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INDEPENDENT COMMISSION AGAINST CORRUPTION

THERESA HAMILTON ASSISTANT COMMISSIONER

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OPERATION CAVILL

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON TUESDAY 16 JULY 2013

AT 10.00AM

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

ASSISTANT COMMISSIONER: Thank you, please be seated. Yes,
Mr Downing - - -

MR CHALMERS: Commissioner - - -

ASSISTANT COMMISSIONER: Oh, Mr Chalmers.

MR CHALMERS: Good morning. Commissioner, I should have before my
client started giving evidence yesterday asked for a non-publication order in
10 relation to his address. I note it's not noted in the transcript but I'd just ask
for a non-publication order for that and my second application is in relation
to the name of his agency which is on the, which is - he's asked on page 94
of the transcript in relation to the name of his agency. It's, it's a
professional business where reputation is everything and if there's no reason
for its notification and if the Commission, if the Commissioner changes
your view at any time but at this time if there's no relevance and given the
type of industry it is and I note that none of the newspapers published it to
date - - -

20 ASSISTANT COMMISSIONER: That's right, Mr Chalmers, I think you
should have just said nothing but - - -

MR CHALMERS: Yes.

ASSISTANT COMMISSIONER: - - - now they'll be interested. Look, I'm
happy to suppress his private address. I am not willing to suppress the name
of his business. I'm sure he's a very well known real estate agent in the
area, everyone would know where he works. It was different with Mr Neish
because of the nature of the allegations et cetera and his, his new job but I
30 am not willing to suppress the name of where he works but I will suppress
his address. Thank you.

THE HOME ADDRESS OF TONY ABOUD IS SUPPRESSED

ASSISTANT COMMISSIONER: Thank you. Yes. Mr Downing.

MR DOWNING: Commissioner, Mr Blackburn is here this morning and
40 perhaps if he could just seek the Commissioner's leave before I resume with
Mr Abboud, he had a brief word with me this morning.

ASSISTANT COMMISSIONER: Yes.

MR BLACKBURN SC: Commissioner, may it please the Commission, I
seek leave to appear for Mr Robbie Patterson, that's how he's named in the,
in the summons, I think his full name is Robert Patterson with my learned
friend Ms Brown.

ASSISTANT COMMISSIONER: Yes, Mr Blackburn, you're given leave to appear for Mr Patterson.

MR BLACKBURN SC: Thank you. Thank you, Commissioner.

ASSISTANT COMMISSIONER: Yes.

10 MS PARMEGIANI: Sorry, Madam Commissioner, Parmegiani. I seek leave to appear for Mr Anthony Stavrinos.

ASSISTANT COMMISSIONER: I'm sorry, your name again?

MS PARMEGIANI: Parmegiani.

ASSISTANT COMMISSIONER: Parmegiani. Yes, Ms Parmegiani, you're given leave to appear for Mr Stavrinos.

20 MS PARMEGIANI: Thank you.

ASSISTANT COMMISSIONER: I think that's you Mr Downing now.

MR DOWNING: Thank you, Commissioner.

MR DOWNING: Mr Abboud, late yesterday I asked you to have a look at the notes that you'd made which appear at page 131 of Exhibit 5. And you identified the parts that you made at various times. Could I just confirm that with you this morning?---Yes.

10 Looking at the page on the right hand side the, I think your evidence, and please tell me if this is correct, was the entire right hand side was made during the call on 3 April, 2012, during a discussion between you and Mr Goubran?---No, the right hand side page was made that afternoon of the 3rd, after I'd met with him.

Sorry, I probably wasn't clear. You'd had a meeting with him face to face in the morning?---In the morning.

And you told me you made no notes then?---That's correct.

20 You then had a phone discussion with him in the afternoon?---That's correct. And - - -

And is it correct that everything on the right hand side of the page was made during that phone conversation that afternoon?---That's correct.

Dealing with the left hand side of the page, your evidence yesterday was that parts there were made on two different occasions?---That's correct.

30 So if we deal with the part closest to the line in the middle of the page and it starts way out for the Libs?---Yes.

Is it correct that that part of the document was made by you on the morning of 13 April, 2012 before you met with Mr Neish?---That's correct.

As a result of a further phone conversation with Mr - - -?---Goubran.

- - - Goubran?---That's correct.

40 Now can I just check with you what parts – does that cover way out for the Libs and then face saving both camps?---And then the four names.

Four names below it?---Yes.

There are names further down the page?---Yes.

So the names that you've referred to so far are Tony Abboud, Richard Green is it?---Richard Green, George Papallo and Philip Peake.

Now there are names further below, one of them appears to be Terry Perram?---That's correct.

The next one is not well copied, can you identify - - -?---That's Vic Tagg.

And then below Millie Booth and what's below that?---If you could just scroll up a little, that's Jerome, that refers to Jerome Laxale, who was a prospective Councillor, a Labor Councillor who was going to stand apparently at the forthcoming elections in September of that year.

10

And then slightly to the left - - -?---Yes.

- - - there are the names Justin?---Yes.

Is that Justin Li, a reference to Justin Li?---That's correct, yes.

Ivan?---Yes.

Is that a reference to Mr Petch?---Yes.

20

And Salvestro-Martin?---That's correct.

Is that a reference to Mr Salvestro-Martin?---Yes.

And then below is the word preferences?---That's correct.

Now these names, and if you need to break them up please do, but when were these names that you've written at the lower part of the left hand side of the page written on to the document?---I'm not sure whether they were written the first time on the Tuesday afternoon or whether they were written on the Friday morning when he called me before speaking to John Neish.

30

So when you say the first time on that - - -?---Tuesday afternoon.

- - - afternoon, do you mean during the first phone conversation you had on the 3 April?---The phone conversation, that's correct.

Looking at the names - - -?---Yes.

40

- - - Terry Perram has a tick next to it?---Yes.

Vic Tagg has a cross?---Yes.

Looking at those names and the names further down into the left - - -?---Yes.

- - - and doing your best when do you believe that they were written on to the document?---As I say they were either written that Tuesday afternoon

when he rang me to, to tell me the details of this deal or they were written on the Friday morning. But I, I dare say they were written on the Tuesday afternoon.

Is that all of them or some of the names that are down at the bottom of the page to the left of the centre?---No, that was all written at the one time.

10 All right. So those parts at the bottom of the page to the left of the centre, you believe the names were written either during the first conversation on the afternoon of 3 April?---That's correct.

Or possibly on the 13 April during that conversation before you met with Mr Neish?---That's correct.

When you had a further telephone conversation with Mr, Mr Goubran?
---With Mr Goubran, yes.

20 And then to the left under "Council Resolution" and the, appears four lines that follow from there, your evidence yesterday was they were things that you'd added to the document after you met with Mr Neish - - -?---That's correct.

- - - on 13 April - - -?---That's correct.

- - - 2012?---Because when I was speaking to Mr Neish at that meeting on the 13th I had my journal opened and I actually showed him all my notes.

30 Did you take these note along with you as an aid for the purposes of that meeting?---No, no. I permanently carry a journal with me, that was part of my journal, notes in my journal and I just showed him the, the relevant pages in my journal.

Well I asked you yesterday and you gave some evidence about the initial discussions you had with Mr Goubran when you met with him in his office on the morning of the 3 April?---Yes.

And you've confirmed now that the notes on the right-hand side of this page reflected a later telephone conversation you had?---That's correct.

40 Doing your best now by reference to what you can recall and what you recorded at the time can you take us through what was said by Mr Goubran and what you said during that telephone conversation?---The phone conversation?

On the afternoon of the 3 April, 2012?---Well he, he said to me that he was going to give me the details of this deal that he wanted me to take to John Neish and he effectively said and I started making notes as he was speaking that he - - -

So, so these notes were written up as you were on the phone?---Yes, yes.

So were you on speakerphone so that you were able to make notes or - - -?
---Oh, no, it was just on the phone. He said that he wanted John Neish to
form a review board to address community concerns about the
redevelopment of the Civic Precinct, he wanted a committee to be formed, it
would, it would run for six months and it would continue on till after the
September Council elections in September of that year, there were to be four
10 Councillors on the committee, John Neish was to nominate the terms of
reference of that committee, the four Councillors were to be Roy Maggio
and Sarkis Yedelian and he said plus two others but at the time he said not
Petch. Then he also said that he wanted the, the Manager for Planning,
Dominic Johnson to be - - -

Can I, can I just stop you before you go on from there?---Yes.

Around “not Petch” you’ve got brackets and a tick?---Yes.

20 Was that written at the time you first wrote these notes up or later?---No.
The tick was on the Friday morning when he changed his mind when he
called me prior to actually meeting with - - -

That’s on 13 April?---On 13 April.

So that part of the note the brackets and the tick were added at that time?
---Well not the bracket the bracket was, not Petch in brackets, that was the
initial conversation on the Tuesday afternoon but on the Friday morning he
then as part of the variations to the deal that he wanted me to put to John
30 Neish he said that he now wanted Petch and he wanted Jeff Salvestro-
Martin to be part of the committee.

So at the end of that line where it appears to be the word Jeff - - -?---Yes.

- - - that you’ve written, is that something you also added during the
conversation with Mr Goubran on the morning - - -?---Yeah.

- - - of the 13th?---That, that tick and the word Jeff would have been what I
would have written on the Friday morning prior to the meeting with John
40 Neish. Because that was a variation to the deal that was, that was made on
that Friday morning before I met to, with John Neish.

All right. Well if we go back then to, to what you can tell us about the
discussion you had with Mr Goubran on the afternoon of 3 April you’re up
to Manager or Planning in - - -?---Yeah. He wanted the Manager of
Planning, Dominic Johnson, he wanted the Community Manager I wrote
woman, at that stage I wasn’t fully au fait with Danielle Dickson but it was

Danielle Dickson who he was referring to, that's why I wrote down the name Danielle.

10 Yeah?---He then said he wanted four members of the public from the groups opposing the Civic Precinct. Now, at that stage I said to him, "It sounds like you're forming a committee supporting or, or working towards opposing the Civic Precinct," and at that stage he said to me, "Well you know let John choose who the committee members are," or words to that effect. He then went on to say that the findings of the committee would be delivered after the Council elections in September of that year, he said that it would be accepted by the incoming Council.

That is the findings would be accepted?---Yes, yes.

He told you this during the conversation?---That's correct, and that the decision will be to go ahead. Now at that stage - - -

20 What, to go ahead with the Ryde Civic - - -?---With the redevelopment of the Civic Centre. Now at that stage I queried him, I said so you're saying to me that the committee will actually say to go ahead and he said yes and that was inconsistent with him wanting four people on the committee who were from the no camp.

30 When you say four people are you referring to members of the public?
---Yeah, well, if you go, if you - yeah, where it says four members of the public from groups opposing the Civic Precinct so I couldn't correlate how he could warrant four members opposing the Civic Precinct yet he then said to me the decision will be to go head. So - and I queried that. I queried that. He then went on to say the other things that they want - - -

40 Well, can I just stop you there. When you queried him about the decision that the committee would make and it being accepted by the Council did he, what did he say?---He just confirmed that that would be the case. And when I, previously when I queried him about the four members of the public from the groups opposing the Civic Precinct that's when he turned around and said well, John can choose who's on the committee. Then he went on and he said there's a couple of other things, he said there's to be a strong push to expedite DA applications in the Council. He then said he wanted me to slow down my attack on Ivan Petch.

Just before we go to that point?---Ah hmm.

A strong push to expedite DA applications. Did he say whether that was generally or his DAs or - - -?---He said it generally.

Did you query him about that?---I didn't query him but I, I started to get a sense of why this was all being said.

Okay. Sorry, continue. He wanted me to slow down my attack on Ivan Petch. Now I took that to be - because if you recall he called me on Friday the 30th. I had just on Tuesdays the 27th spoken at the Council meeting - - -

That's of March?---Of March. I had just on the Tuesday the 27th had spoken at a Council meeting and there was a paragraph in my talk where I was, I was quite opposing Ivan in what he was doing with respect to the Civic Precinct redevelopment so I assumed that that was in relation to that.

10 Right?---Then he said something which I didn't understand but I wrote it down anyway, it said, "JD deliver preferences either way".

J, sorry, is it JG?---JG sorry, yeah, JG.

That's Mr Goubran?---Yes. "Deal on preferences, phone call from Macquarie Street." Now, I just made those notes as he spoke, I didn't know what that meant, I just - - -

20 Well, doing you best what words did he actually speak to you or words to the effect of what he said?---He said that he would deliver preferences either way, I genuinely didn't know what that meant because I don't understand the political process of preferences. He said that there would be a deal done on preferences and that he'd received a phone call from Macquarie Street asking him to make this thing happen.

That is what, the deal?---Yeah. And at the time my personal thoughts process was he must have some sort of political power that I'm unaware of or whatever. I just made those notes as he spoke.

