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INDEPENDENT COMMISSION AGAINST CORRUPTION

THERESA HAMILTON ASSISTANT COMMISSIONER

PUBLIC HEARING

OPERATION CAVILL

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON MONDAY 22 JULY 2013

AT 10.03AM

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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 O'MAHONEY: Commissioner, my name is O'Mahoney and I seek leave to appear for Mr Victor Tagg.

ASSISTANT COMMISSIONER: Yes, you're given leave to appear, thank you.

MR O'MAHONEY: Thank you, Commissioner.

10

ASSISTANT COMMISSIONER: Yes, Mr Downing.

MR DOWNING: Thank you, Commissioner, the first witness today will be Mr Laface.

ASSISTANT COMMISSIONER: Yes. Mr Laface.

20

MR HOLMES: Commissioner, as Mr Laface is approaching Mr Laface will take an oath. We seek a declaration, a section 38 declaration and the nature and affect of that has been explained to him and also, Commissioner, in respect of any residential address that's adduced if we could have a suppression order please.

ASSISTANT COMMISSIONER: Thank you. Yes, take a seat please, Mr Laface.

30

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.

40

PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY THIS WITNESS AND ALL DOCUMENTS AND THINGS PRODUCED BY 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

Could the witness be sworn please.

ASSISTANT COMMISSIONER: Yes, Mr Downing.

MR DOWNING: Thank you, Commissioner. Commissioner, there's a volume of materials that I'll be referring to during the course of Mr Laface's evidence, if I could tender them now. They cover some different matters but predominantly relating to a loan transaction involving Mr Booth and Mr Petch, Councillor Petch. If I could tender those now.

MR HOLMES: Sorry, Commissioner, we can't hear at the back here.

MR DOWNING: Oh, I'm sorry, I was not close to the microphone. The following materials which I'll be referring to during the course of Mr Laface's evidence. It predominantly relates to a loan transaction in late 2012 involving Mr Booth and Councillor Petch, it does cover some other areas. I won't try and go through and identify individual documents now but rather tender them as a volume relating to Mr Laface's evidence.

ASSISTANT COMMISSIONER: Yes, that will be Exhibit 42.

#EXHIBIT 42 - FOLDER - STEFANO LAFACE LEGAL FILE RELATING TO PETCH LOAN TO BOOTH

MR DOWNING: Thank you, Commissioner. Sorry, the documents that have been tendered at this stage are only the legal file, there are separate documents which I'll come to and tender separately, Commissioner.

Now, Mr Laface, could I ask you to indicate your full name?---Stefano Laface, that's L-a-f-a-c-e.

And your date of birth?---30 July, 1979.

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

ASSISTANT COMMISSIONER: Yes, I make a suppression order in respect of the private address of this witness.

THE PRIVATE ADDRESS OF MR LAFACE IS SUPPRESSED

MR DOWNING: Thank you, Commissioner.

Now, Mr Laface, you're a solicitor?---I am.

And you are in private practice?---I am.

And is it correct that you've got an office located in Manly?---Level 1, 43 Belgrave Street, Manly, yes.

You also have an office located in Coxs Road, Ryde?---Yeah, a satellite office, yes, I do.

10

And is that office upstairs in the premises above where Delitalia is?---That's correct.

So is it the case that you're renting those premises from Mr Norm Cerreto or a company that he controls?---From a company that he controls, yes.

And is it also correct that through your marriage you're related to Mr Cerreto?---That is correct.

20

So your wife and his wife are cousins?---That is correct.

Okay. Now, can I ask you the kind of practice that you maintain, is that under the name AJL Legal?---That is correct.

And for how long has AJL Legal existed?---I think it's coming up to it's fourth year or just a little bit over four years now.

30

And is it the case that up until fairly recently that separate to your private practice you were employed as a solicitor?---I was employed in the past as a solicitor, yes.

Well, have you been employed by Wyong Council?---Wyong Shire Council, yes, I was, yes.

Until fairly recently as a lawyer?---No, about, till about three or four months ago, even longer.

