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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE MEGAN LATHAM

PUBLIC HEARING

OPERATION SPECTOR

Reference: Operation E13/0275

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON THURSDAY 27 FEBRUARY 2014

AT 10.00AM

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

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

THE COMMISSIONER: Yes, Mr Polin.

MR POLIN: I call Terrance Coleman, Commissioner, if we could interpose his evidence.

THE COMMISSIONER: Yes. Just take a seat, Mr Coleman. Do you have anyone legally representing you?

MR COLEMAN: No.

10

THE COMMISSIONER: Have you spoken to anyone in relation to the orders that I might make under section 38 of the Act?

MR COLEMAN: Not (not transcribable) no.

20

THE COMMISSIONER: No. All right. Well, I'll just explain this to you so that you appreciate what it is that you are able to do. As a witness appearing before this Commission you are required to answer all relevant questions and produce any documents or any other things that you're asked to produced. You must do this even though your answers or production of documents might tend to incriminate you. However, if you object to answering any question or producing any document or thing your answer or the item produced cannot be used against you in any civil proceedings or subject to two exceptions in any criminal or disciplinary proceedings. So the first exception is that the, the, the protection does not prevent your evidence from being used against you in a prosecution for giving false evidence before this Commission and the second exception is that if you are a New South Wales public official which I understand you are or are not?

30

MR COLEMAN: No longer, retired.

THE COMMISSIONER: All right. Well, then the second exception does not apply to you. So in short compass then I can make a declaration under section 38 of the Act which essentially means that you don't need to object to every question that's asked of you in order to obtain the protection to which I've referred. Do you want me to make that order?

MR COLEMAN: Yes.

40

THE COMMISSIONER: Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by this witness and all documents and things produced by this witness during the course of the witness's evidence at this public inquiry are to be regarded as having been given or produced on objection and accordingly there is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

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

THE COMMISSIONER: Now, Mr Coleman, do you wish to be sworn or affirmed?

MR COLEMAN: Yeah, sworn is fine.

THE COMMISSIONER: Thank you.

MR POLIN: Is your name Terrance Francis Coleman?---That's correct.

Mr Coleman, I think you commenced working in the rail industry back in 1963?---9 December.

Was that for the Railways at that time?---NSWGR, yes.

10

Right. And did you continue working for the Railways for a period of time? ---I did, I left the Railways for private enterprise in 1993.

And where did you go in 1993?---I went over with the privatisation of the workshops at Clyde to the company Goninan and MainTrain.

Right. And how long did you continue with Goninan for?---Ten years.

20

And then what did you do?---I started out as operations manager to establish the place and then assumed the roles of maintenance programming and business development.

And when you left Goninan where did you go?---Oh, virtually was made redundant and part-time work after that which was 2003 ah, part-time work with EDI on another railway project and then some time after that preparing a tender for the takeover of MainTrain again when it was put back on the market I worked for Transfield to help them put a tender together for it.

30

That was part of the L3C tender contract tender?---That's right, yeah.

And so was that just contract work you were doing for Transfield work at that point in time?---Yeah.

So is it the case that from 2003 through to certainly at least 2013 you were doing part-time contract work for various contractors?---No, the contract, the contract work finished mid, mid to early 2012.

Right. And so after mid to early 2012 what did you do?---Nothing.

40

Right. Now at some stage you came to meet Mr Camilleri?---Yes.

When was that?---Oh, that would have been either the 10th or the 11th month of December, not long after that there was a change in Government and then the set up in the rail industry or transport changed.

Sorry, what year was that that you first met him?---2012.

No, first met him?---Oh, first met him?

Yeah, first met him ever?---Crikeys. 1982, thereabouts.

Right. And I take it you were working at RailCorp or State Rail Authority as it was probably known then?---I was in the workshops division at Chullora and Mr Camilleri was in the L car workshops at Chullora, the other end of the plant, it was about 3 K's away.

10 Right. And then you worked for State Rail through to, for about another 10 years after that?---Yeah, as I said up until '93.

Yeah. In those 10 years did you have much contact with Mr Camilleri? ---Not a lot initially, we helped out I think in one period where the L car workshops was in difficulty and seeing we had the locomotive workshops with traction motor repairs we helped out with some of the repairs on that to get them back on line.

20 So in that 10 year period it's from - - -?---That would have been, that would have been when Joe and I sort of met and got together and got to know each other with the exchange of work for the two programs.

Did you work closely with him at that time?---Not really no.

Would you have regarded him as a friend at that time?---It developed over that time.

All right. So by the time you left RailCorp in the early 90s - - -?---Mmm.

30 - - - was Mr Camilleri a friend?---Yes. We actually worked together on the um, the privatisation arrangements for, for - - -

So the early 90s when you left RailCorp or State Rail you were friends? ---We were friends not close friends but friends.

But that's what I'm asking - - -?---Yeah, mmm.

40 - - - I'm trying to get you to give some evidence about the relationship between the two of you what it was?---It was more or less a convivial arrangement, we spoke to each other relatively frequently, we didn't go out together, we didn't do things in private together but it was more a business arrangement a business friendship than anything else.

Right. You didn't socialise with him at all?---No.

And then from the time you left RailCorp through to 2012 that's about another ten years when you're - - -?---Mmm.

- - - I just understood you to say you were doing part-time contract work for various contractors. You mentioned Transfield was one of them and - - -?---
Yeah.

- - - and EDI is another?---EDI is another one with the Waratah project, I did a lot of the design and estimate work for the, the new depot.

10 Were they contractors who were either tendering for or doing work for RailCorp?---Transfield wasn't they were attempting to put a tender together to submit to RailCorp.

I said tendering for?---Yeah, tendering for.

Or doing work for?---And EDI was certainly involved in the construction or the application and construction of the Waratah depot.

20 Right. Did that work over that ten year period where you were working for Transfield and EDI bring you into contact with Mr Camilleri?---On very rare occasions if ever.

Now I think we know that Transfield didn't ring the L3C - - -?---That's right.

- - - contract. That was awarded at the end of 2011?---Mmm.

Is that correct?---I thought it was some time after that.

30 I think the contract started in July 2012 but the contract was - - -?---It was postponed a couple of times.

The contract was actually signed in December 2011?---I wasn't privy to any of that.

After your work with Transfield, so they obviously didn't win the tender, did that work then come to a stop?---Yeah.

40 Were you then looking for some more work at that point in time?---No, not really. Unfortunately I'm one of those people who's had a kidney transplant and the health doesn't always go the right way.

Throughout 2012 did you contact Mr Camilleri with a view to seeing whether there were some options available for work through RailCorp? ---Not whether there were options through the time that I was sort of out of the scene rumours were floating around that the equipment that I'd assisted in putting in at the Waratah depot some railway employees in control of it weren't happy with the results coming from it, so I made representations to Joe to find out who was responsible these days at that time because of the

changes, everybody had moved camps, the rail had been split in half again by the Government and re-arranged.

So you understood that people weren't happy with some of the equipment that you'd been, you'd installed some time earlier?---Yeah.

And what did you want to do in relation to that equipment?---I simply wanted to talk, find out who was responsible so I could talk to them to get to the bottom of the story and find out what the actual problem was.

10

Okay. So - - -?---So like I was working for IM at that time I was a representative and I put it back to them if I had found out the information, to find out what was wrong and get it fixed.

So this is in 2012?---12.

Right. So you've gone from Transfield you were working at IM?---I, no, I always had an arrangement with IEM, I'd had that since 2001.

20

And who are IM?---International electronic machine company over the United States.

So was it the case that you were trying to find out more information about what was wrong with this - - -?---That's right.

- - - machine with a view to possibly getting IEM engaged to fix it or do something about it?---Well there were two, two reasons. One, one was to get them, make sure the machine was working properly and the other one was to make sure nothing was being hung around my neck personally.

30

Okay. And was the third one to try and get some work for IEM to potentially fix anything if there as a problem?---No. Because around about the same time IEM pulled the plug on the relationship and all their people around the world had been ex-communicated and they were going alone. Okay. So the contact with Mr Camilleri in early 2012 was simply to find out - - -?---No, late, late 2012.

When, when in 2012 then?---It would have been the 10th of the 11th month like I said before.

40

Right, okay. Well we'll try and put this into some sort of chronological order. Mr Camilleri contacted you at some stage about a loan?---That was after those telephone calls and well after the meeting.

Is it the case that he first contacted you about a loan on 15 November 2012? ---It would be around there, yes.

So in terms of that phone call or that contact when was it that you had contacted him?---Now you've got me thinking. It has to be earlier because both of them were out of the blue. Has to have been around August.

Okay. So is it about August that you contacted him about - - -?---Just to find out who the people were that I could talk to.

About this machine out at Waratah or - - -?---I think you got the names there I read it - I forget his name.

10

Okay. So prior to that contact in August when had you last been involved with - - -?---Mr Camilleri?

Yeah. Your words were a moment ago that that contact was out of the blue. What did you mean by that?---Well I contacted him about who to talk to but the contact about the loan was totally out of the blue.

Okay. So before your contact in August when was the last contact - - -? ---Prior to that had to have been all the way back 2004, 2005.

20

So many - - -?---Yeah.

- - - many years before?---Yeah. I'd virtually dropped off the planet 'cause I had the transplant in 2004. Just 2006, sorry.

So when you contacted him in August were you given a name?---Two names.

Yeah?---But if I heard them I could recognise it but I can't remember them.

30

Right. Now I take it was there nothing further in terms of contact with Mr Camilleri until 15 November 2012?---Mmm.

What happened then?---Yeah, he rang and made the statement that he was looking to borrow some money and if I had some spare money, he was trying to get his daughter out of trouble with a case of um, what do you call it identity fraud or identity theft I think the words were he used.

Okay. Did he give you any more details than that?---Well words to the effect that he needed the money to pay off um, what was it, not outstanding loans but outstanding items that the banks required before they would release funds.

40

Right?---Words to that effect that's all.

Did that sound unusual to you?---It did, I questioned it, I asked the question, um - - -

What question did you ask?---I just, well you know how long do you need the money for and he goes only a short period of time.

How much did he ask for at that point?---I think it was about 10,000 and I only had probably about four or 5,000 that I could give him.

Okay. And when you said you asked the question the answer you got?
---Would it be ten days, a fortnight or three weeks at the most.

10 So really the question he was asking was how long would it take to get the money back?---To get the money back.

It wasn't asking a question about the details of the reason for the money?
---Not the reason for it, no.

Okay. And is it the case that on 5 November you lent him an amount of \$6,000?---Yeah.

20 How was that done, did you just give him a cheque?---Bank transfer.

A bank transfer, okay. Now you said you'd spoken to him once in August and then before that many, many years. Was it surprising for you to be contact by Mr Camilleri?---I couldn't, I wouldn't say no, um, as I said Joe and I do go back a fair way, hadn't heard from him for a long time, yes, the guy in trouble, where we're, during our working relationships we dragged each other out of a hole that many times in the workplace it wasn't funny. Yes, to a lot of people it would seem unusual but to me, no.

30 Now when he contacted you on 15 November did you talk to him at that stage about the interest you had in this particular machine?---No. That, none of that ever came up.

Just, just so we're describing it correctly, it's a machine, is it at Waratah?
---It's at Waratah, it's for measuring the wheels of a train.

Right?---It used to be done manually by the system, this way a train drives over it and you've got all the information 30 seconds after the last wheel's gone over.

40 And would it be someone in the condition monitoring department that you'd be - - -?---Well, no, it was engineering, there was, I think there was one representative brought in later from condition monitoring.

Right. But in any event you said there was no discussion about that at that time?---No, when Joe rang about loans and things like that work never came into it.

He contacted you again only a couple of days later didn't he?---Yeah.

When was that, 17 November?---I'm not, I'll take your word for it, I can't remember.

But was it within a very short period of time?---It was in a short period of time.

And he was wanting more money?---Yeah.

10 What did he say?---That it had got worse and that he'd missed a deadline for the money that I'd given him and things had overrun and he needed more money.

Now you said initially he'd asked for 10,000 but you didn't have it and you lent him 6,000?---Mmm.

On this occasion what did he ask for?---To be honest I can't remember but the accounts I've got - - -

20 Well, it seems from the accounts that you gave him 15,000 on that occasion?---15 and I think a little bit later on I gave him 20.

Yeah. Well, we'll come through them but you gave him 15 on that occasion?---Mmm.

You told him two days before you didn't have 10 and now you've found 15 to give him?---Mmm.

30 There must have been some sort of compelling story to give him a further 15,000 two days after you told him you didn't have 10?---Well, the, well, the way it come across Joe, Joe was pretty - I had never heard Joe speaking the way he had or was.

Were these conversations on the phone or in person?---On the phone.

Were they all on the phone?---All on the phone.

40 Yeah. Did he give you any more story other than he'd missed the deadline for the first one?---Missed the deadline, reinforced the same thing and I said well, Joe, I'm going to need the money back reasonably quickly, how long's it going to take, I didn't want the stuff left, left out forever and he couldn't then at that time really concentrate on anything, he was gibberish more than anything.

On that day was there any discussion about the machine at Waratah?---No.

You said you'd spoken to him in August about the machine in Waratah? ---Hmm?

Had you spoken to him again between August and your first loan on 15 November about the machine at Waratah?---Not to my recollection, no.

Had you been given the answer, in other words the information about the machine in Waratah, at Waratah in that - - -?---Oh, yeah, he'd given me the information, I sent emails off to the two people concerned and gave them my resume so they knew who they were talking to 'cause they didn't know me.

10

Yeah?---And I'd had a meeting with them and we discussed the whole thing.

Right. You'd already had a meeting with him by 15 November?---Yeah.

Are you sure about that?---It was there somewhere.

Okay. Now you then were approached again on 19 November, another two days later?---Mmm.

20

And at that point you lent him \$17,000. What was the story on that occasion?---Pretty much the same story.

That he'd missed the deadline for the second payment and he then needed 17,000?---Mmm. The only, I think the only thing he added on to it at that time is that the solicitor that his solicitor had hired had, had stuffed up what was going on and that was the, the cause of him missing the deadline.

30

Right. Was this striking you, you as - - -?---I was starting to get a concerned, yeah.

- - - a bit unusual?---Yes. I, I had asked at that point that I'd, I'd like to meet the solicitor.

Right?---And he said he'd try but nothing ever eventuated.

Why were you wanting to meet the solicitor?---Well, to find out what was going on.

40

Did you understand you were the only person lending money at this point in time?---No, he had mentioned he had borrowed from other people.

At this point in time is it correct you'd essentially retired?---Essentially, yes.

Right. I take it that at that time you'd accessed superannuation and the like? ---Yeah. I, I had a small cash reserve that, that come through and this is how I was able to give him the other money.