30 All right?---Then the last point there I, I don't actually recall. He said something along, he mentioned a person called Errol who was an assessor who was a friend of John Neish. I don't know why he made those comments, I don't - or why he mentioned that person, I don't recall but he said that and, and I wrote those notes down but I don't recall the relevance of that point.

40 And is that the, is there anything else you can recall about what he said during that phone call in the afternoon?---No, if - the discussion on the bottom left-hand side about mentioning names, I think that was in relationship to where he started talking about preferences and a deal on preferences. He, he seemed to have an opinion that Terry Perram was going to get back in, that's why I put a tick there. He, he was of the opinion that Vic Tagg wouldn't get back in, that's why I put a cross there. He mentioned that Justin, Ivan and Salvestro-Martin were going to be fine. He mentioned a lady called Millie Booth. Now, at the time Millie Booth was a lady who was - I think she was a member of the Liberal side and there was rumours in the community that she was going to stand for Council in September of that year and then said Jerome, which refers to Jerome Laxale, who's a Labor

candidate who subsequently did stand for election in September of that year and then did get elected.

These names of the, the Councillors and people like Millie Booth - - -?
---Yes.

- - - is it, is the case that you've recorded them to reflect something that Mr Goubran said to you about members of this committee?---When he mentioned names I just wrote them down.

10

But are you able to recall what these names that you've recorded at the bottom of the page to the left, what context they were mentioned in?---In the context that I just mentioned, he was basically telling me who in his opinion was going to get re-elected and not get re-elected.

You've told us that, that one of the things that he told you during this phone call on the afternoon of 3 April - - -?---Yeah.

20

- - - was that certain Councillors would be on this committee and that you mentioned Roy Maggio, Sarkis Yedelian and two others, not Petch?---That's all he said as far as that committee was concerned.

And you've told us that there was a later conversation where he indicated a change in respect of Councillor Petch?---That was on Friday morning the 13th before I met with John Neish.

Now on the left, on the left-hand side of the page you've got the names Justin, Ivan, Salvestro-Martin, that's towards the bottom?---Yes.

30

Are you able to say whether that was, looking at the document now and in light of what you've told us about the initial information Mr Goubran gave you about whether Councillor Petch would be part of this committee, are you able to say whether those names Justin, Ivan and Salvestro-Martin were names given to you later in, in respect of the proposed committee?---No, that was in term, that discussion there in my recollection was to do with who was going to get re-elected after September that wasn't in relationship to the committee.

40

But you say there was a later discussion on the morning of the 13th - - -?
---On the 13th, that's correct.

- - - when Mr Goubran said to you now that there was a change in terms of who would be on the committee?---Yes. He said there were some changes that he wanted me to, to take to John Neish. He first called me to confirm that I was still meeting John Neish that morning and then he said there's a couple of changes to this deal that he wants me to put.

And in terms of the membership what did he say as to the changes when you spoke to him on the 13th?---Well what he said if we can scroll down a little bit where I made notes he said now they want Roy, Sarkis and Ivan Petch and Jeff Salvestro-Martin to be on the committee and I said to him I thought you said Ivan doesn't want to be on the committee and he said well he's changed his mind. Then he said as far as the four members of the public he said they want myself, Richard Greene who's a, the head of a, the C3 Christian Church in the local community, George Papallo who's ex-district governor of Rotary and he was head of the Macquarie Community College, and a Philip Peake. Now I don't know Philip Peake and didn't know him at the time but I know of him now and he was one of the people who was opposed to the Civic Precinct redevelopment. And then he said to me several things, he said, "This will be a way out for the Libs and it'll be face saving for both camps," and then he said to me, and he said, "And Artin supports this." Now, Artin at the time was the Mayor.

That's Artin Etmekdjian?---That's correct. Now, that struck me as strange because if Artin supported it, it wouldn't have even got to this point because the Councillors would have come up with some resolution among themselves. So that struck me as strange.

In terms of the timing of the phone call that you're describing on the morning of 13 April before you met with John Neish, could I ask you to look at Exhibit 8 which is the log of phone calls, on page 142. Do you see on that document there are some phone calls between, well, one from, on 13 April at 8.18 from John Goubran to you of - - -?---Yes.

- - - 36 seconds?---Yes.

Then one at 8.21 of, from you to John Goubran of 112 seconds?---Yeah.

Does that assist you at all in recalling who called who and when you discussed it?---Well he called me as I was in the car park, at the back of the car park in the office, approaching the office and I said to him can I call you back when I get back in, well when I get into the office. So I called him back.

Is there anything else that you discussed with him in that phone call? You've told us certain things already on the basis of I take it your recollection of what's in your note. Is there anything else that was discussed during that phone call?---No, no, other than either I'd ring him or he'd ring me after we, after I'd met with John Neish or something to that effect.

Can I ask you after that initial, well after the face to face meeting with Mr Goubran, the later phone call on 3 April and now this phone call on the morning of 13 April, what was your view on the deal that you were being

asked to put to Mr Neish?---Well I certainly didn't agree with it and I certainly didn't support it.

You told us yesterday that one of the things that Mr Goubran indicated to you in the course of the discussions was that Mr Neish's job would be safe beyond the election if, if you were to go along with the deal. Do you recall giving that evidence yesterday?---Yes.

10 And please correct me if this is not right, I think you said you weren't sure whether that was discussed in the first face to face meeting or later on the phone?---That's right.

Just looking at the notes that you made at the time and when you were speaking to Mr Goubran on the phone, that is on the afternoon, you took fairly detailed notes. Doing your best if he'd mentioned that then, that is the issue about John Neish's employment and whether it would be secure, would that be something you would have written down?---If it was something that was direct I would have probably written it down, but as I said previously, it wasn't a direct threat, it was an implied threat because the
20 comment was you know if he does this, you know, his position would be secure after the September elections.

All right. Now you told us yesterday in your evidence that, and this is at transcript 99 at about line 41, I asked you a question about whether during the first conversation, as the face to face conversation Mr Goubran said anything about whether he was speaking on his own behalf or on behalf of others and you said the implication was that he was asked by certain people to put this deal to John Neish, but he didn't nominate who?---No.

30 You also – I asked you what led you to form that view and you said, “Well he actually said you know there are certain people who have asked me to approach you to take a deal to John Neish” or words to that effect. Can I ask you, by reference to the names of the Councillors that Mr Goubran provided to you during the first conversation face to face and then during the later conversations on the phone, that led you to form a view about who was being asked to – who he was referring to when he said, “there are certain people have asked me to approach you”?---Absolutely because particularly when he said, “the committee is to be made up of people opposing the redevelopment”. He was obviously not asking me to take
40 something to Council or to John Neish rather on behalf of the people supporting the redevelopment, particularly when he said, “it's a face saver, a way out for the Libs and a face saver for both camps.”

And you've indicated that he told you during the later conversation on the morning of the 13th that, that Mr Petch had changed his mind about membership of the committee?---Yes. At that, at that morning phone call he said that it was, the committee was now to be made up of the four

Councillors, Roy Maggio, Sarkis Yedelian and now Ivan Petch and Jeff Salvestro-Martin.

Now on 11 April, I'll withdraw that. I'm sorry, on 13 April after having that discussion in the morning with Mr Goubran, you had the meeting with Mr Neish?---That's correct.

10 And can I ask you to have a look at page 140 of Exhibit 7. That's, is that, do you recognise that as a page from your Outlook diary?---That's correct.

Now in the entry for the 13th there's a - well, in the day the 13th there's an entry, it would seem at 11 o'clock which reads "Coffee John Neish, Café Alvero?---That's correct.

Melissa Gennusa?---Yeah, she's my secretary who, who put the, the appointment into my diary.

20 So the appointment was to meet Mr Neish at 11.00 at that café?---That's correct.

Now can you then take us through that meeting in terms of what was said by you, what was said by Mr Neish and can I start with roughly how long did the meeting go for?---It went for about an hour and - - -

30 So if you start at the beginning of it please?---Sure. I basically said to him that I'd received a call from John Goubran and he wanted me to put some sort of deal to you. I opened up my journal, I turned around and I said to him that I'd made some notes. I was quite up front with him in saying look, I don't actually agree with this stuff but I thought it's important that you should know about it. I actually showed him my journal and showed him my notes and I basically went through it point by point, in the same way I just did now and when we went through it he, first he was a bit amused at the fact that someone would bring this sort of deal to him. He, he pretty well straightaway reiterated to me that he was just doing his job under a previous Council resolution and the Council resolution of the day was that he was to deliver this project by August of that year and that if these Councillors or the Council wanted him to do something different he doesn't have the power to do anything along this deal that, that was presented to them. If their Council wanted him to do anything different they would have to do it through a Council resolution and he said in his position as a General Manager his role is to act under whatever Council resolution is of the day, that's what he was doing at that point in time but if the Councillors wanted him to stop doing that and do something different they would have to go through the due process and do it through a Council resolution.

40 So you said that you took him through the points in your notes. Did you say anything to him about what Mr Goubran said to you about Mr Neish's employment?---Oh, yes, you know.

Well, again, try and use the words or words to the effect of?---Yeah, I said to him, I said, you know, this is what they want you to do and then he, and, and I said to him, and I said, you know, there was an implication there that if you do that your, your job would be secure after the elections. And he said to me, "Is that what they said?" And I said, "Well, that's what they implied."

10 Well, thinking back, wasn't your evidence yesterday that they were words to the effect of what Mr Goubran said?---Yes.

That, that he said words to you to the effect of John Neish's employment will be secure beyond the election if he goes along with this?---Yes, he said words to that effect.

20 And you conveyed that to Mr Neish?---Yes, and Mr Neish once I conveyed that to him after he explained to me that he can't do this sort of thing, it has to be done through a Council resolution and his job, his duty is to act under whatever resolution is of the day, he, he was quite concerned that, you know, this - a comment was made about his job security.

Did he express any concern during your meeting?---Yes, he did.

Did you say anything to Mr Neish about who you understood the deal was ultimately being put on behalf of?---Well, it was obvious after the phone call from that morning.

30 Well, I understand you saying it was obvious but what I'm asking you is whether you said anything to Mr Neish about who you - - -?---Yes, I did, I said obviously this is a deal that's, that's coming from the, the no camp, the no Councillors, you know which is, at the time was led by Ivan Petch, Salvestro-Martin and Justin Li.

40 All right. Was there anything else that you said to him during the meeting, you've told us you ran through the points in your notes, you told him about the discussion you'd had with Mr Goubran about Mr Neish's employment, you said something to him about who you understood the deal was coming from. Can you recall anything else that you said to Mr Neish or that he said to you?---I also mentioned the point about they wanted the DAs expedited through Council and John said to me, "Oh, we've already done that, you know," and he went on to explain how through the establishment of the new business centre they're getting really good customer service, the time to approve DAs and he went on through the due process so we were talking, you know, Council stuff so to speak. So his attitude was they've already improved their process of expediting DAs through Council.

All right. Anything else that you said to him or he said to you, you can recall during that meeting?---Not that I can recall.

All right?---I just went through the notes in the, in my journal.

10 After that meeting did you have any further communications with Mr Goubran?---I don't recall whether he rang me that afternoon or I rang him but there was a period there where he kept chasing me to find out what, what's happened you know, what happened you know what happened, what was the response from John Neish. When I did ultimately speak to him I effectively conveyed to John Goubran exactly what John Neish had said to me - - -

So did you recount in detail the conversation you'd had?---No, no, it was just basically in summary and the summary in effect was he can't do this, he can't form this sort of committee it's not within his jurisdiction and effectively he's just acting on a Council resolution and if the Councillors want to change that they would have to enact a new resolution which, and his role as General Manager he'd be obliged to follow.

20 And do you recall what Mr Goubran's response was to that conversation?
---Oh, he said something to the effect of I'll get back to you.

30 Well you say you finished that conversation by saying I'll get back to you. Did he then subsequently speak to you about it?---Yeah. I think from memory we had two or three discussions and I think he was asking me you know has anything happened with it and I said look I told you what John Neish said and then somewhere further on he wanted me to put the same proposition to Artin who was the Mayor. Now again I thought well hold on you know on the 13th you told me that Artin supports this now you want me to put the deal to Artin, so that struck me as strange. Subsequently I did meet with Artin, I did reaffirm you know what I told John Neish.

So did you convey to Mr Etmekdjian the then Mayor the nature of the deal that had been proposed - - -?---That I - - -

- - - by Mr Goubran?---And that, and that I put it to John Neish and I told Artin exactly what John Neish's response was that you know he can't do this sort of thing and it has to be done through a Council resolution and Artin agreed with me that that was the correct response.

