do? Realistically, what was that ever going to do where he's going to someone asking to borrow money and telling them to keep it quiet, you don't think he'd do it when someone's in his office do you?---No, but someone can monitor him, see where is, if he's attending meetings et cetera.

10 Right. So he can just walk outside at lunch time and approach someone and ask for a loan, can't he? What on earth was the good of putting someone in his office? No good was it?---But I again, sure three people had come to me, I didn't know the extent, I didn't think it would be that kind of number that it was I had no idea and they were two general managers and one director so they were all senior people in the organisation.

And what about the legal counsel, HR and more senior people at this stage, this is in August?---I was planning to sit down and meet with them, I wanted to meet with them together and have a formal meeting but before I organised that Tanya came to me again with the information on Theo Vavayis.

20 I'll come back to that, as I've said. Essentially in August nothing really was done?---Except me trying to um, gain more information.

From Mr Camilleri?---No, and from people on level 22 um, and ask discrete questions, what was Joe up to, was he attending meetings, was he focused at meetings et cetera.

30 Did you think by this stage he having disobeyed a direction by you not to borrow money from employees it was may be appropriate to formalise somehow a request to all other employees as to whether other money had been lent?---Um, well before that occurred, Tanya came to me with the information on Theo - - -

Yes, that's in October - - -?---And I went straight to John Cairns.

That's two months later isn't it?---It wasn't two months later.

40 Are you saying that this time in August when she first comes to you essentially you didn't do anything?---I monitored what, asked questions, tried to gather some information.

Do you know how much money he borrowed from people after this point in time?---Do I know now?

Yes.---I do know, I don't know the exact figure now, I got a letter from Joe on 8 November that highlighted over \$400,000 from all people and you know, from what you said yesterday it was actually much, much more than that.

See the whole thing could have been stopped in August couldn't it, if the thing had been exposed in August it could have been stopped, couldn't it? ---Well, and again, looking at the dates in the HDY report I think even in June when Tony first came to me he'd already lent money, borrowed money off 18 people.

10 Even in June it probably could have been stopped but more than half of the money that he borrowed could have been stopped if something was done in June or August couldn't it?---Well, I think there was a lot of activity, he was approaching a lot of people in the last six months of 2012.

It doesn't sound as though in June through to August there was really any activity or any constructive activity to stop this was there?---Again, three people had come to me, the advice I got well, they were personal loans, they were between Joe and those individuals um, and that RailCorp did not need to take action. So, so two people that was the recommendation, at three people I thought it was the same recommendation.

20 Now Tanya Johnson, when do you say she next came to you?---Um, October.

Right. Well, I just suggested October to you a moment ago and you said it wasn't. So it was October?---I'd, I'd have to look at my statement again 'cause I went to my diary.

30 In any event is it the case that essentially nothing was done from August when she first came to you to October when she came to you on the second occasion?---Well, I started, I started to collect information but I had two, two senior people and it went from two to three.

Well, two to three, it was the same person wasn't it, wasn't it Tanya Johnson that came back in October?---So Tony and John and then Tanya, I had three people that approached me.

Yeah, but Tanya came in August and approached you didn't she?---She did.

And then she came again in October and approached you - - -?---Correct.

40 - - - didn't she?---The second time she approached you she detailed that she'd see Theo what she thought was stressed and she's asked Theo was the problem was.

Right. So she had been able to identify that he'd borrowed money from someone else?---Ah, she um, saw a stressed individual and asked the right question.

But again I ask between August and October why wasn't anything done to check on the other employees to see whether they had been put under

pressure by Mr Camilleri to borrow money?---Ah, well, again, there was two people and in August there was three all at general manager or above level.

But they were there waiting to be found weren't they?---I now, I now know that.

You only had to ask the question?---Yeah.

10 Why wasn't the question ever asked?---About?

Whether there was anyone else who lent money?---Um, again I assumed there was only three I guess.

THE COMMISSIONER: Mr Campbell, a short time ago you acknowledged that a consistent theme in these loans was Mr Camilleri telling or requesting people from whom he lent the money not to tell anyone. Now you acknowledge that was the theme?---Correct.

20 Well, what good then is your assumption that it was only three if you had never actually asked the employees generally whether or not they'd been approached by Mr Camilleri for a loan, because if that request had been made from senior management then the full extent of his borrowings would have disclosed to you would they not?---Yeah. I guess the advice I got was that it was a personal basis so I really couldn't go out and ask people oh, has Joseph Camilleri approached you for a loan.

30 Why not?---Ah, because the advice I'd got was that it was a personal transaction between two individuals and that RailCorp had nothing to do with it.

MR POLIN: Well, I think Mr Mason yesterday, and indeed I think yourself, agreed that if a RailCorp employee was to seek a benefit and a loan from another subordinate RailCorp employee there's a perception created which under the Code of Conduct constitutes a conflict of interest?---I agree reading the Code of Conduct many times and what I know it is.

40 And that means that that conflict of interest has to be disclosed and documented?---Correct.

And there were various people that came and did that, they disclosed it didn't they?---They disclosed it, no one documented it.

Right. But I take it you as the senior person was the person that was supposed to document it?---Well, I think if you read the Code there's many people that are supposed to document it, Joseph Camilleri's supposed to document the people that he's approached um - - -

Well, let's assume he's not going to do it?---Yeah.

But you have Mr Eid, Mr Minchin and Ms Johnson, they all come to you and they tell you about something which is a conflict of interest in terms of the Code?---Well, I now know it is but at the time the advice I got was that it was a personal transaction between Joseph Camilleri and those individuals.

10 Sorry, you are telling us that you're actually getting legal advice from the legal counsel that it wasn't a conflict of interest in terms of the Code and to do anything about it?---To this day no one's come to me and said you haven't um, we've, you know, it's a breach, that's a breach of, it was a conflict of interest. The first person to actually raise it was Tony Woods from HDY in his investigation report that he said that a personal loan could be conceived as a conflict of interest.

20 But you being taken through the Code yesterday, I've only got to take you through the paragraphs and you indeed yourself accept it?---I agree now reading - - -

Had you not read it?---Again, I'd read it, I'd been on the training, on the training there was lots of examples of conflict of interest is, personal loans at that time I didn't really appreciate that it was.

Is there any problem with the language, I mean, we went through it yesterday it's pretty clear when you actually just apply that situation to the language of the Code, it's pretty clear that it's a conflict of interest isn't it? ---Well, again, because of the perception piece, I'd say yes now that it is - - -

30 And the Code makes it pretty clear that if you're ever in doubt you err on the side of caution don't you?---Yes.

There's no doubt you were in doubt, weren't you?---Well, I sought advice.

Yes.---It was something that I hadn't come across before.

40 The very fact that you were in doubt to the extent that you sought advice, why didn't you follow the Code and document it?---Well, the people I sought from I thought understood the Code better than I so I'd take their advice.

So they're telling you are they, disregard the Code - - - ?---They never said that.

Well, they obviously did sir, because you said that you were in doubt and the Code says if you're in doubt err on the side of caution, that means document it and you're telling me they're telling you to disregard that?

---They never said that, they told me in their view it's a personal transaction and between Mr Camilleri and the individuals.

And so don't worry about it, don't do anything?---No, they said call him in and ask him, tell him you've become aware of it and ask him to explain the situation.

10 Right. Why? If they say it's a personal loan, it's nothing to do with RailCorp why are they telling you to call him in?---To make him understand we're aware of it and to get an explanation of why it's occurring.

Why are you telling him then to stop if it's just a personal loan and it's got nothing to do with RailCorp?---Well, once he explained the situation when I called him in and um, you know, saw the impact it was having on him, I saw the impact on both Tony Eid and John I believe it had to stop.

20 So you're actually observing the impact this was having on the senior RailCorp person and the impact it was having on a more junior RailCorp person, is that correct?---There's no junior person at that time.

They were the same level were they?---They were the same level or higher, Tony Eid was a higher level.

Right. But you were aware that it was having an impact on both sides?---Yes, they felt uncomfortable and it was obvious that Joe did too.

30 How do you think that was going to play out in the future, they were uncomfortable at that stage, but how was that going to play out in the future when these people knew that Mr Camilleri was indebted to them?---Um, - - -

Wasn't that causing you a problem?---And again because of the advice that was personal, it was between them, um, I didn't see that at the time.

40 THE COMMISSIONER: Mr Campbell, can I just ask you, just in relation to the last answer that you gave that you recognised that it was making people uncomfortable, did you get a sense of why they were feeling uncomfortable?---Tony um, simply because it was an unusual situation, he'd worked for RailCorp and its various earlier entities for a long, long time and no one had ever approached him for a personal loan before um, um, John I guess may be similar but he seemed more annoyed that, that someone at his own level had approached him for a personal loan.

And just coming back to another answer you gave you took advice and determined, or the advice suggested that you should call Mr Camilleri in and ask him for an explanation and essentially suggest that he should stop doing what he was doing, yet your advice seems to suggest that Mr Camilleri would have been within his rights to say to you, "It's none of your business.

It's a private matter," turn on his heels and walk out of the office. So what would you have done then?---Um yeah, the advice would but he didn't do that. He went straight into apologising, saying that it's going to stop, he's not going to approach anyone else.