40

And for what period of time was that?---I think for a little bit over 12 months.

Now, have you acted for Mr Norm Cerreto at various times since AJL Legal has existed?---Yes, I have.

And is that in relation to particular matters or a variety of matters?
---General matters ranging from commercial lease matters, general advice matters, debt recovery and disputes like that, yes.

And so for how long have you known Mr Cerreto?---Well, probably 10 years or more.

And have you also acted at some point for a Mr John Goubran?---Yes, I have.

And how did you come to know Mr Goubran?---I acted on a conveyancing matter where both his son and Norm Cerreto bought a property together.

10 Was that, is that Simon Goubran?---That's correct.

And where's that property located?---I think it's in Burwood or Concord from memory.

So Simon Goubran and Mr Norm Cerreto bought a property together?
---That's right.

And you acted for - - -?---On the conveyancing matter.

20 So is that how you came to know Mr Goubran, I should say John Goubran?
---That, that's how I become, yeah, that's, that - sorry, that is how I have known John Goubran, yes.

And is that the first time you met him when you acted on that transaction?
---I seen him in the past but as a one-on-one professionally that's the first time I had met him.

And you also know Councillor Petch?---Yes, I do.

30 And for how long have you known Councillor Petch?---I think, to the best of my recollection from a young age, probably from 10 or 11.

So it's clearly a relationship that goes back well before your professional life as a solicitor?---That is correct.

And was he a family friend?---He was.

And does he continue to be a friend these days?---I hold him as a friend, yes, I do.

40

Now Councillor Petch during the period he's been on Council has retained you act for him and others in respect of a number of different matters hasn't he?---With the Supreme Court matter, yes.

Well we'll start with that one?---Yeah.

You're aware that last year there was Supreme Court proceedings commenced seeking an injunction or seeking injunctions in respect of Mr Neish's employment?---Yes.

And are they the Supreme Court proceedings you're referring to?---That's correct.

10 So is it the case that you've acted for Councillor Petch and others in respect of those proceedings?---There was six of them all up, yes, that's correct.

So if you could identify the six?---Oh, there was Petch, Mr Salvestro-Martin, Mr Li, Mr Perram, Mr Butterworth and Mr Tagg. I hope I've covered them all, I'm sure you - - -

So - - -?---Yeah.

20 - - - but in effect you acted for the six Councillors who were in the block opposing the Ryde Civic Precinct redevelopment in those Supreme Court proceedings?---I acted for the six of them, yes.

And do you continue to act for them?---Yes.

Now can I ask you - - -?---Sorry, I, I act for them in relation to the Supreme Court matter.

Yes. In, in respect of that matter that I'm - - -?---Yes, sorry. I just wanted to clear that up.

30 Sure. Now can I ask how did you first come to act in those proceedings? I guess what I'm asking is who was it that first approached you?---Ivan had approached me initially.

That, that's Councillor Petch?---That's Councillor Petch, yes. And did he initially retain you to act simply for him or did he speak on behalf of others?---I, I recollect him speaking on behalf of all of them in, in respect of engaging my services for that matter.

40 And have you entered into a cost agreement in respect of those Supreme Court proceedings?---Yes, I have.

Do you have a, have you been able to locate a copy of it?---I, I've got it at the office.

All right. Do you know is it made out to in favour, well - I withdraw that. Is the client according to the cost agreement Councillor Petch or is it the group of six Councillors?---There's actually two. One initially was dated in August from memory and this is the best of my recollection, Commissioner,

where they appointed Mr Ivan Petch as the principal person in charge of the proceedings.

I'm sorry. An initial one in August?---And then there was one in October addressed to all of them. But just so you recall, sorry, if I may correct myself, all cost disclosures and communications were sent to Ivan to distribute to the balance of the parties 'cause they had advised me that he was the point of contact.

10 Well you've been acting in those proceedings now since what, about August last year?---Yes, yes.

Have you rendered a bill?---Yes.

And has it been paid?---No, it has not.

