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INDEPENDENT COMMISSION AGAINST CORRUPTION

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PUBLIC HEARING

OPERATION SPECTOR

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON WEDNESDAY 26 FEBRUARY 2014

AT 2.00PM

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

THE COMMISSIONER: Yes, sorry.

MR KATSOOLIS: Commissioner, Peter Katsoolis, solicitor. I seek leave to appear on behalf of Jessica Camilleri.

THE COMMISSIONER: Yes, Mr Katsoolis, that leave is granted. Thank you.

MR KATSOOLIS: Thank you.

10

THE COMMISSIONER: Yes, Mr Polin.

<JOSEPH FRANCIS CAMILLERI, on former oath [2.01pm]

MR POLIN: Mr Camilleri, I asked you before the break some questions about one of the phone calls we had. It's clear, wasn't it, that your daughter was instructing you to destroy some documents or some evidence?
20 ---She was suggesting that, yes.

Well, she was not suggesting, it was a clear instruction, wasn't it?
---Which I didn't follow up on, yes.

Yes. And you were saying that you believed that that was an improper thing to do?---Yes.

You would readily infer from receiving an instruction from her for you to destroy documents that it's likely that she had already destroyed documents,
30 wouldn't you?---No.

Wouldn't you infer that?---I wouldn't know what she had physically did at that point, no.

But you would, you'd think, having told you to destroy documents that she probably would have destroyed any documents that she had possession of?
---I couldn't answer that, I don't know what she did.

I'm asking you to answer it, I'm asking you wouldn't you immediately
40 assume that she had done that?---Well, I'd say she would be considering it, I don't know if she'd done it.

Did you ever tell the ICAC investigators- - -?---No.

- - -about the conversations you had?---No.

That wouldn't be consistent with your reputation as Mr Probity, would it?

---I, well, I don't know about my reputation, but no, I didn't, I didn't inform them.

Mmm. Sir, do you know what a Power of Attorney is?---Somebody has control over somebody else's dealings.

And at some stage did you have Power of Attorney over Jessica's running of these cases and the like?---She claims I did but I don't think I ever did.

10 What do you mean, you must know if you did or not?---Well, I didn't, I don't – she, well, she said that she put me up as the Power of Attorney for something and I can't recall what that was.

At some stage were you also a guarantor on the mobile phone- -?---Not, not that I recall I was a guarantor, I paid for whatever outstanding fees there were, I don't- - -

20 Do you remember telling Mr McCarthy at one stage that you had been a guarantor?---I remember Mr McCarthy mentioning that but I don't remember saying that.

Now, I want to play for you one more intercepted telephone conversation and suggest to you that this took place on 15 July, 2013. Do you understand that?---Yes.

That's about six weeks prior to the two conversations I've already played. Do you understand that?---Yeah.

30 So this is at a point in time halfway through 2013 at about six weeks before the ICAC raid?---Ah hmm.

Do you understand that?---Yep.

The phone call took place on 15 July, 2013, at, commenced at 11.48am.

AUDIO RECORDING PLAYED

[2.05pm]

40 MR POLIN: Mr Camilleri, you don't seriously suggest after that phone call you believed a word that Jessica was telling you do you?---Again, I believed that she needed money to finalise this issue and that's what that argument was all over.

Okay. Well, if we go to the specifics, some of the specifics of that conversation. You said this, "Jess, you're the one they are going to arrest as much as me, mate. We are both going down the gurgler."?---Yeah, taking people's money and not paying them back, yeah.

Why do you get arrested for taking people's money and not paying it back?
---I don't know, that's, that's the impression or that's what I thought.

Oh, Mr Camilleri - - -?---Well, you asked me, that's what I thought.

You think if you borrow money from someone and you don't pay it back
you go to gaol?---Well, the amount of money that was involved, yes, I
thought so.

10

Oh, that's just nonsense isn't it?---Not in my eyes, no.

You knew that you were doing things that were quite improper didn't you?
---No.

You knew you were doing things that were illegal at this stage didn't you?
---No.

20 You knew that you were going to be arrested and you were going to go
down the gurgler didn't you?---No, no.

I'll move on to another part of the conversation, "And that's what you are
doing to steal, you're stealing the money to fucking keep you living like a
queen over there, is that what you're doing?"---Well, that - because she - -
-

They're your words aren't they?---Yes, but - - -

30 So that you were suggesting that your daughter was stealing money from
people to live like a queen?---Yeah, it was a - - -

That's what you said didn't you?---Yes, it was a - - -

You're saying to her that she is stealing money from people to maintain a
lifestyle didn't you?---Yes, but - - -

40 It's nothing about borrowing money from people with a legitimate excuse
that she's paying legal fees is it?---It was in the heat of the argument that
she said she was going to Lebanon or threatened to which was just a threat
and that's, that was my reaction to it.

Then further you on you say to her this, "Oh well, I don't lie any more
Jessica because enough is enough"?---Yeah.

Remember that?---Yeah.

"I don't lie any more Jessica 'cause enough is enough"?---Yeah.

It's clear from that you're acknowledging that prior to that you had been lying?---Yeah, well depending what I was lying about, yeah.

It's clear from that that you'd been lying?---Not lying. I, I just said that I'm not going to say any more, finding money for her that's what I meant by that.

No, you did not?---Yes, it is.

10 See finding money for her is not lying is it?---No.

Finding money for her using a story that's not true. That's lying isn't it?
---Yes.

20 So what you were saying there is that you weren't going to lie any more, in other words you were no longer going to tell people this story which at this point in time you didn't believe any longer, you are no longer going to tell them that to get the money, that's what you were saying isn't it?---I was, I was, I was frustrated and upset at the time saying enough's enough, how much more money do you want.

It's not what you said?---Well that's the content of that whole story.

Well it's not, that's not the - - -?---It is, she was after more money, she kept pushing me, she's saying tell people one thing and not another and I said I won't do that.

30 Yeah. She's telling you to tell people something that's clearly not true?
---No. On about getting not what the money was for at the end but whether or not we needed more money and I said I won't do that.

That's not what you're saying. You were saying that you wouldn't tell a story that was untrue?---That's right.

Is that right?---Yes.

Yeah. So that you're accepting that you had previously been telling a story that was untrue?---No.

40 Okay. At least you'd accept then from this point you're not going to tell a story that's untrue. So you're not telling, you're not going to tell people what Jessica was telling you to tell them?---I, well that's what I thought at that point, yes.

So you must have then known from this point that what she was telling you was untrue?---No. What she wanted the money ultimately for I still believed it but she, but - - -

What, to go and live in Lebanon - - -?---No, no.

- - - like a queen?---No. The money for – she needed more money for her solicitors is what I believed it was for, right and people were getting sick of the story and I guess she wanted me to say that don't tell people that I need more money that's what that was about.

That's not what that conversation – do you want it played back again?---No, well I can read it here, it's, it's said - - -

10

Okay. Well read it, you, you show me any part of that that suggests that you continued to believe her story but you've just decided not to help her and borrow money from people?---No, she was talking about this Jeff person where, where um, she wanted me to tell him, not tell him 'cause she said I needed another \$1000 so I rang and told him, she must have told him that she needed nothing.

THE COMMISSIONER: Who is Jeff?---Someone outside of RailCorp.

20

But you must have known who she was referring to?---Yes, I know who Jeff was.

Well who was he?---He was someone outside of RailCorp.

Well that doesn't help us very much. Do you know his name?---Yes.

Well what was it?---Jeff Shanahan.

30

And was he a friend of yours or a friend of your daughter's?---Mine.

He's a friend of yours?---Well he was an acquaintance, yes. But he, he'd been talking to her direct.

And was it Jeff Shanahan who said, "I don't give a fuck she's a lying little cunt of a bitch"?---Yes.

He said that to you?---Yes.

40

And what, you didn't think that that was a rather extreme comment?---Well he'd been going off, he was upset, he wanted his money back.

MR POLIN: And he said that you, you and your daughter were going down?---Yeah, he was threatening me.

Yeah, what were you going down for?---'Cause I owed him money.

Why would you be going down because you owed him money?---Well, that's, you'd have to ask him.

I take it you owe the bank money?---Yeah.

You wouldn't suggest that you're going down because you owe the bank money?---They were his words, not mine.

Okay. Well, then go back to, "Jess, you're the one they are going to arrest as much as me, mate."?---'Cause again I believed the amount of loans we had outstanding that we were in a lot of trouble.

10

Have you ever heard of anyone go to gaol because they couldn't pay back their home loan?---No.

Have you heard of banks foreclosing and selling people's houses- - -?
---Yes.

- - -because they can no longer pay a home loan?---Yes.

20

Indeed ultimately you sold your house because the bank pressured you on the loan?---Yes.

Did you ever for one moment think that you were going to go to gaol because you didn't pay your home loan?---No.

Why would you then say, "Jess, you're the one they are going to arrest as much as me, mate."?---Because people were, were threatening to go to their solicitors and take me to court to get the money and I just assumed if I couldn't pay the moneys that I'd be in a lot of trouble.

30

You may be in a lot of trouble, you might get bankrupted or something like that?---Yeah.

But why would you be arrested?---I just assumed I would be.

Why? I've just gone through the example of your bank, do I need to go through another example?---Okay, and now, now I understand I can't be arrested for it. Is that what you're saying?

40

Well, what do you mean now you understand?---I - - -

Did you ever understand, ever understand that you could be arrested because you failed to pay money to someone that was owed?---The large amounts that were involved I thought I was, yes.

So if you've got a big house and you've got a big mortgage it makes a difference, does it?---I don't know.

If you go bust owing a big amount of money to a bank you might go to gaol

whereas if you've got a little house and a little mortgage you don't go to gaol?---I don't know.

What do you mean you don't know?---I don't know. I honestly believed I would, I was in trouble and I'd probably get arrested for taking the money off people.

Are you ever going to tell us the truth- -?---It is the truth.

10 - - -in this inquiry?---It is the truth.

That can't be the truth?---It is the truth.

Do you think anyone in this room believes that you're telling the truth on that aspect?---I don't know what everybody's thinking in this room but that's what I believe, what I know is the truth.

20 And you've acknowledged that up until that point of time that you'd been telling lies?---No.

You did, didn't you, in the phone call, you said, "Jessica, I'm not going to lie any more."?---She wanted me to tell, didn't want me to tell Jeff that she needed the money and I said, no, you've got to tell people.

Well, how can that be a lie?---Oh, well, that's the words I used.

30 Well, how can it be a lie? You generally pick the words you use being words that are needed to be used, don't you?---Well, you saw what she wanted me to say and I said I wasn't going to say that.

