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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE MEGAN LATHAM

PUBLIC HEARING

OPERATION SPECTOR

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON TUESDAY 18 FEBRUARY 2014

AT 1.59PM

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

THE COMMISSIONER: Yes, Mr Silver.

MR SILVER: Thank you.

Mr Campbell, I just want to clarify a couple of things if you don't mind.
The first being the meeting on 26 June, 2012, you'll recall that's the date at
10 which you attended a meeting with Mr Camilleri and I believe John Cairns
when you had your discussion with Mr Camilleri about the matters which
you had learnt about the loans, is that correct?---Correct.

And at that meeting you asked and were told by Mr Camilleri about the fact
that he had some cashflow problems and he had, and they were caused by
issues with his daughter, is that right?---Correct.

And then you told him to cease that activity of taking loans from people?
---I did.
20

Yes. And that as I understand your evidence was consistent with what you
had been advised by the legal department, namely you were told, that Mr
Camilleri had told you they were personal loans, correct?---Correct.

And the legal department then suggested that you inquire about them with
Mr Camilleri?---Correct.

And that you should go and have a discussion with HR and I think that's
Mr John Cairns, is that right?---That's correct, yes.
30

And also that you should tell Mr Camilleri to cease making those loans?
---Correct.

Also could I just confirm something which is not clear to me, at that
meeting with the legal department you did not mention the history that
we've gone through today and yesterday about all of those advances with
the salaries, et cetera?---No, I didn't.

And you also did not direct an express question to the legal department
40 about the Code of Conduct, it wasn't the subject matter of the discussion?---
No.

Yes. Then just to, so we've dealt with the matter of, of that meeting. You
then went - after that meeting with the legal department you went to the HR
department with Mr John Cairns, had a discussion with him and then that
led into the meeting with Mr Camilleri?---Correct.

Now there's what I call maybe loosely a grey area I'd just like to investigate about the, the Code of Conduct. You understood, and you've told the Commission that your role particularly after what's known as Monto and Chaucer inquiries and findings were to ruthlessly root out corruption and change the ethos of the organisation, correct?---To the best of my ability.

Of course?---Yeah.

10 And you have mentioned that, that there were seminars and education programmes with staff members which you attended as well, correct?
---Yeah, of course.

And part of that was discussions about the Code of Conduct and conflicts of interest?---Correct.

Yes. Now during those discussions you've mentioned the education process that there were many examples given of conflicts of interest, correct, to give guidance?---There was, yes.

20 And - but none of those dealt with loans between employees, correct?
---Yeah, to the best of my memory.

You also referred in your evidence to - and maybe I got the exact figures wrong but 50 out of 54 employees not making a report about the fact that they'd made loans?---Yeah, well, I counted 38 that Joe Camilleri borrowed plus the um, the number that he approached that didn't - - -

30 Correct. The numbers are really not important but the vast majority of them did not make a report (not transcribable) and whatever conclusions you might draw from that it is a fact that even in your position of authority and responsibility to root out corruption to the best of your ability you as, you equally did not make a report initially when you heard about the personal loans, correct?---No, I didn't.

And would you, looking at it in hindsight conclude perhaps that applying the Code of Conduct to that particular activity at the time was a grey area for you?---Ah, yeah, I was unsure whether the Code of Conduct applied at that time.

40 And it might have been equally unclear to those majority of employees?
---Correct.

And do I assume that there is a process in place to address grey areas in the Code of Conduct to make sure that there's a fresh ongoing approach to attacking possible conflicts of interest and corruption in the organisation?
---Well, I'd say if it's a grey area you seek advice, if it's outside your area of expertise or - - -

I'm talking about the organisation moving forward, will be, will they be addressing any areas, grey areas?---I think so, definitely.

Thank you. No further questions.

THE COMMISSIONER: Mr Campbell, were you, were you present at any of the training sessions that were administered to staff for the code of conduct?---Yes, there was an extensive training program and I participated like everybody else.

10

Who conducted the training?---It was conducted by the, it was administered through the RailCorp Learning and Development Organisation that did all of the training.

So it was in house training?---I can't remember Learning and Development administer all the training but sometimes they use - - -

Outside facilitators.---Outside consultants and facilitators and I don't know if it was internal or outside.

20

And did the training consist of essentially bringing the attention of the employees to the code of conduct in its written form or did it go further and explore scenarios where people were invited to decide whether or not they thought that the scenarios constituted a conflict of interest?---Well, I did a number of training programs but some of them did, it workshopped examples, it got different peoples opinion you know you'd be broken into groups and you'd workshop your thoughts on different issues.

30

And did some of those scenarios or workshop examples extend beyond the examples that are actually given in the code of conduct itself?---Yes they did.

Anyone else wishes to cross-examine?

MR HARRIS: Commissioner, if I may.

THE COMMISSIONER: Yes.

40

MR HARRIS: Mr Campbell, my name is Harris I am representing Mr Oweis. Could I take you to your evidence briefly yesterday, you talked about or sorry, you were asked questions about loans from a sub-ordinate to a superior and you said I think, when you became aware that Joe had borrowed money from sub-ordinates that certainly appeared a conflict of interest. Specifically in relation to Mr Oweis, in this time we're talking about for example 2012 was he a sub-ordinate of Mr Camilleri's?---No, he was what they call a level 4 manager but he didn't work for Mr Camilleri.

If we can use that language, who did he work for?---I believe at the time he worked for Dave Spiteri who is the general manager of asset planning and performance.

If I might just move then to something that was said today please, you talked about the four who had come forward and if you remember that and it looks as though number 4 on the list was Ray Oweis, correct?---Correct.

10 And you said he was different I think, these are my words, because he was below. Now does that mean he wasn't as senior in rank as the previous three?---That's correct.

He wasn't specifically below Mr Camilleri in the chain of command was he?---No.

But he was of course of a different level, a lesser grade?---Yes.

20 All right. And you've been asked I know you haven't seen it today, you've been asked question about the email which I think is probably the coming forward, if I could put it that way, on the part of Mr Oweis, do you recall, there was an email in January last year that you received from Mr Oweis, do you remember?---That's right, he raised concerns.

If I could just specifically ask you some questions on that, it starts off by saying I hope you enjoyed your break, welcome back.---Would it be possible to see the email?

30 I certainly have a copy and if it suits, I'm happy to perhaps through Counsel Assisting. Commissioner can I show you a copy at the same time for convenience?

THE COMMISSIONER: I think it's - - -

MR HARRIS: Give it to - I've got another one here.

THE COMMISSIONER: That's all right, thank you.

40 MR HARRIS: Yes, I wasn't seeking to test your memory but you'll see it's sent according to this Monday 21 January 2013 and hope you enjoyed your break. Now I presume there's some time and this is of the January period you had been away from what, late 2012, do you remember?---Yes, I was on holidays for a period.

Because the email from Mr Oweis says, "I had a talk to Dave while he was acting MD." Can I clarify your understanding please, Dave would be Dave Spiteri would it?---That would be right.

And that would be Mr Oweis's senior officer or - - -?---Correct.

- - - senior manager?---Correct.

And it refers to Dave while he was acting MD?---So he was Acting Maintenance Director.

A Maintenance Director. All right. And you agree, don't you, that this email appears to notify you of Mr Oweis's concerns particularly in relation to an integrity issue should Mr Camilleri return to GM MC and C role?
10 ---That's correct.

All right. And was it the situation at the time that Mr Camilleri was not in that role of GM MC and C?---That's right.

All right?---Mr Camilleri was in the reform programme at that time.

Right. It would appear from the contents of this email where it states, "Dave did not get a chance to talk to you about this today," that in fact there had not been any referral of the, of Mr Oweis's concerns to you via
20 Mr Spiteri, correct?---Not at that time.

All right. Thank you. And - thank you, Commissioner.

THE COMMISSIONER: Anything arising Mr Polin?

MR POLIN: No, Commissioner.

THE COMMISSIONER: Yes, thank you, Mr Campbell.

30 MR BUCHEN: Commissioner, sorry, I seek leave also to ask some questions.

THE COMMISSIONER: I'm sorry, I'm sorry, my apologies, Mr Buchen, I didn't see you.

MR BUCHEN: I'm at the back here.

Mr Campbell, I act for a company called Third Horizon and also for one of its employees, Mr Andrew Rogers. You were asked some questions by
40 Counsel Assisting about the WCCL process. WCCL as one of its functions compiled panels or lists of external service providers that could tender for projects with RailCorp, right?---Correct.

We've heard evidence in this inquiry that Mr Camilleri was involved in the maintenance reform area?---Right.

And I take it it's fair to say he was very closely involved in that reform process?---Correct.

And does it follow from that that Mr Camilleri had opportunity to observe contractors, external service providers at work in that reform area?---He would have.

And does it also, is it also accurate to say that he would be in a better position to observe contractors at work than for example people who were in the WCCL section?---Yeah, that's correct.

10 He had close - Mr Camilleri had closer proximity to the actual coalface of the reform process that was being undertaken?---That's correct.

Is that right?---Yes.

The - do you see any reason in that context why someone like Mr Camilleri who was able to observe contractors at work should not be able to approach WCCL and recommend that certain contractors be considered for future projects?---Yeah, as I said the business could recommend people that it was up to WCCL to manage the process for selection et cetera based on that
20 recommendation and other input.

Once WCCL invites someone to tender for a project that doesn't mean that they will inevitably be awarded the project does it?---No.

What follows from that point is a rigorous application process, right?---A selection process, yes.