Was the bill made out to Councillor Petch?---Yes, it is.

20 And how recently was that rendered?---There was some rendered last year from memory.

So there's been more than one?---Oh, yeah, definitely.

Okay?---They're all outstanding.

But all made out to Councillor Petch?---That's correct.

30 Now is it the case that you've also advised Councillor Petch in respect of certain employment issues regarding staff at the Council?---Yes, I have.

In particular John Neish?---Yes.

And have you also given Councillor Petch advice in respect of the employment of other staff at the Council?---Yes, I have.

Can I ask is Dominic Johnson the General Manager of Environment, sorry, Group Manager Environment and Planning one of those persons?---Yeah.

40 Have you given advice in respect of the employment of Mr McCann the General Counsel?---I don't, I don't recall specifically given advice but I prepared four point, I don't know if it was a motion of four points for them to consider, for, for Mr Petch to consider.

Have you given any advice in respect to the employment of Roy Newsome the Group Manager of Corporate Services?---To the best of my recollection I don't think I've given advice on Roy initially, I don't, don't recall.

Now dealing then with Mr Neish was that advice that you gave after you retained by Councillor Petch or were you retained by others?---The advice for Mr Neish commenced in July.

Of 2012?---If the proceedings were commenced last year then yes, if it was 2012 I think is the - - -

Sorry, you're talking about Supreme Court proceedings?---Supreme Court.

10 Yeah. So July 2012?---Yeah. There was an advice that I obtained through Mr Col Oliver in respect of employment of Mr Neish and that was through Mr Petch.

So in terms of the time period it was about July, 2012 you were retained to advise. And when did you stop advising in respect of Mr Neish's employment, to the best of your recollection?---I think towards the end of November in terms of, terms of, November.

20 Right, November, 2012?---November, 2012 sorry.

Okay. And in respect of Mr Johnson are you able to identify a time period when were retained by Councillor, sorry, withdraw that, was it Councillor Petch who asked you to advise in respect of Mr Johnson's employment?---Ah, I received an email from recollection from Mr Petch containing certain documents and I had a brief discussion with him from memory. Ah, it would have been over the telephone. And then um, I said to him, "Really, it's not a matter for me," because I act for the defendants.

30 Being the defendants in Supreme Court proceedings?---That's right.

Are you able to say either roughly or precisely when it was that you received that email?---I can't put a date to it but I'm happy to provide you a copy of that email should you require it.

Well, well, we might look at that in a, a moment.---Yep.

40 Can I ask you then just in terms of the retainer arrangements in respect of the advice that you gave Councillor Petch about Mr Neish's employment, was that, was that work that you billed Councillor Petch for?---I would have, yes.

So - - -?---It would have all been costed against his matter.

So not the Council but Councillor Petch directly?---That's correct.

And what about the advice in respect of Mr Johnson, did you render any bill in respect of that?---Ah, to be honest with you I don't think I have. I don't think I have.

Now, just thinking for the moment about the advice that you gave regarding Mr Johnson's employment, can you recall whether that involved Councillor Petch seeking some advice about misuse or misrepresentation of a particular advice that Mr Johnson had received from the Department of Planning and Infrastructure?---Ah, yes.

And was that what you were referring to before when you said that he'd sent you an email with some documents?---That's correct.

10

Can I ask you to have a look, and we'll bring it up on the screen, Exhibit 18, pages 855 and 856? Now have a look, we'll scan down the page so you can see it, if I look through that email, and you'll see it's one from Danijela Karac-Cooke, the Department of Planning and Infrastructure to a Miss Sue Wotton, if we, have you read through that?---Yes.

Do you recognise that as one of the documents that Councillor Petch sent to you?---Um, my recollection of what Mr Petch sent me was a legal letter. So um, I only read the first few pages, I didn't go into what was attached to it.

20

Oh well, a legal letter from whom?---Ah, I think it was Mr Parisi from memory.

All right, it was a letter that Mr Parisi had sent?---That's right, that he had received.