40 Did he say anything else?---Who's that?

Artin Etmekdjian the Mayor?---No. After that from my point of view the matter was just closed until such time as a watered down version of this supposed deal was in fact put up as a resolution which was to be heard on the 8 of May.

And on 8 May that was at a Council meeting?---That's correct.

And were you present at that meeting?---Yes, I did, I was and I spoke against the resolution.

And if you have a look at pages 132 to 133 Exhibit 7. Is that something that you read out or as a note or something that you - - -?---They were, they were my notes and that's what I read out at that Council meeting.

10 And I can ask you was it your view that or your concern that what was effectively being sought through this committee was just to put the Ryde Civic Precinct redevelopment on hold?---Yes, yes. And I said that in, in, in my speech on, on the 8 May. You know, I said that it was, it was a resolution that you know was, was trying to slow things down and it wasn't in the best interests of the community as I saw it.

Now do you recall - - -

ASSISTANT COMMISSIONER: Sorry, Mr Downing, I don't think that is part of Exhibit 7. Is that what you 3 - - -

20 MR DOWNING: I do apologies I, I'll have it separately tendered. I had thought that was included and I apologise for that. Yeah. If we can tender just the copy now we'll make copies available to the parties and I do apologise for the inconvenience, Commissioner.

ASSISTANT COMMISSIONER: Yes, that copy of Mr Abboud's notes will be Exhibit 9.

30 **#EXHIBIT 9 - COPY OF MR ABBOUD'S NOTES RE RYDE COUNCIL MEETING 8TH MAY 2012**

MR DOWNING: Thank you, Commissioner. Do you recall whether after the meeting you had with Mr Neish on 13 April, 2012 he asked you to provide an account of your dealings with Mr Goubran?---Yes.

40 Do you recall when, when that was? Whether it was on one occasion or more?---He called me on several occasions and at the - during that period I was away a couple of times interstate I was going through a period of illness and I, I was quite apologetic, that I would get to him and get it to him and the only reason it took so long to get to him is because as I say I was away on several occasions and I was going through a bit of illness at that time and trying to run a business.

If I could ask you to have a look at Exhibit 2, pages 134 to 138. Do you recognise that as your email to Mr Neish of 6 July, 2012?---Yes, yes I do.

And is that when you sent him your notes?---Yes.

And at 136 to 138 are they the notes you prepared?---Yes, I sent it as an attachment.

And were they prepared based in part on the notes you made in your diary?
---Yes.

And in part on your recollection of what you - - -?---Correct.

- - - what had occurred at the meetings?---Yes.

10

Thank you, Commissioner.

ASSISTANT COMMISSIONER: Thank you. Is there an application to cross-examine this witness?

MR STANTON: Yes, there is Commissioner. Stanton for - - -

ASSISTANT COMMISSIONER: Yes, Mr Stanton.

20 MR STANTON: - - - Mr Goubran.

ASSISTANT COMMISSIONER: Yes.

MR STANTON: Thank you. Mr Abboud, you've been a real estate agent for how long, sir?---33 years.

And it's your practice I take it to keep a journal from time to time?---Yes.

30 And as a real estate agent, sir, with inquiries and the need to keep information handy for yourself - - -?---Yes.

- - - a diary obviously to you is the most efficacious way of doing it?---Well for my appointments, yes.

Yes. And for meetings and records of meetings in part, that's one way of compiling it?---No, my diary is just a record of my appointments.

Certainly - - -?---I keep, I keep records of any meetings that I have in my journals.

40

Okay. So certainly the document that you made the notes on at the meeting with Mr Goubran you say during the phone call was a journal entry - - -?
---Yes.

- - - in respect of a phone call that you had I suppose a phone meeting with Mr Goubran on that 13 April afternoon?---No, no on 4 April, Tuesday, the 4th.

And certainly sir, the journal entry that you've got whilst we've been given a photocopy of it, it's written in pencil is it not?---That's correct.

Whereas other entries in the journal possibly may be in biro might they?
---No.

Not at all?---Every one of my journal entries is in pencil.

10 I see. Is there a reason for that?---I've been writing in pencil since I was a child.

Now do you have, I'll just ask you this if I may please sir, we'll start with this, you've known Mr Goubran I think for some time have you not?---Yes.

You met him 30 years ago would it be fair to say, from 2012 when you, he came to him as a customer for a diamond ring?---That's correct.

I think you were getting married at the time?---That's right.

20 An engagement ring. You then had some social contact with him for a short while which ceased?---That's correct.

You then renewed contact when you met him in the Ryde Shopping Centre approximately two years before the events of 2012. Isn't that the case?
---Yeah, we've bumped into each other on various occasions in the last three or four years at Chamber functions.

30 In fact it might have been 2011, to just put it a bit more accurately if I may. And I think as a result of that contact you invited him to a Liberal Party fundraiser for Mr Alexander?---Yeah, I, I've been to a Liberal Party fundraiser and a Labor Party fundraiser and if you say it was the Liberal one that John Goubran came to then that would be correct.

Well I'll just ask you the question, see if you can answer only the question if you may. You invited him to a Liberal Party fundraiser for Mr John Alexander, the member for Bennelong. Do you recall that?---Yes.

40 And do you recall that in the course of that fundraiser he purchased a cricket bat?---No, I don't.

Okay. In any event, sir, you say that the matters concerning yourself and Mr Goubran, in terms of this redevelopment, came to a crescendo on 30 March, or started I should say when phone calls were received by you from Mr Goubran. Is that right?---Well I received a phone call from him on Friday, 30 March which I returned.

And I take it sir that he approaching you about this matter was something that you were concerned about because you had a particular view about the redevelopment project did you not?---Which matter are you referring to?

When Mr Goubran approached you on 30 March to meet with you - - -?
---He said he wanted to see me, but he didn't tell me what he wanted to see me about.

10 But certainly subsequently when you ascertained what it was about - - -?
---Yes.

- - - it was a matter ie the redevelopment project that you had a particular interest in did you not?---No, the initial part of the discussion was a discussion about his developments and the problems he was having with Ryde Council.

20 My question to you sir was when he referred to the redevelopment project, and I'll make it a bit more explicit, the Ryde Civic Centre redevelopment project, does that make it clearer in your mind, sir?---Yeah, when he referred to that, he referred to it on the basis that he wanted to me to broker a deal on behalf of certain parties and he wanted me to take something for John Neish.

Now I'll ask my question again if I may, when he mentioned the Ryde Civic Centre redevelopment project - - -?---Yes.

30 - - - that was a matter, and this is my question, it has been for some time, see if you can answer it, that you had a particular interest in that redevelopment project did you not?---My interest was that I was in support of the redevelopment of the Civic interest, I didn't have a personal interest.

I didn't ask you that, I said you had an interest in it sir, did you not?---I had an interest in seeing that it would be, well I put forward my view that I was of the opinion that it should be redeveloped.

And in so far as it was your view - - -?---Yes.

40 - - - as a civic minded resident or sorry, business person in the area were you not?---Yes.

You had a particular bias did you not? You wanted it to go ahead?---Yes.

And you were very passionate about it to the point of making speeches in Council?---That's correct.

Speeches that were unequivocally in favour of it were they not?---Yes.

And effectively denouncing those who sought to oppose it without any proper objective in mind from your perception. Isn't that the case?---I'm sorry I don't understand the question.

Mr Abboud, you were minded to oppose anyone who sought to stop the project unless they had a clearly good objective reason for that opposition. Was that not your stand?---Every time I spoke in favour of the project I put forward my reason why I supported it.

10 And you never wavered from that did you sir?---No.

And you were adamant that this project should succeed were you not?
---Yes.

And you would lend your support on a voluntary basis to make sure it did. Isn't that the case?---The, the process was going forward and it was assessed independently and I was originally involved in a community consultation process that was putting down the parameters as to how the process was to be assessed. I, I did that and then it was, it was taken offline and it was, the
20 whole process was being assessed independently. As the President of the Ryde Macquarie Park Chamber of Commerce and on behalf of the local businesses I had a role to play and on behalf of the local business community and the community at large I was in support of the redevelopment of the Civic precinct.
My question yet again sir, if you could answer it, is that - - -

MR CHALMERS: I'd object to the badgery.

30 MR STANTON: Badgery?

MR CHALMERS: Yes.

ASSISTANT COMMISSIONER: There has been a little sarcasm Mr Stanton in your questioning.

MR STANTON: Well sarcasm is not badgering with respect, Commissioner. And in terms of responsiveness - - -

40 MR DOWNING: Commissioner, I object on a different basis.

MR STANTON: If Mr Downing would let me finish.

MR DOWNING: I object on a different basis.

MR STANTON: I'm responding to - he's objecting.

ASSISTANT COMMISSIONER: Yes.

MR STANTON: Belatedly, but nevertheless he's objecting. Okay. Right. We will handle that - - -

ASSISTANT COMMISSIONER: Well could I just hear the basis of the objection.

MR STANTON: Okay.

10 MR DOWNING: Commissioner, this is descending into a political stoush over the precinct, Ryde Civic Precinct redevelopment that this Commission should not engage in. My friend is perfectly entitled to ask the witness matters testing the version of events, presumably on instructions from Mr Goubran, but demonstrating his views one way or the other in favour or not in favour of the project doesn't really assist the Commission.

ASSISTANT COMMISSIONER: Mr Stanton, it's a long way from supporting the project to having a personal animus against those who oppose it which is I think the point you are trying to put to the witness and trying to get him to agree with but I don't agree that one follows the other
20 necessarily and I think if you have instructions on specific points you need to put it to him specifically.

MR STANTON: All right, ma'am. Well, I'll approach it from another angle.

Now, certainly, Mr Abboud, when you spoke to Mr Goubran in those conversations that you had with him you were concerned that this overture by him for this attempt to have a committee set up would in some way stall the implementation of the project, were you not?---If, if this thing had gone
30 through yes, it would have stalled the project.

And you were concerned to obviously put this proposition to Mr Neish, were you not, but with your particular bias in place?---Yes, I, I told John Neish that, I said I don't agree with what has been put forward but, you know, I, I thought it's important that you be aware of it.

And you were, I suggest to you, sir, a man of careful habit when recording notes that you recorded every note that was salient if not utterly relevant to what was being discussed?---Well, I recorded most notes.
40

But is it, is it your habit, sir, when you record conversations of critical importance - I withdraw that. Did you regard the conversations with Goubran concerning this development project as critical?---Well, yes, that's why I made notes.

Yes, that's right. And - - -?---Because I, I needed to write down the points of this supposed deal so I could recall the points that I could, if I was to go to John Neish so that I knew what to, what the points were.

Yeah, you wanted to give him all of the points - - -?---Yeah.

- - - for the deal as you say - - -?---Yes.

- - - and you took the task of writing them down?---That's correct.

10 Yeah. And if we go to Exhibit 8, might you be shown that please, sir. Do you see that this is a compilation of a phone log for various numbers but in particular your phone calls between yourself and Mr Goubran, you see that? ---That's correct.

Now, right at the very top, sir, there's a call on 13 March, 2012 from Tony Abboud to Mr Goubran, do you see that?---That's correct.

And then there's another call on the same date from you to Mr Goubran yet again, is that - see that?---Yes.

20 How do you account for those two calls, sir?---I think the line dropped out.

Okay. Have you got a clear recollection of that?---No, I don't but - - -

Okay?--- - - - I recall returning his call while, while I was in the car that afternoon.

30 Then you come down to the seventh call, sir, it's the second one under 3 April, sorry, the first one, my apologies - it's the fourth call, in fact it's the sixth call, I'm sorry, sir, against 3 April at 16.46, do you see that?---That's the afternoon?

Yeah, that's a call that you instigated - - -?---Yes.

- - - to Mr Goubran, you see that?---Yes.

However, prior to that there was a call on the 3rd at 13.39 from Mr Goubran to you, you see that?---Yes.

40 Now what became of that call, sir?---From my recollection that was him following me up. Oh, the, the call on the Tuesday afternoon?

3 April, sir?---That's at 1.39?

Yes?---Yeah, he's probably called me after the face to face meeting that morning.

Right?---And it was only a short call, I may have been caught up at the time and said I'll call you back or some, some words to that effect, I don't recall.

But it was later that afternoon that I had a long call with him where he outlined the deal or the points of this deal.

You outlined the deal?---No, he did.

I thought you said I outlined the deal?---No, no, I apologise, he outlined the deal.

10 I'm just, I'm just taking what you said, sir, you see?---Yes, well, he outlined the deal, I, I have no idea what this deal was.

Yeah. And that call at 16.46 was a call, sir, that was instigated by you to Mr Goubran, was it not?---Yes, I was probably returning his call from earlier in the day.

Now was it that call, sir, that the deal was outlined?---No, I, I don't recall which of those calls it was that the deal was outlined.