MR POLIN: But I don't quite understand why you'd be telling him to stop if the advice you were getting is there was nothing wrong with it?---Well you know, during the conversation where he explained the situation um, it was obvious that he was stressed, and I described the other two, so, you
10 know, I thought, you know, it was time for it to stop.

Why? You're being told are you not that there's nothing wrong with what he's doing?

MR SILVER: I object to that question. The evidence was not that he was told there was nothing wrong with what he was doing.

THE COMMISSIONER: No, he was told that it was a private matter which was outside the scope of RailCorp's responsibilities. Yes.
20

MR POLIN: Sorry, that's correct. You were told that it was private and that it was outside the scope of RailCorp's responsibilities. Why then were you telling him to stop?---Well, you know, it started off he committed that it would stop and um, you know, I said yes, it needs to stop.

The advice you got I take it that was never in writing?---No.

It was never documented by file notes, emails and the like?---No.

30 None of this was documented at all from June through to October was it?---No.

Why was Mr Camilleri dismissed?---Um, as part of the investigation that we commissioned it was found um, towards the end of the investigation that he had approached ah, contactors and asked to borrow money from them. Um, and um, based on that um, new evidence he was dismissed.

It was also was it not that he had put himself in a position of conflict having borrowed money from employees?---Correct.
40

Is that correct?---Correct.

It was also because he'd failed to follow a direction that he was given?---Correct.

Is that correct?---Correct.

So they were, that was the legal position of RailCorp as at February, 2013 was it not?---Correct.

Yet you're telling me the legal position as at August, 2012 was different?--- Well, we'd sought independent legal advice. They'd commissioned the investigation and we'd reviewed the investigation report and the recommendations from that.

10 So your internal legal advice was that it wasn't RailCorp's responsibility in August, 2012 but your external legal advice, only a matter of months later was that it was?---With a lot more evidence and information that come to hand.

That's just the numbers isn't it, apart from the loans from contractors it's just the number of employees that had come to hand at that stage wasn't it?--Ah, there hadn't been a, there hadn't been a direction at the first time so, you know, so things had changed.

20 Could I show you this document, page 263, 264. Is this the first document that was ever created as a result of the saga, if I can call it that, leading up to October, 2012?---Correct.

And this document wasn't created until 5 November, 2012 was it?---It was slightly before, yep.

Sorry?---Slightly before.

Well it's dated 5 November - - -?---Yeah.

30 - - - 2012?---Yeah. I created it, it evolved over a few days.

But it's a document that records history rather than records, it might record specifically at the end what was happening at the present time then but it records history doesn't it?---Yes.

Why wasn't any of that recorded by file note at the time it happened?---This was based on me I carry a pad, I write things down on the pad as they occur um, looking at calendar entries so me putting together the history of events.

40 Well, paragraph 1 is the discussion about Ton Eid?---Yes.

Again, you've confirmed that Mr Camilleri had insisted that he not tell anyone, that's not causing your problems?---Um, I again put personal between those two um, so not at the time.

Notwithstanding the fact that he's suggesting that Tony Eid was very uncomfortable with what had occurred, doesn't sound as though it's just a

simply personal matter?---Yes, well I guess that's why I went and sought advice.

Paragraph 2 that John Minchin was concerned, it was a large sum that was being lent and again Mr Camilleri told him not to tell anyone, is that right? ---Yes.

Paragraph 5, you'll see there Mr Camilleri has been giving you stories of the reasons he needed the money yet John Minchin asked for some proof
10 because he was suspicious and Mr Camilleri refused to provide him with any. Wasn't that causing you some concern at least for Mr Minchin?---John had said, John had lent him the money, it was his wife that said to John that doesn't make sense to me and um, you should ask for some proof.

Yes. So Mr Minchin asked for proof, Mr Camilleri refused to give him any proof, that's right?---Correct.

And Mr Minchin told you that?---Yes, at a later date, yes.

20 Well, does it say that that was at a later date, that's - - -?---Yes, I can't remember when - - -

John Minchin only came to you in June didn't he?---Yes, but John I think had asked progressively from Joe Camilleri for evidence.

I take it we're not clear on the time frame of any of this because no record was kept of it?---Well, I used my calendar entries and because John hadn't organised a meeting, I bumped into him I didn't have a calendar entry.

30 And paragraph 6 there, that's when Tanya came to you, Tanya Johnson. ---Correct.

That's in August 2012.---Yes.

You record that she was surprised because she wasn't close to Joe.---Yes.

So we're now getting to a situation you were told that it was a personal matter just between friends, Tanya Johnson's telling you that she's concerned because she's not close to him. Wasn't that causing you
40 concern?---I was starting to, yeah, when Tanya came to me it was starting to, it was the next stage of concern.

She's telling you as well that he's very desperate and that he had insisted she not tell anyone, surely that's giving you concerns?---Yes, it is, it's building.

Essentially, it gave you enough concern to raise it with Mr Camilleri and ask him if he needed to go to EPA for assistance.---Correct.

What's EPA?---Employee Assistance Scheme so um, counselling et cetera and they deal with everything from financial stress to depression et cetera.

And did it, do you think at that stage he might have had a gambling problem or a particular problem that psychological help might assist?---Um, I believed he was helping his daughter um, he didn't, he didn't want to divulge anything to me I thought he may divulge more to a counsellor.

10 Right. Because he's desperate and he's insisting that people don't tell anyone about it?---Correct.

Couldn't you do a little more than just suggest that he sees a counsellor, do you think at this stage it might have been appropriate that RailCorp looked at Mr Camilleri and his position within the organisation in his day to day work?---Well that occurred a little later but not, fairly soon after.

20 Well, this is happening in August, it doesn't occur to you, what, till November that something should be done?---Ah, no, as soon as Tanya came to me um, and described what happened to Theo and, and that Theo was concerned about what would happen to his career in the future and that's when I went to John Cairns and we instigated the independent investigation.

So it took Mr Vivayis did it, he, he also told you that he only had a professional relationship with Mr Camilleri and he was very - - -?---Well, I never met Theo on the subject, Theo confided in Tanya and Tanya conveyed what happened to - - -

30 Well, whatever it is, I'm just reading from your file note, you said, "Theo said he felt a bit intimidated by Joe as he was a general manager, he only had a professional relationship with him, he was very surprised by the approach."?---Yeah.

Its gone way past this point of just a personal loan between friends at this stage hasn't it?---Well, that's why um, I, I, I consulted with John and we kicked off the investigation.

40 Well, the second paragraph on page 2, you said you approached Pierre Rochecouste?---Yeah.

He's a person on your level or Mr Camilleri's level?---Um, he was acting in ah, a General Manager Maintenance Contracts in Commercial Role so he was a acting general manager.

Did you ever think to contact him back in June or August?---No, I didn't.

Because the simple contact at this stage led to him telling you that he'd lent money as well?---Ah, yes.

At this stage do you then go through and speak to everyone or determine whether there was anyone else who had lent money?---Ah, I made, I made some discreet ah - - -

Why discreet?---Because again the legal advice I'd, I'd, I'd been given was that it was a matter between the individuals and Joseph Camilleri so I wasn't sure of, of RailCorp's responsibilities at that stage.

10 And, and you record there in November that then there's David Spiteri, Paul Cassar and possibly Reg Graham - - -?---Yeah.

- - - had lent money and then I think you note that perhaps 20 or 30 people?
---Well, when, when you ask um - - -

You find out?--- - - - two people and you get confirmations then you, and again in my career I've never seen anything like this before, it wasn't even kind of on the radar that someone had been asking for personal loans from so many people, it was a, it was a, it was a, you know, when, when I asked
20 them, Dave Spiteri, another senior general manager in the organisation and he said yes um, I was, you know, I was surprised.

And this all could have been done and found out back in June couldn't it?
---Um, oh, I, I wish it had but on the information we had only two people had come forward. Um, to this day as I've said of the 56 people that I'm aware that he, he approached only four have come forward.

Sorry, the 56 - - -?---Well, on the - - -

30 - - - the 56 people only four have volunteered the information?---Correct.

And these are, they're - am I correct in saying those four are the four senior ones?---No, in, in, in my mind the ones that came forward were Tony Eid, John Minchin and - - -

Tanya Johnson?--- - - -Tanya Johnson and then Ray, Ray Oweis sent me an email in January 2013 when I came back from leave.

40 Okay. And Mr Oweis, is he on Mr Camilleri's level or - - -?---He was, he was below.

Right. So of the four three are on Mr Camilleri's level or above and one is below?---Correct.

What's the likelihood of an employee below Mr Camilleri who's being intimidated and told not to tell anyone, what's the likelihood they're going to tell anyone?---Um, again as part of our training, you know, we're told to disclose things. I'll use an example, I, you know, I've worked with the

culture at Qantas and I've worked with the culture at RailCorp. One, you know, the strengths and weaknesses of each culture, one of the big differences of the two is that the Qantas culture discloses things at all levels of the organisation. The RailCorp doesn't do that anywhere near. And despite lots and lots of work over the last four years on, you know, report to ICAC, report to the Independent, report to your manager, the culture is changing but a reporting culture I don't think we've still got.