Which is very carefully scrutinised?---It's managed by the, independently
30 by the WCCL department.

Right. And I take it there are probity measures built into that process to make sure that it is a rigorous process like you've described?---Correct.

And does that process ordinarily involve an applicant providing a detailed written submission or proposal?---Yeah. They'd respond, each, each applicant would respond with the credentials to do the work.

Right. So they will submit in writing a detailed document usually which sets out their qualifications to do the work?---Correct.
40

Any relevant prior experience?---Correct.

Ideas that they might have about how the work can be conducted?---That's right.

And reasons why they're in a position to fulfil the contract, right?---Yes.

There's also an interview process isn't there?---Ah, yes, in most I believe.

And as part of that interview process there's always someone who is independent of the actual section of RailCorp which is receiving the contract services?---I can't answer always, again it's administered separate from, from the business I run (not transcribable) WCCL and they administer the process but, you know, the, the philosophy is to ensure independence.

Right. Throughout that process then those applications are carefully scrutinised, after all of that information is obtained?---Correct.

10

Now some general questions were put to you about a gentleman by the name of Mr Courtman who was an employee of Third Horizon in August 2012. In your position as Mr Camilleri's supervisor did you come to hear about a company called Third Horizon?---I did.

Right. Were you aware that that company already had an established relationship with RailCorp prior to August of 2012?---Ah, yes, I think, I can't remember but I know the ex Group General Manager of Strategy had engaged Third Horizon for a project I believe.

20

Can I put some specific projects to you and ask if you're aware of them? ---Yeah, you can.

First of all, are you aware that Third Horizon had been involved in a very large project with Transport New South Wales about restructuring, corporate restructuring across the entire transport cluster which involved RailCorp?---That was before the, the, the RailCorp reform.

30

Yes. And they had - Third Horizon had also been involved in a reform involving business planning with RailCorp directly?---Yeah, well, that might be the one that, that was, was coming under the RailCorp strategy group at that time.

And one involving train scheduling, another item of reform, you're aware of that project?---I can't remember that one specifically.

40

Okay. Now, at the time - as at August 2012 are you aware that Third Horizon was invited to tender for a benchmarking project?---I wasn't aware who, I knew there was a benchmarking project, I wasn't aware of who actually was invited to attend.

And - - ?---Or I may - - -

Isn't it the case that a company called Indec, a competitor to Third Horizon, was awarded that particular contract?---Yeah, that's, that's correct.

So notwithstanding that Third Horizon was invited to tender for the project that contract was ultimately awarded to one of its competitors?---Yeah, that's correct.

Called Indec. Now there's been reference to a subsequent project that Third Horizon did win approval for and I believe it's known as the Programme Manager Programme for Assets Initiative Project, does that ring any bells? ---Ah, yes, but the names have all changed so just linking that to its most recent name, so one of the asset initiatives was to remove redundant assets from the network.

That particular project that was awarded to Third Horizon -let me just withdraw that and go back one step. Are you aware of a particular scheme run out of the New South Wales Government Department of Premier and Cabinet known as the pre-qualification scheme?---I'm aware of it I don't know the details but I am aware of it.

All right. Well, if I suggest to you that it's a scheme that allows contractors to be engaged in government projects without tender for jobs under the value of \$150,000, does that sound right to you?---It does.

And are you aware of whether Third Horizon secured it's engaged in the project that I just referred to under the WCCL process or under this pre-qualification scheme that I've just referred to?---No, I'm not aware which one.

Well, can I put to you Third Horizon was engaged under the pre-qualification scheme for that subsequent contract that it was awarded. ---Okay.

You've never heard anything to contradict that have you?---No.

Who is the person who's most directly involved with the procurement process at this time?---The procurement department run all the procurement processes.

Who was in charge of the procurement department?---At that time, it depends on the time at one stage it was a person called Kevin McCafferty and then more recently Richard Allen and then part of Sydney Trains we've got Mike Blanchard who now runs the strategic procurement department.

Now it's the case isn't it, that that particular project that was awarded to Third Horizon was satisfactorily completed?---That's correct.

And in fact the project was extended and further work was provided to Third Horizon in respect of that particular job?---The maintenance reform program which is a very aggressive schedule is running ahead of schedule at the moment.

Have you heard anything to contradict the proposition that Third Horizon has provided a quality service to RailCorp?---No, I haven't heard anything.

And are you aware of the fact that Third Horizon is still providing services to RailCorp?---Yes - - -

To this day in a number of areas?---Yes, I'm aware of that.

10 Thank you. Thank you Commissioner.

THE COMMISSIONER: Yes, anyone else? No, anything arising Mr Polin?

MR POLIN: No thank you Commissioner.

THE COMMISSIONER: Thank you Mr Campbell, you may step down you're excused.

20

THE WITNESS EXCUSED

[2.22PM]

MR POLIN: Commissioner, I call Mark Ross-Smith.

THE COMMISSIONER: Yes.

MR EURELL: Mr Mark Ross-Smith seeks a declaration under Section 38 please.

30

THE COMMISSIONER: All right. Thank you. Mr Ross-Smith you've had the effect of Section 38 explained to you?

MR ROSS-SMITH: I have Commissioner.

THE COMMISSIONER: You understand that after I give the order I'm about to give it protects you from the use of your answers in any criminal prosecutions against you or any disciplinary proceedings but not in relation to any proceedings for giving false evidence.

40

MR ROSS-SMITH: I understand that.

THE COMMISSIONER: Thank you. Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by this witness and all documents and things produced by this witness during the course of witness' evidence at this public inquiry are to be regarded as having been given or produced on objection and accordingly

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

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

THE COMMISSIONER: Do you wish to be sworn or affirmed Mr Ross-Smith?

20 MR ROSS-SMITH: Affirmed please.

THE COMMISSIONER: Could we have the witness affirmed please.

THE COMMISSIONER: Yes Mr Polin.

MR POLIN: Is your name Mark Edward Ross-Smith?---It is.

Mr Ross-Smith are you still employed by a company known as Everything Infrastructure?---I am yes, although the company recently went through a re-branding it's now known as EIG which is much less of a mouthful.

When did you first commence working for EIG?---On 1 July 2009.

Can I ask you this, you know Mr Camilleri don't you?---I know him through work, yes.

When did you last speak to him?---Um, I've got a feeling it was on the phone about two days before he was dismissed.

20 Now are you able to tell us what was your role with RailCorp back in 2010? ---EIG had won a tender to provide services to help deliver the L3C project and we had put a team in there lead by one of our director and there was a young fellow who went in there as project director and I came – and that was in about June of 2010. I came in in either late August or early September as project director support, so it was sort of support role for the director.

30 So the role of Everything Infrastructure was assisting in the tender process for the L3C contract?---Yes, the, the term that we use is transaction manager which starts fairly early in the piece and advises government departments on the best ways of delivering infrastructure, the best ways of funding infrastructure and the best, whether it's going to be a PPP or a design and build or whatever.

The L3C contract was awarded in December 2010?---No.

2011 sorry.---Yes.

40 And did, was it to become operational in July of 2012?---Correct.

And do I take it that essentially at that point Everything Infrastructure did not have a role, further role to play?---Okay, in terms of our services contract, it was a fixed price contract until December 2011. However, the contract between EIG and RailCorp allowed for an up to nine month extension in case assistance was required to help the new contractor transition in and in fact in just before the contract was signed in December I was asked to stay on until June of the following year to assist in transitioning.

And do I take it that one of the people that you were heavily involved with in terms of your work with the L3C contract was Mr Camilleri?---Mr Camilleri when I came on was general manager rolling stock division, RSD, and he was the sponsor and we believed the champion of the whole intent of the L3C contract.

10 So going back to the question, was he one of the people that you dealt with primarily in terms of your work on the L3C contract?---Yes, he was, not on a daily basis but yes.

In terms of your relationship with Mr Camilleri, when did you first come to know him?---Well, I think it must have been within a couple of weeks of starting and say the beginning of September 2010 I would have been introduced to him as the sponsor by the person that I reported to who was Reg Graham who was the, I think his title was sponsor's rep, for the project.

Did you socialise with Mr Camilleri?---Never.

20 So I take it you wouldn't have called him a friend?---No.

And by the time you came to lend Mr Camilleri some money you had known him for only two years?---Yes, thereabouts.

As a work associate and not as a friend?---Correct.

Can you recall when Mr Camilleri approached you asking to borrow money?---Yes, it was sometime during the 9 August 2012.

30 Right. And can you tell us how it occurred?---He came down to the L3C project office which was a very secure office that had it's own security on the door and stuff because of the, the security surrounding the contract and he walked in and he stood by Reg Graham's desk for a few minutes. Reg was busy with someone else. Joe was appeared to be fairly agitated, he then came to my desk which was two desks away from Reg Graham's and said, "Come into the meeting room with me for a moment please." So I went in with him and that's where he made the request.

40 And can you recall what he actually requested?---Ah, clearly. He ah, we sat down, this was a little ante room outside of the boardroom that we typically used for the project, so it was fairly small and we were fairly close together, and he said, "I want to ask you something personal, this is nothing to do with work, you must please understand this is entirely between you and me," and he stressed that point quite strongly, and I said, "Okay." He said, he gave me the same story that you've heard many times in the last two days.

No, no, well, if you can tell us what story he gave you?---Okay. He told me that his daughter was in trouble, that she had had her identity stolen by a girl who was a member of a gang or some such words, that the girl had stolen her identity and had been running up debts basically all over Australia and in fact I think he said overseas, using this girl's identity and her credit cards.