20 But you see, sir, the next two calls on 3 April are to Mr Neish and there are SMSs there, you see that?---On the - - -

3 April?---3 April, yes.

I think they're the seventh and eighth calls as they come down that column? ---Yes.

And they're originating SMS?---Yes.

30 From Tony Abboud to John Neish, you see that?---Yes.

What were those SMSs?---Probably something along the lines of I've, I've received a call and someone wants me to take something to you, can you call me or something or words to that effect. So after I received the details of this deal from John Goubran obviously if my intent was to follow through and take the deal to John Neish then maybe I sent him some text messages and said, you know, can you call me or whatever.

Can you be any more precise than maybe?---Well, no.

40 Can you be any more precise than - - -?---That's, that's all I can recall as to why I would have sent a text to John Neish.

I see?---Because the, the objective of the approach from John Goubran was that he wanted me to speak to John Neish.

And then, sir, we have another call from Goubran to you on 3 April 16.56, you see that?---Yes.

What was that call about?---Well, again, that's, that was the Tuesday afternoon when he rang me to start telling me the details of the deal.

I see. So you've sent Neish an SMS to tell him about the deal that hadn't been communicated - - -?---No, no, I sent Neish a message that I'd been approached by John Goubran, right, or I'd been approached by someone, right, who wanted me to talk to you, can you please call me. That's the best of my recollection.

10 I see. That's the best of your recollection?---That's correct.

Yeah. Nowhere in your evidence here today or yesterday did you give Mr Downing an indication that the chain of communication was apart from Goubran and yourself on 3 April that you'd put Mr Neish on alert, albeit by SMS, that someone was offering a deal?---Yes, but when I sent that to John Neish if, if, if I had been called by John Goubran and he said to me he wants me to take a deal to John Neish I didn't know the details of the deal at the time. Now I may have as part of normal protocol practice sent a message to John Neish and said, you know, can you call me or I need to call, I need to
20 speak to you about something.

Have you been asked to retrieve the SMSs that you sent?---No.

Do you recall what they were in terms of the wording that you composed?
---No, I don't.

Not at all?---No.

And there are two of them are there not, as, as indicated by Exhibit 8?
30 ---Yes.

One at 16.51 and 16.51.12, do you see that?---Yes, yes.

Either of those, do you recall what they were?---No, I don't.

At all?---No.

But you say it was to alert John Neish that a deal was coming?---Well, it was either to alert him or to ask him to give me a call.
40

I see. Well, did he call you if that was one of the objects of the SMS?---I don't recall, I don't recall speaking to him that day.

Then we've got the call on 3 April at 16.56, do you see that?---Yes.

Goubran to you?---Yes.

And then that's a very short call, that couldn't have been the deal call, could it?---Probably not.

And then you've got 3 April at 16.58 which is the 1007 second call from Abboud to Goubran, you see that?---Yes, I probably returned his call.

Probably returned his call?---Yes.

10 There are a lot of probable's about this Mr Abboud, this is a serious matter, is it not?---Well, you know, I, I can't recall whether he rang me and I said to him look, let me call you back or whether I couldn't take the call at that point in time but as a matter of business protocol I always return my calls and if someone had called me and I can't speak to them at that point I'll always say to them let me call you back when I finish what I'm doing or finish the meeting I'm in and it may have been something like that.

But well - - ?---Just normal business practice.

20 Well, bearing in mind Mr Downing's asked you several questions concerning exchanges between yourself and Goubran - - ?---Yes.

- - - over the period from 30 March up to and including 13 April - - ?
---Yes.

- - - you've done your best to exhaust your recollection, have you not, of what was said between you in phone conversations and/or personal meetings have you not?---That's correct.

30 Yeah. And you've done that by reference to your journal notes you say you took?---Yes.

And in part your recollection - - -

MR CHALMERS: I object, I object, your Honour. Just listening to that question it doesn't follow on from his last response that he was using his journal entries to itemise every contact he had with Mr Goubran he's never said that and yet that's the assumption within the question.

40 MR STANTON: Commissioner, the question wasn't directed along that at all. I said in part from the journal entries and in part from meetings and I was going to go to phone calls.

MR CHALMERS: Can I - - -

MR STANTON: In terms of his recollection. Now, Commissioner, on the objection with respect to my learned friend Mr Chalmers it's unfounded I am exhausting if I may the sources of recollection Mr Abboud's had access to.

ASSISTANT COMMISSIONER: I think his evidence has made it clear the sources he had access to and Mr Stanton, you've been given an opportunity to cross-examine, if you have some specific instructions that phone calls didn't occur or that a conversation didn't occur I've given you some leeway in generally testing the witness's recollection but I would like you to move on to put any specific matter that you wish to, to him based on instructions from your client.

10 MR STANTON: If it may please.

Now, Mr Abboud, on Exhibit 8 there are 25 phone calls recorded either between you and Mr Goubran or Goubran to yourself, you see that?---That's correct.

Would you accept from me, sir, that they number 25?---I haven't counted them.

20 ASSISTANT COMMISSIONER: Mr Stanton, why are you asking him to accept the number 25, what possible relevance could that have?

MR STANTON: Because it's the sheer weight of the number of calls, Commissioner, and the amount of material we have concerning what was said in the course of those 25 calls.

ASSISTANT COMMISSIONER: Not all of these calls are between him and Mr Goubran.

MR STANTON: Your Honour, Commissioner - - -

30 ASSISTANT COMMISSIONER: Some of them are with other people - - -

MR STANTON: Commissioner - - -

ASSISTANT COMMISSIONER: - - - and they are calls as I can see them recording calls between two mobile services, they don't purport to recall every contact that this witness may have had with other people, he may have called people from his office. It is what it is which it records certain calls of relevance.

40 MR STANTON: Commissioner, there are more than 25 calls on Exhibit 8. I've isolated in fairness and in my duty as a Counsel of this inquiry and of this witness in cross-examination the number of calls that I'm directing him to which are 25 between a service owned by John Goubran or registered to John Goubran and a service registered to Tony Abboud but I will put the matter beyond that if I may.

Did you speak to anyone on Mr Goubran's phone service the mobile phone service other than John Goubran when you spoke to him?---When - - -

Sorry, when you activated that number - - -?---No, we never - - -

- - - in the period 30 March 2012 to 13 April 2012?---Whenever John Goubran's called me or whenever I called John Goubran I spoke to John Goubran and John Goubran spoke to me.

10 Thank you. Now those 25 calls that are recorded here that you've said you spoke to either Goubran or he spoke to you each of you using your phone services registered to you - - -?---Yes.

- - - is what you've given to this Commission in your evidence yesterday and today the sum total of what you recall as discussed between you?---Yes.

And apart from the journal entries that were recorded is there anything else in writing leaving aside the 9 July's email that you recorded in writing that's not here today of those calls?---Nothing, nothing that is relevant.

20 Thank you. Now if I could take you to page 131 please, sir, of Exhibit 7. Now, Mr Abboud, on the right-hand side are the details of the deal are they not?---Correct.

As given to you by Goubran?---Correct.

And I want to suggest to you, sir, that nowhere on the right-hand side is there any indication of a threat to the security of Mr Neish's employment impliedly or otherwise referred to in a note by you, is there?

30 MR DOWNING: I object, Commissioner. It's not a question. The document is obvious as to what it contains and doesn't contain. The witness has given evidence about it, it's a submission.

ASSISTANT COMMISSIONER: Yes. I mean a lot of these are matters for submission. If you have something specific to put about the conversation you're welcome to put it.

40 MR STANTON: I'm suggesting to you, sir, that nothing on the page is recorded by you concerning the threat to Neish's employment. Do you agree with me or otherwise?

MR DOWNING: I object, Commissioner.

ASSISTANT COMMISSIONER: I mean how is that a matter for him to agree with, we can all read it.

MR STANTON: Well, Commissioner, well if we could all read it what's wrong with him agreeing with it after he's read it?

ASSISTANT COMMISSIONER: Because it's unnecessary and it's wasting our time.

MR STANTON: I put to you, sir, that you never had a conversation with Goubran concerning any threat to Neish's employment. What do you say to that?---That's not correct.

10 And that Goubran never mentioned any threat to Neish's employment hence its non appearance on the right-hand side of page 131. What do you say to that?---That's not correct.

And at no time did Goubran ever say to you that Neish's employment was under threat. What do you say to that?---That's not correct.

And nothing on the meeting that you had with Goubran either over the phone or in person ever referred to Neish's employment or its security. What do you say to that?---That's not correct.

20 Now you've given evidence here yesterday at page 99. I'll just take you to the transcript if I may. At the top of page 99, sir, you were asked this question by my learned friend Mr Downing, "Doing your best what's your recollection as to what you said about Mr Neish's employment?" and this is the answer you gave, "After he told me what his supposed deal that he wanted me to take to John Neish he, he, he reaffirmed that if John Neish was to do this his position would be secure particularly after the, the Council elections in September." Do you recall giving that evidence? ---Yes.

30 I suggest to you, sir, that never occurred - - -?---That's what he said to me. - - - from Goubran to you?---That's - - -

Never occurred?---That's my recollection of what he said.

It's a lie. I suggest to you, Mr - - -?---It is not a lie.

- - - Abboud?---That is not a lie.

40 It's a lie that you've invented in order to colour the deal to Mr Neish to solicit his support by scaring him that his employment was on the line? ---That's not a lie.

It's a lie that you have perpetrated knowing that you as a avid supporter of this project you needed to colour it with the tincture I suggest to you of giving Neish the impression that his job was on the line if he didn't play ball coming from and you only. What do you say to that? ---That is incorrect.

And you then were asked this question by Mr Downing, 99 at about line 7, "Did he say anything about whether he wanted that to be communicated to Mr Neish? Well, he didn't say to me specifically whether he wanted me to say that or not but I felt that it would, that's something that John Neish should be aware of"?---That's correct.

And I'm suggesting to you, sir, that's just further exemplification of the lie that you've given to this Commission - - -?---I did not lie.

10 - - - on the basis that I'm instructed it was never said to you at all?---I did not lie. What was said to me was what was said to me.

Now you say that having told Mr Neish this he became very concerned?
---That's correct.

And did he indicate to you it could possibly be corrupt conduct?---Yes.

And did he indicate to you he was minded to take it to ICAC?---Yes.

20 And did he indicate to you a sense of urgency that ICAC should be apprised of it as soon as possible?

MR DOWNING: I object. That needs to be put properly. Did he indicate a sense of urgency doesn't really mean anything, Commissioner.

ASSISTANT COMMISSIONER: I don't think that's a clear question.

MR STANTON: Well, Commissioner, I'd have betted we would have won Ashes by a lot more but anyway I withdraw that and I put it this way.

30 ASSISTANT COMMISSIONER: Sorry, I didn't hear what you said but I'm sure it's not important. Carry on.

MR STANTON: Indeed, indeed. And I'm sure you'll laugh when you read it, Commissioner.

40 Anyway, Mr Abboud, let's give you a little chance to apprise yourself of, of what I'm trying to get to you if I may. You see, Mr Abboud, when he said to you he was concerned and he wanted to report it to ICAC did he say that he wanted to report it fairly quickly?---I don't recall.

Did he give you the implication or did you get implied from what he was saying that he wanted to do it as soon as possible?---I don't recall.

Did you think that he might want to have it sooner rather than later?---I don't recall, I didn't make a judgement about that.

You didn't make a judgement about it. Well - - -?---No.

- - - if you didn't make a judgment about it did Mr Neish try and, to contact you to get your version of the events in writing - - -?---Yes, he did.

- - - propped you that he might have wanted it sooner rather than later?---He didn't tell me why or time frame but he kept asking me for it and I kept undertaking that I would get it to him.

10 He didn't tell you why?---Well he didn't what in terms of time. He didn't tell me why in terms of time he told me why he wanted it but not in terms of, in terms of, he needed it by a certain date and I kept undertaking, I kept apologising that I hadn't got it to him as yet but that I would get it to him.

How many times did he ask you for it?---Three or four times.

As you recall?---Three or four times.

When did he ask you for it?---A couple of - - -

20 ASSISTANT COMMISSIONER: Mr Stanton, we have been through this in-chief. I am not willing for him to go through again. If you have something particular to put to him put it to him.

MR STANTON: See Mr Abboud, you knew that to confirm this in writing is something that would expose you to an untruth. You knew that didn't you?---If that was, if that was the case why did I do it?

Because you see - - -?---Because it was the truth.

30 Events became so urgent in July that Neish requested of you yet again for that version in writing did he not?

MR DOWNING: I object. It's asking the witness to speculate.

MR STANTON: (not transcribable) I'll put it this way. Finally in July, 6 July, you recorded the conversation in an email to Mr Neish did you not? ---That's correct.

40 After he'd initially asked you for it on 13 April, 2013?---I don't recall if he asked on that day, but he probably did. He probably asked me are you prepared to put all of this in writing and I had no - - -

Are you serious?--- - - - I had no issue of not putting that in writing because it's the truth.