10 But you knew that he was intimidating people into lending money and he was telling them not to tell anyone. It's likely then that a subordinate would not tell anyone isn't it?---Um - - -

Isn't it up to you then as the manager to go and find out who the subordinates are?---Um, not on the advice that I, that I got and when I did find there was a subordinate involved, i.e. Theo, from Tanya, took that to John Cairns to initiate the investigation immediately.

20 So do you say you got specific advice from the legal people within RailCorp not to go and find out whether other people had leant money?---No, I assumed because the way it was described to me that it was an individual, that RailCorp didn't want to, you know, overstep its mark.

I tender that document, Commissioner.

THE COMMISSIONER: Yes. Exhibit 4.

#EXHIBIT 4 - "FILE NOTE" OF GAVIN CAMPBELL DATED 5 NOVEMBER 2012

30

40 THE COMMISSIONER: Mr Campbell, the view that you've just expressed, namely that you noticed a difference between the culture at Qantas and the culture at RailCorp, when was it after you started at RailCorp in November, 2009 that you came to that conclusion?---Um, when I arrived I was given the full ICAC reports. I'd been brought in as a fresh face with new ideas on the back of implementation and, you know, the report said RailCorp must implement all these and then bring in a group general manager. They brought in two of us, they split the group, and I guess I, because of those recommendations I took a keen interest in the culture and the leadership capability. And I initiated a, it's called a lifestyle index, a company called Human Synergistics run it and it does a 360 degrees feedback and it gives you information on, you know, the culture and particularly your leadership style in the group. And there was many observations, and I'd seen this at Qantas and I was able to kind of start to compare both.

So you were aware I take it from when you started at RailCorp in November, 2009 that the organisation had particular problems around disclosure and conflict of interest?---Um, no, no. The problems they highlighted was that um, they called it a green culture which is, you don't take risks, there's avoidance, you don't like conflict, et cetera, and the report highlighted that most government departments were very green compared to private sector and that RailCorp was particularly green.

10 Well that was about their capacity to take commercial risk wasn't it?---No, well you know, I'm not an expert. It was all risk.

But a moment ago you said that you came from a culture in Qantas where people disclosed everything and you came to the view that RailCorp was if not the opposite pretty close to it in the sense that there was no disclosure?--
-Yeah.

20 What I'm asking is was that a view that you had when you joined RailCorp in November, 2009 or was it a view that you arrived at at some time after that?---No, it's a view I have now based on 54 people not coming forward, yet despite us doing all this training um, educating, you know, making the Code of Conduct out there for everybody to see um, a lot of work between -
- -

So it's these events that have just, that have brought you to that realisation?--
--Yeah, you know, I keep asking myself why did only four people come forward out of 54 approaches.

30 MR POLIN: Isn't the answer to that simple, that a senior person more senior to them is intimidating them and threatening them?---Yeah well - - -

Telling them not to?---I guess I saw, I guess Joe Camilleri's character change. I think in my view he was a certain person for 37 years and then - -
-

You know at this stage that he's telling people don't come forward, don't tell anyone, you know that don't you?---Well, as they described it, he was saying please don't tell anyone because it's a personal situation.

40 So he's not telling them not to do that and you knew that?---Yes they were -
- -

Isn't it then management's position to go in and find out and do that for the employees?---We did, we did.

Well, you didn't did you?---Well, from being informed in June, we terminated him in February and that was part of the investigation that we were waiting for HDY I think in my experience looking at other instances

where it came to hand, you know, we could have acted quicker but we acted as quickly as we could in that period.

Did RailCorp ever go out into their employees or to their employees to attempt to find out who had lent money to Mr Camilleri ever, at any time?

---No, and I never got any advice to do that.

Without getting it advice, wasn't it patently obvious that that's something that need to be done as early as June 2012?---I didn't think so.

10

It wouldn't have been a difficult thing to do either would it?---I still don't know if people would have come forward.

I'm not asking them to come forward, I'm asking you to go and find out, they might not have told you the truth but if a more senior person than Mr Camilleri had gone and asked the question there's a real chance they would have told you, is that right?---I honestly don't know.

But it was never done?---No.

20

When did you tell Rob Mason about the fact that this was all going on?---I, I never spoke to Rob Mason about it, I spoke to um, the director of HR and I spoke to our legal counsel.

Rob Mason's your direct - - -?---Correct.

- - - boss isn't he? What's the point in speaking to the director of HR?---

Um, again, lots and lots of people issues occurring on a daily basis um I used John to sense which ones were significant and he would normally report them onto to Rob if there was disciplinary actions occurring et cetera.

30

Essentially, am I correct in saying, Henry David York were brought in at the end of 2012 to do an investigation?---Yes.

And they asked questions of various people?---Yes.

And there, that was Mr Camilleri, is that correct?---Correct.

And the people who had come forward?---Correct.

40

Anyone else?---Um, I'm not sure who they investigated, who they asked questions of.

Were they authorised to go to other employees of RailCorp and find out?---I didn't engage them.

And while this was going on Mr Camilleri continued working away?---Correct.

And continued borrowing money from people?---He did.

And RailCorp still did nothing about it?---We had the investigation, we had further disciplinary process.

10 And even into January 2013 Mr Camilleri continued working, continued borrowing money from people and RailCorp still continued to do nothing about it other than continue with the investigation in place?---Continued with the investigation, correct.

And indeed in January 2013 RailCorp continue to support him in cashing in long service leave and the like, didn't they?---Yes.

Could I show you this document this is, is it not, Mr Camilleri's response to you approaching him in early November.---Correct.

20 And you're aware at this stage there's a significant problem isn't there?
---Once I received this, yes.

Yes. Couldn't you do anything at this stage to stop the money being - - - ?---Again, I passed this on to John and I sought John's advice as to what, what would be our next steps.

You're being told that - I take it you're asking for yourself some information from Mr Camilleri about the financial and legal issues that his daughter's involved with and you're being told he's not going to tell you either, he's telling you that it's a closed court?---Ah hmm.

30 Was that not raising some suspicions in your mind that when you ask for details of what his problem is he's telling you he can't tell you?---Yeah.

Again coming back to the gambling problem, it's the kind of thing a gambler does?---Well, again um, that's, you know, he was saying it was a legal case and we brought in a, a legal firm to do the investigation and I, you know, assumed they could do searches on cases that were occurring to validate that or not.

40 And just for the record that's page 261 and 262 I've just provided you with. In essence the, the first page is the letter of explanation, there's essentially nothing in there is there in terms of any explanation?---Ah, yeah, it's a story.

Wasn't that concerning you, that he's asked to give details and he's just basically fobbed it off?---That's right and that's why I took it, you know, that's why it was, you know, we both, John and I both saw this at the same time.

And then the next page, which, whether it's attached, he refers to it in the first page, I'm not sure whether it was attached or a separate memo, do you know?---It was attached.

Right. He's provided you with a list?---Yes.

Did that shock you when you got that list?---It did.

10 Um, these are all the people I take it that you might have been able to approach back in June or in August to find out whether they'd lent money?
---Ah, yes.

How many of those people on that list, we know Theo Vivayis and Tanya Johnson have both said they were concerned because they were not close to Mr Camilleri, how many people on that list are you able to identify as being close friends of Mr Camilleri - - -?---Well - - -

20 - - - in terms, on a social basis I mean, we, we can take Mr Mason as well who said he wasn't a close friend?---Having been at RailCorp only four years it would be, it'd be hard, some of them I know that he'd worked with for a long time because they were long-term employees of RailCorp as well so I assume that he did.

Yeah?---I'd say most of them he'd worked with for a fair - - -

Yeah, he obviously did because he'd worked there for a long time but how many of them do you recognise as people that Mr Camilleri would socialise with as friends if any of them?---Oh, I don't know.

30 Do you recognise any that he'd socialise with as friends?---Um, again in my experience um, Mr Camilleri didn't socialise much um, so yeah, I, I don't know of any that he socialised with.

40 But the story you're being told is that this was, these were loans just between two friends, it had nothing to do with work, it had nothing to do with RailCorp yet it doesn't appear that any of them are real friends are they?---I know 30 years of service, going through an apprenticeship, you know, people would have gone out together after um, you know, celebrations et cetera, he'd worked on lots and lots of projects through the years so um, yeah.

But doesn't that mean there were, the loans are created by a direct work relationship, the 30 year work relationship?---Ah, yes, and I'm aware some people also went to school with Mr Camilleri so, yeah.

You raised it that a lot of these people worked with him for a long time and they had a close relationship with it, wouldn't that be causing concern that these loans were far from being personal between friends were between

people who worked together and had worked together for a long period of time?---When I saw this I'd never seen anything like this before, um, there was lots of concerns and that's why um, we needed to do the investigation.

Wouldn't you be looking at that and thinking my goodness, how many conflicts of interest could that or did it create and how many problems could that create in the future?---Ah, yeah, I did.

Mr Camilleri - - -

10

THE COMMISSIONER: Mr Campbell, sorry, just, just while we're on this document could I just ask you did you appreciate that on the second page of that document where he sets out the names of persons and amounts that that was a reference to the amounts left to pay back each person so that it may not represent the entirety of the money that was actually borrowed?---Um, I did not think at the time, I thought that was the entirety but he hadn't paid it back at that point in time.

20

MR POLIN: Were you essentially believing anything Mr Camilleri had to say at this point in time?---Um, by this point in time the trust that I had in Mr Camilleri had dropped away completely.