Right. Had you spoken to him about that, I mean by 19 November you'd given him \$38,000?---Yeah.

Had you told him that you had a cash reserve and that's what you'd been using?---Yep. And I told him I needed it back because I'd already booked on a holiday.

Right?---And oddly enough some money came back.

10 Right. But you were, he was aware from the outset that you had a cash reserve that you'd put aside and that that - - -?---Yeah, out of my, out of my, well I'm a self-funded retiree so I've got a certain amount in cash and a certain amount in funds.

He then came back again did he not on 22 November, so that's three days later?---Ah hmm.

And you lent him a further \$5,000?---Yes.

20 What was the story then?---Same story.

Someone had stuffed something up, or he'd missed the deadline. So this is the fourth occasion?---Ah hmm. That's right.

Were you getting a bit suspicious?---Yes. To the point that I'd said, "Well look, if it's not going to sort itself out we're going to have to go to the Small Claims Court for me to get my money back."

30 Okay?---Which he didn't appreciate. And um, the conversation went for some time and then all of a sudden he wound up in tears that everything had fallen down and if I did go to the small claims court it would kill him being able to get the money back because it would cause trouble with the banks. They wouldn't like it so they wouldn't release funds.

Okay?---Which to me at the time was plausible.

27 November he was back. Another five days later?---Ah hmm.

And you lent him an amount of \$6,000?---Ah hmm.

40

Any more story?---No.

No?---Just the same.

Now, up to that point in time had you had some discussions with him about this machine out at Waratah again?---No.

Do you know who Ralph Heredia is?---That was one of the people that I was given the email address of to talk to about the machine.

All right. And do you know who Andrew Constantinou is?---He's the other person.

Right. There's an email here from Mr Constantinou to Mr Heredia. The email's dated 22 November, 2012?---Ah hmm.

10 So that's in the middle - - -?---In the middle of all of that.

- - - of the period of the loans that I've just been talking about?---Right. Okay.

The email refers to Mr Camilleri asking Mr Constantinou to pass on your phone numbers to the person responsible for condition monitoring?---Okay.

20 That would be, seem to suggest that on that day or about that time Mr Camilleri is putting your name forward to Mr Constantinou and Mr Heredia, is it not?---Ah hmm.

Then indeed there's an email from yourself on 26 November, 2012 to Mr Heredia, is that correct?---Yeah, well if it's there it must be.

Maybe if we just, can we bring that, that's, I'll just bring it up on the screen and you can see, tell me if that's your email?---Yep, that's mine.

30 Now, this seems to suggest, I mean you started off saying, "As you can appreciate I don't like being caught out in a situation that should have been previously advised"?---Ah hmm. It, it - - -

Could you be mistaken in the dates in that what actually happened - - -?---Yeah, quite easily.

So what actually happened was that you'd approached Mr Camilleri in August and asked him to see if he could find out some information?---Well, to direct me where I needed to go.

40 To go. But he didn't in fact do that?---Not straightaway obviously.

He then approached you firstly on 15 November seeking money and then again within the following week on several occasions seeking further money, and could it be the case that at that time the conversation came up where you said, you basically followed him up and said, "Look, you haven't given me the name of - - -?---Yeah.

- - - the person relating to that piece of machinery at Waratah." Does that appear to be what happened?---Yeah, obviously.

Okay?---This is the one too the chaps that I used to talk to, um - - -

And I think you may have sent it that time as well your CV?---That's right.

That would be to let them know - - -?---Let them know where I was coming from, who I was so there wasn't a blank sheet for them.

10 Right. And is it the case that in the email you're suggesting you've got an associate Mr Stinson?---Yeah, I believe he was, I was meeting him in town for, for something else and I just thought you know well what the heck rather than beat around the bush you can come with me and we'll just go through it.

And it's suggesting, is it through this contact that if there are problems you were able to offer yourself and potentially others, services of others to maybe assist in fixing the problems?---Well it's to go back to the parent company to make sure the problem was fixed if there were problems.

20 So what you were doing over this period of time was attempting to find out if there was a problem with this machine and if there was whether RailCorp may have had some interest in you assisting in fixing it?---Well no, no, no. Basically I was looking to (a) protect the company and (b) protect my own reputation to find out what the problem was, if there was a problem well okay that'd go back to the parent company and they sort it out. I wouldn't be interested in, in going through, it's not my capacity or capability to do repairs to the machine.

30 So you were just attempting to protect your reputation?---My reputation in the system.

Right. But in any event it appears you, you may have got a response, sorry, I withdraw that. You sent a further email on 7 December 2012?---I identified that if anything else came up in the market place that IEM would be interested in being considered as one of the tenderers.

Okay. Is that IEM?---Mmm.

IEM not IM - - -?---IEM.

40 - - - IEM. And so I take you that you, you had some involvement still with IEM you're suggesting that - - -?---Well they had, they didn't close everything off until mid December.

Right. But you're suggesting to them by the emails that they would be interested in potentially doing some work if it was available?---If it was available, yeah.

Right. And I think - - -?---They knew full well that it had to go through the ordinary tender process and the advertisements and everything.

I understand that?---Yeah.

And I think you got an email back indicating that there may not be work available anyway?---That's right.

10 And in fact I think the fact of the matter is there wasn't work and you didn't get any work. So essentially what you were trying to get before them was just an acknowledgment that you through IEM had some interest?---Yeah, we were there if they wanted us.

Yeah. And it seems from the documentation that that, Mr Camilleri put that into action in that period in November 2012?---Yeah.

Now things then went a little bit quiet over December?---Yeah.

Did you get any return of your money at that stage?---Not at that time I think it came back January.

20 When did you go on your holiday?---It was April.

Okay. Well in January, on 3 January did Mr Camilleri approach you again asking for more money and you lent him a further \$8,000 - - -?---Yeah.

- - - on that day. Was there any different story?---No, it was the same thing.

In that, that miss deadlines on paying the money?---Yeah.

30 Were you getting concerns?---Concerns were there and I guess it's my naivety that kept it going.

Right. Were you aware that Mr Camilleri was dismissed from RailCorp - - - ?---I was.

- - - in February?---Only at about March just before I went away.

Right. So you found out in March. Do you know when in March?---I can't say honestly, no.

40 Well you lent him further money on 27 March?---Mmm.

He came to you and asked for another \$5,000, you lent him \$5,000?---Ah
hmm.

When you lent him that money were you aware that he'd been dismissed?
---Yeah.

Okay. Was there a different story?---No.

Did he tell you at that time why he had been dismissed?---That he'd been, um, dismissed for borrowing money, he'd been warned once by his superiors and kept on going and that was it, those were the words I got.

10 Right. And so I take it is the fact then that he'd been dismissed you didn't think it was a problem then to lend it on 27 March?---No, well, obviously if he was borrowing money the problem had to be pretty great for him to borrow money and put his neck on the line the way he's done so I loaned him the money again.

The final time he asked for money was in June 2013, is that right?---Mmm.

Had he repaid money to you at that stage?---He had earlier in 2013, yes.

Okay. So you said that you went away on holiday in April 2013. Had he repaid money before you went on the holiday?---Yes.

20 Right?---'Cause I needed to do the final payment for the holiday.

Right. Do you remember - so that was early April?---Mmm.

What was - - -?---That had to be, that had to be paid by the beginning of February so it came in some time at the end of January.

Okay. So, so he repaid you some money at the end of January?---Mmm.

And, and you had a conversation with him about that?---Yeah.

30 And what did he say?---(No Audible Reply)

Well, firstly, what did you say, you needed it for the holiday I take it? ---Well, that, that's the conversation, I needed it to pay off the last of the holiday otherwise I was going to forfeit it and the money was made available.

How much was it he paid back?---Oh, I can't tell you to be honest, it had to have been around the five, \$6,000 mark I think.

40 Okay. Did he tell you where he'd got the money from?---No.

Right. Did it strike you as unusual that having been paid back some money he then approached you again to borrow more money?---Yes. Um, but knowing the situation he was in and the, the voice that came across, like I said before, was not Joe, he was at the end of his tether and I couldn't help but help.

Did you become aware that he'd borrowed money from RailCorp contractors?---Not at that stage, no.

At some stage did you?---At some stage I did, yeah, at some stage.

And how did you view that?---Ah, well, when I - hearing what I'd heard, the words that were used to me were that he'd borrowed it from private people that worked for contractors. Now I got the impression that it was coming from individuals and not contractors per se.

10

Yeah?---And I thought well, okay, if it's not contractors and it's an individual that's loaning the money well, fine.

Well, I suppose it's always got to be an individual because a contractor's just a company?---It has but I was, I was of the impression that it was a personal loan not a company loan arrangement.

Didn't you find it strange that - - -?---Yes.

20

- - - he had borrowed money from contractors?---Yes.

Why?---Well, I thought that surely he would have gone through the family and everything and, and borrowed there first and then come to friends rather than going to contractors because Joe's always been one who has been, during our lifetime in the Railways he's been the person who says be careful, everybody's looking over our shoulders, we don't want ICAC looking down our neck.

30

Right. And so - - -?---And for him to do something like that struck me as odd.

So borrowing money from contractors seemed inconsistent with the person - - -?---Seemed inconsistent, yes.

- - - who was suggesting you always had to be squeaky clean - - -?
---Squeaky, yes.

- - - because ICAC were looking over your shoulder?---That's right.

40

Excuse me. Finally, could I just show you, you've seen them on the screen, the emails that I referred to. The first one is page 2106?---Ah hmm.

Is that, is that the email that I first referred to, 22 November?---That's right.

I tender that.

THE COMMISSIONER: It's Exhibit 42.

#EXHIBIT 42 - EMAIL FROM ANDREW CONSTANTINOU TO RALPH HEREDIA "ROLLING STOCK CM" DATED 22 NOVEMBER 2012

MR POLIN: Then can I show you the second email chain I referred you to, the top email dated 26 November, that's the one that annexes your CV?
---Ah hmm.

10

Yeah.

MR POLIN: Yep. I tender that, is that tendered?

THE COMMISSIONER: Exhibit 43.

#EXHIBIT 43 - EMAIL FROM TERRY COLEMAN TO THUAN NGO AND RALPH HEREDIA "RE: MEETING WITH IEM VENDOR" DATED 26 NOVEMBER 2012

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MR POLIN: 43. And the final chain is of the email dated 24 December, 2012. It's page 2111.

THE COMMISSIONER: Yes, Exhibit 44?---Ah hmm. Yep.

#EXHIBIT 44 - EMAIL FROM RALPH HEREDIA TO TERRY COLEMAN "RE: TRAIN MONITORING" DATED 24 DECEMBER 2012

30

MR POLIN: I've got no further questions.

THE COMMISSIONER: Mr Chee?

MR CHEE: No questions, Commissioner.

40 THE COMMISSIONER: No one else? No. Thank you, Mr Coleman. You may step down, you're excused?---Thank you.

THE WITNESS EXCUSED

[10.40AM]

MR POLIN: Thank you. I call Sam, or Saviour Cassar.

THE COMMISSIONER: Mr Cassar, just take a seat. You don't have a legal representative as I understand it?

MR CASSAR: No I don't.

10 THE COMMISSIONER: No. Mr Cassar, do you understand that I am able to give an order under section 38 of the Act which essentially means that you do not have to take objection to every question that is asked of you. You can in effect pursuant to this order be protected by a global objection to the answers that you give in evidence. But when I refer to protection I mean protection from the use of those answers in any criminal proceedings against you but not in proceedings that might be for giving false or misleading evidence to the Commission. Do you understand that?

MR CASSAR: I do understand that, yep.

20 THE COMMISSIONER: Right. Do you want to take advantage of the order that I've just explained to you?

MR CASSAR: Yes I do.

30 THE COMMISSIONER: Right. Pursuant to section 38 of the Independent Commission Against Corruption Act I declare that all answers given by this witness and all documents and things produced by this witness during the course of the witness's evidence at this public inquiry are to be regarded as having been given or produced on objection and accordingly there is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

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

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

MR CASSAR: Sworn, thank you.

THE COMMISSIONER: Thank you.

MR POLIN: Is your name Saviour, S-a-v-i-o-u-r Cassar?---That's correct.

Also known as Sam Cassar?---Work related, yes. Sam.

Right. Now Mr Cassar, your current position, is it Engineering Manager, an Engineering Manager at UGL?---That's correct.

10

And did you start there back in September, 2012?---That's correct.

Prior to that you had worked with RailCorp?---That's correct, on two occasions.

Sorry?---Two occasions.

Right. When did you first start working at RailCorp?---Ah, that would be December, oh sorry, '85.

20

That's all right. And - - -?---Sorry, '86.

'86?---Ah hmm.

You worked there for a period of time?---I was a cadet.

Okay?---Yeah.

You left?---Yes.

30

When did you leave?---Ah, '93.

Right. You then went to work where?---I went to work for MainTrain at Auburn.

Right?---Yeah.

Okay. Did you then come back to work for RailCorp?---That's correct, yes.

40

When did you come back to work for RailCorp?---Ah, that would be about 2008.

Okay. And you worked with RailCorp from 2008 through to 2012?---That's correct, yes.

When did you first meet Mr Camilleri?---Ah, I can't, I can't say exactly when but it was during the time I was in the MainTrain contract.

So it wasn't the first period at RailCorp it was the second period?---No, it was the second period.

Okay. And how did you, how did you come to meet him?---Whilst I was at MainTrain I was involved in the component change out shop and Joe was the contract administrator.

Okay. Did he actually originally interview you for the position that you - - - ?---There was a panel that interviewed me in 2008, yes, that's correct.

10

Yeah. And he - - -

THE COMMISSIONER: Sorry. Mr Cassar, I'm sorry, could I ask you to speak up because it's very difficult to hear?---Oh, okay. Um, is it - - -

It might be - yeah, if you sit a bit closer, thank you?---All right, sorry.

That's all right?---Yeah.

20 MR POLIN: So he was part of the panel that interviewed you in 2008?
---That's correct.

Was that the first time you'd met him?---No. As I said I was um, whilst I was working at MainTrain I, he was our customer and I was working.

Okay?---Yeah.

30 Then from 2008 through to 2012 what was your relationship with Mr Camilleri firstly on a social basis, did you socialise with him?---No, not socialise. I used to see him on the train but that's about it.

That's on the way to work?---Generally it was on the way from work.

Okay. Would you deal with him at work between 2008 and 2012?---More, more, more second-hand, he was - Chris Rowe was my manager at the time and Joe was his manager.

Okay. So in terms of your contact with him in that period of time was it once a week?---Mostly - - -

40

Once a month?---Well probably once a month, mostly meetings. And obviously if we cross paths on the train going home that's when we might have a chat then.