You could have done it the same day if you wanted to couldn't you?---I'm running a business.

You could have done it the same day if you wanted to couldn't you?---I could have if I wanted to, if I had the capacity to.

As a civic – if you had the capacity?---In terms of running a business.

I see?---This wasn't the whole thing that I – I actually run a business.

I appreciate that. But it took you three months - - -?---Yes. I said I was ill.

10 - - - to put this in writing?---I was away on several occasions and I was ill during that period.

I understand - - -?---And I was running a business.

- - - I understand you were ill, sir, were you hospitalised?---No.

When you say you were away, for how long were you away?---Oh three days at a time I was interstate.

20 How many times were you interstate up to three days duration?---I don't recall.

You don't recall?---No. But I'm running a fairly complicated business.

What as a real estate agent?---Yes.

Do you have staff?---Yes.

How many?

30

ASSISTANT COMMISSIONER: I'm not going to allow that question Mr Stanton.

MR STANTON: (not transcribable) it pleases, Commissioner. You see - - - ?---It was my - - -

- - - on 9 July - - -?--- - - - it was my intent all along to provide John Neish with a written statement, I just didn't get around to it until 9 July. That's a simple fact.

40

You see 9 July is incorrect, it's 6 July?---Well whatever.

But you said 9 July?---Whatever.

You see on 9 July I want to suggest to you is when Neish got the motion that he was going to be sacked. Isn't that the case? You heard about that did you not?---I wasn't aware of that.

Never aware of that?---No, no.

Not at the time?---No.

First time you've heard about it was today?---Well yesterday.

Yesterday. Where did you hear about it yesterday for the first time?---In, in this hearing.

10 I see. And three days before the motion to remove him you afforded him the ability to make a section 11 ICAC notification?---I wasn't aware that he was going to be sacked or anything like that.

And you keep a close interest on Council affairs do you not?---Yes, I do.

You keep your nose to the ground do you not in terms of what's going on? ---Yes, yes I do.

20 And you didn't know that Neish was going to be removed?---No.

Not on 9 July?---No.

Or a month later?---No.

30 Not until 15 July, 2013 was the first time you heard about it, as a resolution from Council - - -?---When it came out as a resolution from Council. I, I only went to two Council – or I went to two Council meetings where I spoke and I think I went to one other Council meeting as an observer. I don't go to Council meetings every week or every fortnight.

Mr Abboud, I asked you when did you find out about it for the first time you said yesterday, 15 July?---Yes.

That's a lie too is it not?---No.

40 You see Mr Abboud, if I may just conclude on this note, you afforded the communication to him concerning this alleged – I'll withdraw that. You on 6 July afforded to Mr Neish an email giving him the ability to make an ICAC notification - - -

MR HARRIS: I object to that, Commissioner, on behalf of Mr Neish. I don't believe Mr Neish could not have made this section 11 notification in the absence of this witness' input.

ASSISTANT COMMISSIONER: Yes. There are several problems - - -

MR HARRIS: And I let that go previously.

ASSISTANT COMMISSIONER: Thank you, I agree. There are several problems with the question. But the main thing is this is a matter for argument, Mr Stanton.

MR STANTON: Yes.

ASSISTANT COMMISSIONER: If you want to point out the timing, this witness can't comment on it. He says he didn't know.

10 MR STANTON: I'm just, I'm just one man for when argument ensures that there's a decent basis for it. I'll conclude if I may. You supplied it on 6 July after I would suggest to you numerous requests from Mr Neish?
---Three or four.

And you supplied it on 6 July and Mr Neish, utilising that made his ICAC notification very soon thereafter.

MR DOWNING: I object

20 MR STANTON: Is that something to your knowledge?---No.

Yes, nothing further, thank you, Commissioner.

ASSISTANT COMMISSIONER: Thank you, Mr Stanton. Is there any other application?

MR HYDE: Yes, I have an application.

30 ASSISTANT COMMISSIONER: Yes, Mr Hyde.

MR HYDE: Mr Abboud, I appear for Councillor Petch. Can you tell me whether on 27 March, when you addressed Council whether you spoke with Mayor Etmekdjian that, that evening?---I don't recall.

All right. When was the last conversation that you had with Mayor Etmekdjian?---Sorry?

40 When did you last have a conversation with the former Mayor, Mayor Etmekdjian?---When did I – in recent times?

Well let's start there. When did you last have a conversation with him?---A couple of weeks ago.

All right. And what was that concerning?

ASSISTANT COMMISSIONER: I'm sorry, relevance?

MR HYDE: All right. Perhaps I'll approach it this way. On or about 4 April, 2012 did you have a conversation with the Mayor, that is the former Mayor?---On 4 April, that's the Tuesday?

Correct?---Yeah, I saw him that night, Tuesday night at a Rotary meeting.

10 And did you have a conversation with him that evening?---It was a Rotary meeting, it was out of the normal meeting venue, we were meeting on a local business, it was like a visit and I mentioned to him that night that I'd received a phone call from John Goubran and that he wanted me to put some deal to John Neish, but I didn't go into what the deal was.

And what did the Mayor say to you in relation to that?---I don't recall.

Right?---It was just a passing comment, it wasn't a detailed discussion because we were caught up in a Rotary meeting.

20 And you say that that conversation occurred on 4 April, 2012?---On the Tuesday night at a Rotary meeting.

And prior to 4 April, 2012 when was your next conversation?---Prior to 4 April?

Yes?---I don't recall.

30 All right. Did you discuss with him at any stage your view that the precinct redevelopment should go ahead?---It was common knowledge within the community, within the business community, within the community at large that I was a supporter of the redevelopment of the Civic precinct.

My question was did you have a specific conversation with the former Mayor about that topic at any stage?---Probably.

And would it be fair to say that you had a conversation with the former Mayor toward the end of March, 2012 on this topic?---I don't recall.

All right. It's possible that you did?---Possibly, I don't recall. I speak to a lot of the Councillors from time to time.

40 And did you or have you been back through your notes or your diary to see what conversations you had with members of Council prior to 4 April, 2012?---No.

All right. Is it possible that you have a diary entry for a conversation with the former Mayor at around the end of March 2012?---Possibly. I'd look through my diary.

Is it possible that you spoke with the Mayor, that is the former Mayor,

Mayor Etmekdjian about a possible deal?---I mentioned to him that John Goubran had called me on that Tuesday night when I saw him at the Rotary meeting. The subsequent time I met with him regarding this deal was when John Goubran, after I'd met with John Neish, asked me to now put this deal if you like, to Artin Etmekdjian.

And when do you say you put that deal to the former Mayor?---Probably a week or two after I'd met with John Neish.

10 All right. Can I suggest to you that you had had a conversation with the former Mayor in late March 2012 about putting a proposed deal to those that were opposed to the precinct redevelopment?---Me putting a proposed deal?

No. You had a conversation with the former Mayor - - -?---Yes.

- - - about putting a proposed deal to those who opposed the redevelopment of the precinct. Correct?---No that's, no that's incorrect.

20 You say the only time you had a conversation, correction, the only time you had a conversation or your initial conversation was on 4 April, 2012?
---Tuesday night when I saw him at the Rotary meeting.

All right. Can I suggest to you that 4 April, 2012 was in fact a Wednesday?---Oh well it was the Tuesday night.

30 Right?---The Tuesday night when John Goubran had called me that morning then he rang me that afternoon and gave me the details of the deal, I saw Artin at a Rotary meeting on that Tuesday night, we meet every Tuesday night, the Rotary Club of Ryde and it was unusual to actually see him at a Rotary meeting because as the Mayor, as a Councillor, Council normally sits on a Tuesday night. And this was either leading up to Easter or just after Easter, so Council may not have been sitting, so he was actually at the Rotary meeting. So it was on the Tuesday night that I saw him not the Wednesday night.

And do you deny that you asked John Goubran to take a deal to Mr Petch?
---I asked John Goubran?

40 Yes?---Of course I deny that.

And do you deny that you were asked to do that by the former Mayor, Mayor Etmekdjian?---Yes.

Nothing further, thank you, Commissioner.

MR STANTON: Commissioner, could I just - I've omitted one matter in my haste to comply with your getting on with the job, that's what happens, ma'am unfortunately. But ma'am, just one question if I may, please?

ASSISTANT COMMISSIONER: Yes, Mr Stanton.

MR STANTON: Mr Abboud, you did see Mr Goubran on 5 June, did you not, at his office?---5 June?

2012?---I'll check my diary but I remember, I remember - - -

10 Well, can I assist your recollection?--- - - - going back and seeing him at this office later in the period, yes.

I'll assist your recollection, sir, you wanted the subscription for the Ryde Chamber of Commerce from him in the amount of \$100 and you received a cheque from him to be a member of that chamber of which you were president?---No, that's not correct.

20 Well, you certainly - - -?---On, on several occasions he, he, he said to me in between all these various discussion he said, "What's wrong with you Chamber of Commerce," he said, "I sent in \$100 and joined and no one's called me."

Then you - - -?---And I remember saying at my executive, you know, we've had some memberships come in and they haven't been acknowledged.

But you did see him on 5 June I want to suggest to you, sir, at his office in Gladesville?---Yes.

Thank you.

30 ASSISTANT COMMISSIONER: Yes.

MR BENDER: I have some questions - - -

ASSISTANT COMMISSIONER: Mr Bender.

MR BENDER: - - - Commissioner.

40 My name is Bender, Mr Abboud, I appear for Councillor Salvestro-Martin. Might Mr Abboud please be shown page 136 in Exhibit 7. Now you recognise that document don't you, Mr Abboud, as being a note that your prepared in the period leading up to 6 July, 2013?---That's correct.

If I can just direct your attention to the last paragraph on - 2012, thank you. If I can direct your attention to the last paragraph on that page please where you say later that day you mean 3 April, 2012 don't you?---Yes, later that day he called me, on the 3rd.

Now if I can ask that Mr Abboud be shown the next page, page 137 of the exhibit. You can see on the top of that page there's a lit of bullet points that set out some of the details of the proposal, yes?---That's correct.

Now, if you then go down to about halfway down the page you see the words "It was obvious to me at this stage that John Goubran was speaking on behalf of and representing Ivan Petch, Jeff Salvestro-Martin and Justin Li." Mr Goubran didn't say as much did he?---Not at, at that meeting on the 3rd but it was obvious to me.

10

Thank you. And then were you - - -

MR DOWNING: I object, the witness should be allowed to finish his answer.

ASSISTANT COMMISSIONER: He just wanted to add that it was obvious to him.

MR BENDER: You say it was obvious to you, that's a matter of your own supposition, isn't it?---That's correct.

20

It's really a hypothesis?---That's what I felt at the time.

It's a hypothesis, isn't it?---But that's what I felt at the time.

But it is a hypothesis, it's your hypothesis, isn't it?---Yes.

Now, if you just go up to the previous paragraph on the page please where you say that you thought the committee looked like it was stacked in favour of the no camp - - -?---Yes.

30

- - - it doesn't follow from forming that view that Councillor Salvestro-Martin was behind the proposal does it?---Not directly, no.

The proposal could have emanated from anyone who was opposed to the development, couldn't it?---That's correct.

Now, it's possible that Councillor Salvestro-Martin didn't know anything about the proposal at all, isn't it?---Possibly.

40

Now it certainly, if you could then go to the next sentence in that paragraph he then said that John Neish can choose who he wants on the committee? ---That's correct.

It certainly doesn't follow from that sentence that Councillor Salvestro-Martin had any knowledge of the proposal does it?---Possibly.

Well, it can't follow from that sentence that Councillor Salvestro Martin had knowledge of that proposal can it?---Well, that, that sentence relates to who was on the committee not the four Councillors.

ASSISTANT COMMISSIONER: Yes, as I recall your evidence that was all about the community reps and that they were people - - -?---That's correct.

- - - who were not in favour?---That's correct.

10

And, and I think that whole sentence is not about the Councillor members, Mr Bender, it's about the community members?---That's correct.

MR BENDER: The sentence I was directing the witness's attention to was the sentence he then said that John Neish can choose who he wants on the committee?---Yeah, the - - -

ASSISTANT COMMISSIONER: Yes, the community - - -

20

THE WITNESS: - - - the community.

ASSISTANT COMMISSIONER: - - - representatives.

MR BENDER: Well, regardless who those people were my question is it simply can't as a matter of logic follow from that that Councillor Salvestro-Martin was behind the proposal can it?

30

MR DOWNING: I object, it's a logical fallacy, there's no reason why Councillor Salvestro-Martin can't have agreed to a deal that involved Mr Neish being given some leeway to choose people he wanted to. My friend's suggesting it means it's possible for this deal in those terms to have been something that Councillor Salvestro-Martin knew of.