No, you said, "I don't lie any more, Jessica." So you're suggesting that she was wanting you to tell a lie, but you're also suggesting that previously you had lied?---No, I hadn't.

You don't do that sort of thing any more?---That's right.

Are you someone who generally lies?---No.

40 Are you sure about that?---Yes.

Once this all was uncovered have you at all times told people the truth about what happened?---I believe so, as I know it.

You haven't deliberately lied to anyone about what happened?---I don't believe I have, no.

For example, RailCorp undertook an investigation, didn't they- -?---Yes.

- - -in relation to the loans?---Yes.

They called in an outside firm of solicitors to investigate the matter?---Yes.

They interviewed people in relation to what had happened?---Yes.

And they interviewed you in relation to what happened?---Yes.

10 And you lied to the investigator, didn't you?---I don't know if the word lie is what I did.

What would be a better word?---Well, I- - -

Did you tell the truth?---He asked me did I borrow from subcontractors.

You know exactly what I'm about to ask you about, don't you?---Yes.

20 And it can be seen in no other way other than you lied to him?---Okay, well
- - -

Think about it, can it be any other way?---Well- - -

Do you want to use a different word?---No. He asked me a question, whether I borrowed from subcontract, subcontractors.

Ah hmm?---I understood that to be companies and I said no, I haven't.

You've seen the report, haven't you?---No.

30 Can I read just this out to you. This is from the person who interviewed you. Do you remember who, who it was that undertook the investigation?
---Tony Woods.

Yeah, from Henry Davis York?---Yes.

He said this, "Mr Camilleri initially told us that he didn't request loans from any contractors to RailCorp." That's right, isn't it?---Yes.

40 You originally told him that you did not request loans from any contractors to RailCorp?---Yes.

Is that right?---Yes.

And that was a lie?---Well, I guess I didn't put two and two together the people I asked were contactors.

No, no, it was a lie wasn't it?---It wasn't, I wasn't lying at the time but it can be perceived as a lie, yes.

How can it be anything other than a lie because as at, this was taking place in - the report was in February 2013, when were you interviewed by Mr Woods?---Yeah, I can't recall, before that time I think.

Some time before, was it towards the end of - - -?---Yeah, it went on for several months, yes.

- - - 2012?---Yeah.

10

How can it be anything other than a lie, you knew you'd lent money or borrowed money from RailCorp contractors?---I guess my understanding what a contractor was was not the individual I was talking to.

Okay. Well, we'll come to that. "During our interviews with lenders we were told that Mr Camilleri had approached a contractor named Andy Taylor." Remember that?---Yeah.

20

"When I asked Mr Camilleri directly about Andy Taylor he acknowledged that he'd received a \$1,000 loan from him and had repaid it. Mr Camilleri apologised for not mentioning Mr Taylor earlier. He said he'd forgotten about it."?---Yes.

"Mr Camilleri said he had approached any other contractors."?---That's right.

That's just a lie isn't it?---Well, if you're going to - yes.

30

It can be nothing but a lie at this stage can it, because - - -?---Okay, I'll admit it.

You admit it?---Well, well, in, in the context you're putting it, yes, it's - it looks as though it's a lie.

In any context it was a lie wasn't it, not that it looks like - - -?---Okay, that's a lie.

- - - a lie, it's a lie?---Right, it wasn't the full truth.

40

Yeah, because he'd found out - first of all you said you didn't borrow money from any contractors, then he found out from someone else that Andy Taylor had lent you money?---Yeah.

He confronted you with that and you said I'm very sorry, I forgot but I haven't borrowed any money from any other contractors?---Right.

Is that right?---Yeah.

And who was Andy Taylor?---Oh, he was one, he was working on a safety contract or something.

Did you even know his name?---Andy Taylor, yes.

Did you know him as Andy from Safety?---No, I knew him as Andy Taylor and he was working on the 22nd floor where I was at the time.

10 Tell me, sir, at this point in time why didn't you then turn around to the investigator and say I've also borrowed money from Mark Ross-Smith, I also borrowed money from Terry Coleman, I also borrowed money from Anthony Courtman, I also borrowed money from Alan Cavanagh, I also borrowed money from John Janik, I also borrowed money from Kevin McCarthy, why didn't you do that?---Because the loans were private between us as individual adults.

They were more private than the loan from Andy Taylor were they?---No, it was the same, that's why I didn't mention Andy initially.

20 I know, but then when you were told about the loan with Andy Taylor you didn't then volunteer the other loans did you?---No, no.

And that's because you didn't want RailCorp to find out that you had sought loans from external contractors did you?---I thought it was private.

How could you be thinking that having been directed to the loan from Andy Taylor? They've already said at that stage and you said I'm sorry, I forgot Mr Taylor, yeah, or is it the case that of all the loans you got you just happened to forget the ones involving contractors?---No.

30 No?---No.

So it's just a lie, it's a deliberate lie attempting to deceive the investigators wasn't it?---No.

What is it then?---I saw it as a private loan between me and the people involved.

40 You keep coming back to that but why was the loan for example to Kevin McCarthy - no, well let's say Anthony Courtman, why was that any different to the loan to Andy Taylor?---It wasn't.

It wasn't?---No.

So well, why didn't you disclose it?---Because he was contracting with us at the time so I didn't see him as a contractor.

“Mr Camilleri said he hadn’t approached any other contractors,” “hadn’t approached any other contractors.”?---Yeah.

And you’re saying because Anthony Courtman wasn’t contracting to you at the time it wasn’t - you didn’t consider him a contractor?---Yes.

But he was contracting to you very soon after - - -?---Yes.

- - - he got the loan wasn’t he?---Yes.

10

He was contracting to you at the time you were asked the question by Mr Woods wasn’t he?---I don’t know, don’t think so.

Okay. If that’s an honest answer how do you then deal with Mark Ross-Smith?---Yeah.

He was contracting to you at the time you were asked the question he was contracting to you at the time you obtained the loan?---Yeah.

20

He was contracting to you at every time wasn’t he?---Yes.

What’s your excuse with him?---There’s no excuse.

Because it’s just a lie?---Yes.

So you’d lie to the investigator for the, of the internal State Rail investigation, you’ve been caught out lying haven’t you?---Yes.

30

Why wouldn’t you lie to this investigation?---Because I’m on oath here.

It’s different is it?---Yes, I wasn’t on oath then.

So you lie when you’re not on oath?---No, I don’t lie.

But you don’t lie when you’re on oath?---I was in that particular case.

Well how do we know when you’re lying and when you’re not lying? You’ve been shown out to be lying on something very important and fundamental to that investigation?---That’s right. And it cost me my job.

40

Yeah. How do we know when you lie and when you don’t lie?---You don’t do you, how do you know anyone’s telling you the truth or not the truth.

Yeah, that’s exactly right. And we had all these people coming, giving evidence saying you’re Mr Probity you never lie?---That’s, that’s not what I heard they just say I was, in their view, Mr Probity I guess using your words but I never said that I never lie.

You heard the evidence from Mr McCarthy didn't you? He thought that he could lend you money not disclose it to anyone yet you would be totally impartial and objective in all decisions notwithstanding that?---Yes.

That was the extent of your integrity?---Yes.
But you're someone who would like to a RailCorp investigation?---(No audible reply)

10 That's correct isn't it?---(No audible reply)

Can I show you this document. This is page 260. That's a list that you kept of people you borrowed money from wasn't it?---That's right.

It's a list that was seized as part of the ICAC investigation when they raided your house?---That's right.

And it's a list dated 23 October 2012?---Yes.

20 So it's a list as at 23 October 2012 it was probably reasonably fresh in your mind?---Yes.

Within a very short space of time of 23 October 2012 you were asked to prepare a list to give to Mr Campbell weren't you?---Yes.

Might the witness be shown Exhibit 5.

That page 2 is a list of people that you gave to Mr Campbell isn't it?---Yes.

30 And missing from that list is every single contractor that you borrowed money from isn't it?---Yes.

You're attempting to deceive Mr Campbell weren't you?---I was asked to put down all RailCorp people I borrowed money from.

You were asked to put down the people, all the people that you borrowed money from you weren't you? You knew that - - -?---From RailCorp.

40 You knew Mr Campbell would be very interested in seeing that you'd borrowed money from RailCorp contractors?---But that's not what the question, that's not what I was asked to put together.

You knew that they were looking into your borrowings at work didn't you? ---No.

Are you that stupid? You knew that they were looking into your borrowings at work, that's what this was all about wasn't it?---When, when this came up? Yeah, yeah.

And you knew that you borrowed money from people who worked at RailCorp?---Yes.

And you knew that you borrowed money from contractors who worked for RailCorp?---Yes.

In terms of those two categories of loans which were the category of loans that was going to get you into the most trouble?---(No audible reply)

Do you need to think about it?---No.

10

Which one?---Obviously the contracting one.

That's exactly right. When you're asked to provide details of the loans that you had obtained the first thing RailCorp would want to know is the loans you obtained from contractors wouldn't they?---Yes.

If you were sitting on this investigation in Mr Campbell's place as Mr Probity the first thing you want to know was the loans from contractors wouldn't you?---Yes.

20

You didn't disclose a single loan, did you. Then when the investigator came in and asked the question you again didn't disclose a single loan from contractors, did you?---That's right.

Then somebody else said something about a loan from a contractor and he raised that with you?---Yes.

You then confirmed that you did borrow \$1,000 from a contractor, didn't you?---Yes.

30

You then confirmed with him yet again that you had borrowed no other money from contractors, did you, didn't you?---That's right.

Yet notwithstanding that you had fresh in your mind the list of 23 October, only a week or so before, listing all the contractors you'd borrowed money from?---That's right, all the, all the private individuals I borrowed money from.

40

The only way you could look at that is that you have deliberately attempted to deceive both Mr Campbell and the RailCorp investigator. That's correct, isn't it?---And, and, and I lost my job because of it.

I understand that?---Yeah.

There were consequences?---Yeah.

But that's what you, you did at the time, you deliberately attempted to

deceive them?---Because I was, well, I didn't deliberately, I was asked to put a list together and then, yes, in the investigation.

Indeed the letter to Gavin Campbell you mentioned that at that stage you'd actually even received legal advice?---Yes.

Was the legal advice that you should attempt to deceive Mr Campbell and that was probably the best way you can get out of it?---No.

10 Was the legal advice that you should attempt to deceive the investigator and that was the best way to get out of it?---No.

Was your legal advice to be honest and open and tell the truth?---Yes.

Do I take it you then didn't accept and chose not to do what your legal advice had been?---No, I, I put together the list of people within RailCorp that I borrowed money from.