What about the fact that Mr Mason's name's at the top, did that shock you? ---Yes, I was surprised.

30

What about the fact that he refers to people or work colleagues who voluntarily helped him in his financial situation when you've got people like Theo Vavayis saying that he was intimidated and pressured to give the money?---That's why we needed to kick off an investigation.

So you didn't essentially believe any of this?---It was an unusual situation, I'd never seen anything like it before, I need, we needed some expert advice.

40

Why didn't you, why did you actually, there's no problem with getting expert advice but why didn't you make some decisions at this point in terms of Mr Camilleri and his ability to be able to continue to extract money from employees?---Because I hadn't seen anything like this before um, I needed expert opinion on it.

I take it that's what you're paid to do, you're paid to think on the job, not everything you see has occurred before, you've got to look at it and make decisions on the spot?---Yes, running a big business you deal with complexity, that's what you're employed to do.

And I take it you think number 1 person on the list is Rob Mason, gee, he's pretty bold going to the chief executive to borrow some money, you would think that wouldn't you?---Yes.

And the next think you think is, where else would he be getting money from, you would think that wouldn't you?---No, I thought, I thought how could he be going to these many employees.

Well he told you he has.---Yes.

10 But you don't have to think about it, he's actually told you he has and he's told you he's gone to the chief executive, wouldn't you be thinking where else has he gone?---Yes, and that's why I wanted the investigation to start ASAP.

Well, thinking bout it, where else do you think he could have gone, so he's gone to employees below him, he's gone to employees on the same level, he's gone to employees above him. Who else did he deal with at RailCorp? ---Yes, I didn't think at that time he'd gone outside the organisation.

20 Why wouldn't you think that when he's gone to the chief executive?--- Again, he'd been trained, he'd run a probity program in his area, he had two people working for him that were experts in advising us on probity, he knew the rules as good as anyone - - -

I understand that but he obviously still continued to borrow from as disclosed to you 30-odd people including the most senior person in the organisation. Surely you're thinking that he deals with these contractors every day, may be he's gone to them as well?---I didn't, but I did think we needed to get this investigation going ASAP.

30 Well, what did, apart from just paying a lawyer to come in, what did you do, did you actually go and ask him, did you say, have you been dealing with any of the contractors in terms of your loans?---No, I took the advice, we prepared a letter advised him that the investigation would be kicking off and made the direction that he wasn't to approach anybody once again and that Tony Woods from HDY would be contacting him very shortly.

40 So is this the third direction you gave him not to approach anyone for loans, we've got June, we've got - - -?---I haven't got the words in the letter that we wrote to him and we kicked off the investigation, again, that's part of my statement.

But you've told him in June not to approach anyone, you've told him August not to approach anyone, I take it you told him in October not to approach anyone and then, what you send him a letter not to approach anyone.---Correct.

What's your expectation that he would not approach anyone?---Um, well, once we kicked off an investigation I thought he would not approach any other RailCorp employees.

Why, you've told him three times not to, he disobeyed it every time, the answer is just kick off an investigation and that should solve everything?
---Well, I take advice and investigation, get the investigation moving as quickly as possible.

Well the advice you took in June hadn't got anywhere had it?---Um, well we'd escalated each time we got, we collected more information, or obtained more information.

10

This whole time I take it that Mr Camilleri was continuing to work in his role at RailCorp?---Ah yes, he was on the reform team at that time.

Yeah. Now the fact he was on the reform team you knew didn't you that he would be instrumental in making decisions as to people getting redundancy payouts, people being retained within the organisation, moved within the organisation?---No, there was a very robust process put together for the voluntary separation programme. It was owned and administered by the HR Department um, so um, I didn't see the risk. I thought in the reform team
20 where there was lots of people around, outside consultants um, that um, it was a lower risk area to have him.

Is this the same HR Department that's giving you the advice in June, 2012?--Yes.

Despite the fact you've called it robust Mr Camilleri had a fundamental, he was in charge of the reform programme for this whole area wasn't he?---For maintenance.

30

Yep?---But that included, the VSP programme was administered by the HR Department.

Yeah, but he was in charge of the reform programme wasn't he?---He led the maintenance reform section. But there was - - -

And part - - -?--- - - - many, many leaders of different parts of the reform programme.

40

But he was at the top of the tree?---No, no. David Callaghan ran the whole - - -

Reform?--- - - - reform programme.

But he was at the top of the tree in term of the section?---He was one of the people reporting to David, David Callaghan.

So Mr Camilleri was at the top for the reform of the maintenance section?---Um, yes. He led that part.

Are you telling me that if Mr Camilleri gave a direction in relation to someone getting a redundancy or someone being moved that's not likely to have occurred?---Um, no. The process for the voluntary separation was firstly we benchmarked um, our support staff, our back office staff, and management staff. It was decided that we were 750 people too large if we wanted to get to kind of best practice levels. It was announced that the programme for 750 people got the opportunity to express an interest. Ah, once they expressed an interest the HR Department said yes, you're in the management or the back office staff. You can be considered. Ah, local management would then say well, can we do without these people. Um, and then if that was the case then it would um, come to me or other directors to say can we let these people go once the general managers had approved.

So what would happen is potentially a person lends some money to Mr Camilleri. That person is intimidated, maybe even is threatening Mr Camilleri for the money back. That person wants to get a voluntary redundancy and one of the large payments that went with it. Mr Camilleri confirms with whoever that that person's position is redundant to needs. Mr Camilleri recommends to you that that person, and to the VSP people that that person be given a redundancy package. That person gets a redundancy package don't they?---Um, I don't see it working that way. We - - -

Well, which bit of it don't you see working that way?---Well, with a target of 750 most people that registered an interest in VSP got it and it was only if they were in an absolutely critical area. RailCorp was seen as big and um, lots of back office staff so there was, to get down to the target operating model um, most people would be granted um, the VSP except if they were in a critical area. And there was only a few critical areas in the maintenance directorate.

Are you suggesting that Mr Camilleri didn't recommend anyone for a VSP?---Um, well at that time Pierre was actually, for his, for the area that he was responsible for ah, maintenance, contracts and commercials Pierre was the general manager who was making the recommendation to me.

And he was getting recommendations from Mr Camilleri?---He was getting recommendations from the people that applied so therefore they would, they would register, HR would say they're eligible and they'd go to um, Pierre. Pierre may have consulted - - -

With Mr Camilleri to find out - - -?---He may have.

- - -to find out whether they were redundant to needs? Mr Camilleri recommends that they get the redundancy package?---Well, there's only a few people on this list that actually took voluntary separation.

Sir, I'm not actually saying that this happened repetitively but as soon as you saw the list, as soon as you saw the fact he was in charge of the reform program, you're immediately aware that there was a perception that this exact thing was going to happen?---No, because there was a robust process to manage each of the voluntary separations - - -

Well, we've essentially gone through it and it's not that robust - - -?---
10 Actually it was and it was steering committees, reviews, et cetera I don't agree and again, coming from Qantas, Qantas we ran lots of voluntary separation programs so I would say RailCorp program was managed as good as any I saw at Qantas.

Would you think that program is as robust and well managed as the WCCL program? That's not so robust?---No, the WCCL program was again another review in part of the Monto recommendations so there was a process to engage with, with white collar contract labour market and it was independent of my group, it was independent of the big operational areas.

20 I'll come back to that in a moment. Don't you see that you've got a whole list of employees there, you've got a reform program underway you've got a person who's the head of the reform program in this particular area, don't you see the, there's a perception, there's a real problem that no matter what you say about how robust the system is he had a real part to play in the futures of these people at RailCorp?---I didn't see that and it was validated to me when I received the independent report from Tony Woods at HDY so again, someone who's an expert in employee related issues, lots and lots of experience and I read that report thoroughly and he didn't flag any issues.

30 There were people of course who didn't want to lose their jobs too, weren't there, they didn't want to get redundancy packages they wanted to stay at RailCorp?---Correct.

Is that correct?---Yes.

Mr Camilleri was involved in decisions whether they'd stay at RailCorp or not, wasn't he?---No, the, what they call the spill and fill program for Sydney Trains which was advertising something like 400 positions, really kicked off in earnest in 2013.

40 Would Mr Camilleri be one of the people that might come around the office on a Friday afternoon and giving someone a tap on the shoulder to say their services were no long required?---No, the process was each job was advertised, it was advertised internally and externally - - -

Yes, and then a decisions made?---Everyone had an opportunity to apply. There was independent recruitment companies used, they would cull, they had recommendations to say these are the people to be interviewed. A panel that was administered by the HR department to ensure there was

independence on each of the panels and then the interviews took place and a recommendation was put forward and then that recommendation was scrutinised by various people including a number of independents were involved at all.

10 So if you had, for example an employee who was called into a room by Mr Camilleri in private and the employee thought that Mr Camilleri was about to tell them that they were no longer required, that would suggest that he was a person who was involved in the process and indeed was coming to deliver the news?---Well, if that occurred that would be totally inappropriate.

Totally inappropriate that the person thought he was going to give him that news?---Well, Joe Camilleri at that time should have, shouldn't have done that, I've got no information to say that that's occurred.