ASSISTANT COMMISSIONER: Well, I think Mr Bender's saying that that sentence, that sentence doesn't give any justification to say Mr Salvestro-Martin was behind it, not that it means he couldn't have behind it.

40

MR BENDER: I can rephrase the question.

ASSISTANT COMMISSIONER: Yes.

MR BENDER: There's nothing about that sentence that particularly suggests that Councillor Salvestro-Martin was behind the proposal is there? ---Not within that sentence.

No. And the fact that Councillor Salvestro-Martin ultimately was one of the proposed members of the committee didn't necessarily mean that he was the person behind the proposal did it?---Not at that point, no.

Although I understand that that was the view that you ultimately formed?
---Which was confirmed on 8 May when the resolution was put up by Salvestro-Martin and Ivan Petch, he - the watered down version of the resolution.

10 Well, if you could answer my, my question. It certainly doesn't follow from the fact that Councillor Salvestro-Martin was ultimately one of the proposed members of the committee that he must have, that he must have been behind the proposal put by Mr Goubran?---At that point right there?

At this point, yes?---No.

No. Now, as to what you said is it, is it your suggestion that on 8 May of 2012 Councillor Salvestro-Martin was one of the Councillors who moved the notice of motion for the establishment of the committee?---To my
20 recollection.

Right. Well, I put it to you that's simply not correct and that's not recorded in the Council minutes?---I understand that that resolution was put up by the no Councillors and it was at the time promoted as such.

Sorry, will you bear with me, Commissioner?---That was my understanding, that the resolution was put up by the no Councillors at the time.

Can Mr Abboud be, please, please be shown page 385 of Exhibit 1. You
30 can see that that's a page of a minute of a Council meeting and to be fair I should show you page 383. So you can see that's a, a minute of a Council meeting of 8 May, 2012, is that correct?---Yes.

I take it from your answer earlier you were at that meeting?---Yes.

Have you seen these minutes before?---Not in detail.

Could you go to page 385 please. Is - about halfway down the page under
40 the heading "Notices of motion" if you could read that motion, is that the motion to which you were referring earlier that you suggested had been moved by Councillor Salvestro-Martin?---Yes, that's the one that I said that was moved in my opinion or as I understood it by the no Councillors but it says there that it was actually moved I would assume on their behalf by Councillors Petch and Tagg.

Well, putting aside your assumptions as to whose behalf, on whose behalf things were done does reviewing this minute change your view or your

recollection I should say as to who moved that resolution?---Well, it, it says there that it was moved by Councillors Petch and Tagg.

Yes. Now you suggested in your answer a moment ago that your view that Councillor Salvestro-Martin was one of the people behind the proposal was supported by your recollection of the minute that I, of the motion I just took you to, is that right?---Yes.

10 Well can't have been something you had in mind when you spoke to Mr Neish on 13 April could it?---When I spoke to Mr - - -

But that can't have been something you had in mind on 13 April could it? ---Sorry, could you - - -

ASSISTANT COMMISSIONER: Mr Bender, that's obvious. I don't see the point of putting that to the witness. Obviously he can't have had in mind something that hasn't happened yet.

20 MR BENDER: Okay.

ASSISTANT COMMISSIONER: The point is made and it's a matter that can be made in argument.

MR BENDER: Yes. Thank you, Commissioner.

You knew that Councillor Salvestro-Martin was very public in his opposition to the development didn't you?---That's correct.

30 So it's possible isn't it that someone other than Councillor Salvestro-Martin was behind the proposal and suggested that Councillor Salvestro-Martin beyond the committee because that person was confident that Councillor Salvestro-Martin would continue to oppose the development when on the committee. Isn't that right?---That is possible.

So in light of your answers to those questions if I can take you back please to page 137 of Exhibit 7. Actually I withdraw that, no further questions, Commissioner, thank you.

40 ASSISTANT COMMISSIONER: Yes.

MR GRIFFIN: Mr Abboud, my name is Griffin, I appear for Councillor Li in these proceedings. Am I correct in recollecting that you said in your evidence that the deal outlined by Mr Goubran came from the no camp? ---That's correct.

And then you said that the no camp was led by Petch, Salvestro-Martin and Li. Is that correct?---That's correct.

Do you agree that during your discussions with Mr Goubran at no stage did he name Councillor Li as a potential member of the proposed committee?
---That's correct.

Do you accept that six Councillors were opposed to the project?---Yes, that's correct.

10 On what basis do you say that Councillor Li was a leader of the no camp as opposed to the other five members opposed?---Well I don't recall if I actually said he was a leader, the no camp had a, a one voice if you like, a combined voice that's the way it appeared in the, in the community, they spoke as one, I don't recall saying that I felt that Councillor Li was a leader of that group.

Well you said the no camp was led by Petch, Salvestro-Martin and Li?
---Well they were the ones that were mentioned by John Goubran on that morning.

20 What did Mr Goubran say about Mr Li?---I don't recall anything specific. The only time Councillor Li came into the discussion was in, in my notes in the journal when John Goubran was suggesting who he felt was going to come back into and, and be part of the, the new Council after September the 12.

The, the reference in your notes was Mr Goubran's opinion as to who would be re-elected it had nothing to do with who was leading the no camp?
---That, that's probably correct.

30 You're then taken by my learned friend Mr Bender to page 137. Can I take you to that same passage where you say, "It was obvious to me at this stage that John Goubran was speaking on behalf of and representing Ivan Petch, Jeff Salvestro-Martin and Justin Li." On what basis do you tell the Commissioner that Mr Goubran was speaking on behalf of and representing Mr Li?---When I wrote that I was referring to my notes in my journal and Councillor Li's name was there as you saw on the notes in my journal so I probably copied Councillor Li's name from my notes.

40 So going back to my question on what basis did you hold the belief that Mr Goubran was speaking on behalf of and representing Mr Li?---I, I don't think I said that I felt he was representing Councillor Li.

Well that's what the sentence on page 137 says with respect?---Yeah. It - - -

You now retract that?---As I say I put those three names in that, in that sentence because I was just taking notes, I was referring to my notes in my journal.

So do you now retract the suggestion that Mr Goubran was representing Mr Li?---I, I have to recollect what was actually said before I retract that but I, I don't actually recall, I know predominately the discussion was around Ivan Petch and Jeff Salvestro-Martin and there was one mention of Justin Li as I noted in my journal.

That mention related to Mr Goubran's opinion that Mr Li would be re-elected?---That's correct.

10 And nothing more. That's correct isn't it?---From my recollection.

Mr Abboud, Mr Li will give evidence in due course to this Commission that he had no knowledge of the deal that Mr Goubran put. Do you have any information or knowledge to the contrary?---No.

Thank you, Commissioner.

ASSISTANT COMMISSIONER: Thank you. If there's nobody else, good, we can - do you wish to re-examine at all, Mr Downing?

20

MR DOWNING: No, Commissioner.

ASSISTANT COMMISSIONER: Well, thank you for that. You are now excused, Mr Abboud, and we will have a 15 minute adjournment.

THE WITNESS EXCUSED

[11.35am]

30 **SHORT ADJOURNMENT**

[11.35am]

ASSISTANT COMMISSIONER: Thank you. Please be seated. Yes Mr Downing.

MR DOWNING: Thank you, Commissioner. The next witness is Mr Bryan Belling.

40 ASSISTANT COMMISSIONER: Yes Mr Belling, could you go over please. Mr Belling, I'm sure you're aware of the provisions of section 38 of the ICAC Act. Do you wish to seek a declaration under the section?

MR BELLING: I do, Commissioner.

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

been given or produced on objection and 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 HIM DURING THE COURSE OF HIS EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND THERE IS NO NEED FOR THE WITNESS TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.

ASSISTANT COMMISSIONER: Mr Belling, will you take an oath or make an affirmation?

20 MR BELLING: Take an oath, your Honour.

ASSISTANT COMMISSIONER: Thank you. Yes, Mr Downing.

MR DOWNING: Thank you, Commissioner. Mr Belling, could you just state your full name for the Commission, please?---Bryan Robert Belling.

10 And your date of birth?---24 November, 1953.

And your address?---.....

You're a solicitor?---I am.

And you've been in practice for how many years?---More than 30.

You're a solicitor who has acted for Councillor Petch at various times?
---Yes.

20 And for Ryde Council?---That's correct.

Can I ask you for how long have you known Councillor Petch?---I met Councillor Petch in January of this year, around about 8 or 11 I think, from memory.

Of January this year?---Yes.

So you've not known him before then?---No.

30 And is it the case that – I'll withdraw that. Did Councillor Petch then retain you to act on behalf of the Council - - -?---Yes.

- - - in various matters in January of this year?---Yes.

Relating to Mr Neish's employment?---Yes.

40 Relating to other matters?---Well generally in relation to a number of things that the Commission was looking at concerning the activities of Council. But, but as I understood the retainer was really in relation to Mr Neish, principally.

Now have you acted for Councils previously to acting for Ryde Council?
---Yes.

And I take it you're familiar with the Local Government Act?---Yes.

I'm not suggesting that you read it for bedtime reading?---I don't know it off by heart, but I do know - - -

Are you familiar with chapter 14, which deals with honesty and disclosure of interests?---Yes, in general terms.

And part 1 of chapter 14 covers issues of conduct?---Yes.

That is conduct of Councillors and Council employees?---Yes.

10 And are you aware that section 440 of the Act provides for the prescription of a model Code of Conduct?---Yes.

And that's a Code of Conduct which – well I'll withdraw that. Are you aware that under the Local Government General Regulation 2005 a model Code of Conduct has been prescribed in New South Wales?---Yes.

And it's the Code of Conduct that Councils are required to incorporate, to adopt for the purposes of the conduct of their staff and Councillors?---That's my understanding.

20 And were you aware as at January 2013 that Ryde Council has its own Code of Conduct based on the model code?---I was aware, yes.

Can I ask you to have a look at pages – or starting at page 1596 of Exhibit 1, which is the Code of Conduct in place as at January of this year. So had you – if you need to scan up or down please let us know. But had you seen a copy of this as at January this year when you acted for the Council?---Yes. I can't tell you when but it would have been mid to late January I think.

30 In the course of your retainer to act for the Council?---Yes.

And you're aware that the Code of Conduct, as the name suggests, covers the conduct expected or required of Councillors and Council staff?---Yes.

That it covers such things as conflicts of interest?---Yep.

Sorry, you just need to speak up?---Yes, sorry, yes.

Gifts and benefits?---Yes.

40 Use of certain Council information?---Yes.

And the use – and the security of confidential information?---Yep.

And you're aware that the Code of Conduct sets out a complaint handling procedure?---Yes, I am.

And at 1615, that is page 1615 if we could skip ahead to there, is that the complaints, the complaint handling procedure you're aware of?---It is.

And are you aware that it provides that in terms of complaints in respect of the General Manager that they should be addressed in writing to the Mayor?---That's the standard arrangement, yes.

But sanctions, this is at point 6, sanctions for staff depend on the severity, scale and importance of the breach and must be determined in accordance with any relevant industrial instruments or contracts?---Yes.

- 10 And if we go ahead to page 1616 at point 10 there's a particular complaint handling procedure in respect of the conduct of the General Manager, were you familiar with that?---Yes, yes.

And that it provides for the Mayor being responsible for assessing complaints and that at point 11 it provides that the Mayor can determine to do various or must determine to do certain things?---I see that, yes.

- 20 But is to take no action, to resolve the complaint by use of alternative and appropriate strategies, to discontinue the assessment or to refer the matter to a conduct review committee or reviewer?---Yes.

So you were aware of all these things when you acted for Council in January 2013?---I was.

Now, can you recall receiving a telephone call from Councillor Petch on 1 February, 2013 - - -?---Ah - - -

- - - at about 8.30 in the morning?---Yes.

- 30 Do you recall what Councillor Petch called you about?---Yes, I do, yeah.

Can you tell us what it was?---A member of staff, I think he described the person as the IT manager, had delivered to him a CD Rom together with some other materials that, that related to pornographic images.

Right. Did he say anything else to you about that?---Yes, he asked me what he should do with it. The information pertaining to Mr Neish I think is common ground.

- 40 Right?---And he asked me what he should do about it.

Did you give him any advice about whether that is material that would be regarded as confidential?---I don't think I expressed my advice in terms of confidentiality but I certainly said it was material that should be held very, very closely by him.

Because in view of the nature of the complaint and what it involved with Mr Neish - - -?---Yes.

- - - you'd accept, wouldn't you, that that is confidential material - - -?

---Absolutely.

- - - that should be handled sensitively - - -?---Absolutely.

- - - within Council?---Yes.