Throughout 2012 did you have more contact with him, the same level of contact or less?---Um, more or less the same, yeah, it wasn't, it wasn't overly different.

Well as at 2012 was he someone that you would have called a friend?

---Work colleague, yeah, um, more like a work colleague, yes.

Now at some stage during 2012 he approached you for, to borrow some money?---That's correct.

Was that in June 2012?---I would say it was May 2012.

May. Do you remember what date it was?---The 24th.

10 And can you tell us the circumstances as to how that occurred, would you, were you both working on the same level of the office at that stage, in the same building? What was the position?---We were working both in the same building, he was on level 22 I was level 18 if I recall correctly I was working in the C&C division and we crossed paths in the corridor.

And, and what happened?---I was trying to, I was just wanting to discuss a project was meant to be working on and Joe said oh, can I, can I talk to you in private and we went into one of the little offices and he asked for some money.

20

Right. And what did he say, did he just say I want money or - - -?---Oh, he told me he had a problem with his daughter and part of our train conversations he would talk about that he had a, he had a few issues at home and it was with regards with his daughter so the actual conversation wasn't a complete surprise about the need, um, and that he, he's saving all these legal issues so could I help him out, mmm.

And did he ask for a particular amount of money?---I think it was 2,000 'cause that's what, the amount I gave him.

30

And did he say a cheque will be fine - - -?---No, no, he, he need the cash because he said he really needed it that afternoon and it had to be done that afternoon and so he wanted it in cash, yes.

Right. Did that strike you as unusual?---Um, from my point of view, no. I, people have asked me for money in the past so I just believed it's my Christian duty to help people so.

40 No. I didn't mean the asking of the money I meant the fact that he was wanting it in cash?---it, it appeared as though there was a lot of urgency and so cash didn't, didn't strike me as being an issue.

And so did you go to the bank?---Yes.

Did he go with you?---Yes, he came with me, yeah.

Did that strike you as unusual?---No. Reason being I don't like carrying that sums of money.

Right?---Yeah.

Okay. So you gave him the money down at the bank, did you see what he did with it?---I believe he went into the bank and deposited it.

Okay?---He went down to the Commonwealth Bank?---Right.

10 A short time later did he approach you wanting more money?---That, yeah, that's correct.

When was that?---Ah, about 29 May.

So about five days later?---That's correct.

And how much did he ask for at that stage?---Ah, at that stage I think he was trying to get 10,000 I think and then I - - -

20 And how much did you lend him?---4,500.

What was the story he gave you as to why he needed 4,500 at that stage? ---Ah, I believe they won the case, the um, magistrate had um, awarded them the, the money.

Did he refer specifically to a magistrate as opposed to a judge?---As I recall it was the magistrate.

30 Yeah?---And that they just needed to pay these fees and once that was done the whole thing could be over.

Yeah. And so, did he ask for a cheque, what was the position?---Ah, the same as before, cash, because it had to be paid by that, by 5 o'clock that afternoon or something.

Was it striking you as unusual this was the second payment that had to be paid by a particular day?---Um, I, I can't recall it at the time, at the time I just thought it was my Christian duty to do that so I didn't have a problem.

40 Yeah. No, I'm not suggesting at this stage there's a problem, I'm just suggesting whether it was striking you as unusual that twice you've been asked for money and it was needed urgently, so urgently?---Well, I think at the time um, there was a lot of A Current Affair issues about banks and bank fees and so it sounded, it sounded plausible.

Okay. But it was, it was, is it the case - he approached you first on 24 May? ---Ah hmm.

Was it the 29 May he'd said they'd won the case?---I believe that was the time.

And so was he telling you that it had been won between the two, so it had been between 24 and 29 they'd won the case and that was the need for the extra money?---To be, I cannot recall exactly, all I remember is at the time it was, that was it, it's over, if he can gather this ten grand then that's it, it's, the case is over.

10 I suppose what I'm asking you is when he approached you the first time was he telling you the case was over?---I don't recall the first time, no, I don't.

Okay. He then approached you again a short time later, did he not?---Ah, yes, that's correct.

When was that?---That was about 6 July.

So that's about six weeks or so later?---That's correct.

20 And he was asking you for money?---Ah, he was asking for like a bridging loan.

Right. So between that, that point - - -?---Yeah.

- - - going back to 29 May - - -?---Mmm.

- - - when he told you that the case had been won, the magistrate had made a ruling - - -?---Ah hmm.

30 - - - and that all that was needed was the bank fees to get the money - - -?
---Ah hmm.

- - - had you had any discussions with him about the return of your money?
---I had asked him, however, I, I was a little bit more, I guess I was waiting for the money to come back. He had asked me in between that period for, again for further money.

Yeah?---However I said I couldn't do it - - -

40 Right?--- - - - so I, I got the feeling it was still ongoing.

So on 6 July how much did you lend him?---Ah, I lent him 5,000.

Right. How did it come to be that you had 5,000 then which you didn't have when he'd asked you in the weeks earlier?---Look - - -

Was it just the level of pressure applied?---It wasn't the level of pressure, in this case it was, it was more like a bridging loan, somebody else had

actually, had offered to pay him the money but they had to wait two or three days and Joe just needed, he need the money and I would get my money back, I did speak to that person and they, they said yeah, they're good for it so I just lent him that money and then I was subsequently repaid for that amount.

The \$5,000 back?---That's correct., yes.

10 So that he was telling you that someone had lent him the 5,000 but needed it back so you were giving the person the 5,000 to take their place - - -?
---That's right.

- - - in the loan but you'd get it back?---And, and, and I would get the money back, yes.

20 At some stage did you question him about the story he was giving you that, when he said, he told you a Magistrate had made a ruling that they'd won the case and that what was needed was to pay bank fees and taxes to get the money out?---Yes I was questioning, yes.

What, when was it that you started to question him?---Ah, I guess when um, (not transcribable) ask for money, yes.

Was that in July?---That's correct, yes.

Sorry, 6 July you lent the 5,000. Did he ask for more money after that?---Well, yes. Yes.

30 When was that?---Um, well on 6 July I lent him a further two and then 9 July, six and a half. 13 July, four. 16th - - -

Sorry, 6 July was two?---Two.

The 9th - - -?---The 9th was six. The 13th was four. 16th was six. 17th was eight. 18th was 12. 20th was 15. And over the weekend, two and a half.

So what, what was the total you lent him?---Ah, 56,000.

40 Right. And you, you got back 5,000. Is that included or not included?---Ah, sorry. Not including the six and a half, sorry - - -

So what's the total - - -?---Ah sorry, the six and the five. Yeah.

What's the total you lent - - -?---Ah, all up - - -

- - - including the money you were paid?---All up was 66.

Right?---Of which ah, 11 was paid straightaway.

Eleven has been paid back to you?---Well, the 11 was paid by the person that - - -

Who - - -?--- - - - I was doing the bridging loan for.

Yep?---And subsequently 12,000 has been paid back to me so, there's 44,000 outstanding.

10 So there were multiple more loans in July, 2012?---That's correct.

What was the story that was given for those multiple loans?---Um, that the case had gone awry. Um, they still needed to get more and once they had all these funds then it will all be over.

What had gone wrong with the case?---Ah, apparently they hadn't paid the money in time, that somebody, the solicitor couldn't raise his part of the bargain, and things like that.

20 But you were being told were you not on 29 May the case had been won, the Magistrate had made rulings in their favour?---That's correct.

The money was there. They just had to pay some bank fees - - -?---That's correct.

- - - to get the money released from the bank?---Ah hmm.

30 How did you understand anything could go wrong from that?---Um, I guess at the time I was more interested in the person. Ah, wasn't fully comprehending the story.

Yep?---Joe was um, ah, in tears saying he didn't know where to go. Ah, he, I was told that there was a personal loan for 44,000 that was um, coming through the Commonwealth Bank. So I - - -

Sorry, say that again. What was in place, 44 - - -?---There was a personal loan that his daughter was receiving from a bank, bank manager at the Commonwealth Bank.

40 Yep?---And so I considered that I, that, and that the money was held up so I should get it by that Friday which was the 20th. So at the time I considered that yep, I could see that he was in distress, needed the money for a short term, and asked multiple times that the money, that he loan was definitely on its way and so I um, that's why I lent him the money.

Did you ask at times for him to produce any documents to support or verify the story?---Ah, I tried but I was told that it was all secretive and it was all um, governed by ASIO and various other things and - - -

Did that strike you as unusual?---In hindsight, yes.

Right. At some point in time you did however believe the whole thing was false didn't you?---That's correct.

And that's the point of time when you were in fact were shown a document weren't you?---That's correct.

10 Could the witness be shown Exhibit 19. You were shown a receipt from the Commonwealth Bank were you not?---Ah, the receipt from the Commonwealth Bank was much later than the document.

Okay?---So that, the one that you've got there - - -

We'll leave that for a moment?---Yes.

20 What, what was the document you were shown that first led you to believe that the story wasn't true?---Ah, it was document with an ANZ header.

Okay?---Not the one that you've had previously in your exhibits.

Okay?---Sorry.

THE COMMISSIONER: Is that exhibit 24?

MR POLIN: Could the witness be shown Exhibit 24.

30 So you've, you've seen this document previously come up on the screen?
---Yes.

Now is this the document, firstly when was this ANZ document shown to you?---Ah, I believe that was after, after July after I had paid the last payment.

Sorry?---I believe that was after the last payment.

Roughly when?---Um, I cannot say.

40 As in soon after July or the next year? That's what I'm - - -?---Oh, sorry, soon after July.

Okay?---Um, I think this could be the document, though I thought it was a much larger sum.

Okay. Well just having a look at it. You thought it was a larger sum. Firstly was it an ANZ document?---Yeah. It looked fairly similar to this document, yes.

Okay. Where, when I say it's an ANZ document it wasn't a Commonwealth Bank document?---No.

You remember it was ANZ?---That's correct.

And it did look similar to that document?---Yes.

10 That at the time - - -?---This may have been the document at the time I'd looked at it it was a cursory look, Joe said he couldn't give it to me and - - -

So you just got to look at it - - -?---Yeah, and - - -

- - - at that point and it was taken away?---Mmm.

And at that point in time you challenged him about the document didn't you?---I did. It was some, it may have been at that time or some time later, it wasn't at the time of the document and um - - -

20 Was it soon later?---I believe so.

You challenged him about, we'll come to the other one in a minute?---Yeah.

But you challenged him about this document?---About the validity of that document yes.

What did you say to him about the validity of that document?---I said, Joe, it doesn't make sense, it doesn't look correct but he was assured and was all legitimate.

30 Why, why did you think it didn't look correct?---Um, I got say it just looked more like a, like an ANZ flyer than a, anything to do with a, yeah, sorry.

So just the first look at the document you're saying it doesn't look like a letter it just looks like a flyer of some sort, it doesn't look like anything formal?---No, no, not to me it doesn't.

40 Did you get a chance to actually read it and look at the grammar and what was in it?---I've got to say um, I was um, it sort lost, lost a lot of interest in the document itself and I, I just remember a figure that looked close to \$1 million, yeah.

That one is close to 1 million isn't it?---Yeah, so that could be it.

Yeah, 900 - - -?---I just thought there was, I thought the one I saw had um, so many cents and um, that's was, when I saw there was so many cents I thought gees that's really getting it to a fine number because it was, it wasn't rounded like this I can assure you.

Right. So you thought it was very similar document that the \$975,000 was a, the figure was a lot more specific and went right down to the cents?

---Yes.

In any event just a cursory look at it led you to believe that the document was, was a fake essentially?---Yes, that would be correct.

And essentially I take it that's what you told Mr Camilleri soon thereafter?
---Yeah.

10

And what did he say to you?---Oh he was assured it was a genuine document and it's all going through.

When you say he was assured it was a genuine document did he tell you that he'd check with ANZ and they had assured him it was genuine?---No, no.

What did he say?---It came through his daughter's solicitor or his daughter, I cannot recall exactly which one.

20 Okay. So that was in July?---I believe so, yes.

Okay. And a later stage were you shown the other document?---This was sent to me um, something similar which I have sent to Steve Thomas.

So this was, so you were sent an email - - -?---yeah, something similar to this.

- - - that contains the similar receipt?---Yes.

30 When was that sent to you?---Um, I think that was 30 December which is ironic because that's the same date as this.

Right. So you were sent that on the 30th?---And, and the subject, subject matter too I think was the same.

Right?---Yeah.

And it was for \$5 million?---That's correct.

40 And when, when you looked at that you immediately formed a conclusion about it didn't you?---Yes.

You concluded what?---I, I suspected it was fake.

Right. Why did you suspect it was fake?---Because um, my um, my recollection of um, internet, internet banking is that I don't believe I can transfer more than 10 grand or something like that, to be, to be able to transfer \$5 million just seems to be quite um, quite ah - - -

And the document clearly shows the transfer from one personal account to another account?---That's correct.

Yeah. And did you bring that to Mr Camilleri's attention?---I believe I did. I said, 'cause I had made some inquires through friends that um, is it possible.

10 And that, that is is it possible to transfer \$5 million in that way?---That, that particular way, yes.

And what did, so what did you say to Mr Camilleri?---I said Joe it doesn't make sense to me because to me if you follow this and you follow internet banking and normally the money takes two or three days and I don't believe the banks would be keeping that much interest for themselves.

So were you telling him you believe that receipt to be a fake?---Yes.

20 Did you say to him that you can't, you believed you couldn't transfer that size or that amount of money in that way?---I believe words to that effect, yes.

And what was his answer to that?---He, he said he had got confirmation from other people that it can be done that way and that um, that it was legit and he had actually spoken to the bank and the bank had confirmed that that receipt number does exist and, and yet they couldn't, they couldn't tell him the amount of money but they, um, but they can confirm that that receipt number does exist.

30 So he said that at this point in time he had actually spoken to the bank?
---Yes, 'cause I, I asked him to confirm that this is a legitimate transfer.

Right. Now on the face of it it is a transfer from his daughter's account into his account?---That's correct.

So with your experience from internet banking the money would be in his account?---I would have, um, I would have thought that, that it was just a computer transaction it would have been done, a done deal.

40 And that if you were making inquiries with the bank you'd be going down with the receipts saying here's confirmation the money's gone in - - -?
---Yeah.

- - - but it's not there so you wanting, wanting to know where it is?---That's correct.

And he was telling you that he'd gone down and made that inquiry with the bank?---That's correct.

And he was telling you that that actual receipt was valid that they wouldn't tell him what the amount was?---That's correct.

Now did he tell you at that time that in fact just by chance on the same day an amount of \$5 had gone into his account?---After further questions, yes.