20 Mmm. And did you say, by the way you should be aware I borrowed money from some contractors as well?---No, no, I did not.

And you did that in circumstances when you knew it would be important? ---Well, I, I, I considered them as private loans.

THE COMMISSIONER: Mr Camilleri, the focus of this whole discussion was about private loans that you say you had sought from various individuals?---Yes.

30 Well, there was nothing other than private loans that you were discussing, whether they be from your subordinates within RailCorp or whether they be from contractors. Isn't that right?---Well, I was, I was specifically asked RailCorp employees, they're not RailCorp employees.

No, you're missing the point. You keep saying that you didn't disclose these other contractors because you regarded them as private loans? ---That's right.

But the whole discussion was about private loans?---That's right.

40 All of the loans that you received you claimed were private loans? ---That's right.

Well, there was no basis was there to distinguish between private loans that the RailCorp employees had made to you or private loans that contractors had made to you?---That's right, and I wasn't comfortable giving this list but I was trying to cooperate in giving the list of RailCorp employees so they could see the size of it, that's what the whole intention of it was.

MR POLIN: Commissioner, might I just interrupt that to tender those transcripts of the intercepted telecommunications.

THE COMMISSIONER: Do you want them separated or shall we tender them as one Exhibit?

MR POLIN: They can probably be as one Exhibit. I'll read out what they are. The first is dated 29 August, 2013 at 10 minutes past 3.00 in the afternoon, it's referred to as session 1847. The second is the same date at 19
10 minutes past 3.00 in the afternoon, it's session 1854, and the third is dated 15 July, 2013 at 11.48am, it's session 992.

THE COMMISSIONER: Yes. Those transcripts will be marked Exhibit 40.

**#EXHIBIT 40 - BUNDLE OF TELEPHONE INTERCEPTS
BETWEEN JOE AND JESSICA CAMILLERI:**

- 29 AUGUST 2013 AT 15:19 PM (SESSION 01847)
- 29 AUGUST 2013 AT 15:10 PM (SESSION 01854)
- 15 JULY 2013 AT 11:48 AM (SESSION 992)

MR POLIN: And could I also tender while we're at it the list dated 23
20 October, 2012.

THE COMMISSIONER: Yes, that will be Exhibit 41.

**#EXHIBIT 41 - HANDWRITTEN LIST OF PERSONS TO WHICH
DEBT IS OWED DATED 23 OCTOBER 2012**

MR POLIN: Now, Mr Camilleri, who did you get the legal advice from in
30 November 2012?---Through Jessica I got advice.

Through Jessica?---Yes.

Does that mean you got the advice from Jessica?---Well, she claimed she went to a, she spoke to her lawyer that was dealing with it at the time and um, again she said because of the situation that I couldn't table any evidence although I tried and tried and tried.

Mr Camilleri, I take it you knew your job was on the line at this stage?
40 ---Oh, I was feeling uncomfortable, yes.

Indeed, did you have a discussion with Mr McCarthy at some stage after you were dismissed suggesting you should have challenged the dismissal?
---Ah, could of but my - yeah.

When your job's on the line it's got nothing to do with Jessica, why wouldn't you have gone and got some legal advice?---I, I went to the, to ah, oh, that was after I was terminated.

10 Yeah. No, at this point in time Mr Campbell's asked for a full explanation, you said that you went and got some legal advice, you didn't get legal advice at all did you, you just went and asked Jessica?---Yeah, yeah, it was about what the loans were for, they wanted evidence of the loans and I couldn't give them that.

Surely you wanted to go and get some legal advice to work out what your position was. You were incredibly worried that you'd borrowed money from RailCorp contractors weren't you?---I was worried about borrowing from everybody.

20 Well, even more so from the contractors because you've agreed that you in fact tried to deceive Mr Campbell and the investigator about it?---Well, I was worried about that and every, everyone else on the list.

Why wouldn't you go and get some legal advice at this stage?---Because I had nothing to hide, I'd borrowed money from individuals, from other adults that lent me the money and I thought there was nothing wrong with that.

30 Well, you've told RailCorp that you've got, you'd sought legal advice but you didn't?---About why I borrowed the money.

Mmm?---Like what was the case and which I couldn't get.

If you had nothing to hide and you want people to believe that why didn't you tell anyone about the contractors, the loans?---Because it was private between me and those individuals.

40 I don't understand that. Why is, why aren't the other ones private between you and the individuals?---It was.

Okay. Now as well as that Mr Campbell had found out in June 2012 that you'd been borrowing money hadn't he?---I think it was around that time.

And he gave you a direction not to continue borrowing money from RailCorp employees didn't he?---Yeah, he asked me not to, yes.

And you told him that you would not?---I said yes.

That's right isn't it?---That's right.

You lied to him?---Yes.

You immediately - - ?---I didn't lie to him at the time, I believed I wasn't going to after that but then again I believed it was a personal issue so I continued.

10 You lied to him, you told him that you would not go and borrow money from RailCorp employees?---Yes.

And you immediately went and borrowed money from RailCorp employees?---Yes.

Nothing other than a lie to him?---Okay, put it down as a lie.

And I tell you what, he didn't ask you to swear on the Bible so it doesn't really matter?---No.

20 He came to you again in August 2012 when he found out again you'd continued to borrow money didn't he?---Yes.

Again he said to you, "I gave you a direction not to borrow money from any more RailCorp employees," didn't he?---Yes.

And you told him that you wouldn't borrow money from RailCorp employees didn't you?---That's right.

30 You lied to him again?---Yes.

So I take it that you were by at this stage at least someone who was quite ready to lie about, well, anything pretty much?---Not anything, no.

Why not anything?---Because I didn't.

Well, you lied to him twice over this particular matter?---'Cause I needed the money to resolve the issue.

40 So if you needed something you would be happy to lie about it?---No, not happy about it at all.

You'd be happy to lie to someone if it meant giving - you got some sort of benefit?---No.

Well, can you explain how you deliberately decided to lie to Mr Campbell - - ?---At the time I wasn't, I didn't deliberately decide to lie, I genuinely meant what I said but unfortunately issues came up and I had to get some more money.

Which meant that you were lying to him?---It turned out to be a lie eventually.

And you were also disobeying a very clear direction by someone above you?---That's right.

You were clearly someone who would disobey directions if it meant that you get some sort of benefit?---No.

10

Is that correct?---No.

Well can you explain it?---Explain what? I - - -

How it's been given two very clear unambiguous directions by Mr Campbell you immediately chose to disobey them - - -?---Again, again I wasn't, I believe it was a personal issue and they didn't really have a right to tell me not to borrow money from people.

20

Well did you say that to him?---I did say it was a personal issue.

Yeah. But you when he's directed - - -?---Yeah.

- - - you to you acknowledge that you would obey the direction didn't you?--Yes, I - - -

You didn't challenge him and say it was a personal issue?---I did say it was a personal issue.

30

Now well coming to that, Mr Camilleri, you've heard at least two people give evidence that you were a person who wouldn't socialise or drink with someone after work because you felt that could create a perception because later on down the track you might have to make a difficult decision involving that particular person. Did you hear that evidence?---I heard that.

Is that correct?---I - no, it was taken out of context, I - - -

They both took it out of context did they?---Well one said he heard it from somebody else and - - -?

40

Yeah, I understand that --- - - - one, one said he heard it straight from me. The person heard it straight from me was, everybody was trying to get me down to the, to the local pub every Friday afternoon and I said I'm not interested 'cause I prefer to go home with my family and I thought look, don't, stop asking me 'cause one day I might have to sack youse, tongue and cheek and it's been taken out of context.

Okay. So you weren't someone of such integrity that that's something that concerned you?---That's their personal business if they want to go down.

You won awards didn't you for your probity and your - - -?---For integrity, yes.

Yeah. What was the award you won?---Oh, I think it was the integrity award I think. There was a couple of awards I won but they weren't about integrity and the other one was about a life time career achievement award.

10

And I take it from the very fact that you won those sorts of awards you were someone that was acutely aware of perceptions, conflicts of interest - - -? ---Yes.

- - - all those sorts of things?---Yes.

You've heard people come and give evidence and they've, they've had some difficulties struggling with some of the concepts haven't they?---Yes.

20

You wouldn't would you?---In the interpretation of the Code of Conduct, yes.

Would you?---Yeah.

Right. Because you've constantly maintained that these are just personal loans?---That's right.

Right. You heard Mr McCarthy's evidence about your personal friendship didn't you?---Yes.

30

And you'd agree wouldn't you that you were a longstanding friend of Mr McCarthy's?---We've known each for many years, yes.

Yeah. And you like Mr McCarthy were fundamentally involved in the L3C tender and subsequent contract?---That's right.

You knew from the contract that's written here in black and white that people that had friendships had to disclose them in writing?---That's right. And I - - -

40

Now I assume that didn't mean people who were friends at RailCorp had to disclose it it meant people at RailCorp who are friends with people at UGL - - -?---Yes.

- - - had to disclose it?---That's right.

And it had to be disclosed in writing?---Which I believe I did.

You did?---Yeah, I remember at the time we raised it with the probity officer, I said look I know a lot of the people at UGL and MainTrain for many years does that expose me in any way and sorry, does that expose me in any way and the advice I got was do you socialise with them outside of work and I said no, I don't which included Kevin, I don't.

Well Kevin said you did?---Well we don't.

10 But you did, you obviously don't now but you did?---No.

Well he said you did?---Well you have to ask Kevin that.

Well I did ask him and that's what he said?---Yeah. Well we didn't.

Okay. So he's lying?---I mean maybe at Christmas functions that's about it.

He's lying about it?---I don't know if he's lying about it but - - -

20 Why would he lie to get himself into trouble?---Don't know.

Can you think of any reason?---No.

It would be in his interests to come along and say I'm not a friend of him?
---I don't know, I don't know if Kevin said that we socialised outside of work.

He did?---He said we were good friends for many years.

30 Yeah. And he said you socialised out of work?---Well we didn't.

But you'd agree the contract required you to disclose a friendship in writing and you didn't do it did you?---I asked the probity officer I said there was many people besides Kevin that I knew for years over that side, is that an issue and he said do you socialise with them I said no, I do not he said okay he said well just put down – we talked about the MainTrain alliance board so we said we'd put everybody under the umbrella under the MainTrain alliance, that's how, that's who I was advised to do it.

40 And you've maintained that these loans were just personal?---Yes.

They didn't create any issues at all for anyone?---Not at the time, no.

It was no one's business but yours?---Between me and that individual.

Yes. And you heard Mr McCarthy's evidence and it was along similar lines, wasn't it?---Yes, yes.