10 Well, doing your best can you tell us what you recall Mr Petch saying to
you further about the matter and what you advised him during the call?
---Well, well, he asked me, he, he asked me what that meant and by that I'd
understood him to mean in terms of Mr Neish's ongoing employment and,
and I said to him it was too early to tell but he should hold it close, keep it -
I probably did say keep it confidential and I, I also suggested to him that,
that he should also be concerned to test the provenance of the information
that he was given because it was possible that, that Mr Neish was being set
up.

20 Right. Now did you give him any advice about the way in which the
complaint, because it was a complaint by the IT employee, wasn't it, against
Mr Neish?---Yeah, I think that's a pretty safe categorisation, yes.

Did you give Mr, Councillor Petch any advice about how the complaint
should be handled having regard to the complaint handling procedure as part
of the Council's Code of Conduct?---Not, not beyond saying he should hold
it close until we decided what to do and, and I'd, I'd certainly tendered
some advice to him, that the provenance of it should be tested before he
took any, any steps in, in relation to, you know, taking the matter even to
Mr Neish.

30 Wouldn't normally though - one of the - I'll withdraw that. One of the, one
of the avenues open to the Mayor under the complaint handling procedure
was to have the, have a conduct review committee or reviewer appointed?
---That's true, that was an option, yes.

40 And wouldn't normally that person or committee undertake any
investigation to check the veracity of the allegations?---That, that was
certainly one avenue, Mr Downing but I, I was having this conversation in
the context where I was retained to give advice about the ongoing tenure of
Mr Neish's contract of employment so the question we were focussed on in
that conversation is whether it constituted some misconduct justifying
summary dismissal so he would - - -

Did Mr - I'm sorry, sorry, please finish?---I think in a more complete
answer to your initial question it was in that context that I was asked to give
the advice and my, my counsel to Mr Petch was it too early to tell, he might
have, Mr Neish may well have been being set up by a member of staff. So

we - dumping the issue into the review system didn't even - we had no conversation about that in that conversation as I recall it.

You didn't think that that might have been an appropriate way for it to be handled - - -?---I did.

10 - - - for an external person to be appointed or an external committee to investigate the - - -?---Indeed I didn't I thought, I thought the better approach might be to, for me to, to do it under the cloak of legal professional privilege until we knew a bit more.

Did Mr, did Councillor Petch express any view to you about Mr Neish's employment in, in the light of the complaint that had been made against him?---Not, not in, not expressly as I recall it but, but I had been initially retained to give advice to Council as to the opportunities to terminate Mr Neish's contract of employment, I don't think I, I can - I need to be coy about that that's why I was retained.

20 I'd ask you to listen to a recording of a telephone conversation and there would also be made available a transcript of it?---Yes.

So if we could have that played.

AUDIO RECORDING PLAYED

[12.26pm]

30 MR HARRIS: Commissioner, with respect can I just ask for a reminder in relation to the suppression order on the name, that's Mr Neish's current employer that was made yesterday.

ASSISTANT COMMISSIONER: Yes, there is a suppression order in respect of the name

MR HARRIS: Thank you.

THE WITNESS: I can't deny that was me.

40 MR DOWNING: You pre-empted me, Mr Belling. You accept that that was a phone conversation between yourself - - -?---I do.

- - - and Mr Petch?---I do.

On the morning of 1 February?---Yep.

1 February, 2013?---Yeah, I'll accept it was, I don't, I don't recall exactly.

Commissioner, I tender the audio and the transcript of the telephone conversation.

ASSISTANT COMMISSIONER: That will be Exhibit 10.

**#EXHIBIT 10 - COPY OF AN AUDIO CASSETTE AND
TRANSCRIPT OF A TELEPHONE CALL BETWEEN MR PETCH
AND MR BELLING ON 1 FEBRUARY 2013**

10

MR DOWNING: Now Mr Belling, in the course of that telephone conversation you suggested meeting at Coxs Road?---Yes.

And you referred in the telephone conversation to it being the usual place?
---Yes.

20

Had you met with Mr Petch previously at a particular location in Coxs Road?---Yes. There's two, two locations, one on each side of the road, both cafes.

Is one of them Delitalia?---I think that's what it's called, yes.

And were you, were you introduced by Councillor Petch to Mr Cerreto, the owner of that establishment?---Very briefly, I think, yeah.

30

Can I ask you then prior to this occasion, 1 February, when had you met with Mr Petch there previously?---I, I can't recall exact dates, but it would have been once or twice in January.

In relation to what?---To the retainer I had. Maybe I could contextualise it for you this way. I was retained to advise on the termination of Mr Neish's contract of employment in the face of Supreme Court orders, undertakings rather given to the Commission in the Supreme Court not to do that. And so I met with him on a couple of occasions to ascertain the whys and the wherefores of that.

40

So in respect of the Supreme Court proceedings - - -?---Yes.

- - - that had been commenced by the Council and ICAC - - -?---Yes.

- - - seeking injunction to prevent a termination of employment?---Yes. Councillor Petch was after my advice as to whether there was an opportunity not withstanding those undertakings to terminate the contract of employment of Mr Neish.

So he wanted to see whether he could sack him despite the fact there was an injunction preventing him for doing just that?---If, if it were lawful to do so, yes.

Can I ask why were you meeting at a café in Coxs Road rather than either in your offices or Mr Petch's office?---No particular reason although sometimes I, I travel out that way to go and see other clients out at Parramatta so.

But you're discussing Supreme Court proceedings, would you normally discuss those in a café in the open air?---Sometimes I do, yes, absolutely.

10 Now in the course of this discussion during the phone call that I just had played to you would you agree with this that Mr Petch suggested to you an intention on his part that material in respect of Mr Neish might accidentally be leaked to the National Press?---Yes, he said that.

So I take it you infer from that that he was suggesting that he would make that happen?---Yes, if I thought about it at all that's certainly the implication from those words.

20 And he indicated that again by the implication of the words that he used that the reason he would want to do that was to destroy Mr Neish's reputation? ---I don't accept that necessarily.

Well can you think of a good reason why he might want to leak documents suggesting that he accessed pornography on a laptop computer at home to the National Press other than to destroy his reputation?---A question better addressed to him I think, Mr Downing, I, I can only speculate about that.

30 Well what did you understand his intention was in telling you that he might accidentally have his material leaked to the National Press?---Well to put it in the public domain obviously.

For what purpose?---Well, that's a question best directed to him, I don't know.

Surely, surely you're his lawyer - - -?---Yes.

- - - he's speaking to you - - -?---Well I was - - -

40 - - - about an intention to leak documents to the National Press, documents which you've agreed with me before you had no doubt were confidential? ---Yes.

And information you had no doubt was confidential?---Yes. But, but I was also - - -

Surely you formed a view in those circumstances about what he might be thinking and wanting to do that?---I did and, and if you go back to the transcript I talk to him about an escalation process and, and holding the

matter in confidence until we test the provenance of the, of the material that he was given.

Well he suggested also in that conversation that you could give a bit of serious thought about talking to a particular firm that was doing consultancy work in Local Government?---Yes.

10 And you're aware the firm I'm referring to as a suppression order made in respect of the name but - - -?---Yes, yes. I had in fact had conversations with the principal of that firm leading up to those dates, I think the last one was 27 January.

And what was the nature of those discussions?---I was seeking to use that person as a intermediary to negotiate Mr Neish's exit from Council because the information that I had from a conversation with that principal before I was retained by Ryde was that Mr Neish may have been himself looking for an exit because he was, he had a, a change of leadership in, in the chamber as a result of the September election and - - -

20 That is Councillor Petch became Mayor?---Yes. And, and the contest that at the basis of this inquiry between the for and against in relation to that development the numbers have changed and so the question was whether Mr Neish himself wanted to exit and I was having conversations with the principal of his now employer as an intermediary to try and negotiate that.

Was it on the basis of information from Councillor Petch that you spoke to the principal of this - - -?---No.

30 - - - consultancy?---No. In fact I, I had before I was retained I was having a conversation with the principal of that organisation as a result of another Council engagement I had. Mr Downing, this, this information is all contained in a letter that's actually submitted to the Commission.

Well we'll come to that shortly. You say you previously had contact with the principal of this consultancy - - -?---Before I was retained, yes.

40 But would it presumably though in order for you to then speak to that person after you were retained you would have needed the instructions of Mr Petch?---Yes, and I got those instructions.

Now in the course of this discussion what he said to you is that "You should give some serious thought about talking to the principal of that consultancy" and he said, "Don't do it before we discuss it but think about talking to that person and he should come and have a chat to me and have his resignation ready - - -?---Yes.

- - - because if this goes to the national press which will quite accidentally happen, it will be everywhere his name will have, everywhere, his name, he

will have to leave town because he's not only not, will he not get a job in local government but his standing, personal standing in the community will be at an all-time low"?---Yeah, I heard those words, yeah.

Now did you understand that what Mr, Councillor Petch was suggesting was you should think about going and speaking to the principal of consultancy and suggesting to him look, convince John Neish to come in with his resignation because if he doesn't then quite accidentally this might hit the national press and his name will be tarnished and he will never get a job anywhere?---Perhaps, perhaps I can contextualise it for you. On the - the conversation I had with the principal prior to my retainer, I'd invited the principal to go to Mr Neish and find out whether he was happy or whether he was interested in negotiating an exit. I then got the retainer from Mr Neish in early January and I spoke to the principal again and said I'm now instructed by Council and in the event that Mr Neish is interested in negotiating an exit we're interested in having that conversation. Then on 27 January, which is four or five days before the telephone conversation that's been extracted, I had a longer conversation with the principal who told me that Mr Neish had no interest in going. I reported that, that outcome back to Councillor Petch together with the Council that, that there was no, I could do no more to assist in negotiating the exit of Mr Neish in favour, in face of the undertakings given to the Supreme Court.

So you understood that at that point Mr Neish didn't want to go?---I, I understood that and although not quite but I thought it was either the intention that he didn't want to go or he was negotiating a better climatic to settle the pay, to, to get a pay out and, and so my counsel to Mr Petch at that stage, Councillor Petch at that stage was I had run my course. That's why you see in the transcript of the evidence you've just played the reference to manna from heaven because now we had the potential of having Mr Neish engaged in serious misconduct.

Well, thank you for that context but if I can return to my question now and to what Mr, what Councillor Petch was communicating to you?---Yes.

What he asked you to do, and please tell me if you agree with this?---Yeah.

Was to think about going and speaking to the principal of the consultancy where you understood there might be some interest in Mr Neish working - - -?---Yes.

- - - and raising with them the prospect that Mr Neish have his resignation ready because if he didn't then this information about his computer might accidentally find its way to the national press?---Yes, that's what he said.

Did you understand from what Mr, what Councillor Petch was raising with you that he was suggesting was that to in effect have conveyed through an intermediary to Mr Neish - - -?---Yes.

- - - a threat that if he doesn't resign then there will be a leak, an accidental leak but a leak of this information about the use of his laptop?---Yes, you, you certainly draw that conclusion but I certainly didn't take any such steps with, with the principal.

Did you consider that what Councillor Petch was suggesting was something that might potentially even involve a criminal act?---Yes.

10 Well, did you say anything to him to suggest that that would be completely inappropriate?---Not in that conversation obviously and whether I said - I did say things to him relevant to that but not, not in that context if I can express it that way. In other words I didn't counsel him not to do it because it would be a criminal act, I certainly did counsel him not to do it.

But not during this conversation?---Not during that conversation.

You recall I asked you before about the Code of Conduct and your knowledge of that?---Yes.

20

Can I ask you to have a look again at page 1611 of Exhibit 1 and in particular would you look at clause 5.10(e). Do you see that one of the provisions there in particular 5.10(e), and this applies to Councillors under the Code, is that in addition to your general obligations relating to the use of Council information you must not use confidential information with the intention to cause harm or detriment to your Council or any other person or body?---I see that.

30 Now that was precisely what Councillor Petch was suggesting he had an intention to do wasn't it?---It was.

And did you counsel him in the course of this meeting that what you're doing would be a serious breach of the Code of Conduct?---I, I don't think I said those words to him, no.

You didn't say anything to suggest that he shouldn't do it, did you?---Well, not in that conversation but I did later.

40 Well what you in fact did in this conversation was suggest that he might want to get it checked out to make sure that it's legitimately something that - well I'll withdraw that. Legitimately material that Mr Neish had accessed on his laptop?---Yes.

So make sure it's, it's kosher?---Yes.

You didn't suggest that being done, you should handle it in a particular way did you?---Well not in that conversation, but I did when I met him. In fact we discussed the protocol in some detail when I met him.

Do you accept that it would have been appropriate given what he'd told you over the phone to counsel him that what he was contemplating doing was a clear – would amount to a clear breach of the Code of Conduct?---No, well I didn't give that express counsel as is obvious in the conversation.