Was it further questions that day or subsequently?---I think it was subsequent to it because, um - - -

10

So is this soon, soon after with whom - - -?---Yeah, it was early January.

Okay. And when you heard that \$5 in his, had gone into his account - - -?---Ah hmm.

- - - the very same day that that receipt is supposed to have reflected a transfer of \$5 million what conclusion did you come to?---Um, I, I just didn't, didn't believe anymore.

20

But what, that do you believe actually happened with the \$5 and the \$5 million?---exactly what I told him, I said Joe it wasn't \$5 million it was \$5.

Right. So did you specifically bring to his attention that you believe \$5 had been transferred?---Yes.

And that someone had altered the receipt to make it look like \$5 million had been transferred?---Um, that was the, that's what I implied, yes.

Right. Do you have any doubt that, when you say that's what I implied that's I take it from what you say what you were seeking to convey to him?

30

---That's correct.

Do you have any doubt that that's what you did convey to him?---Yeah. It was a long telephone conversation, yes.

Right. And that conversation took place in early January - - -?---Yeah, I believe so.

- - - 2013?---Yeah. It was during the Christmas period.

40

Now that period May through to the end of July when you lent the money, there's, there's multiple loans that were, were made by you - - -?---Yeah.

- - - for varying amounts of money. Were you feeling some degrees of pressure being put upon you to give this money to Mr Camilleri?---It was more of a, like a Christian type pressure, when - at the time there was a lot of, going to mass on the weekend so there was a lot about being compassionate to people, being, you know, sharing your, sharing, sharing and - - -

Yeah?--- - - - Joe was very distressed at the time he was coming to see me so I thought it was my Christian duties to actually assist him.

He, he - - -?---And I was - - -

Even accepting that he nonetheless was a very influential person at RailCorp at the time?---Look, there's two sides, you know, you've got your work side and for me I've got my Christian side.

10

Yeah?---Work had nothing to do with what I was, what I was looking at, I was looking at a man who was feeding himself on \$5 a day and I, I felt that it was my, my duty to actually assist if I could.

But even accepting that that, that be correct - - -?---Mmm.

- - - you've, you've been asked some questions about this particular topic before haven't you?---That's correct.

20

And you've given answers about it before?---And at, at the time I was, I was in a very deep dark depressed state when I was talking to your, to your investigators.

Yeah?---We did have a conversation after the investigation about that state.

Yeah?---But I did not want to go there.

30

The deep dark state, was that at the time the loans were being made or at the time you were answering the investigator's questions?---Answering the investigator's questions, sir.

Okay. Because you were certainly asked questions along the line of, such as "In terms of the loans, was that going to affect your employment with RailCorp if you didn't loan him the money?" to which you said, "I've got say yes."?---Look - - -

I'll just go on a little bit further?---Yeah, sure.

40

You've then been asked, "Can you tell us why you'd say that?"?---Mmm.

To which you said, "The reason being, the reason being is because the whole of RailCorp is going through a restructure, it was when the Government had the changeover." Remember that? And I take it you remember the questions you were asked and your answers?---Yes.

And in essence what you said, did you not, was that you were aware that Mr Camilleri was in charge of the reform process?---That's correct, yes.

And that he was influential in making decisions in relation to the reform process?---Look - - -

That's what I'm just - - -?---At the time I'm not, I'm not too sure. I know at the time I was lending him the money anything to do about work was not, not in the question.

10 I'm just asking at the time you answered these questions you, you were essentially saying that you were aware that he was involved in the restructuring programme?---That's, that's correct. Joe, Joe's been involved in a number of reforms, I was involved when the, we did the maintenance reform and from my point of view he was doing a great job and work-related. In this period of time, during this period of where all these loans were occurring, he, he didn't seem to be focussed.

But he was the person who could and would be making decisions in relation to redundancies and the like?---I don't believe so, sir, I don't believe.

20 When you answered the questions you believed that didn't you?---Look, at the time of the questions I was having family problems and as I said I was in a very depressed state.

THE COMMISSIONER: Mr Cassar - - -?---Yeah, sure.

- - - you've indicated that you felt an obligation to help someone in distress and that - - -?---Yeah.

30 - - - you referred to the particular masses that you were attending at that particular time - - -?---Mmm.

- - - was Mr Camilleri a member of, of your church?---No.

No?---A long way off.

All right. Was he aware of your, of your, your Christian beliefs?---I think most people know, who know me know that I, I tend to be very emotional and I sort of sympathise with, with the people I work with. I um, I'm - - -

40 So you're known as a compassionate person in the workplace?---Yes, yeah, I don't, I don't have an issue with lending people money at all, I've done that to people on the street.

MR POLIN: But, but you were asked questions about at the time the money was lent - - -?---Yeah.

- - - your understanding of Mr Camilleri's position and what decisions he might potentially be able to make at that time which might affect you, do

you understand that?---See that's um, that was the issue I had with the opening, Joe was never my direct manager.

Yeah, I understand that?---Yeah.

10 But he was a person more senior in the organisation to you?---Well, the Joe I knew I was hoping would be, would have a lot of influence in it because he was, because I respected the way he, he was trying to reform and trying to make our, our organisation a better, better organisation. I had respect for the gentleman, those questions that were being asked of me at the time, look, it may sound like I'm retracting but I was more interested, I was - respect for the man, respect for the position.

Look I understand that and I understand what you're saying is that that's the reason why you said you were making the loans to him?---Mmm.

But the fact of the matter is at that time you had certain knowledge about who he was - - -?---Ah hmm.

20 - - - within the organisation?---And so did everybody else.

I understand that?---Yeah, yeah.

And what he was able to do within that organisation?---Look, I'm not too sure he was able to do anything because um, there was a, there was a consultancy group who was, who was dictating what was actually going on.

30 I understand that as well, that there are decisions and there are all these robust processes that people have talked about that need to go through, gone through before decisions are made but Mr Camilleri was one of the cogs in the wheel that formed these robust processes?---I'm not, I don't know how much influence he had on the programme.

And indeed, in answer to one of the questions you were asked by one of the investigators you said this, "But um, you know, to be honest," and these are your words?---Yeah.

40 "To be honest and deep down, yeah, you felt like you needed to ensure that you had someone looking at your back 'cause um, you know, there was a lot, there was a lot of goings on at RailCorp at the time when loyalty and your abilities were being challenged and um, ah, who you knew."?---Right.

And then you went on to say you knew with any, you knew with any restructure or reorganisation it doesn't matter, you always know that just because you're a good worker and you keep your head down and your arse up you just work, that ain't good enough?---That's correct.

Now so what you were saying there was that notwithstanding the fact that you might be a good worker at RailCorp it was always good to have someone looking after your back?---I think what I really meant there, sir, was that at the time this was after the loans and everything, is that I had approached two managers of mine, not my direct manager but the one up and another manager because I was looking at another position and they indicated to me that um, they didn't think I would um, be suitable for an operational role that I was really aiming for and it was at that point where I decided that I would leave the organisation. But it's um, it's always the case that, you know, sometimes, when you do get into the, into that state I was in that you start challenging yourself and questioning your ability and in reality I'm well respected within the industry, I have a degree in electrical engineering, I can fix a train pretty much with my eyes closed and I've got a Masters of Business Administration. I didn't have anything to fear and, you know, at the end of the day what, what will be if - - -

But weren't you saying in that answer that notwithstanding the fact you were a good worker - - -?---Mmm.

20 - - - it was, if you had someone above you looking after your back it was always a good thing?---Ah, look, I don't, I don't, I don't need charity, I don't need people to really look after me, I don't need people to - I prefer to be promoted on my merits, I've always been promoted on my merits, I've always been promoted because I do further education and look, in the interview there were, there were things put to me I wasn't fully comprehending at the time and, you know, I was, as I said I was having problems at home and I was having, having a hard time trying to fathom why I was not getting any support from, about getting my money back so - - -

30 Right. But - well, if we then strip it back to the basics?---Yeah.

You, you've no doubt that Mr Camilleri was a, well, a person more superior to you in RailCorp?---Mmm, ah hmm.

And he was influential within the organisation?---Ah, I guess any GM would be influential in the organisation.

40 Even more so than some of the others I take it?---Well, I guess he pushed things through.

Yeah, and it seems from the evidence what Mr Calamari, ah, Camilleri wanted to get through often went through?---Ah, I'm not, not privy to those board meetings.

But just your observations working in the place? The projects he was driving went through?---I, I guess you're right with the maintenance reform, yes.

He is quite an assertive character?---Yeah, I would say yes. Yeah.

Another fellow employee described him as a head kicker?---Depends.

Well would you?---I mean, I've worked with various managers. I didn't see him any different to any other manager that I - - -

10 There was a point of time in May, May through to July - - -?---Ah hmm.
- - - where you lent him a large amount of money?---That's correct.

I'm not sure whether you were here and heard any of your colleagues answer the questions in relation to these matters but you would have been aware that at that time by giving him these loans you were giving him a benefit?---Um, I, to me I was, I was just um, trying to help him out.

That's what a benefit is isn't it?---Oh, I guess it was a benefit to him, yes.

20 Yep?---Yep.

And irrespective of what your motivation was ultimately for doing it - - -?---
Yep.

- - - you're aware that there are Codes of Conduct and, that relate to conflicts of interest and the like that are put in place to deal with the perception of behaviour?---That's correct.

30 One of the big thing with RailCorp for example with it's contractors is that they've changed all their processes so it's at least, even if it doesn't occur there's a perception out there that all the contractors are getting, tendering on an equal footing?---That's correct, yes.

The contractors, one contractor's not being treated more favourably than another?---Yeah, I'm well aware of the supplier and contractor part of it, yes.

40 And the Code of Conduct's there within the RailCorp workplace to ensure that's exactly the same situation for the employees within RailCorp isn't it?--
--Um, I'm, I must admit, like all others I didn't see it that way. It was always - - -

Well - - -?--- - - - supplier/contractor.

No, no. I'm talking about the employees within RailCorp, you?---Yeah.

Your evidence has in fact gone directly to that point. You say you wanted your promotions, your movements within RailCorp to be judged on your ability and your work performance?---That's correct.

And the only way of doing that is making sure that the workplace is totally transparent?---That's right.

And that any benefits that there might be out there are exposed so that everyone can see them?---That's correct.

10

So you had given these benefits to Mr Camilleri?---That's right.

He may have been at some stage in a position to make recommendations at least on a decision that involved you?---If that was the case I would then um, I would have then come forward and said that ah, there would a conflict of interest.

But you understand the conflict of interest doesn't arise then, the conflict of interest arises as soon as the benefit has been granted?---Oh, sorry wasn't - -

20 -

You don't actually know what decisions Mr Camilleri may or may not have made on your behalf do you?---No. No.

Because, were you aware that ultimately you sought a voluntary redundancy?---That's correct.

And you approached Mr Rochecouste - - -?---Yep.

30 - - - in relation to that?---That's correct.

And that was about 8 August, 2012?---That's correct.

And Mr Rochecouste asked you to send him an email confirming that?---That's correct.

And he told you that he would contact Kelly Bond - - -?---Yep.

40 - - - who was the person in charge of dealing with that?---I believe that was the process for the VSP, yeah.

Did you even know that Mr Rochecouste had told Mr Camilleri about that?---No, I was not aware.

Okay?---Ah hmm.

Did you know that Mr Camilleri then took that matter out of Mr Rochecouste's hands and said that he would go direct to Kelly Bond to deal with the matter?---No.

You weren't aware of that?---No.

So if you just look at what's actually occurred then - - -?---Yeah.

10 - - - it would appear just inferentially from looking at the documents that you, maybe innocently, I'm not suggesting it was anything other than that, have sought a voluntary redundancy and that Mr Camilleri has actually interfered on your behalf to take up that with the person who it needed to be taken up?---He could have.

Yep?---Yes.

20 So doesn't that show you why when the conflict first becomes apparent, that's when the loan's made, that's when it has to be disclosed?---I guess in hindsight that may be the case.

So Kelly Bond wouldn't have had any idea that you'd lent Mr - - -?---Look - - -

- - - Camilleri money?---I'm not aware, I can't answer for Joe as to why he did that because - - -

30 I understand that. But aren't you accepting that's exactly why the Code of Conduct's there and why it requires these things to be disclosed?---Um, I didn't see the connection, I'm sorry. I don't see the connection. I, I, I gave Joe money on a compassionate ground and as for work ethic I, I assume and I - - -

THE COMMISSIONER: Mr Cassar, no one's questioning the motives upon which you lent the money and no one's impugning your desire to assist a distressed individual. But what Counsel Assisting is pointing out is that if one just looks at the unfolding of these events in an objective light you lend him a lot of money, up until 19 July you're lending him money?---Yes.

40 Around \$60,000 all up?---Ah hmm.

On 8 August, that is almost two weeks later you indicate to your line manager that you want to be considered for a voluntary redundancy?---Ah hmm.

Are you with me so far?---Yes, I'm with you.

The process means that that request goes to someone else?---That's correct.

And what you don't know is that Mr Camilleri takes that process if you like, shortcuts that process and takes it out of the hands of the person who would otherwise be dealing with it. That's what's being put to you?---Okay.

Do you understand that?---That's, yep.

10 Right. Now whether you knew about that or not can you appreciate that that looks as though Mr Camilleri's interceding on your behalf and that one of the reasons he might be doing that is because you have lent him a lot of money?---I can see that, yes.

Right.

MR POLIN: I'll just show you the email if I could?---Ah hmm.

Just - - -?---Yeah.

20 You'll see the back one is the first one where you've sent to Mr Rochecouste saying you want to be considered for the late inclusion - - -?---Yes.

- - - in the voluntary separation, so that obviously it's been closed at that stage and you want to be included late?---Yes.

And then Mr Rochecouste, you see from the email does more, no more than inform Mr Camilleri that that's what you want?---That's correct.

30 And he tells him that he's asked you for an email?---Ah hmm.

And he tells him that he, that's Mr Rochecouste, is going to contact Kelly Bond?---Yeah, which I, which would be the process. Yes.

Yeah. And so on the face of Mr Rochecouste's email, he's done nothing wrong. He's doing exactly what he had to do?---That's correct.

40 And then you see Mr Camilleri comes in over the top and says up here, "Don't worry about it. Give it to me. I'll talk to Kathy, Kelly instead of you"?---That's right.

And do you see how he's interfered in the process that Mr Rochecouste has put into place?---Yeah.

And so if you're just looking at the documents and looking what's occurred anyone would think Mr Camilleri owes Mr Cassar \$66,000 or thereabouts, whatever the figure was?---Ah hmm.