And you borrowed \$428,000 from Mr McCarthy, didn't you?---That's right.

Now, tell me this, if you honestly believed it was just a personal thing and it was no one else's business, do you agree with Mr McCarthy when he said that if that loan had been made in mid 2010 smack bang in the middle of the L3C tender process, he said he wouldn't have disclosed it and it wouldn't have needed to be disclosed. Do you agree?---No.

You don't?---No.

10 You would have disclosed it?---I probably wouldn't have asked if he was, if we were in the middle of a contract like that.

Why? It's just a personal loan between you and a mate?---'Cause it's like you said, it's about the perception.

Yeah, it's always about the perception, isn't it?---At that, at that time, yes, I understand about perception.

20 And is it just because the L3C contract's a billion dollar plus contract?
---No.

Would it make any difference if the contract was for \$1,500?---No.

No?---No.

It's just about perceptions?---Yes.

30 So every single loan you obtained had with it its own perceptions and problems, didn't it?---You could look into that, that's why we're here I guess.

Well, I'm asking you, you're the one who went and borrowed the money, you kept maintaining- - -?---I still said it was private between two adults and yeah, people can perceive whatever they wish. I can't stop perception.

40 But isn't that what the Codes of Conduct and the conflict of interest provisions are about?---It was more, it was more around the issue of if you borrowed from organisations and organisations gave you money. It did not talk about personal issues with people. So my mind was quite clear that I'm not borrowing from the organisation, I'm borrowing from somebody I know and they're using their personal funds and that was it and it had no, no relationship in my mind.

Organisations are made up of people?---Yes, but I'm talking about their funds themselves, their own- - -

A company is just a legal entity, isn't it?---Yeah, but the company's funds.

Yeah, but you've heard Mr McCarthy's evidence is that what Mr McCarthy was paid was directly related to how well UGL as a company did on a yearly basis. Do you see that?---Yeah.

You heard that?---Yes.

And I take it you understood that?---Yes.

10 So that if Mr McCarthy was to do something that increased the profitability of UGL it increased the profitability of Mr McCarthy as well, didn't it?
---I guess, I don't know.

Well- - -?---I don't know how their bonus system works, I have no idea.

Well, you- - -?---I didn't even know he was on a bonus system.

You heard in evidence about it?---I heard him and that's the first time I ever heard about it, yeah.

20

Yeah. But you would anticipate wouldn't you that people such as Mr McCarthy who were the big managers for a very large bid such as the L3C contract- - -?---Ah hmm.

- - -would be on some sort of incentive or bonus scheme?---Well, that's- - -

That's what you'd expect, wouldn't you?---Well, I don't, I don't know what their pay rate system was. That's the first I heard that he was on a bonus.

30 That's what you'd expect, isn't it?---Expect what?

That that's, he'd be on some sort of incentive scheme?---I didn't know he was, I didn't expect he was, I thought he could have been just on a salary like I was.

I know you thought he could have but you would expect people such as Mr McCarthy in those kind of positions would be on some sort of bonus, that the more or the better their company did, the better bonus they got paid?

---In some companies, yes, other companies, no, I- - -

40

Yeah, but you seem to want to differentiate the loans as being purely personal loans. They could never have been purely personal loans, could they?---They were purely personal loans.

Hmm.

THE COMMISSIONER: Mr Camilleri, tell me this. In relation to any of the contractors from whom you borrowed money, did you say to each of

them, oh, and by the way, now that you've lent me this money it's really not a good idea that you tender for any upcoming contracts at RailCorp?---No.

Why not?---Because it was their companies that would tender, not the individuals.

Well, a short time ago in answer to one of the questions you said that you did not consider that there was anything wrong with borrowing from a contractor on the basis that that person or that person's company was not at that particular time receiving any work from RailCorp?---Yes.

And you acknowledged that if any of them had been receiving work from RailCorp at that particular time you wouldn't have approached them for a loan, that was what you said?---Well, at the, at the time, yes.

Well, then what follows from that is that you would have to have told each person from whom you borrowed money that the fact that they had loaned you money would thereby preclude their company from being part of any tender - - -?---No.

- - - to RailCorp as long as the loan was outstanding?---No, sorry, I see that I wouldn't have asked them if they were putting a tender in.

But how would you know because it may not be obvious for another few months that such a tender might arise and therefore be - - -?---Yeah, but, yeah, sorry, but if I was involved in the tender process or whatever I would have declared, declared that I borrowed money and I didn't want to be involved on any of the panels.

Oh, that wasn't what I understood you to say from your previous answer. Your previous answer suggested that you would not have approached any contractor for a loan if at that particular time the contractor was receiving work from RailCorp?---Yes.

MR POLIN: But you did?---Yeah, Mark, yes.

Sorry?---Yes.

Just dealing then with some of the loans, because there's clearly too many to deal with all of them, Mr Rochecouste?---Yes.

You borrowed money initially from him on 26 June, 2012?---Yes.

\$5,000 and I think shortly thereafter another \$2,000?---Yes.

You then asked him again for money and he - - -?---Yeah.

- - - refused any further money, is that correct?---Oh, I think so, yes.

You showed him the ANZ Bank letter didn't you?---Ah, I can't recall what I showed him but I showed him something I can remember.

If he said he showed you, if you showed him that letter would he be telling the truth?---Yes, yes.

He wouldn't be lying about it?---No, no, he'd be - - -

10 And that was a letter where you were trying to in some way justify the story that you were giving him?---Yes.

And I want to suggest to you that at the time you showed him that you had no belief yourself that the letter was anything other than a fake?---Not true.

Now might the witness be shown Exhibit 25. Sorry, 25 first and 26, 26 first. If you look at Exhibit 26 first you'll see that they're documents dated 1 October, 2012 and 3 November, 2012, do you see that?---Yes.

20 And you've heard all this before so you must be expecting these questions and you must have had time to think about the answers no doubt. You've signed a form there giving Mr Rochecouste higher duties?---That's right.

You see that?---Yes.

And he's acknowledged that he got a pay rise in getting those higher duties? ---That's right.

30 That was at a time after you had borrowed \$7,000 from him?---That's right.

Prior to having repaid any money to him?---That's right.

Do you think there's a problem with that?---No.

Why not?---Because um, before I did that um, I, I spoke with Gavin Campbell about that and he said yes, we'll leave Pierre in there.

Did you say to - - -?---'Cause he actually - - -

40 - - - Gavin Campbell I shouldn't be making a decision on this because - - -? ---I didn't - - -

- - - he has lent me money and I can't be objective and unbiased in making this sort of decision?---No, because I, I didn't make the decision, I signed the paper because that's the process but Gavin Campbell made the decision whether to leave Pierre in there or not, or Mr Rochecouste.

You were involved in it weren't you?---I just signed the paper and said that because I was to stay where I was longer the discussion was who are we going to leave in there and Gavin said - - -

And you would have said, Gavin we'll leave Pierre there?---I didn't say that, no, he knew Pierre was in there and he said we'll just leave Pierre staying there.

10 On the face of that document until you come and explain anything it would appear wouldn't it that you have decided and authorised that Mr Rochecouste was going to stay in the position?---Yes.

And he was going to paid the higher amount of money?---That's right.

20 It may be small but why is this any different from lending money during the, the L3C contract?---I, I don't see the relationship, it just, he was doing higher grade and it was just a process that we went through regardless I borrowed money off him or not he still would have gotten the higher grade 'cause he was doing a good job.

That's what you say?---Obviously - - -

Because you're hardly likely to turn up today and say well Mr Rochecouste was hopeless but - - -?---Well again I didn't make the sole decision.

- - - because he lent you money I owed him a favour so I thought I'll leave him in the position. You're hardly likely to say that here are you?
---Because that's not the fact that's why I don't say it here.

30 As Mr Probity how do you sit down and look upon this if you were, it wasn't you it was someone else making the decisions?---I guess in hindsight I shouldn't have signed the paper Gavin should have I guess.

Everyone seems to do things in hindsight?---Yeah.

Why do you, why wouldn't you have thought that at the very time it was done?---Because I didn't see it as a, as an issue because it was just a normal process that we would have done.

40 Your person that won all the awards didn't you for your probity and integrity?---No, no, I just won an integrity award for that period in 2011.

Then if you look to Exhibit 25 that's an email from Mr Rochecouste to yourself of 8 August 2012?---Yes.

"Joe, this morning Sam Cassar came to me, he wants to put his hand up for a VSP". Do you see that?---Yes.

“I’ve requested him to send me”, that Mr Rochecouste an email, “which I will then use to contract Kelly Bond to see if he could be added to the list. Regards Pierre?”---That’s right.

Do you see that?---Yes.

At that point in time you had lent money or borrowed money sorry from Mr Cassar hadn’t you?---That’s right.

10 The answer you would have expected to that email would have been, “No problems, Pierre. You go ahead and send the email and contact Kelly and see what you can do about it.” At very least that, possibly I shouldn’t be involved in this because I borrowed money from Mr Cassar?---Well again it was - - -

That’s what it should have been shouldn’t it?---No.

20 That’s what it should have been shouldn’t it?---This again was I had the contact with Kelly at the time because of my role on the reform programme and I was going there anyway so just give it to me because he’s past the date.

No, sir, it says that he’s requested - - -?---Yeah, and it was part - - -

Pierre has requested that Mr Cassar send an email, send him an email and then Pierre said, “I’m going to go to Kelly Bond and I’m”, that’s Pierre is going to see if he can be added into the list?---That’s right.

30 And what you’ve done is you’ve interfered in that process haven’t you?
---Well I tried to help.

You’ve interfered in the process, you’ve tried to help Mr Cassar?---Mr Pierre.

You’ve tried to help Mr Cassar by saying, “Pierre, give it to me I’ll talk to - - -?---No, no.

- - - Kelly”?---That wasn’t the intention.

40 You had no need to do that did you?---That was not the intention. No, I was, I just doing it - - -

Of course that’s what you’re going to say?---It was a very frantic time, we wanted to get the numbers on the books so I was involved in the VSP and, and that - - -

Very frantic time, you were busy. Why would you want to make yourself more busy?---Because that was part of my role.

Why would you want to make yourself more busy - - -?---Because I was - - -
- - - by taking on a task that Mr Rochecouste had clearly said to you in no uncertain terms that he was going to deal with?---Yes. But again as I said I regularly saw Kelly before he did.
You could go to her and put in a favour, seek a favour, put in a good word for Mr Cassar couldn't you?---No, no.

10 Because you owed MR Cassar a favour?---It would be totally, at that time difficult to stop it happening because we had, it was just a mandate, anyone that put their hand up goes.

Are you telling a lie about this?---No.

How do we know?---I don't know.