Did he tell you as well that she had stolen jewellery from their house?
---He did mention that, that they had welcomed this girl into their house and that some items of jewellery had gone missing.

10

And did he also suggest that his daughter could be going to gaol?---Yes, that was part of the ah, part of the build-up. And I said, "But how can she be going to gaol if, if her identity's been stolen and that's been established?" And he said, "Because these debts are huge, ASIO has been called in," which I thought was odd, and he said, "But we're not allowed to talk about it, ASIO's conditions are strict silence secrecy on the issue," and that he has to raise or she has to raise this money to pay fees, bank fees, lawyers' fees, I'm not sure what, that was not specific, in order to get the money released.

20 At the time did you consider any of it to be true?---I believed 100 per cent of it.

Did you? Without question?---Oh, no, we, we spoke for some time.

When you've previously been asked about it haven't you suggested that you didn't believe that the story rang true?---Look, there, there were elements of it that, that made me question. He went into too, he embellished it too much, but I had observed Joe over the previous year, year and a half, losing weight, going grey, just looking really haggard and I had heard from Reg
30 Graham that there were issues with his daughter and it just rung true, it just followed on from that story.

But you suggested that it didn't ring true previously. Which bits of the story didn't ring true?---ASIO worried me.

And I think you've said you found it hard to believe that if someone's identity is stolen and bills are racked up that they could be responsible for them?---Yes, and I have some sort of working knowledge of that, I have a very good friend who works in the banks and he told me that the banks will
40 always back cardholders if their cards have been scammed or skimmed.

Well, knowing that, how could any of that story have rung true with you at the time?---Because it was consistent with his daughter being in trouble.

Did you make any inquiries to get further particulars about any of it?
---Not on that day, no.

And that was 9 August, 2012, was it not?---Yes, it was.

How much did he ask to borrow?---He asked for \$11,000 on that day.

Was that what he said he needed on that day or was- -?---Yes. He said he needed, quote unquote, "10 or 11 thousand bucks," and that would pay off all the fees and the money would be released tomorrow.

10 So it was to pay off some fees. Where, where were the fees, who were the fees to?---Ah, variously to ASIO, to a bank who was holding this money in trust or whatever. I can't tell you which one it was.

To release what money?---Ah, the money that they had recovered from all over the world that had been spent on her behalf.

Well, this wouldn't of course have been her money, I thought you said that her identity was stolen and debts were racked up in her name?---I can only tell you the story.

20 Right. Well, it doesn't sound believable as you tell it, does it?---Ah, it certainly did at the time.

Right. Well, in terms of the money they were recovering from all round the world, how was it explained to you that that was, where was the money coming from?---I can't answer that. I didn't ask that specific question.

If you think about it and turn your mind to where it was coming from, can you think now where it possibly could have been coming from?---With the benefit of two years of hindsight, no, that's- - -

30 But even if you look back to that point in time, if you turned your mind to it then, there's a real question as to where that money was coming from, is there not?---Yes, I have to, have to agree with that. It was a very emotionally-charged situation.

40 And in terms of providing the money, what, I take it you just drew a cheque?---No, he ah, he walked me down to the nearest branch of a bank, we happened to have the same bank, we both used the same bank, and he gave me a slip of paper with his daughter's name and bank account details on it, I went up to the counter and I just transferred it.

All right. Did that of itself seem unusual that he would take you down to a bank to- -?---No, it seemed, it seemed the quickest simplest way, seeing as we both belonged to the same bank.

You had some concerns at the bank though, didn't you, because he wouldn't go up to the counter with you?---Correct.

And you were concerned, weren't you, that he didn't go to the counter with you because he was aware there were cameras at the counter?---That was something I surmised after- - -

Ah hmm?--- - - -when I had plenty of time to think about this.

Right. And why was that giving you a concern?---It didn't at the time.

10 Right?---But you know, after a week or two and months passed, all these things went through my mind and the clues that I should have picked up at the time.

He specifically asked you not to tell anyone that he had borrowed the money, didn't he?---He did, yes. He said it was one of the terms of the ASIO agreement case, whatever.

Well, can you explain that? What, what, what was he saying?---Well, none of us have any knowledge of how ASIO works so no, I can't answer that.

20 Well, what did you understand was the reason that he was telling you not to tell anyone about this loan?---Because it might endanger the, the relationship or the process that he was going through or she was going through to recover the money.

But as I understood it you said that the money was to be given, had to be transferred to the daughter straightaway. Is that correct?---Yes.

30 And that had to be because the money was then going to be used immediately- - -?---Yes.

- - -to unlock the funds that were coming in from somewhere?---Yes.

Is that correct?---That's absolutely correct.

And as soon as the funds were in, which I take it was going to be the next day or so- - -?---Well, I think it's instantaneous when you're both with the same bank.

40 - - -there would be no problem in telling anyone about it?---No, I was never given the choice to make it public after the money had been returned. It was more the arrangement that was secret, not just that I had lent money.

Didn't you find it incredibly unusual that he was asking you not to tell anyone because ASIO was involved?---Yes.

Did you think that the fact of the matter probably was that he didn't want anyone to know that he was borrowing money from a RailCorp contractor? ---I think that now, having heard testimony, but I didn't think it back then.

Why not?---As I said, I thought the arrangement was that secret and that ASIO, those were the conditions they put on it.

Did it cross your mind – sorry, I withdraw that. You understood Mr Camilleri to be a high-level executive at RailCorp?---Yes. I was made aware of his reputation soon after I started. Excuse me.

10 You're aware that he was highly paid?---No, I had no idea what anyone was paid in RailCorp until I saw it in the paper last week.

You don't look at any of the RailCorp websites in terms of the work you do and what various people are paid at RailCorp?---No.

I take it you assume that being in a senior role at RailCorp he was well paid?---Oh, I, I assumed he was certainly well paid, he was level 3 or whatever he was, yeah.

20 And did it concern you that someone who is a well-paid high level person at RailCorp was coming to you to borrow money?---Yeah, he explained that um, by saying that he had exhausted all of his family means of raising money including, I believe he said something about his parents' house, a mortgage on his parents' house, that he had exhausted all other avenues.

But was it unusual that having exhausted his family he would come to you, a person he had known for two years as an associate at work and not as a friend?---Extremely.

30 Why didn't that cause you some concern?---It did but as I say it was an extremely emotionally charged meeting and I, and I felt incredibly sorry for this man.

Now that wasn't the end of it then in terms of him borrowing money was it?---No.

40 What then happened?---Well, the following day he contacted me on three separate occasions from fairly early in the morning to fairly late in the afternoon um, and long story short borrowed another three tranches of, of money.

So that's on the 10th was it?---Yes, Friday the 10th.

Right. So on that day he came to you on three separate occasions?---Yes.

And borrowed three separate amounts?---Yes.

And how much were they?---I don't remember individually but it totalled \$36,000.

And that's including the - - -?---11.

- - - 11,000?---Yeah.

10 Didn't you find it quite extraordinary that he came to you the next day and asked to borrow some more money?---Yes, the, the next day when, when he contacted me I thought oh, good, he's coming to tell me the money's available um, but the way he sold it was that um, there was a hiccup, there was problem with his lawyer in Melbourne and he had fired his lawyer in Sydney and, lots of story, and that um, he still needed another X thousand dollars.

Right?---And - - -

20 And he's telling you about his lawyer in Melbourne and his lawyer in Sydney is he?---Yes, he told me that - I don't remember in what particular order but he told me that he, he'd had a lawyer in Sydney and it sounded like the lawyer in Sydney hadn't done the right thing by him, that he now had a lawyer in, in Melbourne who was helping him.

Was he leading you to believe that he was speaking to a lawyer in Sydney and was speaking to a lawyer in Melbourne?---Not to the one in Sydney, that was in the past.

But he had spoken to a lawyer in Sydney?---That's what he led me to believe.

30 Was at that time speaking to a lawyer in Melbourne?---Correct.

And the, the second amount you lent him, what was that for?---Well, it was the final, the next final amount to close out the, close out the deal.

But what, what was it?---You mean?

What was it for, what was going to close the deal?---Ah, this, this amount of 7,000 or whatever it was.

40 Yeah, but what was it for, was it for - - -?---Ah - - -

- - - lawyers' fees, was it for bank charges, was it - - -?---Unspecified, just that same bunch of money that she needed in order to get the money released.

And was he leading you to believe that there was a large pot of money coming to him when the deal was closed out?---Yes, I can't remember which of the four visits to the bank but he said um, I've borrowed millions but there are millions coming in.

So the second time he came and asked for an amount to close out the deal?
---Mmm, I think it was seven but I stand corrected on that.

You went down to the bank again?---The same, the same procedure.

Money was transferred or cash taken out, what was the - - -?---Money transferred to her account.

10 Right. Again, he wouldn't go in to the counter?---Ah, he stayed off on the, on the side, yeah.

Away from where ultimately he thought the cameras were?---That's what I thought after when I thought it through, yes.

You went back to the office and then what, an hour later or so he comes again does he?---Yeah, a couple of hours, I was actually in a meeting in, in the board room - - -

20 Yeah?--- - - - um, and he called me on my mobile and said come out of the meeting and Joe was by far the most senior person including the people in the room so I left, I excused myself and he said we've got to get down to the bank, I've got to have another X thousand dollars and then the money will come through, definitely will come through.