20 THE COMMISSIONER: Mr Campbell, can I just ask you, regardless of how robust the process was do you accept the possibility that an employee who's not privy to the ins and outs of the process and who's simply aware that there's a reform programme in existence in respect of which Mr Camilleri is in charge, that that employee might reasonably assume that Mr Camilleri could play a part in determining the future of their employment?--
-Ah, yeah, in, in the email I got from Ray Oweis in January 2013 he raised the concern that Joe would be moving back to his substantive role and may be employing people and on seeing that email I, you know, I personally phoned Tony Woods and said, "Tony, when are we going to finish this investigation um, because, you know, action needed to be taken before we, we, we went into the recruitment process."

30 Well, that, that's a specific example of someone who was concerned about Mr Camilleri moving back into another role but what, what I'm asking you is do you concede that it's a possibility that at the time he was in charge of the reform programme there were employees in RailCorp who would reasonably perceive Mr Camilleri as having some say, possibly more than a say, possibly a deciding vote if you like or possibly significant influence over the future of the employment?---I could see that, yes.

40 MR POLIN: You said that Mr Oweis raised a matter in January that he was concerned that having lent money Mr Camilleri may be his direct supervisor after the reform?---Ah - - -

Is that the effect of it?---I can't remember the email exactly but he raised concerns that Joseph Camilleri would be moving back to his role and, and I think being involved in, in recruitment and performance plans et cetera.

Why did all these concerns have to be raised for you, why weren't you seeing this, as soon as you saw this list why weren't you immediately thinking yourself that these were going to be concerns?---Well, well, they

did in the full range of um, ah, actions came and again that's why I was very interested to see the report and the recommendations made by HDY, Tony Woods, and even with all this information um, Tony Woods' recommendation was not to terminate or not necessarily to terminate Joseph Camilleri but to consider moving him aside or another disciplinary process.

And then what RailCorp didn't take the external legal advice and within a very short period of time just off it's own bat decided to dismiss him?---No um - - -

10

It seems quite extraordinary in the view of the way you seemed to want to go and get advice on things?---No, more, more evidence came to hand on the last few days and that was that Joe had lent, ah, Joe had borrowed money from um, um - - -

Contractors?--- - - - a contractor, particularly the UGL one, that came up I think the day before um, we were to sit down with Joseph Camilleri and ah, we showed Joe the email that we'd found and he said yes, that is true, I've, I've borrowed money from Kevin McCarthy.

20

This, this is a person who had been lying to you, withholding information from you, failing to follow directions given by you for months at this stage, wasn't he?---Ah hmm.

You didn't have any expectation that he was going to tell you the truth did you?---Well, I think 37 years he had told the truth and, you know, he was respected in the organisation. If you talk to people he, he was but whatever happened in 2012, in late 2012, you know, that, that disappeared.

30

Well, this didn't happen suddenly, it happened over the course of the entire year it all unfolded didn't it?---Well, from June um, and then August 3 and then November the full list came forward.

THE COMMISSIONER: Mr Campbell, a number of times you've referred to the fact that Mr Camilleri had 37 years of service at the organisation and he was trusted by others. But you had been there for something like three years. Wasn't part of your responsibility to bring to this organisation a pair of fresh eyes?---Ah, yes. So, you know, one of the things I did once I understood the business was to ask um, one of the general managers, another very experienced general manager, to move to another area and um, we brought Tanya Johnson, a general manager who hadn't been with the organisation as long, had very good project management skills and was far more culturally aware, and we brought her in to run one of the biggest areas, and one of the areas that had undergone a lot of issues with the previous ICAC investigations.

40

But you had no problem simply accepting other people's opinions of Mr Camilleri and not making your own inquiries?---Oh no, I tested that myself. You know, again if you gave Joe a task to do um - - -

10 But that's his work performance. That's not his, that's not his reputation for integrity and probity?---Yeah, and again in, you know, the first few years um, he was a kind of a champion for probity in the GM group I had. If you had a look at the previous investigations the business that he ran, the rolling stock, in the 2008 there was no issues with that part of the business. So again, you know, my belief was that's why he was selected to um, to do the Acting Group General Manager because he hadn't been implicated in those 2008 recommendations. And what I'd gathered in my first few years he was a champion of probity and forward prevention.

20 Could I just ask you a hypothetical question? If these events had unfolded in exactly the same way as we now know they have unfolded but Mr Camilleri to your knowledge had only been in the organisation for five years and not 37 years would you have taken a different approach?---Um, yeah, I guess part of my job is I test things with, you know, what I call the level 2 down. So if a general manager says, 'I'm going to do this,' you know, as you're going about your business you test both with the general manager and the level and generally the things that are tested with Joe's um, the people that reported to him, you know, were confirmed and um, so it gave me a sense that um, over the years people that had worked with him, you know, knew him to be honest and to do the right thing.

30 But if, but if someone had only been in the organisation for a short period of time you wouldn't have or you wouldn't be able to rely upon that testing process to such an extent, is that the position?---No, we, you know, and I think, and we've done this recently because we've done a lot of recruitment externally, we rely on the people that he, that he or she um, direct reports but you rely on other information as well. Um, and so right at the moment I have the eight general managers that report to me. I have seven that are new to the organisation. And I'm working very closely with the HR business partner to test and um, assess how each of them are going and performing.

40 Would I be correct in concluding that a very significant factor if not the principle factor in your acceptance of everything that Mr Camilleri told you was his seniority, the sheer number of years of service in the organisation?-- -It was a combination of the seniority and the trust and respect people in the organisation who also seemed like very good people, had for him. Um, and people will tell you if a leader's a good leader or not. Um, and will particularly tell you their integrity. Um, so I think, you know, in the first few years, you know, people spoke highly of his integrity.

MR POLIN: Commissioner, I tender the document. Page 261 and 262.

THE COMMISSIONER: Exhibit 5.

#EXHIBIT 5 - LETTER FROM JOSEPH CAMILLERI TO GAVIN CAMPBELL "RE CURRENT PERSONAL FINANCIAL SITUATION- JOE CAMILLERI" DATED 8 NOVEMBER 2012

MR POLIN: Mr Campbell, what would have happened in your days back at Qantas if someone had lied to you and failed to follow a direction that you'd specifically given them?---Ah, again you know, I would have went to the HR Department at Qantas, you know, we were assigned each of the big maintenance divisions, a HR partner ah, would have discussed the issue and we would have come up with an action.

And what's the action likely to be, do nothing?---Um, no I'd say it would be a similar - - -

MR SILVER: I object to that question.

20 THE COMMISSIONER: Well, I think it might have been answered in any event. Sorry, what would you have done?---It would have been a similar process interview, discuss, escalate, do an investigation and if, if it warranted termination.

MR POLIN: You said that you relied on Mr Camilleri as a champion of probity, yet he lied to you on three occasions and failed to follow the direction you'd given him on three occasions, how at that point did you view him as this champion of probity?---He kicked off a program which we call Probity at the Coalface, he kicked that off first in the rolling stock area. That involved doing a risk assessment of every area coming up with a strategy, educating staff um, highlight key risks like time sheet fraud or other things in each area and that was successful so - - -

Was he subject to that himself, why do you say it was successful just because he put in place some documents and programs and the like? ---No, as part of the recommendations from the last ICAC there auditing, auditing would be people would go and look at time sheets, look at equipment et cetera and the rolling stock division always performed well in those independents audit and it was because, I believe, work that was occurring.

40 So he was big on bringing other people into account, that's what he was doing?---He was championing a program, something new that RailCorp hadn't done before and taking the, in my view, the ICAC recommendations to the next level.

Yes and he was bringing other people into account by doing that.---Well, that's part of the compliance, making sure people are doing what they should be doing, yes.

But when his actual integrity was tested and you hadn't known him long, the first time it's really tested he's lied to you.---I'd suggest that it was tested at other times, but this was the first issue in June.

10 This was the first significant one as opposed to just general day to day work wasn't it?---Um, it was the first one, you know, I'd never seen this type of thing before so - - -

He said to you, I won't go and borrow money from any other employees. ---Correct.

And you directed him not to do it?---Correct.

20 And he'd lied to you and failed to obey the direction and you knew that within a very short period of time. How did you then view him as a champion of probity?---Well, the whole trust started to evaporate.

What do you mean started to evaporate, isn't it all gone then, he's just - - ?---Well, no you're a bank of lots of things that you've done well and you talk to people over 37 years and then you go off and do something and you don't follow an order so, I guess I also question was there something wrong in his family with this issue that was impacting that.

30 But the 37 years of history is it correct it's him putting in place systems which are supposedly to create greater transparency within the company? ---I'd say he and some of his very good managers read the ICAC recommendations, wanted to improve their particular part of the business and implemented a whole lot of actions.

40 That would just be a logical process wouldn't it, that ICAC had made recommendations in relation to the business and that the business would just take them on board and assess them and implement them?--- RailCorp was implementing all of the 50 or so recommendations but in the rolling stock division they took it to the next level and I had again, a number of general managers reporting to me he was the only one, he championed taking that to the next level.

Wouldn't it be better if he was champion, championing doing those things before he's told by ICAC to do them?---Ah - - -

Was he - - -?---Yeah, but again his, his area wasn't implicated in the previous ICAC investigations.

But again it's not his own personal integrity that was an issue was it?---No.

It was just part of his job in developing processes?---It's going beyond, you know, beyond what any other of the other general managers were doing at the time.