We don't?---You don't do you.

20 Because you're someone who does lie aren't you?---Not on, not oath.

Not on oath. You then in terms of Mr Rochecouste you saw that he was going to be one of the first witnesses called in the case didn't you?---I saw that, yes.

And you contacted him to pay back some money?---That's right.

Why did you do that?---Because the money was available that weekend and I know that Pierre was in a lot of trouble with personal reasons at home.
30 He's, he was ringing me up to, the day before, well not the day before but weeks before asking for the money back to help with his family.

Mr McCarthy's been in a lot of strife too hasn't he?---That's right. And he garnished half the money off me.

Yeah. Why didn't he give it to Mr McCarthy?---Again it wasn't my money it was my wife's money.

Well, why didn't we go down the list, Mr Oweis, Mr Pederson, Mr McColl,
40 Mr Vavayis?---There's a few other people I'd like, I'd like to pay but I've, I've stopped since.

Mr Graham, Mr Howlett, Mr Neville?---Yep, yep.

Mr Cassar, all these people. Why was it you happened to pick one of the people who was going to be first called at the inquiry?---Because, because Pierre was in a lot of strife.

Okay. So then we'll pick out another person at random, will we. We'll pick out Mr Courtman?---That's right.

A person who's not in strife?---No. He was a small amount of money and he lost his job because of me and I felt terrible so I thought he'd be one of the first I'd pay back when I had access to money.

10 And he was, out of all the witnesses called in the first week it was only Mr Rochecouste and Mr Courtman who you probably could have paid?---No.

Was it just a lucky coincidence that they were going to be- - -?---I paid somebody else as well.

A lucky coincidence that they were going to be two of the first witnesses called?---I guess it would be, but there was no other intention but I owe people money and I wanted to start paying them back.

How can it be seen as- - -?---Oh, I know.

20 - - -anything other than attempting to influence people- - -?---I, I didn't realise that at the time.

Well, so why- - -?---And I paid someone else off that's not a witness but I did pay someone else.

30 If we just look at the witness list for the first week, you have Mr Campbell, he didn't borrow any money, Mr Mason had clearly told you he wanted you to pay other people back earlier, Mr Rogers, he didn't, you didn't get any money from him, Mr McCarthy, you had your own issues going with him, so other than Mr Ross-Smith, Mr Courtman and Mr Rochecouste were the first two to be called?---Yeah.

Just an incredible coincidence, was it?---Like I said, I owe people money and also I paid another individual as well.

But an incredible coincidence that you happened to pay or offer to pay back two of the first witnesses as opposed to- - -?---Yes, and it was no intention of bribery if that's what you're implying, none at all.

40 What about the other hundred people that were owed money?---I want to, would love to be able to pay all of them.

Mmm. Now, Mr Ross-Smith?---Yes.

He was not a friend of yours, was he?---So I've heard.

Sorry?---So he's claimed, yes.

So are you trying to make Mr Ross-Smith a friend now?---Well, I guess my definition of a friend is different. I thought he was a friend.

So you're trying to distance yourself from Mr McCarthy, you're not so friendly with him?---No, no, I said I was a friend with Kevin as well.

Yeah, I put to you that you socialised with him as he indeed said he had and you wanted to distance yourself from Mr McCarthy?---No, I didn't.

10 Mr Ross-Smith said he was not a friend of yours?---That's right.

He was an associate, a colleague at work?---Yes.

He was nothing more than that, was he?---Well, I guess no.

At the time you borrowed money from him you would very, you would see him very irregularly, wouldn't you?---Well, we'd see him through the project, once a fortnight, once a week, I'm not sure how regularly.

20 Well, he thought, I think he may have said that it may have been every three months or so?---I thought it was much, much more frequent than that.

But it would be irregular contact- - -?---Yes, yes, yes.

- - -solely related to work?---Because I was working elsewhere, that's right.

Yeah. Your contact with him was solely a work contact, wasn't it?---Yes.

30 How was it ever going to be a personal thing between you and Mr Ross-Smith?---Well, 'cause I asked him that this is a personal issue, private issue.

But he's not a friend, it's- - -?---I asked him, he was an adult.

Yeah?---I said, "Could you help me with this situation?"

He's also a contractor who's doing work for RailCorp at the time you asked for the loan?---That's right, that's right.

40 You targeted Mr Ross-Smith, didn't you?---Not targeted, I went down and saw him, yes.

Well, he sent you his CV on 8 August, 2012, didn't he?---Yes, because I needed to forward that on, yes.

Well, he sent you the CV because he saw that there was a particular position that he was interested in?---No. What happened was at the time through the reform there was an area that needed a restructure of their logistics area and I know that Mark is an expert in that field and I spoke to people, they said

do you know anybody, I said, "There's somebody working down on the, on the LC3 contract that's an expert, if you want to have a talk to him that's up to youse." So - - -

He sent you his CV - - -?---Which I forwarded to, to those people.

Expressing an interest in a particular position?---It was that position I think we were talking about.

10 Yeah, I'm just trying to get the timeline of this correct?---Yeah, yeah.

So on 8 August, 2012 he sent you a CV expressing an interest in a particular position?---Yes.

This man that you saw only every few months in relation to work at that stage was then contacted by you the very next day seeking a loan?---Yes.

How does that look? Pretty bad doesn't it?---Well, there was nothing in it so - - -

20

Just incredible chance again like the witness list?---It's - - -

Out of all the people you could have contacted you contacted him - - -?---He was, he was one of many.

But you contacted him the day after he was putting in an application or his CV in to you for a job that he wanted?---Yes.

Did you target him?---No.

30

You thought Mr Ross-Smith needs me - - -?---No, that's not - - -

- - - to help him get this job?---Definitely not.

So what I'll do is I'll go and he'll lend me some money?---Definitely not.

That's what it looks like doesn't it?---Definitely not.

40

Just looking at it as Mr - - -?---It may look like that but that's not what happened, not what the intention was at all.

As Mr Probity looking down upon this, someone else doing this, how would you have viewed it at the time you're winning your awards at RailCorp for integrity, how would you view this?---Yeah, I understand where you're coming from from the perception but that's not - - -

Yeah, how would you view it?--- - - - what the reality its.

I'm asking you how you'd view it?---I'd have to find out the facts.

Well, I'm telling you the facts?---Yeah, but I would have to find out the facts as well.

I'm telling you the facts?---Yes.

10 The facts are that a person goes to a, another person, a contractor goes to a senior executive in RailCorp expresses an interest in a particular job?---Yes.

The very next day that senior executive at RailCorp goes to the contractor and seeks to borrow money?---Yes.

How do you look at that?---I don't know how you expect me to look at that.

Well, I'm asking you?---Oh, yeah, so what, that so, it happened.

Yeah, no, I'm asking you hypothetically on that situation?---Yeah.

20 And putting your Mr Probity hat on considering the awards you got for these sorts of things how do you view that behaviour?---I wouldn't have seen anything in that.

Nothing?---No.

Okay. You then got a loan and the very next day you go back and seek another loan?---That's right.

30 Had you thought that was pretty easy - - -?---No.

- - - I'll go back and hit him up for some more?---No.

Well, why did you go back to him, why didn't you go to someone else?
---Because I was talking to Mark at the time and I just wondered - - -

And then that second day you went into the bank but you wouldn't go up to the counter where the cameras were. Don't smile?---No.

40 Because you've heard all of this haven't you, you've had time to - - -?---No, no.

- - - know what to say so what are you going to say now in relation to Mr Ross-Smith's evidence that you said to him, pointing up to one of the cameras that that was the camera that caught the footage of the person that stole my daughter's identity?---I do not recall that at all.

It's a very specific - - -?---I know it was.

- - - piece of evidence that he gave isn't it?---That's right and I don't recall that at all.

Are you suggesting that he lied about it?---No, but I don't recall that saying, I wouldn't have, wouldn't have said that, I wouldn't even know what bank or wherever the people got caught.

Well, if you don't recall it and Mr Ross-Smith specifically says that was said I'd assumed that you would think that all of us would accept that it was
10 said?---Well, I guess so.

Yeah?---But - - -

So at some stage you must have been told by someone that a particular camera in this particular bank caught the footage of the person that stole you daughter's identity?---No, I don't, I don't ever remember saying that.

If you'd said it to him that would have just been a lie wouldn't it?---If I said it to him, I, I don't know, I did not say it.
20

I'm saying if you had said to him it would have been a lie wouldn't it?---I don't know if it would have been a lie 'cause whoever told me that I would have taken their word, their word from that.

Oaky. So obviously then you believe someone told you that, who told you that?---No one told me anything 'cause I didn't say it.

Okay. So you're saying that you didn't say it?---That's right.

30 And he's saying you did say it?---Oh, well - - -

Who do we believe?---Oh, well, I didn't say it.

Okay. So Mr Ross-Smith or you are lying about that bit, it's clear isn't it? ---Or, or don't recall it clearly.

THE COMMISSIONER: Well, Mr Camilleri, there have been a number of times when I've pointed out in the course of this inquiry that there's a very real difference between saying I don't remember something and denying
40 that it occurred. Well, if you are meaning to say in your answer that you didn't say something or you didn't do something you must make it clear that that's what you're saying, simply saying I don't remember doing it or saying it is not the same as denying that you did it or said it. Do you understand that?---Okay, yes.

MR POLIN: I took you through that. If the evidence comes out Mr Ross-Smith said he told me that that camera picked up this footage. Do you understand that?---Yes.

And you've got evidence, well, I'm putting it to you and you say, well, I don't remember saying that, it's likely that the Commissioner will find that Mr Ross-Smith's telling the truth because you haven't denied it, you just say you can't remember it?---Yeah.

She's not going to call him a liar for no reason. Do you understand that?
---Yes.

10 So if he's telling the truth and that was said, what possible reason could there have been at that time for you to have said that?---Again- - -

None at all?---I don't remember saying it.

I'm asking you, let's assume that that's correct and you don't remember saying it. Could there be any possible reason at the time that you would have said it?---No, I can't think of anything.

20 Did anyone at any time ever tell you that this specific camera in this specific bank caught the footage of the person that stole your- - -?---No.

No. So there could be no way in the world that you would have said it?
---Yes.

That's right?---Yes, that's- - -

30 So we move through. That means what you're saying is you did not say that to Mr Ross-Smith or you did say it to him and you said it to him knowing that it wasn't the truth. Do you understand the two?---Yes.

What was it, you didn't- - -?---I didn't- - -

- - -say it to him?---I didn't say it to him.

Right. So we're left with a situation where you say you didn't say it, he says you did say it?---Yeah.