Right. You must have thought it was extraordinary at that stage?---By then I was starting to, to worry and I was in the mode of trying to protect if you like the money that I'd already given by going to the, to the end of, of the road.

30 Right. And the same thing occurred, back down to the bank, do the transfer?---Yeah.

And then it must have been incredible when an hour or so later he came back and did it again?---Yeah, it was, it was pretty late on the Friday afternoon. Um, I think, I seem to remember I was packing up to leave and he said, "Meet me downstairs, meet me downstairs," and he came running into the building or hurrying into the building, he said he was on his way to the train station and he had had a call from the, from someone, I think he
40 said solicitor but I wouldn't be sure of that, saying there's been another hiccup um, we just need this last little amount and the money will definitely be through tomorrow.

So essentially he was just telling you that there was a hiccup and you'd give him more money?---Effectively and I understood from other people that this was the heavy hitting tactic that he used.

Put aside what you've spoken to other people about but it does seem that within the space of, I suppose it's over the course of 24 hours - - -?---Yeah.

- - - he's come to you on four occasions seeking money and you've given him \$36,000 on those four occasions without really being told why it was needed?---Well, I had a story ah, which, which I believed strongly at the beginning, less so as the next day went on.

10 But the three final loans are basically being advanced on the basis that there was a hiccup?---Yes. One of the hiccups I seem to remember was that his lawyer in Melbourne had a very sick child and that the lawyer had had to use some of the money for his own purposes and that's, that's when I lost it.

But this was all occurring over the space of a day?---Yes.

At the end of the day did you, were you believing of any of the story?
---Less so than I had been the previous days but by then I had committed so much I had to believe, I hoped to believe.

20 Are you generally the kind of person that lends money to short term business associates?---I have done.

This was a person who you had worked with as a result of your company being involved in a tender process?---Correct.

Is that correct?---Yeah.

30 And it was likely was it not that the involvement of your company was going to come to an end at some point?---Yes. As I, as I said in December 2011 it was, I was asked to stay on or the company was asked to leave me there until June, till the end of the transition period. As we approached June they said can you stay still the end of September. As it approached the end of September they said can you stay till the end of the year so it was - - -

I'll come to that in a moment - - -?---Okay.

- - - but it was, it was not as though you were working with Mr Camilleri in a permanent position?---No.

40 At some stage the role of Everything Infrastructure was going to come to an end after various extensions?---Correct.

So are you a person that is someone that lends money to someone that you really don't know and were only working with for a short period of time?
---Well, yes.

It just seems quite unusual don't you think?---I do.

In terms of the loan do I take it there were no real document, there was no real documentation put in place at the time the first loan was made?---Um, yes, I, on each of the four occasions I got him to sign the, the back of the deposit slip.

So essentially an IOU?---To say received by Joe Camilleri on such and such a date.

Yeah?---And he signed it.

10

And I take it no, there was no conversation about whether any interest would be paid on the loan?---No, the um, I always believed the loan would be paid back the next day or the following Monday or certainly within a week there was no, no talk about interest.

And there was no talk about whether in fact if there was some default in the loan, what was going to occur?---Not at the time but there was a month later.

20

So at the time the loans were made there's no doubt that Mr Camilleri was someone who was in need of your assistance?---Yes.

He'd asked you for a favour?---Yes.

And the fact of the matter is that by giving him the loan you had given him a benefit hadn't you?---Yes.

Had you worked for RailCorp previously?---No.

30

So on the day that the loans were, the days the loans were given you said that you were aware that you were giving Mr Camilleri a benefit?---Yes.

MR EURELL: Objection, that's not what he said.

THE COMMISSIONER: Well he said that there was no doubt that he had given him the benefit perhaps the time frame could be articulated. At what point did you accept that you had given him a benefit Mr Ross-Smith?---In the last two days hearing previous testimony.

40

You mean while you've been sitting here?---Yes.

MR POLIN: Sorry, my mistake then. I'll go back to those questions, at the time Mr Camilleri asked for the loans you realised that he was in need of your help?---Yes.

You realised that he was asking a favour from you?---Yes.

You realised that you were essentially giving him an interest free loan?---
Yes.

You realised that it was a benefit to him to obtain from you an interest free
loan?---No, not at the time.

How could you not at the time realise that it was giving him a benefit?---I, I
didn't.

- 10 Someone asked for a favour, someone grants that person a favour they give
them a benefit, don't they?---In the English use of the word benefit, I guess,
yes.

We only use the English use of the word benefit don't we?

MR EURELL: Objection, Commissioner, certainly these questions follow
logically but the way that benefit has been used up to this point has been
clearly referable to code of conduct.

- 20 THE COMMISSIONER: Well, I don't understand the term benefit in the
code of conduct to have a, a technical or arcane meaning.

MR EURELL: Nor do I but if the proposition is being put to Mr Ross-
Smith that at the time of these events he understood that he was conferring a
benefit as it is considered or picked up on in the code of conduct that's a
different matter to being asked whether or not in the vernacular, he
appreciated he was through the loan given Mr Camilleri some benefit, it's
not merely in the context of this hearing anyway a matter of nuance.

- 30 THE COMMISSIONER: Well, if he accepts that he was doing him a
favour and was thereby conferring a benefit then I don't know that it matters
whether he understood it was within the code of conduct or not because
that's a matter for submissions, but anyway, we'll go on.

Yes Mr Polin.

- MR POLIN: Mr Ross-Smith I haven't asked you anything about the code of
conduct at the moment, what I'm suggesting to you is you knew as soon as
you loaned the money to Mr Camilleri that you were giving him a benefit?
40 ---I realised I had done him a favour and potentially got him and his
daughter out of trouble.

And that he had got a benefit from the fact that you had advanced him
\$36,000 very quickly interest free, is that correct?---That is correct.

Is the problem that you have with the word benefit the fact that you know
that that word is used in the code of conduct?---That is my problem today,
yes.

Because that has ramifications?---Correct.

Your familiar, aren't you, with the RailCorp Code of Conduct?---I first saw a copy of the complete code last Friday.

Which complete code?---The pack that I believe that you have exhibited.

10 Are you saying that's the first time you've ever seen a RailCorp Code of Conduct?---To my knowledge, the first time that I've seen the whole code in one book, yes.

So does that mean you've seen parts of the code at times?---Well, parts of the code I recognised when I went through the document on the weekend because there plastered up on walls as posters or um, on the probity and ethics course that I was on, parts of it were discussed.

20 You're familiar aren't you or you were back then familiar with the parts of the code dealing with conflicts of interest?---In so much as I had done the probity and ethics course, yes.

That's the RailCorp Probity and Ethics Course?---Yes.

Well, you were more familiar with it than just having done the course weren't you?---What I had, I knew than what I'd been taught on the course?

30 Well, that you were at a higher level than being someone who was just taught at a course?---Certainly, the whole L3C project had very strict probity and governance rules surrounding it and framework surrounding it and so yes, from that point of view I was a very responsible person.

So you knew didn't you that back on 9 August and 10 August 2012 as soon as you lent the money to Mr Camilleri a conflict of interest was created? ---No, I must say not on the first day, by the end of the second day I was starting to worry about that.

40 When you say starting to worry about it, how could you not know that the lending of money by you to Mr Camilleri immediately created a conflict of interests?---I didn't again, because the probity and ethics course as I understood it, covered the granting of favours to suppliers and contractors, he was a general manager of RailCorp I didn't see it in the same light at all.

You were a contractor providing a benefit to a RailCorp person who had the power to control to an extent the work that Everything Infrastructure was getting from RailCorp, is that correct?---Not necessarily, not in the way you put it no. I was already, or rather Everything Infrastructure already had a contract it had been running for some time.

Yes, sorry.---And Mr Camilleri hadn't been involved in the L3C contract from early 2012 when he went up to the reform project.

Excuse me. Commissioner might the witness be shown Exhibit 2. Could you just flick through to page 20, it's a section dealing with conflicts of interest. You can see from the starting paragraph in bold that it refers to RailCorp employees and contractors?---Yes.

10 You see it then goes on to say that a conflicts of interest exists where a personal interest influences or could be perceived to influence the way you carry out your duties as RailCorp employee.---I see that.

As soon as you loaned the money to Mr Camilleri a conflicts of interest was created, wasn't it?---According to this, yes absolutely.

It only takes a quick reading of the code to understand that, you don't need to be taught anything do you?---No, if I had read that, which I don't believe I had.

20 It then goes on to say that if you act upon a potential conflicts of interest it becomes improper conduct, do you see that?---I see that yes.

And you can see over the page, the left hand column just towards the top of the second paragraph, you must notify your general other senior managers of a private interest conflicts could influence, do you see that?---I see that, yes.

30 So it says that once there's a conflict of interest it's got to be reported?
---Yes.

I take it that's logical because just because there's conflict doesn't necessarily mean there's a problem. Is that correct?---Yes.

It's only where the conflict is acted upon there potentially is a problem, and it's record so that if it's not until a later point in time that it's acted upon, that's when there's the problem?---Yes.

40 So it's a pretty quick and simple reading of the code that would suggest that as soon as you lent the money to Mr Camilleri your conflict existed. That needed to be reported and documented so that dealings between you and he and Everything Infrastructure in the future could be monitored in terms of that conflict?---Yes.

So that neither of you were placed in a position where it was considered it was improper conduct. Is that correct?---That's correct.

And that wasn't done, was it?---No.

I suggested to you a bit earlier that you were a bit more familiar with the Code of Conduct and conflicts of interest than someone who just attended a teaching session on it. Could I just show you this document. Do you recognise this document?---I do.