Well, the 37 years of history, what information were you given that went directly to his integrity as opposed to just putting in systems in place at work?---Um, I wasn't given any information when I started on, on the HR records et cetera when I started.

10

So within a reasonably short period of time you would have known that he wasn't a person who had much integrity?---Oh, no, when I first started at RailCorp - - -

But certainly by 2012 - - -?---Yeah, yeah, yeah.

- - - in the middle of 2012, and you hadn't known him that long, you must have thought all this, all these stories that you'd heard over 37 years were just nonsense?---Um, yeah, when I, when I received this letter, yes, I was shocked to see the letter.

20

Now just quickly on the WCCL programme, do you know about it?---I do.

It's the White Colour Contract Labour Programme?---Correct.

And is that another one of the RailCorp programmes that rock solid and - - - ?---It's, I would say a fairly robust process, again - - -

30

Robust, sorry, that's the word that's often - - -?---I've, I've worked for three companies in my career, I've worked for BHP, I've worked for Qantas ah, I've actually worked for four, and I've worked for RailCorp and um, the WCCL process at RailCorp was, was far more robust than I saw at Qantas or, or BHP although BHP was a long time ago.

And I've asked Mr Mason some questions about this and correct me if I'm wrong but the, the programme's in place to obtain contract while colour labour?---Correct.

40

And so you'll have a person within a department that requires some contract white colour labour?---Yeah, the business decides the need.

Yeah, and they'll get approvals for the financing of what they need? ---They'll do a business case, yes.

Yeah, they get the approval, they then go to WCCL?---Yes, which is an independent department that then runs the process for securing those, those contractors.

Right. And WCCL has gone out to the market and asked people to provide expressions of interest in doing various aspects of work for RailCorp, is that correct?---There's different processes for the size of the - - -

Yeah, but in a general sense that's what happens?---That's what happens.

10 WCCL then formulate various panel lists of preferred tenderers if you can call it that, is that generally what happens?---Yeah, and again it depends on the size but there's panels to go to and then sometimes because there's a need that's, that's unique - - -

Yeah?--- - - - they, they go and inquire who can do this work and accumulate and they're trying to get the widest group of people to go out to as possible.

20 Right. So barring a unique situation the person within RailCorp requires the services, he then goes to or they then go to WCCL and say this is what we need, WCCL then go to the panel lists and prepare a tender panel?--- Depending, the panel list or, or the market.

Yeah. Well, that, that list then that goes out to market, they're invited to tender for the particular services, is that correct?---Ah, yes, it mightn't be a tender, it depends on the scope so it might be just a quote, it depends on the - - -

Okay, so it may be a quote, it may be a tender if there are various people. And that's essentially how the system works?---Yeah.

30 It would be a breakdown of the system wouldn't it if at a point in time WCCL nominates a panel, sorry, a list, a list of companies that a ;particular job is to go out to tender to if the manager who is seeking the services at that point in time then directs WCCL to add another company to the list that WCCL has already established, that would be a breakdown in the system wouldn't it?---The, the business or the managers in the business can't direct WCCL to do anything, it's WCCL's responsibility but a manager can say that there's these companies that can provide that service would you consider those with, with other people.

40 They're the exceptional circumstances aren't they, they're the ones where this company has a particular specialisation in something?---No, I couldn't say that. You'd have to talk to a, you know, a general manager/strategic procurement who'd have numbers and know how often that occurs.

But if you have a situation where WCCL has actually established it's list to go out to tender, it seems they don't have a problem in getting a list together. Would that be correct?---Ah, sometimes - - -

Presuming that is the case?---Sometimes they do. Sometimes - - -

I know they do sometimes. But I want you to assume in the case there's not the slightest suggestion they had a problem in putting together a list of about four or five - - -?---Well I would assume - - -

- - - companies to go to tender?--- - - - for, for this example?

10 Yep. And I want you to assume then that a manager has directed them to put another company onto that list. Do you understand that?---(No Audible Reply)

That would be a complete breakdown of this robust system wouldn't it?--- Yeah, and the WCCL team should, if that occurred should report that to their manager and then to the general manager.

20 Right. So there's a breakdown not only on the part of the manager who makes the direction to include someone on the list, there's also a breakdown with WCCL in accepting that direction?---Yeah. In my opinion the manager could request that they consider expanding it, or widening but you can't direct.

When you say direct, if an email's sent, "Can you please put a company on the list"?---I wouldn't call that a direct and the - - -

30 Wouldn't you?--- - - -WCCL process, you know, says you must go out and find all the companies that can do this type of work. So, you know, review Dun and Bradstreet, review what you know, engage with experts, find the biggest list you can to make sure everyone's included, and then go to the market.

But I want you to assume they've already done that. They've formulated their list and they've got a list of reputable companies that they're saying, 'These are the companies we've picked out to go to tender on this particular service.' Do you understand that?---Yep.

And then a manger comes in and says, 'I want you to include another company on the list'?---And that's acceptable but it's up to WCCL to decide whether they include that or not.

40 Well how's it acceptable? How's that part of the - - -?---Because again - - -

- - - because it wasn't part of - - -?---To go out to the wider potential group um, and they may have just gone to the panel and there may be other companies that can provide those services so um, you know, they may have missed companies that are capable of doing that that should be included.

Of course that would, that would be spelt out wouldn't it to WCCL, 'By the way you've missed the only company that actually can do this job properly.'

That would be the kind of thing you'd expect wouldn't you?---Again, my experience with WCCL if they thought that a manager overstood the mark they would report that to um, their management tree and general manager, and should do immediately if they thought, you know, that was a reasonable consideration and will allow RailCorp to extract better value then they'd make the decision, yes. So that's their, that's their decision but they - - -

I thought you said - - -?---Transparency.

10 - - - this was a robust foolproof system that was in place?---It is robust as I said. I've worked for two other organisations. I've never seen a foolproof system. I've seen good systems and can compare them to, across different companies.

But you're saying it's nothing out of the ordinary that once WCCL have performed their task of formulating a tender panel that the manager wanting the work can go to them and tell them to put another company on the tender panel?---Again, you'd have to talk to the general manager/strategic procurement who would know how often it happens um - - -

20

Well no, I'm just asking you in your position as to whether that's your understanding as to the proper working of the system. So the proper working you say is that the manager wanting the services can just say, 'I want someone else added'?---Ah, they can ask but it's up to WCCL to decide if that's added or not.

And they can, they can as well say, 'Well, I want those two companies taken off and I want these two companies put on,' I suppose?---And the independent WCCL makes that decision whether to take that

30

recommendation or not.
But it seems as though they make those decisions just based on potentially what the manager wanting the services says to them?---Well, that shouldn't occur.

So if the manager just says put this company on, you're saying that shouldn't occur?---If there's a valid reason it doesn't - - -

40 No, I'm just saying there's no reason given, it's just the manager just says - - -?---I don't know the situation you're talking bout so the WCCL decide whether it's a valid request or not and include or don't include.

I'm asking you to assume that the request is simply to put a company on the list, no reasons given to WCCL, it's just to include another company?--- Well, if that's in the instruction I would imagine WCCL should flag that and raise that.

And say, no, no, we can't do that, why do you want it?---Yes, ask some questions, yes.

So if that's not done that would be a breakdown of the system?---I'd say so.

And that's, now, as at the time of this letter in November 2012 did you do anything to look at who Mr Camilleri was dealing with in terms of contractors at that stage?---No.

- 10 Did you look at any of the decisions that he was making in terms of contractors at that stage?---No, he, he wasn't dealing with many contractors there was processes independent of him to manage how we engage with the market. There was an independent strategic procurement group, there was a reform team, so all the normal processes were still in place and working.

Were you looking at what recommendations and decisions Mr Camilleri was making after November 2012 in relation to either contractors or employees?---I wasn't looking specifically.

- 20 Why not?---Well there wasn't a lot of decisions being made and there were processes in place, ie the recruitment we were about to go to the market for the spill and fill and the recruitment for the reform for contractors was being managed centrally under the reform team and a governance process had been put in place for that reform team.

Do you know what recommendations or decisions Mr Camilleri made in relation to contractors or staff in that period November through to February? ---No.

- 30 Why not?---Oh 'cause in the reform team whilst he was representing maintenance the procurement activity was managed by the reform group.

Are you familiar with Anthony Courtman?---I am.

What involvement did Mr Camilleri have with him in that period?---I'm not aware.

- 40 Was he employed by a company that was potentially tendering for work and obtaining work from RailCorp at that time?---I believe he was working for Third Horizon.

Was Mr Camilleri instrumental in making decisions in relation to that sort of work at that time?---He was part of the defining the requirements for that type of work and again then that was then handed over to the procurement team to engage with the market.

But nonetheless he's still making recommendations and decisions?---Well, the procurement team could ask him and anyone else who's got the capability to do this work.

Would he be, for example, be making decisions asking for Third Horizon to be put on tender panels in that period of time?---Who went on the tender panel was WCCL's but he may have been asked to what kind of companies can do this work.

10 There are a lot of companies that want to get RailCorp work aren't there?
---Yes.

There are a lot of companies that are very keen to get onto RailCorp's tender panels?---Yes.

To be invited to tender for work?---Yes.