Oh, that Councillor Petch had received, okay. Looking at this document though do you recall ever seeing this, that is an email from Ms Karac-Cooke to Ms Wotton of 20 June, 2012?---I can't distinctly recall seeing this email but it may have been part of the documents that he emailed me. I'm not sure.

30

If we go back to page 854 just for the moment this is an email enclosing the email from Ms Karac-Cooke and it's from Councillor Petch to Anthony Publicity Tree on 20, sorry, 26 November, 2012. Do you recall, I don't know if this will assist at all but do you recall seeing this in conjunction with the documents at 855 - 856?---Um, the email that I'm making reference to was sent this year. So it wasn't sent in 2012.

40

So doing the best that you can now is it your evidence that what you received from Councillor Petch was a letter sent by Mr Parisi?---That's correct.

Well, I'll - that - I'll ask you to have a look at Exhibit 18, page 867. Is that a - if we could then get you to scan down. Does that appear, and by all means take your time reading it and there are some annexures to it as well, but I want you to look at that and tell me if that appears to be the letter you're referring to?---(No Audible Reply)

You see it's dated 14 March, 2013?---Yeah, yes, I'm sorry, I'm just waiting for it to get to the end so - - -

It might assist actually, in terms of skimming through it, to have a paper copy, I'll have it handed to you, and the pages I'm interested in having you look at are pages 867 through to 892, so to a letter and then various annexures?---Can you just repeat those numbers for me once again?

10 867, so if you start there and read the letter which runs from 867 to 870?
---That is the letter, yes.

And then you'll see there's a series of annexures that run from 871 through to 892?---That does look like the letter.

20 So does this represent the sum total, doing the that you can now, of the documents that Councillor Petch emailed to you?---Without the opportunity of going back to my computer I can say to the best of my recollection that is the document that was emailed to me, yes, but once again if you require it I'm more than happy to provide it.

All right. Thanks, perhaps if I could have that returned. Sorry, you don't need get to up, Mr Laface?---Sorry.

Now, I'd like you to have a look at a costs agreement that appears at page 1126 of Exhibit 42 and it will come up on the screen. It may not be in the folder?---It's on my screen at the moment.

30 It is on the screen.

ASSISTANT COMMISSIONER: It's not in Exhibit 42.

MR DOWNING: At this point, Commissioner, there are separate documents which I'll tender. There's a series of documents in respect of Mr Laface and I apologise, I think Mr Laface's name has been misspelt, it's got L-e-f-a-c-e instead of L-a-f-a-c-e. Oh, I'm sorry, no, it hasn't been misspelt, that's my error, I apologise, Commissioner. So I'll tender this further bundle of documents and this does include the costs exhibit.

40 ASSISTANT COMMISSIONER: Well, that will - - -

MR HOLMES: Commissioner, might I obtain a copy of those documents at some time?

ASSISTANT COMMISSIONER: Yes.

Yes, there's copies being handed out now.

THE WITNESS: Sorry, so is it a different one to the one that I've got on here?

MR HOLMES: Thank you.

ASSISTANT COMMISSIONER: Well this will be Exhibit 43.

10 **#EXHIBIT 43 - SERIES OF DOCUMENTS IN RELATION TO MR LAFACE**

MR DOWNING: So, Mr Laface, what I was asking you to look at was the cost agreement at page 1126. Do you have that?---It's in front of me at the moment, yes, I do.

And you see it's a cost agreement dated 11 October 2012 made out, well identifying Councillor Petch as the client?---Yes.

20 And referring to work which is described as ongoing general legal advice regarding the Local Government Act and Regulations?---Yes.

Now was this the cost agreement that was entered into in respect of the Supreme Court proceedings or was that a different cost agreement?---That, that's a different one.

30 Can I ask what in terms of the work you've actually done for Councillor Petch what does this cost agreement, what work does this relate to?---This is in relation to drafting motions or if he had any general advice about the legality of a motion.

So this is - do we take it from the day of the cost agreement that you were retained by Councillor Petch in October of last year to provide advice of that nature?---General legal advice, yes.