He's going to do him a favour, payback for the loan. He'll interfere in the voluntary redundancy process and assist his application. That's what it looks like doesn't it?---Ah, I would, I would suggest it could also look like that maybe there was a KPI about how many people needed to be redundant by a certain period.

Just, I'm looking at it?---Yep.

10 Don't know anything about KPIs?---It was widely - - -

It looks on the face of the documents that Mr Camilleri, you might be right but it looks on the face of the documents that he's interfered with a process to assist your application, doesn't it?---It does appear, yes.

Yeah. Why couldn't Mr Rochecouste have done what Mr Camilleri ultimately did?---I don't, can't answer. Maybe he was trying to help him. I'm not too sure.

20 This at a time he says he's frantic with work the last thing he'd need is to want to take more work on?---Okay.

Is that correct?---That could be correct, yes.

And do you see – I tender that email, Commissioner.

THE COMMISSIONER: That'll be Exhibit 45.

30 **#EXHIBIT 45 - CHAIN OF EMAILS FROM PIERRE
ROCHECOUSTE TO JOE CAMILLERI "RE: CONFIDENTIAL"
DATED 8 AUGUST 2012**

MR POLIN: Do you see now why it's important that there be this disclosure?---In hindsight, yes.

Did you know about Mr Camilleri's email and his interference?---I don't, I don't believe I did, no.

40 What would you have done if you did know that he was directly interfering in Mr Rochecouste's process of dealing with your application?---To be honest I can't say.

Right. Because you're familiar with the Code of Conduct aren't you?
---Yes.

And you're familiar that the code requires benefits to be disclosed immediately?---Yes.

And that if you accept this was a benefit it required this benefit to be disclosed immediately?---I believe by the person who's seeking, who's got the benefit, yes.

And the code also goes on to say that if it's not disclosed and that it's in fact acted upon that may become improper conduct?---Yes.

10 Under the code if you'd been aware that Mr Camilleri was interfering with your redundancy application that would be acting upon a non disclosed conflict of interest wouldn't it?---That would be the case, yes.

So you would be guilty of improper conduct under the code.

MR SILVER: I object to that question. This witness said that the disclosure had to be made by the person for whom the benefit was derived, not by himself. That's an unfair question.

THE COMMISSIONER: Well - - -

20 MR POLIN: I withdraw that. The code requires you as well doesn't it to - - -?---Well I don't see what benefit I was going to get.

No, you were giving the benefit. There's two sides to the - - -?---Yeah.

- - - story aren't there?---Yeah, but - - -

30 You've already given the benefit that's the money. The problem with it is then the expectation that there's going to be a benefit given back in the future?---No. Because see there's two, I had two choices, one I could either wait and get the redundancy because I had a contract which had a certain period at a time, and at the time the Government was trying to get rid of 750 jobs.

Can we just go back to the objection to the question?---Yeah.

The objection was that your evidence had been that you weren't required to disclose a conflict of interest?---That's correct.

40 Because you had given the benefit not received it?---Well I don't see what benefit I was going to receive.

The benefit you gave was the loan?---Yes, yes. So Joe gained, the gained the benefit of having that loan, yes.

Yes. The benefit was created at that time?---Yeah.

That creation of the benefit created a conflict of interest between you and Mr Camilleri. Do you understand that?---Yes.

That conflict of interest had to then be disclosed, that's what the code says?--I can't recall that. All I can recall is that if you receive a benefit you, you have to declare the benefit.

The, the - - -?---And that was, and the code was always explained with respect to supplier and RailCorp.

10 Do you understand that by giving Mr Camilleri a loan a conflict of interest between you and Mr Camilleri was immediately created?---No, I didn't see that.

MR SILVER: Well I object to that. Can I object to that question as well? The conflict of interest is not between as far as I understand it necessarily between the two individuals the conflict of interest is between your duty to the organisation and yourself interest.

20 THE COMMISSIONER: Well look there's several ways we could characterise it.

But I mean at one level, Mr Cassar, can I just, can I just say could we just for one moment put aside what you interpret the Code of Conduct to say? ---Ah hmm.

Right. You've referred a number of times to the fact that you, you live by Christian principles?---Yes.

Well one of those Christian principles is equity and fairness isn't it?---Yes.

30 Well can you see how it would seem to be unfair to someone else who perhaps was seeking a voluntarily redundancy if they were unaware of the fact that you had lent a large amount of money to Mr Camilleri and he had directly interfered in the process whereby those redundancies were offered. Can you see how that would be unfair?---Not really. Because I was told that my position was - - -

No. Forget what you told?---Yeah.

40 I'm asking you to look at this particular scenario?---Yeah.

You wanted a voluntarily redundancy?---I wanted the voluntarily redundancy because I was told - - -

I'm not asking you why I just want you to consider?---Yeah.

You wanted a voluntarily redundancy for whatever reason?---Ah hmm.

You wanted that at a time when you had lent Mr Camilleri a large amount of money?---Right.

Mr Camilleri directly interfered in that process. Can you understand that if someone else in RailCorp was on that list who wanted a voluntarily redundancy but they had not lent a large amount of money to Mr Camilleri and he had not interfered in the process and they had been refused a voluntarily redundancy that that would seem unfair to them that if they became aware of the fact that you and Mr Camilleri had this financial arrangement thereby giving Mr Camilleri the appearance of having being favourable towards you. Can you see that that would be unfair?---If Joseph Camilleri was, was the only person signing off, yes.

MR POLIN: Well put it as simply as this when you're asked by the investigators you're asked a simple question and you volunteered a simple answer, you were asked, "Did you know about the Code of Conduct when the boss has come around asking for money?" Simple question isn't it? ---Mmm.

20 Your answer was, "Yeah, yeah, yep. Was I in breach of the Code of Conduct? Quite frankly I probably would say, yes." That's your answer wasn't it?---Yes, at the time, yes.

Well you've only had more time to reflect on it. I take it you're not going to now say you don't think you were in breach of the Code of Conduct?---Sir, all we were told about the Code of Conduct was always of our supplier.

No, no, sir?---Yeah.

30 That's the gave the answer you gave to that question. You, you volunteered, you weren't, doesn't appear from the question and answer that you were forced into giving a particular answer were you?---At the time I, I cannot say.

I'll read it again?---Yeah. I understand what you're saying - - -

40 Did you know about the Code of Conduct when the boss has come around asking for money?" So you've been asked a question, do you know about the Code of Conduct not whether you breached it just whether you know about it?---Yes.

That's the question?---Ah hmm.

And you remember that was the question asked of you?---Yes.

To which your answer was, "Yeah, yeah, yep", that answered the question?--Yes.

You then continued at answering the question to say, “Was I in breach of the Code of Conduct? Quite frankly I probably would say, yes.” That’s the answer you gave didn’t you? Because back then you knew what had occurred, putting aside what your motives were, no-one’s questioning your motives?---Mmm.

The fact of the transaction meant that the Code of Conduct was breached. That’s what you said then didn’t you?---Yes.

10 “Quite frankly I would probably say yes”?---Mmm.

So if I ask you exactly the same question now your answer would also be “Quite frankly I would probably say yes”?---No.

No?---No.

20 What’s happened between when you were interviewed by the investigators and now to lead you to believe that you hadn’t breached the Code of Conduct?---Because I’ve always, it’s always been indicated that it’s the supplier, personal relationship.

THE COMMISSIONER: Mr Cassar, I don’t know when you last looked at the document the Code of Conduct but in fact the Code of Conduct speaks in broad terms about what constitutes a benefit and what constitutes a conflict of interest and then it gives a number of quite specific examples. Do you remember that?---Yes.

Well they’re just examples aren’t they?---Yes.

30 Well it’s not a prescriptive list of what constitutes a conflict of interest, isn’t that right?---I always thought the raining was about the supplier but - - -

Forget about what the training was - - -?—Okay.

- - - it’s what you understood from, from the document?---Yes.

40 Can I just, can I just ask you this, a while ago you said that you had a conversation with your line manager about wanting to advance yourself in RailCorp into an operational position?---That's correct.

And you were told that they didn’t you were suitable for that role?---That's right.

Was that a factor in you seeking the voluntarily redundancy?---That was the main factor for seeking redundancy.

So that conversation with your line managers occurred sometime before the 8 August?---That's correct.

And how long before the 8 August?---Probably about two, three weeks before that.

Two of three weeks before that?---Yes.

Did you ever let Mr Camilleri know about that conversation, the reason why you were asking for voluntarily redundancy?---Yes.

10 You did?---Yes. And, yeah.

MR POLIN: But I take it you don't want to get into trouble out of this inquiry do you?---No.

You're not trying to change your evidence - - -?---No.

- - - to try and think its somehow going to get you out of trouble do you?
---No.

20 Well, you understand that you're required to tell the truth?---That's correct.

Now we've got this problem then, that you say that you were asked by ICAC investigators whether you understood the or you knew about the Code of Conduct?---Yes.

To which you answered yes, you did and not only that you quite frankly probably thought you were in breach of it in lending the money, you told them that?---At the time, sir - - -

30 That's what you told them, didn't you?---Yeah.

Now, now you're telling us, well, I'll ask you the question, do you believe that you were in breach of the Code of Conduct by lending the money?
---I've got to say at the time I did not believe I was breaching - - -

No, no, I'm asking you now?---Now?

Yeah?---In hindsight possibly.

40 Right. Well, that's all you were asked then. You were asked then, you just said "Quite probably, I would say yes."?---Mmm.

So what's the problem with being honest and frank about it?---The problem is because I didn't see it that way at the time.

Is it the problem that you think you were motivated by trying to be a good person in lending the money - - -?---Yes.

- - - and you've been dragged into this inquiry and you think potentially you might get into trouble for having done that?---I don't believe I'm concerned about getting into trouble, I believe I'm getting, I'm more concerned about the fact that I've worked so hard to gain the reputation I have and then to see it being pulled apart just because I thought I was doing the right thing by helping somebody in need.

10 Well, no one's trying to pull apart your reputation, we're just trying to get you to ask, answer questions honestly and frankly?---Yeah.

Do you understand that?---I do.

Have I suggested on one occasion that what you had was improper in relation to the, the voluntary redundancy?---I guess the inference is, yes.

Well, had I, had I even inferred it, I in fact asked you whether you - - -?---
No, not - - -

20 - - - were aware of - - -?---Sorry, not you, sir.

Right?---It's just the general public.

Well, do you have problems answering my questions honestly?---No, sir, no, sir.

When you say the general public wouldn't you think that that the clearer and more specific you are in answering the questions, the clearer the message will go to the general public?---Yes.

30 All right. So the fact is when you were asked by the investigators back in time whether you thought you'd breached the Code of Conduct you told them at that time you thought you probably had?---Yes.

And you're saying now when you look at it you think the same thing?---It could have, yes.

40 Yeah. When you look back on it you accept that the conflict, the conflict was created when you lent the money?---I didn't see it at the time but I could see, I could see your point of view, yes.

No, no, you, you can - you say it now that you can see it?---Yeah, mmm.

And you can see that that's a conflict that should have been disclosed?
---That's - - -

Either, either by you or Mr Camilleri or both?---That's the confusion I've got, yes.

Right. But you can see from your side - - -?---Mmm.

- - - you were giving Mr Camilleri a benefit?---That's correct.

That he might be a person who might be able to influence decisions involving you?---At the time I didn't see it because my direct manager Joe was not in the picture, yes.

10 I'm not saying direct decisions, I'm talking for example about voluntary redundancies, you know that he was a person who was involved in the reform process?---Yes.

He had a say in who went and who stayed?---I didn't, I believe that was the case, I really didn't believe that was the case.

I'll take it back a step then?---Yeah.

You might have stayed at RailCorp?---At the time I was talking to Joe, no.

20 No, no, when you lent the money, circumstances may have been different? ---No.

You may have stayed there?---No.

Okay. You stayed there for a certain period of time?---Yes.

Mr Camilleri might have been moved into a position where he was your direct manager, you don't know do you?---No, I do know, sir.

30 You do?---'Cause I had no, I had an intention to leave the organisation.

I'm sorry?

THE COMMISSIONER: Mr Cassar, you might be misunderstanding? ---Yeah, yes, sorry, yeah.

You might be misunderstanding?---Yes.

40 What, what we're trying to do is ask you to think in the abstract and there are a number of propositions that are just being put to you which, which wasn't what happened but may have been what happened so we're asking you to put yourself in a position where other circumstances may have unfolded not what actually happened but what may have happened?---Oh, okay.

All right?---Okay, okay. Yes, sir.

MR POLIN: So it may well have been - - -?---Yes.

- - - after you lent Mr Camilleri the money - - -?---Yeah.

- - - he may have been moved, you may have been moved - - -?---Ah hmm.

- - - and you may have found yourselves in a position where he was your direct supervisor?---Yes.

10 And he may have then been responsible for making decisions in relation to you?---At the interview point - - -

No, no, I'm just talking hypothetically?---Yeah, yeah, hypothetically, yes.

That could have occurred?---That could have occurred, yes.

You then would have had a situation where Mr Camilleri who owes you \$60,000-odd - - -?---Yes.

20 - - - may have had to make decisions involving you?---Yes.

And it's clear that the perception of that is that he may not have been able to make those impartially - - -?---Well - - -

- - - because of this loan that no one knows about?---I would put it to you that before the interview panel I would have, I would have declared, because I have declared a conflict of interest in the past - - -

30 I'm not asking you what, I'm not asking you about the specifics about what you actually did, I'm just asking you about what potentially could happen? ---I, I see your point, yes.

And all I'm suggesting to you is because there are these potential things that could happen that's why there's a requirement to disclose the problem when it arises?---I see your point, yes.

Yeah. You don't need to be rocket scientist to understand that do you? ---No.

40 No?---Not in hindsight.

And so that's - you accept then that there was a need at that time for either you or he or probably - - -?---Both.

- - - both of you to disclose it?---There was - yes.

So that everything can move forward in a transparent way?---Right.

If in five years down the track if the loan still hasn't been repaid - - -?---
Yeah.

- - - and he has to make a decision involving you?---Yes.

It could be a problem?---Yeah. And I would say to you that at that case I
would have alerted myself to that point and would have declared, yes.

10 Yeah?---At the time I didn't see any, any connection between the loan, work
or any conflict of interest.

Right. So if you then look at it - - -?---Yeah.

- - - from the other side of it - - -?---Mmm.

- - - you would think at the time Mr Camilleri, and in terms of your
understanding of the Code, would have to declare it as well?---Yes.

20 So that the moment that he interfered in your redundancy process he should
have declared the fact of the loan?---That's correct, that's correct, yes.

Excuse me, Commissioner.

At some stage in November 2012 - - -?---Yeah.