Can you think of any reason why he would make that up?---No, I can't.

40 Okay. On the way back from the bank that day as well he said to you words to the effect, the probity auditor would have fun with this, wouldn't he? Do you remember him saying that?---Again I don't recall him saying it, I don't.

Okay. That would be a very unusual thing for Mr Ross-Smith to lie about, wouldn't it?---Yes.

Because what he's in fact doing, he's putting himself in a bit of trouble, isn't he?---Yes.

He's saying that at the very time that he was lending the money he was aware that there were probity issues about it?---Yes.

No reason in the world that he would lie to put himself into more trouble than he might otherwise be in, would there?---I don't believe so.

Did you say, did you recall him saying that to you?---No, I don't recall him saying it.

10

Right?---I'm not saying he didn't say it, I don't recall it.

Okay. If he did say it to you it would have given you clear warning at that time that what you're doing was inappropriate, wouldn't it?---I would have discussed it to him saying why does he believe that's the case.

Yeah. And he would have told you?---And then I would have said, well, I don't believe that's the case.

20

You would have just said, no, don't worry, it's just a loan between two individuals?---That's right.

And that's what you've done all the way through this?---That's right.

You've closed your eyes to what you've in fact done. Is that correct?
---I haven't closed my eyes, no. I believed I wasn't doing anything wrong in accordance with the Code of Conduct.

30

After the loans were granted and indeed on 15 August, 2012, you sent emails indicating that you'd brought Mr Ross-Smith on board for the particular project that he was seeking to get involved in, didn't you?
---I didn't bring him personally on board, no.

But you- -?---They're the, they're the emails, I remember the email that you tabled.

Yeah, it was your email and it said- -?---Okay, I used the wrong words.

40

- - -"I'm bringing on board Mark Ross-Smith to help you."?---Because they, they were- - -

You remember it, don't you?---They were pushing hard saying where are we at, where are we at, we need this person, we need this person and we had to go through a process to bring him on board.

And you said- -?---For better words.

-- "I am bringing on board this person," didn't you?---I could have said we are bringing on board, I used the word I.

Well, the email doesn't refer to any process, does it?---But it went through a process. You can't bring somebody on board without going through a process.

What's the process, where are the documents in relation to the process?
---You'd have to go back through the, through the paperwork.

10

Yeah, there is none?---Well, he was reporting to a manager who released him to go onto that project.

You're supposed to go through a process, aren't you?---They went through a manager.

Unless Mr Camilleri brings you on board?---No, I don't have that authority.

20

You then had dealings with him in relation to the extension of Everything Infrastructure's contract didn't you, you remember those emails?---Yes.

Do you remember the alteration of the rates?---Yes.

And the discussions in the email about how you could alter the rates under the original contract without going back out to some sort of tender process?
---Yes.

Do you remember that?---Yes.

30

You and he emailing and doing that?---Yes. 'Cause Reg Graham wasn't there that day.

So - - -?---He was, he was dealing, sorry, he was dealing with Reg Graham, he wasn't available so he flicked it to me.

40

Within a week of obtaining money from Mr Ross-Smith you were involved in dealings whereby he got benefits in terms of being bought on board to a new position and getting an extension of his company's contract in relation to the old position and upgrade of the amount paid. You don't - - -?---And I didn't authorise any of that.

You were involve din the decisions with that being done weren't you?---No, I facilitated it and other people made the decisions.

Apart from the amount of money how's that any different from the L3C contract, how's that any different from a, you being involved in a contract

negotiation in a tender with someone from whom you borrowed money?---I didn't borrow from him at that time on the LC3 contract.

No, no. I'm asking, you told me that in the tender process from the L3C contract you would never borrow money in the middle of the tender process?---Yes.

And if you had you would have declared it - - -?---Yes.

10 - - - for some apparent reason?---Yes.

How's this any different to that - - -?---Because I wasn't involved in any tender process.

How's this any different, I know it's not a big formal tender but it's the organisation of a contractor to get work from RailCorp whether it's tender, whether it's through any of the processes?---I just referred him which was part of my normal job.

20 That's not what any of the emails say is it?---He was, he was referred. I said here's a person that can do the job have a look at him, it's up to you if you want him or not, it wasn't my call.

And I take it, sir, you've heard people who've come, you've heard your sister come here, you've heard people that have lent you money that have come forward and said you know what I did the wrong thing?---Yeah.

You've heard that haven't you?---I've been - - -

30 You've heard that haven't you?---Yes.

From several of the witnesses that I've asked questions about, what, that's the meaning of benefit. You've heard it?---Yeah.

Meticulously over the wording of it and they've all eventually said yeah, I've done the wrong thing. You however will not accept you've done the wrong thing at all will you?---Well I've been dismissed for what I've done.

40 Yeah. 'Cause you've done the wrong thing?---So it's obviously the wrong thing, I've been dismissed.

I'm asking you questions about - - -?---But I didn't intentionally do it that's the difference. At the time I didn't believe I was doing the wrong thing.

Do you now think you were doing the wrong thing? See even now?---I think it, sorry, I think it can be perceived, yes.

Take out perceived, do you think you did the wrong thing?---I wouldn't do it again put it that way.

So that means you did do the wrong thing?---I probably, well I've been dismissed for it and the perception - - -

Was that as close as we're going to get, probably?---Yeah.

10 Then Mr Ross-Smith in December asked you this, showed you the Commonwealth Bank letter where he clearly told you that he thought it was bullshit?---Yeah.

That conversation took place didn't it?---Like I said he pointed out - - -

You don't remember?---No. He pointed out that he, the word paid was spelt wrong.

20 But you don't recall him saying to you that it was bullshit?---No, I don't recall him using those words, no.

Mr Courtman - - -?---Yes.

- - - Mr Courtman was a young chap who started at a new company wasn't he?---I - he, he was working for a company Third Horizon.

He'd worked for RailCorp for a period for years?---Yes.

30 And he'd only just moved into Third Horizon?---I don't know how long he was there for.

And you were aware weren't you that he was someone who was really keen to get work from RailCorp wasn't he?---Him like many other contractors.

Yeah. But he in particular he's only a young bloke?---No.

He's a young bloke isn't he?---He's younger than me.

Yeah. You saw him give evidence didn't you?---Yeah.

40 And back then he was a young bloke ;looking to get some work from RailCorp wasn't he?---From RailCorp and his other, other contracts I'd say, yes.

Yeah?---Yes.

RailCorp being one of them?---Yes.

And I take it that he was looking to impress the people of Third Horizon by bringing in some RailCorp work?---Probably.

Be really good for him if he was to get a RailCorp tender under his belt wouldn't it?---Yes, I guess.

He's not someone that you ever socialise with was he?---No, but we, we spent a lot of time together on the reform.

10 On the reform?---On the RailCorp, on the - sorry, when I was General Manager Rolling Stock the reform that I implemented there, he was heavily involved with that.

You worked for him when, you worked with him when he worked back at RailCorp?---That's right.

You started meeting with him in the early part of 2012 didn't you?---Yeah, I think he came and introduced himself and his company and his, his supervisor at the time.

20

Well, he wouldn't, he wouldn't need to introduce himself, you knew him didn't you?---Yeah, I mean like where he was and what he was doing.

Yeah. So he was coming to tell you he was now at this new company Third Horizon?---Yes.

He wanted to bring his supervisor across?---Yes.

30 And he was taking him across to see you, one of the head honchos at RailCorp?---Me and others, yes.

But you in particular and - - -?---I don't know if it was me in particular but he came and saw me.

Over that period from about April through to August 2012 there were several emails, without going through them all because you've heard the evidence about it, about contacts, he sent you an overview of Third Horizon's capabilities?---That's right because I, I wanted to understand what it was.

40

Yeah, and you said that you'd pass that on to others within RailCorp?---My normal, sorry, my normal part of my duties, yes.

Yeah. Did you ever at that stage say to him look, by the way you should be directing your attention to the people at WCCL?---Yes.

Did you?---Yes.

Why is he sending you the view, shouldn't it be going to WCCL?---Well, he expected me to forward that on 'cause I want to personally know what Third Horizon's capabilities were because at the time we were looking for extra resources to help us with the reform because we were, we were man, man short, we were hungry for people.

But really apart from your interest in knowing what they did they should have been directing your attention to WCCL shouldn't they?---To get themselves on a panel.

10

Yeah?---But they, but that doesn't mean, that's just putting yourself on a panel so that when we go out to tender, right, and we ask, invite them in to tender they're already on the panel - - -

Yeah?--- - - - which makes the process easier.

So they've got to get on the panel don't they?---That's right.

20

You can't put them on the panel?---No.

They've got to do that through WCCL?---That's one way, yes, through the panel.

Why then were you meeting with Mr Courtman and Mr Metzmacher on 15 August, 2012?---Again, they came around trying to find work and what was happening with the reform and who they could talk to on that floor and I referenced them to Mr Callahan who was a leader of the reform.

30

But why would you be doing that if the work comes through WCCL, that's the people that they've got to - - -?---Yeah, but they, they've got to, but WCCL are just a bunch of, for a better word, clerical people who manage the process. To understand if, if they're going to match the business requirements they go and talk to the business subject matter experts like myself and others like myself so they've got to get known within the industry, within the people that know what's going on so they say look, this tender's coming up, make sure you're on the panel, we're going to go to the panel and the panel would ask us who would you like us to go to in some cases, sometimes we'd say we want to go to a select tender, here's list of people, can you please go to those, can you think of anyone else, we'd, we'd

40

debate it, other times we'd say just out to the market and if it's just out to the market, if they're not on the panel they're not invited to come on.

That all sounds very transparent when you say it that way doesn't it?---Well, that's the way it's done.

But the emails going backwards and forwards saying, and this is - we went through it with Mr Mason and Mr Campbell, we want this particular style of company, this company's done the job before well, we recommend them,

the people you have on your panel don't have the expertise, those sorts of things?---Yeah.

But just a general job would go to WCCL, that's what their job isn't it?---That's right.

And it's been brought in so that there's no perception of favouritism - - -? ---That's right.

10 - - - in terms of giving work to contractors?---That's right.

Were you targeting Mr Courtman as well as a possible source of funds? ---Well, the word's not target but I did ring him up and ask him, yes.

Well, is it just again coincidence the timing of it, that you approached him on 13 August, 2012, only days before - - -?---Yeah, 'cause I didn't, I didn't have his contact details prior to that.

20 Oh, come on, Mr Camilleri, we've got emails back to April 2012 where you're emailing him, you've got the emails about the - he's already sent you in an overview of Third Horizon's capabilities?---Well, again, I hadn't talked to him for a while and I thought oh, maybe, maybe he can help me with my problem.