So this is after he'd been elected as Mayor, with the elections being in September 2012?---It looks yeah, it would have been, yes.

40 So this isn't a cost agreement that relates to the advice that was sought regarding Mr Neish's employment?---No. That, that advice is covered in a 14 August 2012, 2011 cost disclosure which was a letter.

2011 or - - -?---20, if the - sorry, I'm, if you could just give me the date of the proceedings and when they commenced.

The proceedings were commenced in 2012, in August 2012?---So there was a letter dated August that contained the retainer for the Supreme Court Proceedings.

So, so this cost agreement that I've had you look at, at 1126 doesn't relate to the advice that you gave in respect to Mr Neish's employment?---This cost disclosure, sorry, I'm only pausing 'cause there is several cost disclosures but I could possibly cover the advice that was given in July, yes, it could have been.

10 Well July obviously is predates, the advice that was given in July predates this cost agreement. This is October 2012?---No, this, no, sorry, this, this would have been general advice if he called me asking for advice on motions and so forth.

After he was elected Mayor?---That's right.

Whereas the advice that was, that he, that Councillor Petch had you give in respect to Mr Neish's employment that started before he'd been elected Mayor?---That is correct.

20 Correct. And you told us that that finished up in about November of 2012?--No. That ongoing retainer in respect of the - Mr Neish is still a current retainer. 'Cause that was in respect of Supreme Court and so forth.

All right. Well perhaps I misunderstood you?---Sorry.

30 I asked you some questions before about the advice you gave regarding Mr Neish's employment, is it the case that and you identified November 2012 is a date where something came to an end. Is that the date when the actual advice you were giving came to an end even if the retainer didn't?---Sorry. I, I had understood your question to be when was the last time that I had advised him about Mr Neish's employment and that was November so it has nothing to with the retainer. The retainer that you're making reference to is one that was dated August. So, sorry, I didn't mean to be - - -

No, that's all right?---Yeah. So, so in answering that question I was answering had you or had I provided advice in relation to Mr Neish's employment and that had, that had ceased in November.

40 In November. So I take it that since November Mr, Councillor Petch hasn't sought your advice about Mr Neish's employment?---I, I recalled that I drafted a motion for garden leave and I think that was a November date so I can't quite - he would have touched on it but I don't think I, I'd given him detailed advice, no.

Okay. So doing the best that you can you think that the last, the last piece of advice you gave in respect of Mr Neish's employment was in about November 2012 and it involved advice about whether what, Mr Neish could be put on you've used the term gardening leave?---Garden leave, yes.

That is effectively to go away and not work for a while but to continue to be paid for a period. Is that - - -?---I think, well if I'm just, my instructions in relation to, to that and this is the best of recollection was there was a significant amount of disharmony within Council and Mr Petch had said can you prepare a motion for discussion purposes so then we can put Council in order just to move forward with business 'cause I understood from the client there's a lot of debates going on, people being argumentative in chamber so he's just trying to have a solution. Well his, his instructions were to find a solution to resolve the debates in chambers.

10

And one solution that you proposed was that he'd be put on gardening leave?---That wasn't a solution I put forward, that's was what he asked for.

All right. Okay. But in terms of the timing is this correct? I just want to be, see - - -?---Yes.

- - - if I can be clear about this. The last time he, Councillor Petch approached, approached you with a request for some advice about Mr Neish's employment was in about November last year?---No, because he generally spoke about Mr Neish every time I, I answered the phone.

20

Well, you understand like, there's a difference between a chat about Mr Neish and seeking your advice about Mr Neish.---Um - - -

I thought your evidence was, and please tell me if this is not correct, that to the best of your recollection the last time Councillor Petch asked you for some advice about Mr Neish, Mr Neish's employment was in about November, 2012 and it involved him asking whether he could be put on gardening leave?---That's right.

30

Because you've, you've told us that separate to acting as solicitor for Councillor Petch you do have a friendship with him.---Yes.

And you speak to him about matters from time to time.---Oh, he would call me to let me know that he's going to church and he'll call me after church so - - -

But, but you understand - - -?---Yeah, yeah, definitely.