- - - were you informed by Mr Camilleri that these loans had been
uncovered and he had to make a formal report?---Yes.

30 And were you informed by him that he was asked to provide a list of people
that he'd borrowed money from?---Yes.

Did he ask you whether you wanted him to include your name on that list?
---I don't know, I don't recall whether he asked or not, he, he did tell me he
was not going to put my name on the list.

Sorry, I didn't hear that?---He did indicate that he was not going to put my
name on the list.

40 Did he say why he was not going to put your name on the list?---'Cause I no
longer work for RailCorp.

Right. And that's why he said that?---Mmm.

And was it at that point of time you actually worked for UGL?---That's
correct.

Yes. At some stage - you've told us about the ANZ letter and the Commonwealth receipt, in any of the conversations you had with Mr Camilleri was reference ever made to a cashbox?---Yes.

Do you remember when that reference was made?---I can't remember exactly when. It was early in the piece.

Early in the piece?---Mmm.

10

And what was said about the cashbox?---Um, it was said that that was, there was a, an amount of money that was inside a cashbox and that couldn't be released and it was caught up in some process.

But what was the cashbox, what were you told, how did it come into existence?---Um, to be quite frank I, I think it was to do with um, an inheritance.

10 Yeah, and who inherited what?---His, his, Jessica had inherited the money.

Did he say how much money she'd inherited?---No, no.

And what, the inheritance was the cashbox or went into the cashbox or the - -?---Look, sir, but that time I - and even to this point in this time and date I - a lot of it I try and block, block away from me, I try and block it, I don't recall.

20 When you were getting the cash box story, well you've told us you've shown the ANZ document, you thought that it was a fake, you've shown the Commonwealth Bank receipt, you thought that was a fake.---Mmm.

When you were told the cash box story, did you think that was true?---I, I thought it may have been true but not necessarily.

They're the questions, Commissioner.

THE COMMISSIONER: Mr Chee?

30 MR CHEE: Yes, thank you Commissioner.

I represent Mr Camilleri.---Yes.

I do have a few questions and I'd like to clarify some of the areas of your evidence. You were asked some questions about this transfer receipt and I think your evidence was that you had raised it with Mr Camilleri that you didn't think that it was possible to transfer \$5 million.---Yes.

40 Could you just tell The Commission again, what exactly did Mr Camilleri say in response to that?---He suggested he had other information to say that it was possible.

Where did he obtain this information?---He just said he had that, he was given that information.

Did he say that he had spoken to someone at the bank?---I cannot recall.

All right. Thank you. When Mr Camilleri approached you for these loans did he at any time appeal to your Christian Faith?---It was to do with, it was more to do with my humanity, yes.

Sorry, I don't quite understand that, what do you mean by that?---Well, I saw a person who was deep in distress and to the point where he did cry a few times and so I naturally wanted to help him out.

10 But did he do or say anything that would have appealed to you in that respect?---Like I said, I'm very emotional and I work on emotions.

Right. Last issue. You said that you had spoken to your line manager about a future promotion to an operational role and you raised that Mr Camilleri. ---Ah hmm.

What did he say?---I raised with him the issue that I was, that I may have been looked at as a person who was not performing and he did indicate that there was, there was talk that I was not performing as much as I could be.

20 Did he express any personal views about your performance?---Yes, he said that he had supported, that he thought I was a, like a square peg in a round hole I believe the term was, yes and he - - -

But did he agree with the rumours, did he say?---No, he didn't, he did not agree he said he was telling, trying to tell people of the work that I had done and up until that point I had a very good reputation including with the chief executives and the executive members.

30 Sorry, did I - - -?---No, that's okay.

So was it the case that he in fact disagree with the rumours?---Yes.

And it would be the case that he would have wanted you to stay on if you wanted to?---I believe he did want me to stay on, yes.

Nothing further.

THE COMMISSIONER: Mr Silver, any questions, no?

40 MR POLIN: There was just one question I forgot to ask. Mr Cassar, eventually you did get a redundancy pay out?---Yes.

You don't need to tell us how much but I take it was a reasonably large amount of money?---It was as per my contract, yes.

Did you get a call from Mr Camilleri the exact day you got your pay out? ---Yes, I believe that was the case.

And was that call asking for more money?---Yes.

Nothing further.

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

THE WITNESS EXCUSED

[11.55AM]

10

MR POLIN: I think we're back to Mr Camilleri.

THE COMMISSIONER: Yes, if Mr Camilleri could return, thank you.

MR POLIN: Mr Camilleri, I take it you've been sitting in the back of the room this morning?---Yes.

And you've heard the evidence given by both Mr Coleman and Mr Cassar? ---Yes.

10

We might as well deal with that now. You've heard, have you not, that evidence of Mr Coleman, he's someone that you had been associated with at work for a long period of time?---Yes.

And leading up to November 2012 you had not had much contact with him, had you?---That's right.

He'd been to some extent out of the industry?---That's right.

20

Shortly prior to that period of time he made contact with you expressing interest in a particular piece of machinery out at Waratah?---That's right.

And that's the first contact that had been made with you for some period of time?---Yes.

And ultimately I think he accepted that one of his interests was on behalf of a company IEM in possibly doing some work in relation to that piece of machinery, is that correct?---Yes.

30

Then you approached him very soon after that to borrow money?---Yes.

Excuse me. Is it just pure coincidence the timing of your approach?---Yes, I guess, I never thought of Terry before and when he popped up I thought may be he may be able to help me.

40

Just seems to be a little bit of a pattern involved in it that he approaches you and it's a work approach, it's got nothing personal about it and the approach involves potentially getting some work from RailCorp?---Actually, I don't if Terry may have forgotten he actually came to my house and we had a couple of drinks before hand to catch up on where we were at.

But there's approach and this isn't the first time it seems to have happened where he's looking for some potential work and then there's a very soon after that a request for you to borrow money?---That's right.

Request by you to borrow money – that's exactly the same scenario as Mr Courtman, isn't it?---That's right.

He's approaching you trying to get some work and then there's immediately there's an approach by you to borrow some money?---That's right.

It doesn't look very good does it?---It doesn't look good but that wasn't the intention.

Right. And from the time he approached you asking for some assistance in relation to getting information on this particular machine up until the time you asked him for money, you'd done nothing to help him in relation to giving the information, had you?---I don't, I can't remember, no.

Well the emails, you were here when we went through the emails they were up on the screen.---Yes.

They seem to suggest the first, I think, approach for money was on 15 November, is that correct?---I can't remember the dates I'll take what you're putting up, yes.

It's within a matter of days that you're passing on Mr Coleman's information to other people at RailCorp?---Yes, but I didn't interfere anymore, I said here - - -

I didn't suggest you did, but doesn't it clearly show that firstly, you're aware that Mr Coleman was looking for a benefit, ie, a benefit for getting some work from RailCorp?---I don't know if he was looking for work, as he explained, he wanted to find out what was happening with the machine because it wasn't performing.

Yes, but he then went onto agree that he was associated with IEM and was expressing an interest on that company's behalf in doing any work that needed to be done?---Yes, but I wasn't involved in that.

I understand that, but he's coming to you and you're aware he's expressing an interest in getting some work?---I wasn't aware he was expressing interest in getting work he was expressing interest about the machine at Waratah and why it wasn't performing and who could he talk to about that.

Just, did you think it was just for his own personal interest just to check the machines were working in RailCorp?---He wanted to know, I didn't really want to get involved with it, that's fine, I said these are the people.

Yeah. And so that he could contact them to potentially arrange for some work?---Well potentially, yes.

Yeah. That's all I'm asking you?---Yeah well, you know, but that wasn't the reason that I gave him the contacts.

I understand that?---Right.

And having done that you go to him and borrow some money?---I, I borrowed money from him, yes.

Yeah. And you were then indebted to him?---Yes.

And then after being indebted to him you in part repaid the favour by passing on his details - - -?---No.

10 - - - to the people that he asked them to be passed on - - -?---That, that was not related to the debt at all. I would have done it regardless.

It, well I'm suggesting to you is it just looks a bit suspicious?---Yeah, yeah. And I said yes, that's right.

20 Because the fact is from the documents you hadn't done it regardless. He said he approached you in August asking for your assistance and in fact it's not until he lent the money that he got your assistance. That sounds a bit suspicious doesn't it?---Well it wasn't, I'm pretty sure I gave him phone numbers, but anyway.

Now, you've heard Mr Cassar give his evidence?---Yes.

You've heard as well the evidence of Mr Rochecouste?---Yes.

And you've heard the evidence about Mr Cassar's redundancy?---Yes.

Do you disagree with any of the evidence you've heard?---No.

30 Before you borrowed money from Mr Cassar he had spoken to you about the fact that his position may not be needed at RailCorp in the future. So you were aware of that weren't you?---That his position wasn't required?

Yeah?---I - - -

Or that he may be made redundant?---It wasn't about positions. It was more about individuals.

40 Okay, so he is, it was capabilities were, were they not up to scratch? What was the position? Well, you tell us what he told you?---No. He came to me saying that his, he was concerned about his future in the organisation, that he wanted to get, back into an operational role, which is where I knew Sam before that. And um, he said that people are saying that um, "I'm not performing," et cetera, et cetera. He says, "What have you heard?" And I said, "Well, yeah. Where they've moved you into you're like a square peg in a round hole." It didn't suit him so he wasn't performing to his best ability in that particular role and that's what these other line managers were judging him against.

And was he saying therefore he should be looking for another job?---He said he wanted to go and look for another job and I said, you know, "Don't overreact." You know, because he's, he was a good resource. We didn't want to lose him.

And so at that point in time the best option for him was if he could get a redundancy and get a payout and get another job?---I'm assuming that's what he thought was his best option, yes.

10

Because it's always good to get a good size payout on a redundancy when you're going to go and get another job in any event?---Would be nice, yes.

Yeah. So you would have thought it would be nice for Mr Cassar if he got a redundancy knowing that he was looking for another job in any event?---No. I, I, I tried to talk him out of not taking it.

I understand that. But you knew that word was he wasn't performing and so he decided - - -?---In that - - -

20

- - - that he was going to look for another job?---He decided that, yes.

Yeah. And you knew he had decided that?---Yeah.

And that it would be a real benefit to him if he got a redundancy as well as getting another job?---Of course it would. It would be a benefit for all those people that left.

30
Yeah. And you knew that before you borrowed any money from him?---No. What's, what's that, I don't, I don't know what you're trying to, to say here.

It's a pretty simple question. You knew that before you borrowed any money from him?---Knew that before I borrowed any money - - -

Ah hmm?---I borrowed money from him before he put his hand up for redundancy.

40
He didn't put his hand up, sorry, you'd had the conversation with him about looking for another job before you borrowed money from him. He then finally put his hand up some time later. Isn't that correct?---I, I don't know the time sequences. I can't remember.

In any event the time came when he put his hand up for redundancy, and I think he was initially late for it?---That's right.

And you've seen the emails haven't you that were - - -?---Yes.

- - - referred to Mr Rochecouste?---Yes.

And you've seen on any plain ordinary English reading of those emails it appears that you've interfered with the process that Mr Rochecouste had put in place?---I didn't interfere with it. I just - - -

He didn't ask you to do anything did he?---No but - - -

10 He told you what he was doing?---Yes, but that's - - -

Didn't he tell you in the email, he just said - - -?---Yes.

- - - that he had asked Sam for some information and he said that he was going to approach Kelly Bond?---That's right and - - -

That's what he said?---And it just - - -

20 He didn't say, "Mr Camilleri, give me some help in doing this," did he?---No, but we had a conversation and I said to him at the time, "Well Kelly only sits around the corner. I'll go and ask her," because the issue was about - - -

You said at the time that you were incredibly busy with your work, you were flat out?---But that, but that - - -

Why on earth, why on earth, sir, would you be telling Mr Rochecouste that you would actually go around and, and seek - - -?---Because Kelly was just around the corner from me.

30 And I take it she's not far from Mr Rochecouste either?---Yeah, she was on, two floors down, or four.

Oh gee, that would have taken him a long time to deal with it wouldn't it?---But the issue is I spoke regularly with Kelly Bond about the VSP, and that section also happened to be my section as well.

40 And on the face of it it's pretty clear, I withdraw that. When you offered to Mr Rochecouste to take over the redundancy application to Kelly Bond - - -?---I didn't take over the application. I just said, "Can someone - - -

Whatever - - -?--- - - - put in a late application?"

Whatever you did, did you tell Mr Rochecouste that you were taking it around on behalf of someone who you owed over \$60,000 to?---No.

Why not?---What for?

There's no doubt you've clearly interfered with that process because you were aware that you were indebted to Mr Cassar, is there?---No. No. That was not the reason.

Mr Camilleri, you've got to think very carefully about giving your answers because you've told us haven't you that although you are a person who has lied before to investigators and the like you're not a person who lies on oath?---Yes.

- 10 Now, you just said a moment ago did you not that you got the information from Mr Rochecouste and he, you accepted that he didn't ask you to interfere at all in the process?---Yes.

Then you said you had a conversation with him about it and then you emailed back saying you'd take it over, deal with Kelly Bond?---Yes.

Is that correct, or did you just say that?---No, that's my understanding of it, yes.

- 20 Is it correct?---As I recall it.

Or is that - - ?---That's what I recall, yes.

When did the conversation take place?---With who?

With Mr Rochecouste?---I think between the emails I think.

Right. He's on a different level to you?---Yes.

- 30 Was it by telephone or did you go to his office?---I, I can't remember. Probably, I can't remember.

Well, there'd be no reason to go to his office because you said the whole point was saving him a trip up a couple of floors?---Yeah. Oh well, yeah.

Are you just making it up, this evidence about a conversation?---No.

Because it will, you think it might sound a bit better?---No.

- 40 There was no conversation was there?---Well I recall that I had a conversation with Pierre about it, yes.

His email was sent at 8.21am on 8 August?---Yes.

Your response was at 8.22 on 8 August?---That's right. I said, "Leave it with me, I'll go and have a look at it," yeah.

There was no conversation with Mr Rochecouste between 8.21 and 8.22, the times of the - - -?---No - - -

- - - the particular emails was there?---Not between the emails, no.

You just said a moment ago there was, you said - - -?---Well, maybe I got it wrong.

10 - - - you got - - -?---But I did talk to Pierre about it later. I did talk to him.

I just asked you about whether you're aware that it's - - -?---I got it, I got it wrong. I - - -

So you, you lied about it?---I didn't lie, I got it wrong. I made a mistake.

Well, what other bits of your evidence have been mistakes?---(No Audible Reply).

20 So if you're caught as saying something that's not correct that's not a lie, that's you making a mistake?---Yes. In this case, yes.