You rang him up on the 13th of August – two days before you were due to meet he and Mr Metzmacher – two days before?---Yes.

30 The meeting had been booked for over a week – I take it they're coming to meet you about potentially getting work from RailCorp?---Yes.

Nothing else?---Yes.

You've got two blokes work for a contractor that are very keen to get work from RailCorp?---Yes.

A lot of the RailCorp contracts are big money contracts aren't they?---Yes.

40 Two days before they're set to meet you, you ring up one of them and ask if you can borrow money?---Yes.

Do you think there's something wrong with that?---There was no intention the way you're implying it to be.

Do you think there's something wrong with that?---There was nothing wrong with what I did, no and I never linked that the meeting was coming up or nothing, it was just at the time I needed money so I rang him.

Two days before?---Well, could have been a week before, could have been a day before.

It was two days before all the documents – you only have to look at your emails?---Yes.

You look in your diary?---I don't even know if we had the meeting, I don't recall having the meeting, I don't know.

10 Yes.---But regardless, yes.

But all the documents seem to suggest - - -?---It may look suspicious but there was no intention at that.

And isn't that exactly what the code of conduct, the conflicts of interest - - - ?---It's about perception.

Yes. You said it looks suspicious?---Yes perception, yes. I admit that now, yes but at the time I didn't think that.

20

There's something wrong with it, isn't there?---It can be perceived that way but there was nothing done corruptly.

Then there's an email there which sets out clearly the firms that have been nominated by WCCL to go out to tender for the Benchmarking contract, do you recall that, do you need to see – tell me if you need any of these documents?---I wouldn't mind seeing that one.

Okay.---Because I'm pretty sure I nominated everyone on it.

30

Have you got dated 24th – excuse me Commissioner. We'll bring it up on the screen. This is an email from John Gilding, he's in WCCL?---No.

He's not?---No. He's the person that facilitated this for Chris and myself from my team.

In any event 23rd of August we've got (not transcribable) firms that Benchmarking should be sent to?---Yes.

40 Interfleet, Indec, is that Keys, GHD, Everything Infrastructure, MRT, Beca?---Yes.

Do you see that?---Yes and I nominated probably all of those on that list except for Beca, I don't know who Beca are.

Well there's no document showing you nominated it but there's clearly a document - - -?---No, no.

- - - from with that email listing the people who arrived. Do you see that?
---Yes and that was a - - -

And that's what your guide to isn't it?---Yes and, can I - - -

10 That's correct isn't it?---Yes, that's the list because that's all we knew at the time because WCCL people asked us who would you like to do this benchmarking because it's a unique, a unique area and because of my experience of what we did through the rolling stock reform these were the type of companies we knew that could put those, those, could handle this type of work – wasn't sure about Keys, but Keys presented themselves to me very similar to Third Horizon so we put them on the list. At the end of it when the list went up they said is there anyone else? And that's when Third Horizon.

You seem to have a very good recollection of all of this?---This particular one, yes.

20 You've had plenty of time because all the questions have been asked about it, haven't they?---(No audible reply)

Yet when I ask you questions about your interaction with your daughter and what she told you at any particular time you don't seem to be able to remember anything?---I tell you what I know.

Which is pretty much nothing?---That's right.

Yeah?---That's what I know.

30 Where on this email does it say firstly that it's – other than you being copied in on it, where does it say on the email please let us know if there's anyone else you want added to the tender list?---“Please do not hesitate to contact me should you wish to discuss.”

Where did, what does that say, you just said- - -?---That means here's the list that we're going to go out with, is there anybody else. And at that time Third Horizon happened to pop their head up and I said, put them on as well. That doesn't mean they're going to win it.

40 You just simply said, please include Third Horizon, regards Joe?---Yeah. If could think of, if I could find others I would because the bigger the pool the better.

Where is the disclosure in that, well, firstly where is it in that or where is the reason why you will be putting Third Horizon on?---Because they said to, to me and to Chris I think at the time that they could do this work. I said, oh, well, we'll give you a chance.

So if you rock up to Joe Camilleri and say, mate, we can do this work, you get put on a RailCorp tender panel?---To me or any other manager within RailCorp, yes. That's how- - -

That's how- - -?---That's how, that's how they introduce them, they either go, to through the contacts through the category managers or they go through the managers and we nominate them to the category managers and it's left out of our hands, the process looks after that.

10 Other than being shown a document, you didn't know them from a bar of soap?---Who's this?

Third Horizon. You just knew someone who used to work at RailCorp? ---I knew the capabilities of some of their people like Andrew Rogers and Anthony Courtman, very capable people.

Just from your work at RailCorp?---Yes.

20 There's nothing in that to suggest that you put them on for any particular reason associated to their capabilities, associated with their capabilities, is there?---No, no.

How do you think it looks, the fact that – just look at the email that's top of 940- - -?---Yep.

- - -in isolation and let's look at the fact that only a week, maybe a week and a half before this email you borrowed money from an associate director of Third Horizon?---Yes.

30 How do you think Joe Camilleri's email saying please include Third Horizon on a tender list looks?---From, yeah, they're, they're not linked, I didn't link- - -

Let's go back to the L3C contract?---Yes.

Big contract?---Yes, went out to – that wasn't a select tender, that was all public tender.

40 Right, right in the middle of it, before a decision has been made, all the tenderers are there, you've borrowed money from Mr McCarthy. This is hypothetical?---Oh, hypothetical.

Yeah. You said, well, firstly you said you wouldn't borrow money, secondly you said if you had you would have disclosed it at that point of time?---Yes.

How is this, apart from the size of the money, in any way different? We have a panel of- - -?---I wasn't on the panel.

It's a little bit worse, isn't it. We have a panel of people. How do you think GHD would have thought about this? They're on a panel and they've got a one in seven chances of, just on the numbers, of getting the job. How do you think they would perceive the fact that in this whole process an associate director of Third Horizon lends Joe Camilleri money, Joe Camilleri then sends an email specifically asking for them to be put on the panel alongside them. How do you think that looks in a tender process?
---Well, because I requested it doesn't mean it would have happened.

10

Why is it in any way different to borrowing money during the course of the L3C contract?---Because I was on the panel of the LC3 contract and part of the decision-making, I was not on this one.

You were involved in the decisions to the extent that you were able to put Third Horizon on the tender list?---Yeah, but I, that's part of my job, to find people out there that can help us.

20

Before that happened what were Third Horizon's chances- - -?---Equal.

- - -of getting this job?---Equal, equally I would have referenced them.

Before they were put on the tender list, what were their chances of getting the job?---They never even got the job.

Before you put them on the tender list, what chance did Third Horizon have of getting the Benchmarking contract?---They wouldn't, they wouldn't have because they're not on the list.

30

Exactly?---Same with Indec, same with all the other companies there, I put them all on the list.

Once they're on the list did you borrow money from Interfleet?---No, no, no.

Did you borrow money from Indec?---No.

Did you borrow money from GHD?---No.

40

Don't you see the difference?---No, I don't. If I was on the panel it would have been a different story.

Weren't you actually on the valuation committee for the bench marking contract?---No, I don't believe I was.

You don't believe you were?---No, I don't think I was. For the bench marking one?

Yeah?---Yeah, sorry, the bench marking - - -

You only say that 'cause - - -?---Is this the bench marking one? Yes, I was. Sorry, I was on the bench marking one.

You only said that 'cause I found that bit of paper?---No ,no, I, no, I - - -

Okay?---I'm sorry, I was confused, I was on the bench marking panel.

10 Well let's go back again. How's this any way different to the evidence you gave about the LC3 contract?---Because they didn't put a tender in, they withdrew before it went through.

You said you wouldn't have borrowed money and if you had you would have disclosed it?---Yeah, but they weren't - - -

You put - - -?---When, when they came to - - -

20 Mr Camilleri, you put them on the tender list - - -?---Yes.

- - - knowing – you didn't know they were going to pull out did you?---No.

You put them on the tender list knowing you were on the panel going to make the decision. Who do you think was going to get it?---I didn't think - - -

30 Who do you think was going to get it? You put them on?---No. I didn't think it was going get it, there was two or three other people on the panel besides myself.

But you've got the panel and you've gone back and said no, no, put Third Horizon onto it?---Yeah, put them in to put a bid in, yes.

When you're the one who's going to make the decision on it?---I'm one of the people.

40 Yeah. In circumstances where you had borrowed money from an associate director of Third Horizon. You've got to be able to accept that was wrong? ---Not putting on there if I, if they were on the panel and I didn't declare then yeah, I probably would have accept that.

That breached the Code of Conduct?---And I've lost my job, yes.

You would have been required to disclose the fact of the loan wouldn't you?---I think so.

And if you didn't disclose the loan it would be considered improper conduct?---Yes.

And in circumstances of that transaction I've just gone through that's exactly what happened isn't it?---It was, I referred them whether they were going to put a tender in or not I didn't know, all I did was reference them to them, if they happened to put a tender in I would have probably said something then.

Would you?---Yes.

10 There was in fact conflict of interest disclose put in, is it Mr Howell (as said)?---Mr Howell?

He was on the, he was on that - - -?---Was he?

- - - panel as well wasn't he?---I don't, don't remember.

He was asked to put in a conflict of interest disclosure that he knew people at Everything, at Third Horizon notwithstanding the fact that Third Horizon didn't even end up putting a tender in for it?---I, I, did he?

20

You were never going to put any sort of disclosure before the, the panel were you?---Yes, I was, I would have.

Excuse me just one moment. You in fact put a conflict of interest disclosure form in on the bench marking contract didn't you?---If it was a requirement I would have, yes.

And you didn't disclose any conflict of interest did you?---No, I don't recall, no.

30

It doesn't show any disclosure?---Yeah.

Was that the proper thing to do?---I didn't link the two together.

Well I just noticed that one of the other people on the panel was Everything Infrastructure?---Yes.

You'd lent money or borrowed money from Mr Ross-Smith hadn't you? ---Was it that time? I can't - yes.

40

Yeah?---It was around that time, yeah.

Yeah?---Yeah.

Do you want to just, I'll show you, can we bring that up on the screen?---No that's all right, I believe you.

Your disclosure doesn't say anything at all – so how do you think this looks. It's in no way different is it to our discussion about the L3C contract, you've made a decision there haven't you?---Again - - -

In circumstances where there was clearly a conflict?---Well, I didn't link it at the time.

This isn't a loan that you've made years you'd - - -?---I didn't link it at the time.

10

Then you're aware of course that Third Horizon didn't proceed with the benchmarking tender?---Yes, they notified us.