- - - that those matters don't involve you being called upon to give - - -?---No.

40

- - - legal advice?---No.

So what I'm interested in is when you last recall Councillor Petch asking you for some advice about Mr Neish's employment as his lawyer, and you've told us that to the best of your recollection it was November last year.---Formal advice would have been um, November, which was the

garden leave. If you're asking me had he asked me questions before or after that in terms of, you know, on the moment or put me on the spot about it then potentially I may have but I don't think I would have given detailed advice from memory.

Right.---But, you know, he may possibly have raised it in telephone conversations but I don't, I don't specifically recall giving him detailed advice on it. It would have been, you know, a 30 or 40 second type of opinion.

10

Well, what I'm interested in though is legal advice that you've been asked to give and I want to be fair to you about this, is your best recollection that you haven't been asked to actually give legal advice as opposed to an opinion as a friend or an observer of the events in the City of Ryde Council after November, 2012?---Specifically dealing with Neish?

Mr Neish.---Okay.

20 Sorry.---Um, ah, to the best of my recollection I would say it would be November, yep. Around that, November. I'm not sure if I would have, no, it would have been November. But, you know, he did raise it in other matters but - - -

And it is the case isn't it that you've never been retained by Ryde Council, that is not Councillor Petch himself but by Ryde Council through the General Manager or Acting General Manager to give legal advice?---I've never been retained by the City of Ryde, no.

30 By the City of Ryde? Now just, just dealing with the advice that you gave regarding Mr Neish's employment was it the case that you initially got a call from Councillor Petch asking could you assist him in providing some advice about Mr Neish's employment?---Ah, there would have been a telephone call that he would have called me saying that he required my assistance. Um, I would have met up with him and he would have given me details of what they were.

40 And was, did he at that time indicate that he was seeking advice on behalf of himself plus the other Councillors who were opposed to the Ryde Civic Precinct redevelopment?---He had represented it to me, yes.

Because you were well aware weren't you about the, the dispute that existed within Council leading up to the September, 2012 elections regarding that project?---I become aware when he come to see me about it, yes. That was the only time I, crystallised in me what exactly the issues were.

And I think you've already indicated a, a timeframe for this but was this in mid 2012 that Councillor Petch asked you - - ?---July.

July. And - - -?---And please, that's to the best of my recollection so but, yeah, yeah.

Well, I'll (not transcribable) so that there's no - - -?---Yeah, yeah.

- - - confusion about it Mr Laface. Can you recall what is instructions were at the time, what did he say to you about what he wanted you to do?---Um, it was about, it was in relation to ah, the Civic Centre um, to obtain advice, or I think partly it was just to obtain advice in respect of the termination of
10 Mr Neish. I remember I, I sent a brief - - -

Well, can I - I'll come to the brief in a moment?---Okay.

But you say it was to do with the Civic Centre?---It was.

And it was, you say, putting it bluntly about the termination of Mr Neish's employment?---That, that was in essence what I sought advice on from the barrister.

20 Well, but did Councillor Petch indicate that he wanted to terminate Mr, find a way to terminate Mr Neish's employment because of his handling of the Civic Centre?---I think - look I, I remember it, look, I don't, I remember I sent an email shortly after my meeting with Mr Petch to Mr Oliver, I'm not sure if you have that - because that would refresh my memory, I don't mean to sort of be evasive but I'm just trying to see if you had that email.

Well, I'll come to the advice in a moment, that is the advice that was obtained from counsel?---That's right, yeah.

30 But you've indicated through your answer that there seems to be some link between Mr, Councillor Petch wanting to get some advice about the termination of Mr Neish's employment and the Ryde Civic Precinct redevelopment?---There was - and once again, I did send this email to Mr Oliver detailing the circumstances surrounding it but from the best of my recollection it would have been something to do with the Ryde Civic Centre, I think it was words to the effect of and saying that the views of the community aren't, aren't being heard, that he's moving forward with the project without consultation of the community, those type of things would have been referred to in that email that I sent Mr Oliver. So that, that's the
40 best I can do.