In this case? Well, what other cases? Can you think of areas - - -?---No, no. No.

Have we actually got to go down to the details of the timing of emails to establish whether or not you're telling us the truth in relation to anything?---No.

30 So in this situation the truth of the matter is the very moment you got this email from Mr Rochecouste you didn't talk to him at all. You immediately said to him, "Don't worry. Give it to me. I'm going to deal with it?"---Yes. I'll go and see Kelly about the issue.

There's no doubt at all that what you've done is intentionally interfered with the process of Mr Cassar's redundancy didn't you?---Not with, I, I, I don't, I wouldn't say the word was interfere. I said I would take it up from here because she's around the corner, in my, in my mind, my - - -

40 Why would you - - -?---I do that with all of them.

Why would you, as busy as you tell us you were interfere in a process - - -?---Because VSP was one of the - - -

Interfere - - -?--- - - - major issues that we needed in the reform to get through.

Interfere in a process where Mr Rochecouste clearly seemed to be on top of it and clearly seemed to be doing his job properly?---Yes.

Why on earth would you interfere with that and take on board something you otherwise didn't need to be involved in?---Because I knew it was a priority for the organisation to get the numbers they needed through and because the deadline date was already gone past – this was one of the first to come up and to say, can we do anything when a deadline date's gone. So I said I'll go and find out in my mind and when I did I left it back to Pierre to handle it.

- 10 He had it on the face of his email, well under control.---Well, he didn't, he didn't, he didn't know about the deadline date.

He had it under control didn't he, he was doing exactly what you say you did?---Yes, but that's not uncommon for me to step in and help people through processes, that's part of my job.

THE COMMISSIONER: When you say he didn't know, he didn't know what?---Sorry what?

- 20 A minute ago you said Pierre didn't know?---I'm assuming he didn't know about the deadline dates, I don't know what he knew or didn't know.

Well, a minute ago you said he didn't know?---Well, okay.

Are you just guessing?---In that case I'm not sure what Pierre knew or not knew.

Thank you.

- 30 MR POLIN: Again, is this a situation where you're mistaken or not telling the truth? Are you volunteering evidence which you think might help you? ---I'm volunteering what I think is a, what was the truth at the time.

Pierre, clearly knew about dates from having received the email from Sam Cassar. Sam Cassar clearly said he wanted to be considered for late inclusion.---Yes.

So why would you say that Pierre wouldn't be aware of the dates?---I'm not, may be, I was wrong in saying that, yes.

40

So you're wrong again?---Yes.

So just in these two emails - - -?---Because you're trying to, you're trying to infer something that in my mind is not true that I did not interfere to help Sam get his redundancy, that was not my intention at the time it was simply that she was around the corner from me, we talk and VSP, VSP was a high, high priority for the organisation, we were targeting a certain number so I

said let me go, in my mind I'll go and see Kelly, and say Kelly, here's somebody that's come in late.

So you are, I am trying to infer that you interfered improperly in this process and in just asking you questions about the process over two emails you've given two pieces of evidence that you've then had to retract as being not true?---Yep, yep, I'm slightly confused, that's all, I'm concerned about what the inference is that's all, that was not my intention.

10 Well the inference is certainly building up and becoming a little bit more definite isn't it?---No, that was not my intention at the time.

You can say that as much as you like sir it's a question of whether anyone believes it.---That's fine.

But why would we believe you in circumstances where just being asked about the documents you haven't told us the truth on two occasions?---I got confused with what I was saying.

20 Okay.

THE COMMISSIONER: Could it have been your intention Mr Camilleri to ensure that he received a redundancy so that he was available to lend you more money?---No.

No.---No.

MR POLIN: Did you - - -?---As I said, I didn't want Sam to leave.

30 Did you look at through the RailCorp records as to when redundancies were paid?---No, have no idea.

Is it just yet another one of these amazing coincidences of timing that on the day Mr Cassar received his redundancy pay out you telephoned him asking for another loan?---I didn't know that.

40 That wasn't the question. The question was, whether it was one of these amazing coincidences of timing which seems to be regularly occurring with you that you telephoned him on the very day he got the payment?---I didn't know he got the payment on that day.

So you're saying the answer is - - -?---It's coincidence then, yes.

Just a coincidence, you've pick the one day in the month?---That's what Sam says, I don't know.

He said quite clearly the day he got it you telephoned him?---Which was the first time I heard about that, I didn't know.

You didn't – that's not true is it?---It's true I didn't know.

At this point in time you're absolutely desperate to get your hands on money weren't you?---Desperate all the way along.

You would have been doing whatever you could to find out who had money and whether you could get it, is that correct?---No.

10 You would have been in your interests at that time wouldn't it, you knew Mr Cassar was going for redundancy, you knew it had been approved?---Yes.

You knew that he was going to come into some money?---Well that's one leads to the other, yes.

Yes. You're a person who's desperate to get your hands on money?---Yes.

20 And these voluntary redundancies that they were getting were reasonably large amounts of money, weren't they?---As per their contract, whatever Sam's contract is, yes.

It was a large amount of money wasn't it?---It would be, yes, I guess it would be in Sam's case.

A ready pool of money available for you there to get your hands on?---It was not my thinking at the time.

30 So you expect us to believe you that it was a just a pure coincidence?---Yes.

Yet again. Now you heard Mr Cassar's evidence about the various documents that you showed him?---Yes.

He showed you the ANZ letter – you showed him the ANZ letter sorry?---There's a good chance that I did, yes.

You heard what he said about that?---Yes.

40 That he told you that he thought it was a fake?---Not at that time he didn't.

He gave evidence that he told you soon after being shown the letter, whether it was the day or soon after it that that ANZ letter was a fake?---He thought it was.

Yes.---Yes.

So he's come to you, Joe, you showed me that letter from the ANZ Bank, I've had a think about it, it's a fake.---He said he thought it was a fake, he didn't know if it was.

Of course he wouldn't, he said Joe, I think it's a fake.---Yes.

That must have sent alarm bells through you wouldn't it?---Not really, because again, I checked again through my daughter and she assured me it wasn't.

10

He said it only took him just a casual glimpse of the document to come to the conclusion that it's a fake?---Yes.

You now know don't you that it's a fake?---Everybody's telling me it's a fake, yes, it appears to be.

Well, you've had plenty of time to look at it now, haven't you?---Yes, yes.

20

What do you think looking at it?---It doesn't look real now, what people have been pointing out – that's the only reason why I've picked it up.

You had plenty of time to look at that letter didn't you, you had years at - - - ?---But I didn't look at it.

Okay. As soon as Mr Cassar said to you, "Joe, it looks like a fake," you would have gone straight to the letter wouldn't you, you would have given it a good look?---No I didn't.

30

Why not? You said checked, you went back and checked it out with your daughter why wouldn't you - - -?---I just gave her a call and saying that people saying that (not transcribable)

People are saying the ANZ Bank letters are fake, she said, oh it's not? ---Well, you asked me, that's right and I believed her.

Do you ever think, well I better have a look at it myself?---No.

No?---No.

40

Why not?---I didn't have a further look, I didn't.

THE COMMISSIONER: Mr Camilleri, just enlighten me, at the point in time when this letter is pointed out to you as a fake, tell me in round figures, how much money did you owe?---I can't recall, I don't know it would be a couple of million I guess - - -

A couple of million?---No, no, from RailCorp – sorry, not what I spent, what I spent - - -

No, all up.---Well most of it was mine so - - -

Yes, well everything.---I don't know it was, I don't know when was the letter, sorry, what date was the letter?

We're talking August, the ANZ letter.

MR POLIN: August 2012.

10

THE COMMISSIONER: August 2012.---August, probably by that, it wouldn't have been that much a few hundred thousand of not my money of people I borrowed at RailCorp.

No, I'm talking about your money, I'm talking about all up, how much did you owe at that point in time, everybody?---Not including myself?

Including yourself.---Including myself it would have been I guess a \$1.5 million something like that.

20

\$1.5 million?

MR POLIN: I can tell you from the evidence yesterday, early 2011 you say you'd put in \$1 million, does that help you?---Yes, so may be \$1.5 million/\$2 million, something like that.

\$1.5 million/\$2 million – let's round it off to \$2 million shall we?---Oh well.

You've shown someone a letter - - -?---Yes.

30

- - - who's questioned your story.---Yes.

And they've said to you, it's a fake?---Yes.

You're in it for \$1 million yourself.---Yes.

And are you honestly sitting there and saying you didn't go back and have a look at this letter which you are being told is a fake?---Yes.

40

And is that because you've now agreed that simply looking at the letter now you can logically conclude it's a fake, can't you?---Now, yes.

So that if you'd looked at the letter back about the time Mr Cassar had said to you that it was a fake you also would have concluded it was a fake?---Maybe, maybe not unless somebody sat me down through it because I wasn't thinking clearly at the time. I mean I just looked at the content I wasn't worried about the structure of the letter.

You've said now you look at the letter and just on looking at the letter you reasonably conclude it's a fake?---That's what people are pointing out to me, yes.

MR POLIN: I'm not, it's not what I'm pointing out.

THE COMMISSIONER: No, that's not the question, Mr Camilleri. Listen to the question?---Yeah, well repeat it.

10 MR POLIN: You've said a moment ago that if you, that you've looked at the letter recently and just looking at the letter you've reasonably concluded that you believe it's a fake?---Based on that – well again sorry, but based on what people are saying about the letterhead et cetera so I - - -

If you - - -

20 THE COMMISSIONER: Mr Camilleri, excuse me. I need to make this very clear to you because you have answered or rather failed to answer the question a number of times. Do you sit there now and say that you have not reached any independent view of your own that that letter is a fake. Is that what you're telling us?---That's, that, that's what I'm implying but what I'm saying - - -

No. Is that what you are telling us?---Well, it must be a fake that's what I got to say and what, what I've, I've seen what people are saying.

You accept now - - -?---I'll accept - - -

30 - - - in your own mind that it's a fake?---Yes.

Thank you.

MR POLIN: Had you looked at the letter back when Mr Cassar directed your attention to it firstly having directed your attention to the fact he thought it was a fake - - -?---Ah hmm.

- - - you would look at it a bit more closely than you had previously?---I would have if I looked at it.

40 Yeah. And having done that you would have concluded at that time that reasonably it was a fake?---I, yeah, I would have questioned it, yes. Now Mr Cassar has given his qualifications, you've heard those?---Yes.

He seems like a bright bloke?---Yeah.

He's got a Masters I think in Business Administration, you knew that at the time?---I didn't know he had a Masters in Business, no, I knew he was an electrical engineer.

Right. But an intelligent bloke working in the organisation?---Yes.

This intelligent person had identified to you that he thought a document that you'd shown him was a fake?---Yeah.

The only thing you then did was went to your daughter Jessica - - -?---That's right.

10 - - - and said Jessica he says it's a fake, what is it? And she said no, it's not a fake?---That's right.

Do you honestly expect anyone to believe that?---Well it's the truth.

How could it be the truth?---It's the truth.

This is the person who is using the document to convince you that her story is correct?---That's right and she was my daughter, yes.

20 If you want to get anything checked and have any independent verification of it the person you don't go to is the person that wants you to believe it's correct. That's right isn't it?---That's right.

That's logical?---Yes.

Yet you honestly expect this tribunal to believe that having been told that it was a fake the only person you went to verify whether it was or wasn't was the very person who was using it to convince you?---yes.

30 ASSISTANT COMMISSIONER: Mr Camilleri, can I remind you that, that these questions are put in the context of what occurred in August 2012. You understand that?---Yes.

MR POLIN: Because you don't want to say do you that you reasonably believed in August 2012 that the story you were giving is a fake?---No, I honestly believe - - -

It was truthful, yeah?---I believed it.

40 You understand your sister has come here and said as soon as she was shown one document she didn't have to go and check with anyone she was shown the document she reasonably believed it was fake?---Yes.

She then reasonably believed that the stories she'd been told were untrue. Yet then she was then pressured by you to borrow more money and she used that untrue story to extract more money from other people?---That's what she - - -

You've heard her give that evidence?---Yes.

Haven't you?---Yes.

And you don't want to come clean and do the same thing because you think they're going to be consequences don't you?---No, no. 'Cause I honestly believed the story all the way along.

10 Yeah. And you honestly want everyone else to believe that you believed it too?---I'm telling you the truth.

Okay. Well when you then had Mr Cassar doubt the only other document you showed him you must have had some real concerns?---Yeah, yeah, well we had a conversation about it.

Concerned such that you'd lied to him?---I didn't lie to him.

20 Sounds as though you did from Mr Cassar's evidence?---No, I forward him what I, what was forwarded to me to both him and Kevin, Mr McCarthy saying look there's apparently money coming through.

And he indicated very soon after it was sent to him that he believed that document was a fake as well didn't he?---Well he said it didn't seem true.

He thought it was a fake?---Mmm.

The same isn't it?---Yeah.

30 And you told him that you rang the bank?---No, I didn't.

You heard him sit there and give his evidence - - -?---I know he said that but no, I didn't.

So he's lying about that?---He's not lying that's what, how he, what he probably recalls but I did not tell him that.

Well he can't recall it if it wasn't said?---I didn't, I didn't say it. I never rang the bank at all.

40 He says that - - -?---I know what he said.

- - - you said that you'd rang the bank, let me finish, right you rang the bank but the bank had told you that that receipt number was a genuine one, that they couldn't tell you exactly what the amount involved was?---No.

Do you recall him giving that evidence?---Yes, I do.

It's very - - -

MR CHEE: I object. I think the evidence of Mr Cassar was not – he moved on from that it wasn't just that. When I, when I asked him questions he said he couldn't say what Mr Camilleri had said in respect of that particular issue.

THE COMMISSIONER: Well the problem is I think, Mr Chee, that Counsel Assisting is referring to the evidence that Mr Cassar gave when he asked the questions what, what one makes of his evidence later on is um,
10 neither here or there but Counsel Assisting can proceed on the basis that it's the answer that Mr Cassar initially gave that are being put to the witness.

MR POLIN: You heard me actually ask those questions?---Yes, yes.

And you heard him give that evidence?---Yes.

So there's no doubt that the evidence was given is there?---Yeah, I'm not, I'm not disputing that, that he gave it.

20 It's evidence of a very specific, well it's a specific evidence of the conversation isn't it?---In his mind, yes.

Yeah. It's unlikely the kind of thing that someone would invent, isn't it?
---No, I'm not saying he's inventing it that's what he believed at that - - -

Well quite often when people are asked to remember conversations that took place in the past one thing they tend to do is they forget things don't they?
---Yes.

30 They forget aspects of the conversation but they don't invent aspects of the conversation do they?---No.

So you could accept Mr Cassar may have potentially forgotten some of the things you told him?---Yes.