This is – it's at page 1759?---Yes.

That's in the top right-hand corner?---Yes.

10 And it's, it's a summary of a meeting, I think it's a rolling stock level 3 maintenance and logistics contract steering committee meeting?---Yes, it's actually, it's actually the agenda.

Right, the agenda. It took place back in October 2010, 15 October. Do you see that?---I do.

And you see the people at the meeting, there's you?---(No Audible Reply)

20 Up the top, the invitees?---Yes.

Mr Camilleri's there as well?---Yes.

And people at the meeting are allocated various subjects, no doubt that they're presenting on at the meeting?---Yes.

And the subject that you happen to be presenting upon is conflicts of interest?---Yes. Ah- - -

30 So I take it that at this meeting you were the person charged with the responsibility of instructing the people at the meeting about how conflicts of interest worked in terms of the work at RailCorp?---No.

What was- - -?---That was purely to hand out blank conflict of interest and confidentiality forms and ask everyone around the table if they hadn't already done so to fill them out and hand them back.

But it says number and then subject?---Yep.

40 It seems to suggest that the subject that you're responsible for is conflict of interest?---That was purely to get the forms, blank forms filled out and signed.

You're not saying that you were handing out blank forms to people at this meeting with no understanding as to what was required in terms of declaring conflicts of interest, are you?---The forms are fairly self-explanatory and everyone in RailCorp, as I understand it, knows them very well.

So do I take it then you're accepting that as at August 2012 you were well aware of what was required in terms of reporting conflicts of interest for the purposes of the Code of Conduct?---This was to – these, these forms are to, for anybody to report on I believe a material interest that they may have in an of the tenderers who may have come into the L3C contract.

You had a material interest of \$36,000 in Mr Camilleri, did you not?
---Not at this stage, no.

10 I understand, not at this stage, after this stage. That's right, isn't it?
---Yeah, the contract was put to bed by then.

I understand. This is simply to show that in terms of conflicts of interest it's something that you were quite familiar with before August 2012?---In October 2010 I had only been with RailCorp about a month, month and a half um, I had had to sign a conflict of interest form myself early in the piece to make sure that I had no interests in any of the potential tenderers and all that form, all that, I had to do there was hand the forms out. I was the secretary at this meeting.

20

But in terms of even just this meeting, you're aware that there is a requirement to complete conflicts of interest forms in relation to various aspects of work you did at RailCorp?---I was aware by then, yes.

Yeah. And so what I'm suggesting to you is that by August 2012 you were aware that if a conflict of interest arose it had to be reported?---I would certainly if, if Mr Camilleri had said do you want to buy some shares in UGL I would have understood the conflict there, because that was exactly how the course and all of these forms and so on led me. I did not think of it
30 in terms of lending money on a personal basis.

Weren't you in fact buying shares in Mr Camilleri?---(No Audible Reply)

MR EURELL: I object, Commissioner, there's no correlation between a loan and buying shares.

THE COMMISSIONER: Well, it's perhaps a different characterisation of what one might normally do by way of buying shares in a company but it's correct, isn't it, Mr Ross-Smith, to say that by giving Mr Camilleri the
40 money that you did, you had a financial interest in his affairs, if I could put it that way?---Yeah, in hindsight, yes, at the time I was just trying to help the man and his daughter through a problem.

I understand. But you, but you wanted the money back and you expected the money back?---Absolutely, yes.

And it was in your interests to ensure that Mr Camilleri was in a, was in a condition whereby he could pay it back if it was within his means?

---I understood that it was within his means, yes.

Yes. Can I just ask you while we're on the subject. You said that you, at the time that he approached you on the first occasion and told you that his daughter was in trouble, you said that you had heard from a Mr Graham, was it?---Yes.

10 That his daughter was in trouble. Was it because you had heard that story from someone else that, that his account to you resonated with you as truthful?---It certainly, certainly influenced me in that direction. The message I had heard from Reg Graham was not about the, the extent of the problems. I believe as a young girl she, quote unquote, was "a bit wild," and had had problems, and I think it came about because I said, "God, Joe's looking terrible these days," and Mr Graham said, "Yep, he's got this problem, his daughter's had her identity stolen," and I said, "Oh, God, that explains it.

So Mr Graham was the first one to, to give you that version of events?
---He was, and that was several months prior.

20

Did you, did you inquire of Mr Graham how he came to hear that explanation?---I assumed he, he and Joe had a lot to do with each other because they were direct reports and I assumed that it had come out in the course of their conversations.

But you didn't understand that it was related to any loans that, that he might have sought from other people?---Not at all.

No?---Not at all.

30

Yes, Mr Polin.

MR POLIN: I tender that page 1759.

THE COMMISSIONER: Yes, page 1759 will be Exhibit 7.

40 **#EXHIBIT 7 - ROLLING STOCK LEVEL 3 MAINTENANCE AND LOGISTICS CONTRACT STEERING COMMITTEE MEETING-NUMBER 1**

MR POLIN: Sir, could I just show you these documents at page 1761 through to 64?---Thank you.

Is that, if you can go firstly to page 1764 there's some emails, they start at the back and then work forward?---Right.

Can you see that page, the, below the line on the page, it appears to be an email from you to Mr Camilleri?---Yes, I recognise it.

And you're attaching there your CV- - -?---Yes.

- - -in support of the project manager inventory management role?---Yes.

And do you see there, the bottom paragraph you say, "I understand there may be a procurement process to go through."?---Yes.

10

So this where you're applying to extend your contract with RailCorp?---No, not, not in any formal sense. If I can just give some context to this. In early 2012 when the Boos & Co project, reform project was underway, at some stage during the first six months of the year the various 12 or 14 reform projects were, were made public to us staff and contractors on the intranet and the one that caught my eye was the inventory management, the inventory optimisation one and that's an area of expertise of mine.

20 So this was actually a new role that you were seeking at RailCorp?---I was expressing some interest in it, yes.

Right?---I was still however, employed on the L3C - - -

Yeah?--- - - - for the foreseeable future.

Okay. So in terms of this new role that you were expressing interest in the person you went to was Mr Camilleri?---Yes.

30 And it was Mr Camilleri that you put in your CV in support of you being considered for that role?---Yes, given that Reg Graham over the previous two or months or however long it had been was not able to give me any sort of leads or tell me who I should speak to or - and eventually I think to get rid of me he just said, look, send your CV to Joe so that - - -

This, this was a very role you were very interested in because it, you thought it fitted nicely with your areas of expertise?---Correct.

That email was sent on 8 August, 2012?---Yes.

40 The very next day Mr Camilleri approached you seeking a loan?---The um - - -

Is that correct?---Yes, that's correct.

Didn't - - -?---The investigator from the ICAC brought this to my attention and I must say I did not remember the closeness of the two dates.

It's probably easy to have remembered it back then than it is now but it appears very clear that you've put in a CV for a position you were interested in obtaining and the very next day the person you put the CV in approached you asking for a loan, there's no doubt that's what happened is there?---No, no doubt at all, no. I suspect receiving the CV from seeing as I didn't see Joe from one month to the, to the next at that stage triggered something in him to come and say well, here's a likely candidate.

10 So you weren't actually seeing him from one month to the next at that time?
---No.

So it must then - you must have thought, sorry, you must have thought at the time that it was unusual that he was approaching you for the loan?---Very.

And it would have been, weren't you really suspicious, the fact that you'd put in a CV expressing an interest in a role and the very next day someone who you don't see from month to month approaches you looking for a loan?
---With the benefit of hindsight, yes, absolutely but at the time no.

20 Why not at the time, it's not as though it was weeks apart, months apart, you apply or put in an expression for this position and the very next day the person you don't see for months knocks on your door saying can I borrow some money?---Oh, look, in the position I was in I wrote a lot of emails, I, I guess I didn't even give it a thought.

You would know then that as soon as you gave Mr Camilleri the money you had compromised him in his ability to objectively assess your application for this position?---Again in retrospect I can see that but at the time, no.

30 I know you say now in retrospect but this is the next day. At the time you could easily see that couldn't you?---To be honest I don't remember thinking about sending my CV at all. The story that he gave me was, was so compelling and so emotionally charged that I didn't even think of that.

This was a position you said you believed played right into your area of expertise?---Indeed.

It's a position you particularly wanted, is that right?---Yes.

40 How could you forget it from the day before?---Because it had been going on for several months at that stage.

But it may have been going on for several months but you had only just put your application in for it the day before?---Ah, you know, one, one sends one's CV to a lot of people, that didn't particularly stand out in my mind.

When you say one sends one's CV to a lot of people you particularly wanted this role, you sent your CV to Mr Camilleri?---Yes.

Well, it's no more than that, were you sending it off to other people as well?
---Um, EIG has the, the methodology for winning new work is that they will see the work available and they'll go through the team of people in the company who's available or who might be well suited and I must have sent off in the last two or three years 10 CVs for jobs that we didn't win.

10 On the evening or afternoon of 10 August, 2012 you've put in your CV for a position the day before, you'd advanced - - -?---Ah, sorry, the day before that.

Yes, on the, sorry, on the 8th?---Yeah.

And on the 9th and 10th you'd advanced \$36,000 to the person that you put the CV into?---Yes.

What did you think your chances of getting the position were?---I didn't even know there was a position to be honest.

20 Sorry, I thought you, "Attaching your CV in support of the Project Manager Inventory Management Role - - -?---Yes.

- - - as discussed with Reg.?"---The, the role had not been advertised or advanced as that time. I just assumed that if there was a project manager required that's what it would be called. There'd been advertising or anything for this role.