And you remember me asking Mr Courtman about the email subsequent to that, don't you?---His internal email is that the one you're referencing?

Do you remember the emails I asked Mr Courtman about that he'd contacted you to make sure that you were all right with the fact that you had put them on a tender list and they hadn't gone ahead with the tender?---Yes.

20

Might the witness be shown Exhibit 11. This was the email I asked Mr Courtman about, there was sent from him to Mr Metzmacher and Mr Rogers, do you remember that?---Yes.

Managed to speak to Joe Camilleri this morning – no issues with the no response, non-response?---Yes.

Appreciated our position and honesty. He mentioned that Chris would be going out for a programme manager and analytical support in the near future and we would be invited see that?---Yes.

30

So I take it that at about that time you told him that there was a contract that was going to go out?---Yes.

And Third Horizon would be invited?---That's right.

How on earth would you know that?---Well, again, we would went through the same process with the WCCL when they would have asked us who could we recommend.

40

Well, you've heard a lot of evidence about that haven't you and you've agreed that the WCCL is there to make things transparent?---Yes.

So that one contractor's not preferred over another?---That's right, that's what the process.

It's to stop things like you saying to Third Horizon by the way fellas, contract's coming up, you're going to be on the panel?---That's not uncommon.

That's exactly what WCCL's to stop isn't it?---No, WCCL is there to go through the process to make sure whoever's being nominated they are all treated equally.

10 No, they nominate - - -?---It's not about stopping you nominating people it's about the process that they use to be independent of us - - -

You've heard your superiors give evidence - - -?---Well, I'm sorry.

- - -but it's up to WCCL to in fact nominate the tender panel?---No it's not.

It's not?---No.

So that Mr Mason and Mr Campbell - - -?---Yes, they didn't get it right.

20 They didn't get it right?---Yes. We're quite often asked as managers who do you have anyone that you would like to add onto these panels. The process would treat everybody equal. So it doesn't mean that you've nominated that you get an advantage, what it does is it allows you to bring in extra people. The panel would so many because they don't know, sorry, they don't know the industry.

Your evidence is that the Chief Executive Officer of RailCorp didn't understand in giving his evidence the processes and the way the White Collar Contract Labour System is supposed to work within RailCorp?
30 ---I can't speak on behalf of Mr Mason.

But you just said he got it wrong, they were your words?---Well, - - -

You heard him?---Yes.

He got it wrong?---Yes.

I'm just asking you to confirm that, the Chief Executive Officer - - -?---Yes, but I don't know if it's his role to know exactly how that works.
40

He's the boss, he's at the top?---He's not supposed to know everything, he's got people like us to manage that.

So he would have said don't ask me I don't know how that part of the system supposed to work?---He probably honestly believed what he was saying was true from his knowledge of it.

Mr Campbell generally agreed too, didn't he?---Gavin, Mr Campbell was on, I guess on both sides he was saying yes we reference people on, he was asked that question.

And they said the only interference that there should be if there is a particularly unusual job that required unusual skills.---Yes, which all of these were.

10 Or if there was a particular contractor who had done exactly the same job before and had done it well?---Yes, which Mr Rogers did from Third Horizon.

And there will be times may be when a contractor was included on a panel that had done the job before and had not done it well?---I'm not sure about that, it's pretty broad but the, the point is that we are asked by the category managers who manager the process is there anyone else you want to put on this list.

20 Where's, in all the, where are the emails that say from WCCL to you saying who do you want to put on the list?---They come down to our office and we discuss the project.

Mr Rechoose as well seemed to agree generally speaking with what Mr Mason said about how WCCL process works, so he's wrong as well?---I don't think he's got it fully right, yes.

30 So all the people that still work there have got it wrong?---Well, my experience of it that they've approached me and asked me is there anyone else you can put on the list so I referenced other people and it went through a process.

The idea behind the WCCL panel, what's the reasoning for it?---It's independent of the business to make the decision on who gets the job but not who's nominated to go for the job.

Well WCCL doesn't make the decision who gets the job?---No, there's a panel that does it but they - - -

40 But part of WCCL?---WCCL is the process.

Yes, but they're not the panel, they don't make the decision?---No, no but they - - -

What they do is they put together the panel?---That's right and facilitate - - -

The panel then, sorry that's the tender list, the panel then goes to another body committee or panel to decides who wins the tender, that's correct isn't it?---That's right.

And you might be on the panel?---That's right.

As to decide who gets the tender?---That's right.

And what they're trying to stop is Mr Camilleri putting someone on the tender list and Mr Camilleri deciding then who wins the job, aren't they? That's exactly what the processes is trying to stop?---It doesn't stop you nominating.

10

It's the whole process is exactly about that, sir, it's trying to stop you both nominating the tender list and deciding who wins the tender?---I don't decide who wins the tender.

You do.---I don't.

You're on a panel?---I don't, I don't have the sole decision.

20

They're trying to stop you controlling the tender list and also controlling who wins the tender, that's exactly what they're trying to do isn't it?---Well then their system isn't very good then if that's the case.

The system as they've described it is that WCCL other than for rare circumstances which are wholly transparent for particular reasons, WCCL nominates the tender list and then - - -?---But they ask the business who would you like on the list.

30

And sir they then go to a panel which may include Mr Camilleri who decides on the tenderers that he hasn't nominated?---Or nominated.

So your understanding of how things should work at RailCorp is that Mr Camilleri should decide who is on the tender list?---No.

That's exactly what you're saying sir?---No, I don't decide, I was asked is there anyone that can do this type of work and I gave them a list of people.

So you're essentially deciding who goes on the list?---They asked other people.

40

Yes, but you're getting your people on?---Other people are getting their people on.

Yes. And then you're there to decide on it?---And so are the other people.

Yeah. And so how do you think that's going to work, who are you going to pick, the other people's - - -?---No, you go through it, that's where the process kicks in, you go through scoring every individual on the panel's

scores them, then it's weighted at the end and the person with the highest score normally gets the work.

So the way it could possibly work would be Mr Camilleri borrows money from associate director of Third Horizon. Mr Camilleri then puts Third Horizon on a tender list?---Yeah.

10 Mr Camilleri then decides whether Third Horizon being on that tender list wins that tender?---He doesn't decide, it goes through a process.

Yeah. He decides with other people?---He's one of four people.

Yeah. And Mr Camilleri is a person who pushes his weight around at RailCorp wasn't he?---No.

You heard the evidence of Mr Vavayis didn't you?---Yeah, and it doesn't mean I agree with it.

20 You, you - - -?---It's his view that I'm a head kicker, I don't know where he got that from.

Okay?---He's a very nervous character I guess.

Right. Well, that's his perception?---Yeah.

30 What if Mr Vavayis was sitting on the panel to make that sort of decision with Mr Camilleri, who do you think would win out?---It goes against the score because you can't tamper with the documents, you've got an independent from, from the Procurement group that sits in there who facilitates to make sure it's done properly.

Who do you think would win out if it got down to a decision between you and Mr Vavayis?---It'd be based on the facts, it's not about me being stronger than him, if there's a process there's an independent that sits there, we score it individually and it's weighted at the end of it.

So - - -

40 THE COMMISSIONER: The scores, Mr Camilleri, that you individually assign to these firms is a product of your own subjective values are they not?---That's right.

So you could put a score on one of the companies who were part of the tender which was much higher than the score - - -?---That's right.

- - - that anybody else might attribute, is that right?---That's right, it's possible.

And then when the weighting occurs naturally that score, that composite score is scored more highly?---No, no, and the panel then discusses the differences in the scores.

MR POLIN: But in any event this email with Mr Courtman, you'd led him to believe that before the tender list was even decided they were going to be on it?---Yes.

10 Because if Mr Camilleri said to WCCL include Third Horizon they would do exactly what you told them to do?---I would put them on the panel, whether they got chosen I don't know.

I understand that?---All I can do is, all - maybe the - - -

I'm dealing with the first step, sir?---Whose, whose words are these?

If you decide, Mr Camilleri decides he wants them on the tender list they go on the tender list?---Yes.

20 Yeah. It's not a decision for WCCL?---No, they can challenge it, they've got every right to challenge it.

But why didn't you say I'll recommend you for the tender list - - -?---Okay, I probably used the wrong words.

You know, don't you, that that was the truth of the matter and you in fact - - -?---No.

30 - - - agreed with it, if you say they went on the tender list they went on the tender list?---No.

And that's exactly what you said to Mr Courtman?---No.

And in that case they went on the tender list and you were again going to be the convenor, weren't you, of the, of the panel that - - -?---Well, they nominated me and I said I didn't want to be the convenor.

But you were going to be weren't you?---No.

40 How would that have worked?---Well - - -

You would have been deciding again on the matter of Third - - -?---Is this the benchmarking one or the, is this the - - -

This is the programme manager one?---The programme one, well, I didn't, I, I said I don't want to be involved in it.

How do you think, pick another one, who else would have been involved in the, the programme manager?---Chris Rowe.

No, no, who, what other companies would have tendered?---Oh, I'm not sure when you've got the panel, I don't - - -

How do you think, how do you think one of the other tenderers would have thought about once again within the space of a couple of weeks you've put Third Horizon up for two quite different contracts?---And, and- - -

10

Are they that good?---Yes. And other companies.

They were that good?---Yes, they are.

Or was it just the fact of the loan at the time?---No, they are that good, the individuals in- - -

If they were that good why weren't they put up for contracts before this? ---Because they came on board, they were, they won other contracts before.

20

It seems- - -?---When we were doing the major reform both Anthony and Andrew Rogers, Anthony Courtman and Andrew Rogers were heavily involved in the Rolling Stock Reform, this was all about reform, so they had the skills that required to do this and we were struggling to get people with the right skills.

And so just looking back on all the dealings with Third Horizon, do you think you did the wrong thing with that?---(No Audible Reply)

30

I take it you don't?---No, I don't.

THE COMMISSIONER: Is that a suitable time, Mr Polin?

MR POLIN: Yes.

THE COMMISSIONER: I take it you'll be further with Mr Camilleri?

MR POLIN: A bit further, yes.

40

THE COMMISSIONER: Tomorrow I think there are two further witness. Are they to be interposed or are we going to continue with Mr Camilleri in the morning?

MR POLIN: It might be better to interpose them. They go to a- - -

THE COMMISSIONER: A very discreet issue.

MR POLIN: Yeah, and they won't be long.

THE COMMISSIONER: All right. Well, Mr Camilleri can stand down.
We'll resume at 10.00am tomorrow.

THE WITNESS WITHDREW **[3.55pm]**

10 **AT 3.55pm THE MATTER WAS ADJOURNED ACCORDINGLY** **[3.55pm]**