20 And Mr Camilleri at this time when he has this cloud hanging over his head is in a position to decide who potentially can go onto tender panels didn't he?

---He, he could influence it but there was independent people making the decisions who, who the work would go to.

And he could, he could ask those people to put companies on tender panels?
---Well, again if he um, broke the policy um, the WCCL process, you know, it should have been escalated and reported.

30 And this is the person who's considered at RailCorp to be the champion of probity and all good isn't he - or wasn't he?---Before that time.

MR CHEE: I object about the portion. I object about the portion of the question of all good, I don't understand what that means.

THE COMMISSIONER: Yes, all right, well - - -

MR POLIN: You described him as being the champion of probity?---The championing of probity at the coalface programme.

40 And he's the kind of person at this time who was likely if he asked for something to be done it's likely that it would be done?---No, at the end of the day the policy should be followed.

Mmm. Are you aware who Mark Ross-Smith is?---I am aware.

Who's he?---Ah, Mark Ross-Smith is a, a contractor um, um, for ah, Everything Infrastructure and he worked as part of the L3C programme and he also helped up with the supply chain as part of the reform programme.

And during this period of time Mr Camilleri was in a position to make recommendations and decisions in relation to Mr Ross-Smith and Everything Infrastructure wasn't he?---He, he was an input into the requirements but again um, the strategic procurement was to manage who was selected in the engagement with any, with any contractors.

10 If Mr Camilleri was to suggest that he wanted Mr Ross-Smith's contract extended the likelihood is it would be extended?---Ah, there'd be a business case would need to be put together um, um, WCCL would, would review that, they would then assess it and then it would go back through an approval process to extend that.

So a business case, I take it this means there'd be all sorts of documents generated and other people would be involved and - - -?---That's a WCCL form which includes a business case and includes the approval process and again, if you're going to extend a contractor you'd need to fill out the form.

20 Right. Terry Coleman, are you familiar with him?---No, I'm not familiar with him.

And what about Kevin McCarthy?---No, I didn't know Kevin McCarthy.

Do you know who he was?---I didn't, I didn't until the day before Mr Camilleri was terminated.

He was the, the tender manager for UGL. Were you aware that those two, Mr McCarthy and Mr Camilleri, were good friends?---No, I wasn't.

30 Excuse me, Commissioner. Could I just finally show you this document. It's page 299 and 300, do you see that?---(No Audible Reply)

Is that Mr Camilleri's letter of dismissal with the reasons set out therein? ---Correct.

I tender that letter, Commissioner.

THE COMMISSIONER: Yes, Exhibit 6.

40 **#EXHIBIT 6 - LETTER FROM JOHN CAIRNS, DIRECTOR PEOPLE AND CHANGE TO JOE CAMILLERI "RE YOUR EMPLOYMENT" DATED 14 FEBRUARY 2013**

MR POLIN: They're the questions at this stage, Commissioner.

THE COMMISSIONER: Yes, Mr Chee.

MR CHEE: Thank you.

Mr Campbell, I have a few questions for you. When you first spoke to Mr Camilleri on finding out about the loans what did you say to him?---Um, I articulated what Tony Eid and John Minchin had told me.

Right. You didn't speak to him about the Code of Conduct did you?---I did not.

10 You didn't make any mention of a breach of the Code of Conduct at all did you?---No I did not.

Or any corrupt conduct?---No I did not.

Did you have any further discussions with Mr Camilleri following that first meeting?---On that day?

20 In the future?---Um, well the next discussion I had with him was after um, Tanya Johnson came to me. I was obviously discussing work matters but the next time I had, you know, I called him in about the matter was after Tanya Johnson had come to see me.

And similarly you didn't warn him of the Code of Conduct, or breaches of the Code of Conduct, or possible corrupt conduct?---When I talked to him after – no.

Did you say to him the words, "Just be careful about what you do"?---I don't remember saying that.

30 Do you remember saying the words, "You are losing credibility. We need to make it formal"?---No I don't.

You didn't raise the breaches of the Code of Conduct because you were acting on legal advice at the time that he hadn't breached the Code of Conduct but it was rather a private matter that was unrelated to RailCorp, is that right?---Yeah, I was, I was acting on the advice I received.

40 Now, you've given evidence that Mr Mason's your direct supervisor and you've heard that Mr Mason well, you've heard Mr Mason give evidence yesterday that he authorised the Code of Conduct and that he approved it. He's the most senior person within RailCorp who could determine issues of whether there had been a breach or not, is that right?---Um, he'd signed off on the Code of Conduct but um, many people could make a determination.

Well if you had for example a question about the Code of Conduct you would have gone to him because he's your direct supervisor, is that right?---No. If I had a question about the Code of Conduct I would go to the HR Department or the director of HR who created it um, shaped it. Rob signed

it off but they had the full background as to the reasons why, updates, and you know, were looking at Code of Conducts across Australia to make sure ours was in line with other companies.

10 Could the witness be shown exhibit number 2. Could you refer to, please, page 6 of that exhibit and look at the second column, the first few paragraphs. Do you see there it says, "If you're a manager or supervisor you have additional responsibilities. You must lead by example, promote the highest standards of professional conduct, and ensure you do not permit or encourage any employee to act in breach of the Code"?---Sorry, what, what page are you on?

Page 6?---Page 6.

The column on the right, and the first four paragraphs. Well, the first paragraph and the three dot points?---So it starts with, "Be honest"?

20 THE COMMISSIONER: No, on the right-hand side, Mr Campbell?---Oh, okay.

The column on the right-hand side, "If you are a manager or supervisor"?---Okay. Yep, sorry.

So do you, do you agree that you can see those, that portion of the Code of Conduct, do you understand that portion of the Code of Conduct?---Yes I do.

30 And Mr Mason, being the Chief Executive Officer would be the most senior person and therefore you would expect that he would lead by example and that he would be able to provide you with direction as to how it should be interpreted? Do you agree?---I expect everybody, everybody in a leadership position to do it.

But particularly the Chief Executive Officer?

MR GOODMAN: I object. Could the witness be allowed to finish these answers?

40 THE COMMISSIONER: Yes. Could you finish the answer please, Mr Campbell. Wait for the witness to finish please, Mr Chee. Go on?---Yeah. I expect every leader in the organisation to have read this and to follow those. So it's a commitment by everybody.

MR CHEE: Do you say that the chief executive officer has no higher duty than any other manager within RailCorp in respect of leading by example or being able to, promoting the high standard of professional conduct?---The chief executive has the same standard as everybody else and must abide by these.

If you went to human resources with a particular issue concerning the Code of Conduct and that was an issue that could not be resolved by human resources, who then would you look to?---Well, the process is I have a HR business partner, I put the issue to them, we discuss if it's deemed bigger it then goes to the director of HR.

And if the director of HR is not able to determine that issue, who then would be able to, who then would be asked to provide input and comment?
10 ---Normally the director of HR would bring it to the executive committee and, and discuss the matter with the executive committee.

And Mr Mason is on the executive committee?---Correct.

He's the head of the executive committee isn't he?---He chairs the executive meeting, yes or he did.

So you would agree that or, that Mr Mason in his capacity as chair of the executive committee would be the most senior person who could determine
20 issues of breaches of Code of Conduct?---Um, I think he would, depending on the situation he'd take counsel as he said yesterday if it was an issue that was unusual or he didn't have experience with he would put it to the executive. There may be a difference of opinion on the executive and he may be asked to make the decision but he'd listen to the executive and the different opinions.

Am I correct in saying that if there was any disagreement about how the Code of Conduct should be interpret, whether there were breaches that there was an escalation process which lead up to – if it couldn't be resolved – Mr
30 Mason as chair of the executive committee, is that right?---Yes.

Thank you. Yesterday you heard Mr Mason give evidence that he gave Mr Camilleri a loan, it was a private loan and he did not consider it a benefit at the time or that it was caught by the Code of Conduct, do you recall that?
---I do.

At the time that these events took place in 2012 did your understanding of the Code of Conduct accord with that view?---I was unsure, so that's why I sought advice.
40

And if there was any further ambiguity it would escalate presumably to Mr Mason?---I got advice.

In his position?---I received advice at that time, so.

Right. Are you also aware that Mr Camilleri borrowed from the chief financial officer and the general manager of finance?---I was aware of that when I got the letter on 8 November.

Does it not suggest to you that the CEO, the chief financial officer, manager of finance, that there must have been a degree of consensus from the very highest levels of the organisation that a private loan was not a benefit and was not caught under the Code of Conduct?---Yes, well as I said yesterday, because a number of people didn't, they didn't think at the time it was.

THE COMMISSIONER: You mean a high degree of consensus from at least those persons to whom you have referred.

10

MR CHEE: Yes. And would you agree that those, that the Chief Executive Officer, the Chief Financial Officer and the General Manager of Finance would, would be the most senior people within the organisation?---Well, they're, you know, they're the same level there at - the Chief Financial Officer is at director level and the Chief of Finance is at general manager so they're one of a number of people at that level in the organisation.

20

And they would all be familiar with the Code of Conduct and dealings with money?---Ah, they'd be familiar with the Code of Conduct, yes, and they'd understand financial matters.

Mr Mason also gave evidence that if Mr Camilleri had paid back the loans the issue may well have gone away, do you agree with that proposition? ---Initially at the time I would have agreed with that, now I wouldn't agree with that.