And if you go back now to page 1763?---1763?

30 1763, yeah, and it goes over to the top of the next page, this is a role you say is going to be advertised and the like?---Yes.

You see the bottom of the page appears to be an email from Mr Camilleri to Mr Vivayis and a Karen Anderson?---Yes.

And it's about your CV, your long CV that you've attached?---Yeah.

40 And you see he sends it off to Theo and Karen, do you see that?---I do, yeah.

And it's the CV of the person, I'm using his words, "That I am bringing onboard to work with you on the inventory management initiative." Do you see that?---I do.

So 15 August, 2012 Mr Camilleri has concluded that you are actually the person who's being brought onboard. Do you see that?---Ah, I question the English there, he was not able just to bring me onboard, that's not how the process works.

Yeah, I know that's now how the process works but what he's saying, that he's bringing you, it says "Please find attached the CV of the person," I think it's, "that I am bringing onboard to work with you on the inventory management initiative. Tanya has been advised and is okay with my proposal."?---Okay.

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

10 "Hopefully we'll get together early next with Mark." That's you?---Yes.

It's pretty clear from that email that its just informing Mr Vivayis and Ms Anderson that he's decided that you are coming on board in that position, is it not?---Okay. Yes, can I just clarify one thing here. In the last three months of 2012, that's October, November and most of December I was still working on the L3C contract and I was asked by Theo and Karen and Tanya to come and at least just do the project management plan for this project, in other words to scope out some of the alternatives and some of the goals and ambitions of the project. I was still paid for by the L3C contract and I continued to do the L3C duties that I was on.

Ah hmm?---So I hadn't been employed, I wasn't paid separately, I wasn't paid additionally, I was if you like seconded from one project to the other.

I understand that but you said that in your first email you understood there are procurement processes and the like that you had to go through?---That was the for the full term role the following year.

30 And I take it that there were no procurement processes that were gone through between 8 August and 15 August?---No, I should imagine because there was no funding required and I had a certain reputation already within RailCorp as being someone who could do this job.

And indeed soon thereafter you were informed weren't you that you had been brought on board to work on that particular initiative?---For the last three months of the year?

Mmm.---Yes.

40 And did that surprise you in view of what had occurred on 8, 9 and 10 August 2012?---I didn't connect the two again, I was getting no benefit from it Joe had nothing to give me at that stage.

Well, I take it you're a contractor doing work for RailCorp?---Yes.

As part of your business your RailCorp as a client is someone that you're keenly, keenly seek business from, is that correct?---Yes.

Indeed, that's essentially what you are doing by your email of 8 August, is that correct?---Yes.

And in your mind then, how did you see the loan to Mr Camilleri of \$36,000 in playing a part, if any, in your actively getting work from RailCorp through Mr Camilleri?---At this instance?

Yes.---I didn't see any connection whatsoever.

10 What is that has occurred that in hindsight you see this connection yet at the time you couldn't see it, what's actually happened?---I think I'd like to think to myself at the time that I had proved myself a project director on a project um, my inventory and logistic skills had been brought to bare on the L3C contract. There was a major departure for RailCorp um, and that this was a natural segue that they would want someone with my skills and experience. Again, I did not link it with the loan.

I take it there are other people out there in the workplace that have your skills and experience?---I have no doubt.

20

And they would be people as well who would be keen to get work from RailCorp?---Indeed.

And indeed it may well be in terms of this position you are competing directly with one such person?---One such person?

Yes, the person with similar skills and abilities as you?---Oh yes, several possibly.

30 But you had an added advantage though didn't you, because you had lent Mr Camilleri \$36,000?---No I had an added advantage because I'd been there for two years and I knew what I was doing.

You might have had that as well but you had the added advantage of having lent Mr Camilleri \$36,000 as well?---I can't judge what was in Joe's mind at the time.

No, I'm asking you to judge what was in your mind at the time that you had that added advantage didn't you?---I never made that connection.

40

You do now?---I acknowledge that that would be a reasonable suspicion to make.

Well, why was what you did at the time back in August 2012, why did that not create an immediate conflicts of interest?---Well it didn't, I can't explain it - - -

I think you've agreed that it did?---I can't explain why I didn't connect the two in my mind.

But I think you've agreed that it did create a conflict of interest but you just didn't recognise the conflict at the time?---Correct.

You recognise the conflict now but you didn't recognise it back then?---Correct and I recognise it now because the last two days I've spent sitting in here.

10

And what is it about the last two days that has caused you to recognise something you couldn't recognise that then?---Well, previous testimony where people smarter than I have said they thought it was a personal issue and not covered by the code of conduct.

Well, there's no suggestion that it was a personal issue with you is there? This was a man you only ever had a business relationship with and it's a man you only ever saw every couple of months, so there can be no question it wasn't a personal issue with you, is that correct?---It was defiantly a personal issue, it was from my private funds to his private funds.

20

But there was nothing personal about it in terms of you being a close friend of his?---No, but as a parent one doesn't like to hear of children getting into trouble and so on, you had to be there, it was a very emotional day.

The only thing that connected you with Mr Camilleri was the fact that you were a RailCorp contractor and he worked for RailCorp who gave work to RailCorp contractors?---That was, I mean yes, again, with in hindsight.

30

Is there any other connection that you had with him?---No, we worked together. Doesn't really matter who we each were.

But the loan then can't be seen as anything other than from a RailCorp contractor to a RailCorp employee who provides work to a contractor, is that correct?---Correct.

And that's how you'd look at it now?---Oh yes.

And that's how you'd look at it back in August 2012?---Well, I didn't.

40

Do you think you might have been a bit blinded back then in how you were going to look at this loan because you thought that it may benefit you?---No.

Even if it didn't benefit you in the immediate future, ie, within the next week or so there was the prospect that it may have benefited you at some stage in the future, wouldn't it?---Yes, looking back but I never thought that.

Indeed, if you go forward through the emails you then of course have the issue of extending the Everything Infrastructure Agreement, didn't you?
---That was, that extension was negotiated between I assume Joe and my director, it's not something negotiated by me.

Well isn't it? If you look at page 1762, that's an email is it not from you to Mr Camilleri?---Yes, I was asked by my boss to check the contract and find out what terms and conditions could be, would apply.

10 Let's just deal with the email, you're telling Mr Camilleri that you've reviewed the Everything Infrastructure Contract with RailCorp, is that correct?---Yes.

You're contracted up till 30 September 2012 on the Special Projects Directors Rate of \$1949 per day?---Yes.

Thereafter, RailCorp has the sole right to continue using Everything Infrastructure under the same terms except the daily rates are going to be increased, do you see that?---I do, yes.
20

And they're to go up to \$2415 a day?---Those are the conditions I told you earlier had been written into the contract between EI and RailCorp.

That's the original contract but it seems to be that you and Mr Camilleri in this email, you're looking at the contract, you're telling Mr Camilleri what's in the contract, are you not?---Yes, yes.

And you're telling him that the mechanism legitimately exists there to extend your services. So Mr Camilleri's the person you're dealing with directly to extend your services?---On behalf of my director John McLuckie, yes.
30

Yes, on behalf of Everything Infrastructure?---Correct.

So you've negotiated with Mr Camilleri to extend the services of Everything Infrastructure for a period of time, is that correct?---No, at no stage was there negotiation, I believe we were asked to stay on um, and I, I do remember at the time remembered having seen something in the contract that the rate of \$1949 which was pretty low and was a fixed rate would not go on forever and that's when I went to the contract and found those Ts & Cs.
40

Aren't you there seeing that you've gone to the contract and it seems to you on your reading of the contract that there's a legitimate mechanism to extend the contract, I take it that's without going to any further procurement through any further procurement processes and the like, is a legitimate mechanism to extend it up to September 2012, that's what you're telling Mr Camilleri?---It was not a negotiation and I had nothing to do with raising the

funding for this extension, I was purely telling the terms that were allowed for in the contract.

You're dealing with Mr Camilleri about the extension of the contract, aren't you?---Yes.

And you're dealing with him about the increased rates that would apply with the extension of the contract, is that correct?---(not transcribable)

10 And this person that you're dealing with is the person that only a week earlier you'd lent \$36,000 to.

MR EURELL: I object to the question.

THE COMMISSIONER: The question, the one just asked?

MR EURELL: No, the one just prior to Counsel.

20 THE COMMISSIONER: I think the horse has bolted. What was the objection?

MR EURELL: The objection is to this use of the word dealing. I think it needs clarification. If Counsel Assisting is suggesting to the witness that somehow he, by the word deal, which as I understand it would be referable to somehow setting the terms and conditions of the legal relationship moving forward, that needs to be set out quite clearly to the witness because what the witness has said is that what he is citing here has already been set, that is the deal's already been struck in terms of a pre-existing contract. It's misleading, and it's not the first time that the witness has been misled with respect.

30

THE COMMISSIONER: I haven't heard any objection to any other misleading questions, but anyway, Mr Polin, do you want to clarify that?

MR POLIN: Well, firstly is there any area where you believe that you've been misled in terms of the questions you've been asked?---Ah, but this was certainly not a negotiation.

40 Right?---I suspect that someone got in touch with my director and said we want Mark to stay on, my director would have come back and said, Mark, you're staying on, because I do what I'm told, and I would have said I'm pretty sure in the back of my mind there's a, there's a rate increase that can be applied and that was what I was letting everybody know.