But I'm suggesting that it would have been appropriate given what he had intended to – what he'd communicated to you he intended to do - - -?---Well
- - -

10

- - - to give him advice then and there that what he was contemplating was a serious breach of the Code of Conduct?---Well that depends on the understanding between he and I, frankly.

ASSISTANT COMMISSIONER: I'm sorry - - -

MR DOWNING: What do you mean by that?---

ASSISTANT COMMISSIONER: - - - what do you mean Mr Belling?
20 ---Well what I mean by that is that he put himself in my hands including as to the development of a strategy and he said that. And I said I wanted to ruminate it over the weekend and come up with a strategy. Now I knew that he wouldn't go running off to the press, you know, with this stuff in the interim because we'd agreed to conjugate and contemplate the way to handle it.

MR DOWNING: Well can I ask you, look again at page 59 of the transcript or page 5 of 5 of the transcript of the telephone call and we can have it
30 replayed if you like, what you suggested to him, sorry, I'll just pause while we call it up. Starting at the top of the page and indeed going from the bottom of the page before you indicated to him that you had contacts in the media?---Yes.

Do I take it from that that you were suggesting that you could actually assist him in having this leak to the media?---I think that was just a bit of blarney, frankly. I mean I had my duties to him and, and to the Council. It was a long way off going to the press about anything.
But you've told us that you suggested to him that there was a, a strategy that needed to be hatched. But if you look at the conversation on page 5?---Just,
40 just pause, just pause there. I use the words as an escalation process. You don't go near the fourth estate until we've firstly got to do a bit of due diligence. The fourth estate being the press.

So due diligence on it and then we'll figure out a strategy?---Yes.

But the due diligence you were suggesting and which you in fact pursued was to have it forensically checked to make sure it was real?---Yes.

So your view was it I take it that having checked that it really was legitimate it would then be okay to leak it to the fourth estate?---That was not my view, no.

Well what were you suggesting then?---That because the question, the question under Mr Neish's contract employment whether that conduct constituted conduct justifying somebody's dismissal. Remember my retainer was to try and find a way to terminate Mr Neish's contract of employment if it were lawful to do so. So, so that's what I'm doing, I'm
10 saying to him, firstly we've got to check the provisions, secondly we've got to figure out whether, whether there's a termination or not, whether it's a sundry offence justifying termination and then you'd have to take those steps or you'd be entitled to take those steps perhaps is a better way to put it.

Mr Belling, can I suggest to you that what in fact you did during this conversation was not suggest that we need to check Council policies and protocols and make sure whether this might be something that justified a reprimand or a cessation of internet rights or perhaps a termination, what
20 you said to him was we'll need to investigate it and check it out to make sure it's genuine before we can then escalate it, meaning release it to the press?---That's not what I intended at all. And you don't go near the fourth estate, right, until firstly we've got to do a bit of due diligence on it. Now I'm responding to his suggestion that he's going to leak to the press. I'm telling him not to do that.

Until you've checked that it's genuine?---Yes.

So that presumably - - -?---And, and, no but the other step that I'm
30 interested in is the contract of employment, not going to the press with this stuff. And in fact we didn't go to the press with it.

Where, where in this conversation did you say to him it will be important to check what, what Mr Neish's contract of employment says in terms of how this information could be used in relation to his employment?---No, I didn't expressly refer to that in this conversation because contextually that's what I was retained to do. I was considering the question of the determination of Mr Neish's contract of employment and his employment.

What you, what you in fact did was congratulated him on his incredible good luck?---Yes, I did. Because he, he was struggling, he, he wanted to,
40 together with his political allies determine the contract of Mr Neish and he was struggling to find a way to do so and on 27 January I told him it couldn't be done.

Now you refer to political allies, do I take it from that that in the course of your dealings with Mr Petch, sorry, Councillor Petch, he indicated to you that there were others that wished to have John Neish out of Council?

---Yeah, I thought it was pretty well established on the information I had from him that the Council, the old Council was log-jammed six/six and it

was principally around that issue of the Civic development and now that, that, that Councillor Petch had had the numbers he was looking to determine Mr Neish's contract of employment.

But did he explicitly say something to you to the effect that, that there are others within Council who also want to be rid of John Neish?---He didn't explicitly say that but I certainly implied that from the conversations I'd had with him about the numbers in the Chamber and that sort of issue.

10 And who did you understand him to mean?---All, I don't recall all of the names but I certainly recall Mr Salvestro-Martin and Councillor Li and I think Councillor Perram.

Did you ever meet with any of those Councillors?---I did, yes.

When?---I'm a bit vague on this, I think, I think January, I think in January.

So prior to this meeting?---I think so, yes.

20 And what was the nature of the discussion at that meeting?---Oh, I was introduced to a, a couple of Councillors by Councillor Neish as a person - - -

Sorry, Councillor Petch?---Councillor Petch, I beg your pardon.

That's all right?---As, as a lawyer that had been retained to agitate that issue of the determination.

Do you recall who the Councillors were?---I think in the coffee shop across the other side of the road Councillor Perram and maybe Councillor
30 Salvestro-Martin.

So this was another meeting in a coffee shop but one across the road in Cox's Road?---Yeah, because it was - my reference to 40 degree heat, this was in the summer and it was very - one was air-conditioned, one was not.

So in those meetings had Councillor Petch expressed his very strong desire to get rid of Mr Neish?---Oh, he didn't really - I mean, I, I had that, I had that in effect instruction and impression from him so he didn't, he didn't reiterate it but it was, I mean, I had assumed that it was common amongst
40 those Councillors that, if they could determine, lawfully determine Mr Neish's contract they wanted to do it.

Did any of the other Councillors say anything about their desire to get rid of Mr Neish at Council during the course of that meeting?---They may have, I don't remember that explicitly.

But it was your understanding on the basis of speaking to Councillor Petch and the other Councillors - - -?---Yes.

- - - that what they were keen to do was explore some means of getting rid of him?---Yes, they, they - he no longer had their confidence, I think that was very clear.

So they were looking for a mechanism to sack him?---Yes, and that's why I was retained and, and that's why on 27 January I'd come to a dead-end, I said it can't be done unless he, he agrees to do it.

10 Hence your, your reference to the information that the laptop was manna from heaven?---That's it, yes.

Because you thought that might then allow or create a basis to terminate the employment?---Yeah, subject to the provenance of that information and, you know, other factors under his contract of employment.

Well, shouldn't it also have been subject to a properly constituted conduct review having been undertaken?---Well, yes and no. I mean, there was also the contract of employment and the question that I was asked, I was
20 addressing at that time was whether or not that constituted conduct - the advice I was asked to, to contemplate was whether or not if established that would constitute conduct justifying summary termination of the contract of employment. So not a review matter at all really, in that sense.

You didn't think that it would be appropriate for an independent conduct review committee or reviewer to actually assess the, the breach or the alleged breach - - -?---No, Mr Downing - - -

- - - and determine its seriousness?---About that I've got very strong views.
30 The, the, the General Manager of a Council is the equivalent of a chief executive. If, if that person is, is guilty of conduct justifying summary termination then that's what you do, you don't go through any other form or process subject to establishing that you've got the warrant to do that.

Well, presumably that would then if there proper grounds for summary termination that employment would be terminated on the spot - - -?---Yes.

- - - with no payment?---Yes.

40 Well, that's not at all what the, the nature of the agreement that was ultimately negotiated is it?---That's true and, and that's for the reason that we couldn't establish that this was conduct justifying summary termination because I didn't - we, we weren't able to test the provenance of that material straightaway and, and what happened was that as I understand it, this is not my personal knowledge, but the IT manager - I, I had said to Ivan to inform the informant - sorry, I'd said to Councillor Petch to inform the informant to hold it close while we tested the provenance of that material and then I was later informed, I think on 7 February that the IT manager got a bit impatient

and reported it to the human resources people at Council and the information became, Mr Neish became aware that - of the, of the disclosure and so he went to Councillor Petch I think on 7 February and sought to be released from his contract.

Sorry, sorry, am I correct understanding this that having undertaken some investigation you couldn't satisfy yourself that there were grounds for summary determination?---I, no, no, that's - I, I didn't - I was unable to test the provenance of the information on that CD because I don't have the expertise and so I caused that CD Rom to be referred to an IT consultant to test it.

But why would, presumably you gave some advice to Council about the terms on which Mr Neish parted company?---I did on the, on the 7 and 8 of February, yes.

Well if your view was that subject to checking the provenance of this material that there were grounds to summarily terminate his employment did you give some advice that we should not be doing anything to enter into an agreement where you're paying out 38 weeks of wages until we actually get this checked?---I did, I did give that advice on the 7th - - -

To Councillor Petch?---Yes.

And what was his response?---He, he said, I said to him if you wish to terminate this contract summarily you can't do it yet because we need to be able to see whether we've got sufficient cause to do that. I said to him if, if in fact the provenance of this information is as you suspect it is then you may well have that cause. He said to me Mr Neish has asked for 38 weeks I said well you may not be obliged under the contract to pay that 38 weeks he said I could not do that to his family.

He couldn't do that to his family?---Yes. In other words even if I advised that, that, that Mr Neish's contract was terminable summarily he would be more comfortable with paying the 38 weeks that is Councillor Petch.

Did you, did you find that comment somewhat odd given that Councillor Petch had also indicated his intention to have this material leaked to the press?---Well we all have flights of fancy in telephone conversations that I've just heard, heard myself it's a rather frightening experience. But, but - - -

Mr Belling - - -?---I don't mean to be flippant, Mr Downing, but, but I was a bit troubled by that response I must say in the interest of Council.

Well if you were troubled by the suggestion it was going to be leaked why would you tell him that you've got lots of mates at the Tele and they'd, they'd love this stuff and would be interested in publishing it?---Because we

were having a conversation as you do you know a flight of fancy I'm, you've got mates in the international press, I've got mates in the Tele whacko the didlio.

Your relationship with Councillor Petch was solicitor and client?---That's right.

He's disclosed to you an intention to leak material which you understand without any shadow of a doubt is confidential - - -?---Yes.

10

- - - to the National Press - - -?---Yes.

- - - and to do so accidentally so that presumably he can't be attributed as the source?---But, but my counsel to him was not to do that until we had a strategy and indeed we didn't leak it to the press. My - what I was troubled about was that there may have been cause justifying summary termination but, but that Council's money was being used to pay 38 weeks pay that's, that was what was troubling me about that. But I had - it didn't trouble me for long because we were negotiating an exit for Mr Neish, it was a negotiated outcome eventually.

20

Did, did you form a view that perhaps the payment of 38 weeks pay as part of his exit was the price that Councillor Petch and others that had wanted Mr Neish out were prepared to pay just to get rid of him?---Well no, I, I also took the view that it was, well I took, I certainly took the view it was in Council's interests as well as Mr Neish's and, and that we negotiated confidentiality so the matter leaking to the press didn't occur in fact.

30

Now later on that day you in fact met with Councillor Petch at Delitalia didn't you?---I think that's right, yes.

Can you recall if anyone else was present at that meeting?---I don't think at that meeting.

Do you recall if the meeting occurred at around 12.15?---No, I don't really without reference to my diary and even then I'm not sure I would have put it in my diary.

40

At the meeting did Councillor Petch give you any discs or still images that he described as having come from Mr Neish's computer?---A CD and, and two pages I think of screen shots, from memory.

And did he say anything further to you then about his intentions regarding that material?---No, not that I recall. He, he was certainly in, in my hand so to speak then as to what we do with it. And that's when I had the conversation with him about it's entirely possible that Mr Neish was being set up so we needed to have a close look at, as best we could, the providence of that material.

Did you give him any specific advice to the effect that he should not be going anywhere near the press with this material?---I don't recall giving that specific advice, but I may have.

Well it's something that would be important to remember. Sorry, I'll withdraw that. Something that would be important and would stand out in your memory wouldn't it, advice about his conduct given the, the intention he described to you in the earlier phone conversation?---If, if I, if I
10 apprehended that he was going to rush off and leak that to the press, yes, I agree. But that was not my apprehension at all.

Irrespective of when he was going to do it, you'd accept from me wouldn't you that it would be completely inappropriate to leak that material to the press at any time?---I agree.

Wouldn't it be encumbered on you as his solicitor, given what he'd indicated as his intention to inform him of that?---Yes.

20 And you didn't?---Yes I think that I did, well I think the understanding between us was that he was in my hands to develop a strategy. I don't remember whether I expressly said to him, I mean the transcript of the conversation suggests that I did expressly say to him don't go to the fourth estate with this stuff. So I think I did probably tender that advice. I've got no recollection of whether I went beyond that or not. But certainly my apprehension is that he wasn't about to go to the press with this stuff.

Commissioner, is that a convenient time?

30 ASSISTANT COMMISSIONER: Yes, it is. We will resume at 2.00pm.

LUNCHEON ADJOURNMENT

[1.02pm]