So do you recall Councillor Petch expressing some unhappiness with the way Mr Neish was handling the Ryde Civic Precinct redevelopment?---Ah, that's correct.

Right. And one of the things that you did was to seek some advice - - -?
---That's right.

- - - which you ultimately obtained from Mr Garnsey QC and Mr Oliver, do you recall that?---There was advices obtained from Mr Oliver, not just one and there was two advices from Mr Garnsey, yes.

If I ask you to have a look at Exhibit 1, page 611, it'll come up on the screen in front of you. If you just accept from me for a moment this is a document which was annexed to the minutes of the Council meeting on 24 July last year which - - -?---I'm familiar with that.

10 And is this the advice, you'll see it identifies the lawyers to whom the advice was provided as AJL Legal at the bottom?---If I can get that.

It will scan down for you?---That is correct. The original document that I have has my name above AJL Legal, the reason I removed it, 'cause I didn't want 100,000 callers from public people referring to me the original advice has my name above AJL Legal.

So - but this is the form of the advice that you received, subject just to that change?---That is the advice I received - to that change.

20

And the purpose of getting the advice I take it was Mr - well, Councillor Petch had come to see you about the issue of Mr Neish's employment and his handling of the Ryde Civic Precinct redevelopment and you wanted some advice about procedural issues related to Mr Neish's employment? ---Well, sorry, if I can just scroll down.

Sure, it goes through for nine pages?---Because the first paragraph provides, paragraph 2 is the details of the instructions that I had sought on behalf of the Councillors.

30

So it confirms that you were acting for the six Councillors?---That's right, and point 2 is the details of the advice in respect of procedural steps of the meeting.

And can you recall after providing that advice were you asked to provide any further advice at or around July 2012 in respect of Mr Neish's employment?---July 2012.

40 Well, that was - - -?---That was before the Supreme Court proceedings, yes, I did.

So you then - I withdraw that. After the proceedings were commenced in August the activities you were then engaged to advise in respect of were the actual Supreme Court proceedings?---It was in relation to the Supreme Court proceedings.

And acting for the six defendant Councillors?---That's correct.

Can I ask whether you also as part of the retainer at or around that time were asked to assist in drafting a notice of motion to seek an extraordinary Council meeting so that a motion could be put up seeking the termination of Mr Neish's employment?---I arranged for that notion of motion to be prepared.

And if we could have put on the screen in front of you Exhibit 2 pages 72 to 73. You'll see this is a letter - - -?---That's the one, I remember it from the font.

10

It's your font or - - -?---Yeah.

Right. So is it the case that you had Council draft this letter requesting extraordinary meeting and setting out the nature of the motion that was to be put before Council?---Not - I was asked not, not by Council to prepare this.

Sorry, no. You asked Council to prepare it or did you prepare it yourself?---I prepared that.

20

Right, okay. And were you asked by Councillor Petch to prepare that?---Yes, I would have been, yes. And that from my recollection also that document would have been sent to Mr Oliver for settling as well.

All right. So in respect of this work that you did regarding the work - I withdraw that. The advice and work you provided in respect of Mr Neish's employment up until when the Supreme Court Proceedings were commenced have you been paid for any of that?---I haven't been paid by the defendants yet, no.

30

So there's a number of outstanding bills for the work both predating the Supreme Court Proceedings and since they've been commenced?---That's correct.

Now I wanted to ask you about a loan transaction that you acted in last year and this will be covered by documents in the first volume of materials that were tendered, that's Exhibit 42. Can you recall being asked to act on a loan transaction for a loan being made by Councillor Petch to Mr Booth?---Yes, I do.

40

And can I ask how did you come to be instructed in respect of that matter?---Ivan, Mr Petch approached me.

Rang you up or saw you in person or - - -?---I think it may have been initially, I was aware that Mr Booth was seeking finance or he was seeking finance and his finance didn't come through and then - - -

Can I ask just first of all what time frame do you recall that you first had some knowledge that Mr Booth was seeking finance?---I, I gave him

guarantee advice probably a month before from memory for another loan that he did with a separate company.