Well, when you say letting everyone know, you were letting Mr Camilleri know?---Yes.

The email was from you to Mr Camilleri?---Yes. I would have let my, my director know as well.

And when I say you are dealing with Mr Camilleri, you were corresponding with him by email about the terms of the contract that RailCorp had with Everything Infrastructure?---Yes.

And in particular the rates that would apply if the, the term was to be extended?---Yes.

10

And you were telling him weren't you that you believed there was a legitimate mechanism to extend the contract within the contract?---Yes, there, there was.

Right. So essentially you were saying, I've looked through the contract, I believe there's a mechanism whereby we can extend this contract without having to put it out to further procurement?---Yes.

Is that correct?---Correct.

20

And in the contract there's provision to increase the rates as well?---Yes.

And that's what you were telling him in the- - -?---He could have found that same information himself by going to his copy of the tender.

I don't doubt he could have, but you're bringing it to his attention with the hope no doubt that he's going to accept what you're saying and extend the contract upon the basis that you've suggested that it should be extended? ---He would have dealt thereafter with my director.

30

Right. And in doing this I take it you are hoping to get a benefit from RailCorp in terms of the extension of the contract?---I would get no benefit personally.

You'd get benefit in that you're a person that works for Everything Infrastructure and part of your job I take it is to get work from RailCorp? ---No, generally not. We're, we're, we're, we have four directors who are basically the rainmakers for the company because they're well-connected. All of us if we see opportunities within customers that we're in, obviously we're expected to try and up-sell if we can.

40

And that's essentially what you're doing here?---No, not at all. I, I, the approach had been made to my director to continue and everybody would have continued at \$1,949 per day if I hadn't remembered this clause in the contract.

But not only the uplift, you'd remembered or found the clause whereby it was legitimate for you to extend the contract without actually going through a further procurement process?---Right.

There were two things, weren't there?---Well, there were, but I didn't write the contract.

10 I understand that, but I take it you did that because it's part of your job is to encourage the relationship with RailCorp?---No. I believe, if I remember this time correctly that my director got back to me and said RailCorp want you to stay on, is there any way we can do that within the contract, do you know, do you have a copy of the contract, and I said yes, I do.

Sir, only on 8 August, a week earlier, you're actively seeking a role with RailCorp, that's the project manager's inventory management role. That's on behalf of your company, is it not?---Yes.

20 So isn't it part of your role to actively seek work from RailCorp?---It's not, yeah, when, when opportunities arise to try and take them, yes.

Fine?---But I don't go out looking for work, that's not my role.

And an opportunity arose where you saw this position of the project management inventory management role?---Yeah.

30 And an opportunity arose where you saw that the contract could be extended and the daily rate could be increased?---I didn't take up that opportunity, the opportunity was created by someone, I presume Mr Camilleri, going to my director.

But what you did was, you were able to through your reading of the contract and through your work, you were able to find the mechanism to extend the contract without a procurement program?---Yes. If that clause hadn't been written in- - -

Yeah?--- - - -then they would have had to go to contract that.

40 And you were able to find within the contract that you could extract a further \$500 a day out of RailCorp for your services?---Yes. In fact they didn't accept the five per cent increase so- - -

And so it was just down to the \$2,300 a day?---Correct.

And so that effectively, those things were part of your job at Everything Infrastructure, weren't they?---No. No, I, anyone in our office could have looked the contract up in, in our head office.

Anyone could have, I could have looked it up I suppose, but you were the one that did it?---I was asked to.

Yeah. As part of your job?---Yes.

And part of your job was to work on extending the contract?---No. It was to find details from the contract.

10 And then if you go back then to page 1761 in the middle of the page there you see the email from Mr Camilleri to you, "Okay, thanks. I'll catch up with him next to progress your engagement for the inventory initiative."?
---Yes.

That's confirming exactly what he'd said in the earlier email, that he was, you were essentially engaged for that?---I, I question the use of the word engagement, I was seconded, there was no engagement in terms of a, of a procurement that we had to go through, that came the following year.

20 I take it there was no procurement, you were engaged to perform a function in the inventory initiative?---Yeah. I prefer the word secondment.

You might prefer it but that's not the word that's been used, is it?---No.

I tender those pages 1761 through to 1764.

THE COMMISSIONER: Yes. Exhibit 8.

30 **#EXHIBIT 8 - EMAIL CHAIN FROM MARK ROSS-SMITH TO JOSEPH CAMILLERI "RE EVERYTHING INFRASTRUCTURE AGREEMENT" DATED 15 AUGUST 2012**

MR POLIN: Now, in terms of this period of time that's from 8 August, 2012 through to say 23 August, so over the next four-week period or so, in terms of your dealings with Mr Camilleri in both the loans that you'd given him and the work that you were discussing with him, certainly by email, other than the emails was any of what occurred recorded?---No.

40 In terms of the loans which you at least now say were a conflict of interest, were they ever recorded as a conflict of interest in accordance with the code?---Not to my knowledge, not by me.

Have you ever up until this time recorded them as a conflict of interest?
---Yeah ah, no, not as a conflict, no.

Right. Is it the case that really nothing was recorded until Mr Camilleri got terminated?---No, I typed up an acknowledgement of debt in September 2013 which he and I signed.

Right. But in terms of your dealing with Mr Camilleri, other than he acknowledging the debt, nothing was recorded until after Mr Camilleri was terminated?---Correct.

10 Why would his termination then lead to the need to record anything?
---Because I realised, well, two things I realised, (a) I was never getting my money back, and (b) he had phoned me on the Saturday after he was terminated, I believe on Thursday, and said that the ICAC was all over him and that I should expect to be, to be called.

And so is it, it's when you're told that ICAC's involved that you think you should first put pen to paper and record what actually happened back in August 2012?---I had made some file notes prior to that.

20 Well, could I show you this document that's page 1789, do you see that?
---Yes.

It's headed up file note. Is this the file note you're talking about?---Yes.

Well, this file note wasn't created until after Mr Camilleri was terminated was it?---No, I had made notes, I re-ordered them and just got the syntax right and what have you.

30 Well, where are the notes that you originally made?---Well, these are they it was progressively updated and - - -

So you're saying this isn't a file note that was made at a particular time?---It was, as far as I remember, I had put some bullet points down and when Mr Camilleri was terminated as I remember it, I then went and tidied them up and gave them to my boss.

Is that correct or is this a file note that was just prepared after you were informed that ICAC had been involved?---Well, you're obviously asking for a reason, it's possible - - -

40 No, no, I'm asking you what it is, you're saying there now that this is a file note that wasn't created on one day it was created on multiple days?---I thought I had made some notes and that I just typed the notes up but it's possible that I cut and pasted the notes from somewhere else and put them into this document. So I'm prepared to say that this document was prepared for my boss when I informed him about what had happened.

I understand that it was prepared for your boss after you informed him about what had happened but are you now saying that you prepared other notes

and in your words you cut and paste from other notes to create this document?---That's my memory.

Where are the other notes?---Probably on my computer on my laptop.

And so if you're required to come back tomorrow you could bring your laptop and show us those other notes?---Possibly, I'm not sure, I may have deleted the document once I had cut and pasted everything I needed.

10 Do you know what the real situation is?---Sorry, what's the question?

Is this a document created in response to the report to ICAC or is it a document that's created in the response, in response to the report to ICAC but it's a document that has been cut and paste from other file notes which are contained somewhere else – or don't you know?---This was document was created in response to Joe being dismissed so that I could give it to my boss.

20 And on the face of the document it had to have been created after 16 February 2013?---Right.

Are you saying that the entirety was created after that date or are you saying that parts of this documents are cut and paste from somewhere else in your records?---Cut and paste or copied from hand notes that I made, I don't remember.

Well, why would you say it if you don't remember?---It seemed the sort of thing that I do.

30 Right. You were asked to provide by the ICAC investigators all the notes you'd made in relation to this, were not?---No, no.

In any event, if there are others you would be able to bring them?---Not, not at this stage, I don't have any other notes, I have a little file on my laptop called Camilleri and it's got some things in there including this.

Does it include parts of this document as notes?---No.

40 Then why would you now say that that's the way the document was created?---Because I had to pull together these facts from somewhere.

I take it you pulled them together from your memory?---Mostly, certainly at the bottom end yes.

Well, what about at the top end?---Well, the top end would have been from the receipts that I got him to sign.

Yes.---And then the middle was about the acknowledgment of debt letter.

The top bit in terms of the explanation seems to be consistent with what you've said your recollection of what occurred on 9 and 10 August was?
---Yes.

Well, why would you say that it's made from other file notes?---Okay, this document was put together in response to Camilleri being fired.

10 You only said that didn't you because I was critical of you not having documented things as they went along?---No, you were critical of me not documenting the conflict.

Well that's in effect documenting anything really to start with, is it not?
---Right. There is an error by the way on this document.

And what's that.---The sixth dot point down it says on 13 August JC asked me to type a letter, that should have read 16 September.

20 Now paragraph 7, the seventh dot point, why is that there?---Um, because obviously after the event I was concerned of the appearances.

Why?---Well, for the reasons that you've been stating I was concerned if it came out people would say, you're trying to buy work.

Why would you, why would you be concerned about that?---Just the appearances.

30 So that you acknowledge whether you're buying work or not there is an appearance, isn't there, that you could be buying work?---That's certainly the appearance, yes.

That's exactly what trying to be stopped by these code of conduct is it not?
---It is.