But you wouldn't suggest that he would come on and, and give an oath to tell the truth to this inquiry and deliberately lie and make up parts of the conversation - - -?---No, I don't think he said it deliberately, no.

40 Right. So that's been his evidence that he's given on oath?---Yes.

What's your evidence? Is your evidence you don't remember saying that or is your evidence you did not say that?---I did not say that.

Right. So we've clearly got a conflict between the evidence of you and Mr Cassar - - -?---Yes.

- - - that the Commission has to resolve?---Yes.

You don't have any doubt about the first part of what he said do you, that he identified the document as being fake?---He mentioned that to me some time later, yes.

He also said to you did he not that banks don't do electronic transfers in the amount of \$5 million that there's a limit on them?---Yeah, I think – we had a conversation about it, whether he knew specifically but he said that seems a large amount to be transferred electronically.

10

And he told you that - - -?---I don't think it was in the bank, sorry, I, I didn't understand it to be an internet transfer I thought it was a transfer through the bank so I thought you can transfer any amount through a bank.

The transfer shows a transfer from Jessica's account to your account?
---That's right.

That's right?---Yeah.

20

Isn't it?---Yes. I don't know if it was an internet transfer.

Okay. But he came to you and said he looked at the receipt. He is someone who obviously does internet banking?---Yeah.

He's saying Joe, this is an internet banking receipt wasn't he?---Oh, I think so, yes.

You knew no better 'cause you didn't do that sort of thing?---No.

30

So you think okay Sam you must be right it's an internet banking receipt?
---Yeah.

He was saying Joe they don't let you transfer \$5 million by internet banking, this is a fake. That's what he's saying to you isn't he?---Yes.

What did you do?---Again I, I checked with my daughter and I said is it, "Did you transfer that five million?", I didn't mention internet or whatever, I said, "Can you transfer that sort of money," she goes, "Yes, it's not a problem," and then - - -

40

Now this is your chance, this was your big chance to get to the bottom of this wasn't it, because this transaction gave you all the facts and all the information didn't it?---Yeah, yeah, and as I think I mentioned yesterday she told me that it didn't go through, it got held up again.

Yeah. But what we had is we had on the very same day \$5 go into your account?---I don't think it went the same day, I'm not sure that, that - - -

Yeah, it went in the same day?---Okay.

Yeah?---I didn't look for two days 'cause she said don't look for a couple of days.

Because all you had to do, you had this receipt and you had your bank statement, you look at the receipt- - -?---Yeah.

- - - and you look at the bank statements and you see the \$5?---Yeah.

10

Whether you needed the number, I'm not sure, I'll look to see whether it comes up on your bank statement?---No, it did, you showed me yesterday.

No, no, the actual receipt number?---Oh, I'll believe it.

Well, whether it's on your bank statement or not, let's assume it's not, you've had \$5 put into your account the very same day someone's telling you they've put \$5 million into your account?---Yes.

20 You understand that?---And I think I tried to explain it yesterday what I was told was the \$5 was to open the link and then the bigger one would come in after.

Mmm. And - - -?---And I believed that.

And all you had to do was go down to your bank, not her bank, it happened to be the same bank, but you had no problems talking to your bank about your financial position did you?---No.

30 And all you had to do was go down with the receipt for the \$5 million and they would have told you, wouldn't they, that the receipt number for the \$5 million matched the \$5 transfer?---Yes.

That's what they would have told you wouldn't they?---Probably, yes.

Well, when you say probably you know that now don't you?---Now I do, yes.

40 When did you become aware that the \$5 million receipt matched the \$5 transfer?---I, I don't know if I ever married the two up to be honest.

Well, you said - - -?---Because all I, all I, all that happened was a couple of days later I said there's nothing here and she says well, it's been held up so I didn't follow up with the bank and then she said it's been held up, it's been drawn back out, they're not going to transfer it.

Now you've got - - -?---I didn't, I didn't match it up, I didn't do that.

You've got a bloke who's telling you, Joe, this is a fake?---Well, he's given me, yeah, well - - -

There's no doubt he told you that didn't he?---He didn't say it in those terms, he just said I doubt it looks legitimate. He said I - - -

And you did nothing where you could easily have gone down to the bank to check it?---Well, I, I didn't.

10 And do you know why you didn't? Because you knew it was all, this was all fake wasn't it?---No, I didn't know it was all fake.

You knew your daughter had transferred \$5 to your account and that she had - - -?---A couple of days later.

- - - and that she had altered the \$5 receipt to make it \$5 million?---I, I didn't know that.

20 Yeah, you didn't you?---I didn't know that.

And that you were sending it off to people like Mr Cassar in support of your application for more money?---When I sent it to Mr Cassar and Mr McCarthy I believed it to be genuine.

Sir, we had the \$90 million-odd with the Commonwealth Bank didn't we? ---Yes.

30 And then somehow surprisingly having been battling the banks for months and months and months about releasing money the Commonwealth Bank out of the blue released \$5 million into your daughter's personal account? ---It wasn't out of the blue, leading up to that we were putting money into it to try and get some released and that was the amount she said was to be released.

It was released into your daughter's personal account wasn't it?---Oh, into an account, yeah, I can't - - -

You can't transfer money that's not there can you?---No.

40 So it's gone into your daughter's personal account?---Yes.

And if Mr McCarthy's correct - - -?---Well, I don't know if it was went into my daughter's account, it came from an account, I don't know what account - - -

It's got your daughter's name on it?---On that transfer, yes.

Yes?---Eventually, yes.

So it's gone into your daughter's account?---Yes.

It's being transferred out of your daughter's account, that's what you're telling it?---Well, it's being transferred out of an account, yes.

Out of your daughter's account?---Well, that's what the receipt says.

10 Yeah. And if Mr McCarthy's correct that soon after the five million went in another five million went in?---Was to go in.

Into your daughter's personal account?---It was to go in, yes.

Was in?---It wasn't in, it was to go in.

Okay. Well, let's forget the second five million, the first five million was in?---Yes.

20 Wasn't it?---Yeah.

In your daughter's personal account?---That's what she told us, yes.

Well, you've got a receipt, it shows she transferred \$5 million?---Yes.

You can't actually go and transfer it unless it's there can you?---Well, that was my understanding, that's why I believed it was true.

30 So if you are telling us the truth as at 30 December, 2012 you knew that your daughter had \$5 million in her personal account?---That she was transferring to me, yes.

Well, it was in there before she decided to transfer it?---I didn't, I didn't know before but yes. It was in her account, yes.

Yeah, yeah. And you've giving this absolutely ridiculous story about needing bank fees to get it out?---Yeah, I don't know if it's that five million but, yeah.

40 Why would you need to pay bank fees to get \$5 million out of her account if it's there?---I don't know if - - -

This is her personal account?---No, the five million, the fees were to get the money out of whatever account it was being held into to get into account and once it was in her account she would transfer it to me.

She's got five million in her account, did you have problems accessing your account at this time?---No.

Did she tell you that she was having problems accessing her account at this time to get her wages and things out?---I think so, yes.

You do?---I think, I don't know if it was that time but some, during some period of time she said occasionally that she couldn't get to her wages.

Are you just making this up?---No, no, no, it happened during the time.

10 You're not suggesting her personal account was frozen?---Yeah, that's what she told me.

Why didn't you just go down to the bank at that stage and say there's \$5 million in this account, there's no reason, no reason at all that it can be kept? ---Yeah.

Why didn't you do that?---Because at the time it wasn't frozen, it was being transferred to me, I was to wait a couple of days for it come through.

20 Okay. Well, let's give it a couple of days, it didn't come through?---And then, then, that's right, and then I said what's happening with the money and the story I got was that they've retracted it back, there is more issues and it's all been locked away.

So it got retracted back from your account to her account?---Well, it got through the process, it never ever reached my account.

Yeah, but it was in her account?---At one time that's what I was told, yes.

30 Yeah. Are you saying that they pulled it back out of her account?---That's what I was told, yes, yes, and I gullibly believed it, yes.

THE COMMISSIONER: Oh, Mr Camilleri, are you seriously suggesting that if you had \$5 million in your account someone else would be able to withdraw that amount and take it away without your authorisation?---It was never in my account.

40 I'm not talking about whether it was in your account, you're suggesting to us that although you daughter at some stage had \$5 million in her account she had no control over the fact that someone took it away again?---That's what she told me, yes.

And you, and you are suggesting that that is a realistic scenario?---That's what I believed because there was a lot going on at the time, yes.

Well, excuse me, let me put my question again. If you had \$5 million in your account and someone took it away without your authorisation what would you have done about it?---Yeah, I would have followed it up, yes, but she - - -

Do you think that's even possible that someone can withdraw money from your account without your knowledge?---She apparently, I was under the impression she knew where it went, that she had knowledge of why it went, didn't come through and it was pulled back.

So did you ask her where it went?---Yeah, she said it went back into there, into, into the, they're, they're holding onto it again, the same.

10 Into, into where?---I never could get down to the bottom of it.

And throughout all of this, all of this information that you're asking her for that she's refusing to give you, you continued to believe her story?---Yes, I did.

As I said yesterday I don't understand why you wouldn't have believed her if she had told you she going to America to marry Tom Cruise, it is equally ludicrous is it not?---Not in my eyes, no.

20 MR POLIN: Even on just the \$90 million-odd I think the Commonwealth Bank wanted \$80,000 in charges for that?---Something like that.

If one's to think well, \$90 million at five per cent the interest for one week for \$86,301?---Ah hmm.

So one week's of interest, one week of interest would pay the bank fees with a bit of change?---Yeah.

30 Why couldn't you get your money?---Again it wasn't released I was told.

Because you didn't pay - - -?---It wasn't available, they were hanging onto it, they were making it difficult so that they would keep the interest as long as they could, the argument put to me was the longer they could keep it they would keep the interest and I believed it.

Oh you - of course you did, you believed this for years didn't you?---Yes, I did.

40 And, you know, then everyone's telling you the documents are fake. Your sister's believing the whole thing's fake and there's a scam. You're the only person there - - -?---She never ever told me that.

- - - believing it aren't you?---I, yes.

And being faced with all these suggestions that the documents are fake and the stories are fake the only thing you ever did to try and verify it was to speak to Jessica?---That's right.

And you're just saying that aren't you because it's, this whole thing is just a lie by you isn't it?---No it's not.

You're just saying it because you know that if you had done anything, anything at all, telephoned a bank, telephoned ASIO, telephoned a solicitor, done anything you would have immediately discovered that it was a fake?--- If I did it probably.

Yeah?---But I didn't do it because I believed it.

10

If you rang, if you rang the ANZ Bank, if you rang the National Australia Bank, if you rang Westpac, if you rang the Commonwealth Bank, any of them. You could have picked just one of them?---Yep, but I didn't.

You would have immediately known the whole thing was a fake?---Yes.

And you didn't ring them because you knew that it was a fake already?---No I didn't.

20

You didn't need to, them to tell you that. You were part of this whole scam?---No I was not.

Can you give us any, any compelling reason why we should believe that that's not the case?---I'm, I'm just telling you the truth. I - - -

Other than you saying - - -?---Well, that, that's all I can tell you is that - - -

- - - that you - - -?--- - - - I believed my daughter.

30

You can't give any other - - -?---No.

- - - compelling evidence that might corroborate that?---No.

Can you give any evidence at all that might corroborate it?---No.

When you were asked by RailCorp to prepare a list of people you'd borrowed money from - - -?---Yes.

40

You've heard Mr Cassar's evidence? You telephoned him?---Yes.

And asked him whether he wanted his name on the list?---Yes. I talked to him because he was leaving at the time.

He said he didn't care?---I can't remember what Sam said. I can't remember.

Why wasn't Mr Cassar's name on the list?---Because he'd left the organisation.

So?---Yeah, okay. In hindsight maybe I should have put it on there but I didn't.

Has it, is it the problem that he'd left the organisation to go and work for UGL?---No.

That it might have alerted people to the fact that this scheme had gone a little further than just RailCorp staff?---No.

10

Why not then?---Because he'd left the organisation.

He was at the organisation when you borrowed the money?---Well, my understanding was a list of RailCorp employees and he wasn't there, he, he wasn't a RailCorp employee at the time.

Do you expect anyone to believe that?---Yes.

20

You left him off just like you left all of the contractors off?---That's right, all the people working for contractors.

And this if of course the very time when you've admitted that you lied isn't it?---Ah, to the investigator?

Yeah?---Yeah.

30

And, because the investigator didn't make you hold onto a Bible before you answered the questions you thought it was okay to lie to him?---(No Audible Reply)

Why would be believe that evidence about Mr Cassar, why would we not think that's a lie as well?---Because it's the truth.

Well, you lied about the others. Why wouldn't you be lying about Mr Cassar?---Everybody lies, but I'm not lying here on oath.

40

Now, so that's, that's of course your line isn't it, you, this is the truth because it's on oath. The other stuff doesn't matter because it wasn't?---No, it did matter.

Well why did you lie?---Because I'd misunderstood what they were saying and yes, at the end of it I thought why, why would I - - -

No, you misunderstood the first time. That's when you were caught out?---Yeah.

And then the investigator brought your attention that he was a contractor and then said - - -?---Because I believe it was - - -

And then he said, "Were there any other contractors that you borrowed money from"?---That's right. And I thought it was - - -

And you said - - -?---No.

- - - no. That was a lie?---That's right and I admitted that.

There's no misunderstanding?---That's right.

10

There's no misunderstanding is there?---That's right.

It's a - - -?---And I lost my job because of it.

Forget whether you lost your job. It was a lie and it was a deliberate lie to an investigator?---Yep.

An internal investigation for State Rail. So it's not important to you is it - - -?---It was important.

20

- - - that it's an internal investigation at, at RailCorp? It's not important to you whether you tell the truth or not?---Yes it was.

Then why did you lie?---Because I believe it was private loans between people and I - - -

No, no, you told us that there was no confusion at that stage?---Yep.

30

It was a lie. You lied because you thought it would be beneficial to you to lie didn't you?---Beneficial in what sense?

You, you lied because you thought maybe they won't find out about the contractors loans?---That - - -

And then I won't get into trouble, because it's really bad borrowing money from contractors. That's why you lied isn't it?---No.

40

You lied to try and save your skin. And you've been lying since you got in that witness box?---No I have not.

To try and save your skin?---No I have not.

Haven't you?---No. I have not been lying.

Ah hmm. Is that suitable time?

THE COMMISSIONER: Yes. We'll take the luncheon adjournment. We'll resume at 2 o'clock. Thank you.

LUNCHEON ADJOURNMENT

[12.45pm]