Yes. Well, I'm, I'm only referring to that particular, at that point in time in 2012.

30

THE COMMISSIONER: Mr Chee, I'm not quite sure where this is going. Are you suggesting that because everyone thought it was okay at the time that it's still okay now?

MR CHEE: No, I'm not suggesting that at all. I'm suggesting that at the time there was at least an understanding - - -

THE COMMISSIONER: Well, I think, I think we know that from what Mr Mason have already said.

40

MR CHEE: Right. I'll move on.

Do you know a Mr John Gilding?---I do know John Gilding.

How do you know him?---Um, John reported to Joseph Camilleri um, um, during ah the last two or three years.

Did you know John before he worked at RailCorp?---Yeah, John also worked for Qantas.

How long had he worked at Qantas?---Ah, I'm, I'm not sure.

How long have you known Mr Gilding?---Ah, I couldn't, couldn't tell you, um, I know he worked um, for a few years at Qantas. Ah, before that he worked for Queensland Rail. Ah, after Qantas he worked for Linde, a gas company and then he worked for us at RailCorp.

10 How well did you know him?---Ah, I saw his work, he, he was a very capable programme coordinator type person.

Did he report to you at Qantas?---Ah, he did report to me for a period at Qantas.

Were you involved in any way with his recruitment from Qantas to RailCorp?---Um, well, we um, we needed a programme person, ah, we were going to advertise um, and um, I did, I let John know that an, and ad would be coming out.

20 Sorry, how did you let him know, what did you say?---Um, I think I made a phone call and said there would be an ad that he might consider.

Is that something which you do out of habit with your old work colleagues? ---Um, oh, that's a good question. In my first few years at RailCorp we struggled to attract good people to the organisation. Don't know why, part of it was I think the brand, the brand wasn't an appealing brand so um, we did need to do everything we could to encourage good people to apply.

30 Did you have any further involvement with recruitment?---No.

You didn't sign off any recruitment recommendation?---I would if, if a panel ah, a panel made a recommendation that would escalate to me for, for sign off.

Right. But do you remember doing that in this case?---I don't remember.

40 You've given evidence that it's not a habit of yours to contact former colleagues to encourage them to make a or submit an application, does that in any way change your - or assist you in remembering whether you could have perhaps signed off a recommendation for him?---Can you first part of that, start again.

You don't normally contact work colleagues to suggest that they should apply for jobs within the organisation that you're working for, is that right? ---No, I've done that before.

Is that a common occurrence?---I've done that at both Qantas and at RailCorp.

Right. Would you agree that it's normal practice in RailCorp where there is a need a shortage has been identified of a particular skill that you would put an individual if it's a recruitment process or a contractor if it's a tender panel, you would put them in contact with the relevant area that requires those services?---Um - - -

10 THE COMMISSIONER: Sorry, I'm not sure I understand. Mr Chee, are you asking if, if Mr Campbell would put an individual who was seeking employment in RailCorp in touch with the manager of the relevant section, is that what your - - -

MR CHEE: If the person is, well if there's a need for those skills that the person can offer and the person is identified as a person as having those skills.

THE COMMISSIONER: Are you asking Mr Campbell personally if that's, if that's something that he has done?

20 MR CHEE: No, whether in his experience it was normal practice within RailCorp.

THE COMMISSIONER: Do you understand the question Mr Campbell? ---I'm not sure, are you referring to recruitment or contract labour?

MR CHEE: If it's a recruitment process, for example, with Mr Gilding and you thought that that Mr Gilding was an appropriate candidate he should submit an application, was that process one which was a common occurrence in RailCorp?

30 THE COMMISSIONER: Well, just a minute, I don't understand the witness to said anything other than that he drew to Mr Gilding's attention the fact that there would be an ad in the paper which would have normally attracted I would have thought a range of applications. Now where do we go from there?

MR CHEE: Perhaps I should have asked another question. Did you consider Mr Gilding an appropriate candidate for the job?---I wasn't involved I thought he had skills that could match the requirements.

40 That's why you contacted him, correct?---Yes.

Otherwise there's no other reason that you would contact him is there? ---Yes.

And that would apply similarly if there was a skill shortage for a particular service and a contractor was required?---Yes, if there was no one on, if there was very few people capable, yes.

Was it part of your job to put people and contractor in touch with the relevant areas within RailCorp such that specific needs or skill shortages would be met?

MR POLIN: I object to this, this is just blurring between a person being shown an advertisement for a job and now we're into contractors.

10 THE COMMISSIONER: Yes, I'm also a bit confused. Mr Chee, the other problem I'm having is I struggle to see the relevance of these questions. You see, if it's being suggested that Mr Campbell in some way influenced a recruitment process I think that has to be put in concrete terms.

MR CHEE: Of course. I'm not, sorry.

THE COMMISSIONER: But I'm just wondering what this has to do with the issues that are before us?

20 MR CHEE: Yes. There has been allegations that Mr Camilleri put or referred or recommended contact details of certain contractors with, after he received loans and it's - - -

THE COMMISSIONER: No, I think what was suggested was that he had asked or perhaps directed although that wasn't accepted by the witness that he had asked that a particular firm be added to a list which was being considered by the WCCL program, that was what was put.

MR CHEE: Yes.

30 THE COMMISSIONER: Right.

MR CHEE: In respect of Third Horizon.

THE COMMISSIONER: Yes.

40 MR CHEE: I understood also from Counsel Assisting's opening that he put the contact details and forwarded a CV of Mr Mark Ross-Smith onto someone else into the, into another area within RailCorp and that occurred shortly after money was loaned.

MR POLIN: I'm not sure that's got anything to do with Mr Campbell.

THE COMMISSIONER: No. It may be something that is outside Mr Campbell's area of expertise. But if that's what you're driving at why don't you put to him directly whether or not that is consistent with practice within RailCorp?

MR CHEE: That's what I was getting to.

THE COMMISSIONER: All right.

MR CHEE: That's precisely my question.

THE COMMISSIONER: Do you understand, Mr Campbell?---Ah, yes. And I don't know. Again I'd say the general manager/strategic procurement would be able to tell you if it is general practice or not.

10 You might have to ask that question of someone else, Mr Chee.

MR CHEE: Yes. But you certainly were by reason of your involvement with Mr Gilding that was a similar situation, don't you agree?

UNIDENTIFIED SPEAKER: I object to this (not transcribable).

THE COMMISSIONER: Well, I think Mr Chee, the problem is that, as I said before the witness has only indicated that he contacted Mr Gilding to inform him of the existence of an ad that would be placed in the paper. But
20 I think there is a distinction between doing that and forwarding the details of a person to someone who's directly responsible for recruitment.

MR CHEE: Yes, I take your point. Could I ask one further question - - -

THE COMMISSIONER: Yes.

MR CHEE: - - - which might help to elucidate the point. When you spoke to Mr Gilding did you tell Mr Gilding to speak to Joe Camilleri, who was at the time on the evaluation panel for that position?---Um, yes I think I did to
30 find out more about the role.

Right.

THE COMMISSIONER: What, you think you did refer him to Mr Camilleri?---I said if he was interested and he wanted to find out more about the role - - -

More about the role?---Yep.

40 MR CHEE: Did you speak to Mr Camilleri about Mr Gilding?---Ah, yes.

Did you mention to Mr Camilleri that you thought that Mr Gilding was an appropriate candidate, or had the relevant skills?---Um, I stated that he'd worked for me at Qantas. Um, he had these kind of project management skills, he did these activities.

Have you done this in respect of any other person?---Yeah, I've done it before. Yes.

You said that you may have signed off the recommendation, the recruitment recommendation for Mr Gilding's position. Mr Gilding did, was the recommended applicant and did secure the position, is that right?---Yes.

Did you disclose any conflict of interest?---No, I didn't believe I had a conflict of interest.

10 But you've given evidence that you've known Mr Gilding for a number of years, you've worked with him, he was previously a report under you. Did that not cause you some concern that there might be a potential conflict of interest, or at least a perceived conflict of interest?---No. It was a professional relationship and I only worked with him um, yep.

How is that different to the relationship, or the allegation in Mr Camilleri's termination letter that he failed to disclose a conflict of interest with regard to prior relationships with contractors?

20 THE COMMISSIONER: I think that might be a matter for submissions, Mr Chee.

MR CHEE: Certainly.

THE COMMISSIONER: In any event as I understand it was the question in relation to a disclosure of a conflict of interest based on the fact that Mr Campbell signed off on the recommendation to appoint Mr Gilding, is that the basis of the question?

30 MR CHEE: And, yes. And that he had a prior relationship with Mr Gilding.

THE COMMISSIONER: All right. Thank you.

MR CHEE: I have one further question. Do you think that the Code of Conduct could be improved to make it clearer as to what constitutes a benefit, and when should a conflict of interest be disclosed?---Um, well I think in light of what's occurred it could be improved and examples provided.

40 Thank you. Nothing further.

THE COMMISSIONER: Mr Silver, do you have some cross examination? Well, I was just thinking given the time rather than start and then have to stop we adjourn for lunch and resume at 2 o'clock. Yes, thank you. I adjourn.

LUNCHEON ADJOURNMENT

[12.40pm]