Not only that people are buying work but there's appearances that this is happening?---Correct.

40 THE COMMISSIONER: On that basis Mr Ross-Smith would it be fair to say that it was actually when you created that document that you realised of, you realised that the potential conflicts of interest had arisen?---No, I think it was before that, I think it was increasingly as time from August to February went by.

Right. So it wasn't just in the last couple of days that you've been sitting there that you realised there was a conflict of interest?---No, I was concerned at the appearance that there might be.

MR POLIN: So you realised this conflict at some time before this document was created, are you able to be more precise in when it was before?---No, um, I think the last time I walked back from the bank with Joe I even said something flippant to him like, the probity auditor would have fun with this or something. So it was obviously was on my mind as the second day progressed.

10 Right. When you say something flippant, why, why is there anything flippant about that?---It was meant in a flippant manner that's what I mean by that.

Why?---I was so nervous I had a knot in my stomach, I was so concerned at what I'd done that I guess it was just a flippant comment in passing.

Why then at that point in time that's on the 10 August 2012, why then didn't you declare or complete one of the conflicts of interest documents?---Well, because there was no procurement underway at the time.

20 You don't need a procurement to be underway to complete a conflicts of interest document do you?---I know that now, yes.

Why didn't you do that then?---Because it didn't occur to me.

Why didn't you then immediately go to your employer and say I believe I've created a conflict of interest for us?---I wish I had.

So you believe that's something you should have done - - -?---Absolutely.

30 - - - on that day.

THE COMMISSIONER: Mr Ross-Smith, would it be fair to say that because you assumed the legitimacy of the reason that Mr Camilleri was providing to you that you allowed that to overwhelm your obviously natural instincts that there was something wrong with this transaction?---I would say that's true. It was, as I have said, very emotionally charged, he was in tears, I saw him in tears often over those two days and, and after

40 MR POLIN: So it was the story that you believed that overwhelmed your sense of I suppose doing the right thing, is that correct?---Correct.

But the second day did you really believe the story?---Less so but I think I wanted to believe it because I knew that was the only way I was going to get the money back.

When you challenged Mr Camilleri about his version of the story he produced a document in support of it didn't he?---Oh, many months later, yes.

When was that?---Um, well, I had started the secondment on the MR8, on the reform project so I suspect it was late November or even December of 2012.

Can I just show you this document?---Thank you.

10 It's page 320, I think actually in your statement you say on one occasion, sorry, this is your file note in December 2012 you were shown a document purportedly from the Commonwealth Bank. Is that a copy of the document you were shown?---No.

THE COMMISSIONER: Sorry, did you say no?---No.

It's not the one you were shown?---It's very similar in parts but it's not the letter.

MR POLIN: Are you sure about that?---Yes, I'm pretty sure that the letter I saw had Mr Camilleri's name and full address as the addressee.

20 Sorry, an address has been taken out of the letter, you were probably shown the letter that had the address but it's now been whited out but it was Jessica Camilleri's name on the letter?---My recollection is that the letter itself was longer, it had more body and it was definitely address to Mr Camilleri. This wording is quite different.

Right. Commissioner, I don't think I tendered the file note, if I could tender that.

30 THE COMMISSIONER: Yes, the file note page 1789 is Exhibit 9.

#EXHIBIT 9 - "FILE NOTE" PROVIDED BY MARK ROSS-SMITH

MR POLIN: Might the witness be shown Exhibit 9. And do you see it's, I think it's bullet point 8 about halfway down you were shown a letter purportedly from the Commonwealth Bank saying amounts of 44.2 and 45.7 or thereabouts would be released on or before 17 December?---Yes.

40 And you see when you say 44.2 and 45.7 I take it you mean million there? ---Ah, well, I was trying to be as accurate as possible to the, to the letter as I remembered it, yes.

Well, all I'm getting at is that looking at your file note there does this jog your memory as to this being in fact the letter that you were shown in December 2012?---Well, I can say it's similar but I'm, I'm fairly sure that the letter that I saw was addressed to Joe Camilleri.

Right. Other than that were the contents the same?---Ah, they, I believe they cover the same issues, I don't for example remember the words "to your power of attorney Mr J F Camilleri" because if it was addressed to him it wouldn't have had that and I don't remember those words.

Right?---But in - to all intents and purposes it's the same story.

Right. And at the time he gave it to you or showed it to you, that's in December 2012, you told him you thought the letter was a forgery?---I did.

10

And you told him you thought it was a forgery because the signature was illegible?---Is that a question?

Is that correct?---Yes.

That there was no accompanying name with the signature?---Yes.

The amount, the amounts were inexact, is that correct?---Yes.

20

There were no dollar signs attached to the amounts described?---Yes.

And the spelling of the word repaid in the letter was incorrect?---Yes.

Now in this letter the signature is illegible?---Yes.

There's, there's no name attached to the signature, is that correct?
---Correct.

30

The amounts described are imprecise?---Yes.

They don't contain dollar signs with them?---Yes.

And the word repaid is misspelt?---Well, the word is paid in this letter, it was definitely repaid in the letter I saw.

Right?---This, this is not the same letter.

40

Excuse me for one moment, Commissioner. But certainly the, the spelling of the word paid in the letter is misspelt every time isn't it?---In this letter it is, yes.

Yeah?---You were asking me if this was the same letter I saw - - -

No, I understand that?--- - - - and I'm telling you it's not.

Yeah. But in terms of this letter it's not, you say that your recollection is the word repaid - - -?---Correct.

- - - was in the letter?---Yes.

And it was misspelt?---Yes.

And was it misspelt in the same way that the word paid was misspelt?

---Yeah, p-a-y-e-d, yes.

10 Not something you would expect a bank to misspell?---Well, there were many issues with the letter that, that I was concerned with. To my mind this is a typical bank statement form which has been doctored, letters, I get letters from the Commonwealth Bank, they're not on this style of, of form - - -

Right?--- - - - in my experience.

You told Mr Camilleri this?---Yes.

20 What did he then say?---He said but I got it directly from my, I think he said solicitor in Melbourne um, so it must be right or words to that effect.

So the letter was in similar terms to this one?---Very similar and the same sort of condition, a photocopy of a photocopy.

It referred to large amounts as in I think you said about 44.2 million and 45.7 million?---Yeah.

And it referred to the word, well, you recall the word repaid being used rather than paid?---Correct.

30 And your recollection is the letter was actually addressed to Mr Camilleri? ---Yes.

And - - -?---With his full address.

With his full address?---Yes.

And he told you that he had actually received it from solicitors Melbourne? ---That's what I understood.

40 And that's the reason he gave for it being genuine when you challenged him about it being a forgery?---Yes. Um, as I remember it he said it was faxed to him which would explain the slightly tacky appearance.

But of course if the letter was addressed to him at his address it would have been a letter no doubt that he received?---That was another issue that concerned me.

And what did he say about that?---I didn't put that to him.

Now in terms of the amounts referred to there its confirmation that the Commonwealth Bank was holding in excess of \$90 million?---Yes.

And was he suggesting to you that he or he and his daughter were at some stage on the payment of some further money to be the beneficiaries of \$90 million?---That's what this letter was meant to purport.

10 But was that what he was suggesting to you as well?---He, he was more concerned about the, the 80,000 that was outstanding, that if he could raise that then the 90 million would come.

Right. But he's, he's suggesting to you that once he's got the 80,000 and paid it over 90 million was coming to he and his daughter?---I assume that's why he showed it to me. He was trying to borrow some more money, that's, that's what this was meant for.

20 Okay. Did you ask him about the \$90 million?---Not specifically. I, I, I say I can remember sitting back in my chair and saying, "Joe, this is bullshit, mate."

It's like a big lotto win isn't it?---Yeah, it's ridiculous. It was typical of the story which just got unnecessarily complicated as time went by.

And - - -

30 THE COMMISSIONER: Mr Polin, are you going to be much longer with this witness? He'll probably have to come back tomorrow in any event for further questions.

MR POLIN: A few more minutes but I'm happy to wait till tomorrow if that's - - -

THE COMMISSIONER: All right. We might, we might leave it there. Mr Ross-Smith, you can stand down?---Thank you.

And if you could return tomorrow at 10 o'clock.

40 **THE WITNESS WITHDREW** **[4.01pm]**

THE COMMISSIONER: Mr Harris, is Mr Harris still here?

MR O'BRIEN: Oh, he's, he's left, Commissioner.

THE COMMISSIONER: He's left. Oh, all right, well, I'll raise this with him tomorrow. The email that he showed Mr Campbell in cross-

examination hasn't been marked for identification. Anyway, I'll raise that later.

MR POLIN: I suppose while I'm at - could I tender the Commonwealth Bank letter.

THE COMMISSIONER: Page 320?

MR POLIN: 320, yes.

10

THE COMMISSIONER: Yes, that will be Exhibit 10.

#EXHIBIT 10 - LETTER WITH CBA LETTERHEAD ADDRESSED TO JESSICA CAMILLERI DATED 22 OCTOBER 2012

#MFI 1 - EMAIL FROM RAY OWEIS TO GAVIN CAMPBELL "RE JOE CAMILLERI GM MC&C ROLE" DATED 21 JANUARY 2013

20

THE COMMISSIONER: Mr Silver, can I, can I just return these folders to you for the time being rather than confuse myself with material that's not in evidence. Yes, thank you. I'll adjourn to 10.00am tomorrow morning.

**AT 4.20PM THE MATTER WAS ADJOURNED ACCORDINGLY
[4.02PM]**