So you gave Mr Booth some advice?---Just as the advice in respect of guarantee obligations, guarantor's obligations.

10 All right. Well I'll take you to some loan documents in respect of Councillor Petch in a moment and I'll show that they're from October 2012. Doing your best when is the first occasion on which you had some involvement in loans that Mr Booth was seeking?---Mr Booth himself? It was I think roughly a month before the advance made by Ivan or Mr Petch, sorry.

So had there previous loans made or was there an attempt to find a loan then that didn't come through?---There had been an attempt to find a loan and there had been a previous loan.

20 So are you aware of what Mr Booth had, had borrowed prior to the loan that Councillor Petch made?---Yes, I am.

Do you - how much money it was, who the source of funds was?---I think it was about half a million dollars.

Was it from a private person from a, a financier - - -?---Oh, no, sorry it was from a financier, short term lender.

30 All right. Well then if we come to the work you did in respect of the loan from Councillor Petch. You get it - is it - you're approached by Councillor Petch who indicates something about wanting to make a loan?---The best of my recollection, yes, yes.

Did he something to you about how much and on what terms and for how long?---He had given me an indication that it was \$250,000 advance and had given me the terms, yes. Been a, I think it was a three month loan or six month loan from memory with interest rate and I think I actually asked him to confirm that in an email later on.

40 And does it - I'll take you to the documents in a moment but does 10 percent per annum and six month loan term sound right?---That's correct.

And did you give some advice to Councillor Petch about security of the loan?---Yes, I did.

About whether it should be properly secured in some way?---I actually didn't, I actually recommended it to him at one point not to do the loan.

On the basis on inadequate security?---One of the properties that Mr Booth was suggesting for security the first bank didn't agree to a second mortgage.

I take it there what, there was already a loan against that property - - -?---
That, that's correct.

- - - and a mortgage?---That's correct.

Right?---So I actually made a recommendation for him not to advance the
money.

10 All right. Well I'll take you to some documents. If we could in Exhibit 42,
if we start at page 915 and again it should come up on the screen in front of
you I hope.

It should be the loan document. Where's that?

Do you see that's a mortgage?---That's correct.

And it's a mortgage from a Ms Gilkes?---That's correct.

20 In favour of Councillor Petch.---That's correct.

And do you recall that as well as Mr Booth providing some security on the
loan that ultimately Ms Gilkes provided some security in the form of this
mortgage?---Ah, yes.

And was that as a result of your advice that the initial security that was to be
put up wasn't adequate?---That's right.

30 And Ms Gilkes did you understand was Mr Booth's sister?---Yes, I was
aware of that.

And do you recall that this was a, a mortgage over a property she owned in
Mosman?---Ah, Neutral Bay I think it was. Neutral Bay or Mosman, yes.

40 I'm told that there's just an issue with the numbering and some of the
documents have different numbers and I'll have to have that corrected both
for the reference of the parties and also for the transcript. What is up on the
screen is 915. In the body that's been tendered today it's actually 2606. It's
the same document, it's just an issue with the copying and numbering. I just
want to make it clear for everyone's reference. The next one will be 966
(not transcribable).

ASSISTANT COMMISSIONER: Mr Downing, as I understand it there's
no dispute really about the loan and the terms of the loan. I don't know that
we need to go through much detail about it.

MR DOWNING: I'll try and do it in short form.

ASSISTANT COMMISSIONER: Yep.

MR DOWNING: Mr Laface, do you recall that there was, so the mortgage was both by Mr Booth and by Ms Gilkes, his sister.---That's correct.

You also prepared a, a loan agreement that - - -?---Yes.

- - - Mr Booth entered into?---Yes.

10 And a loan agreement identifying the lender as Ivan Petch, the borrower as The Weekly Times Gladesville Propriety Limited, and the guarantor as John Booth?---Yes.

And do you recall that both, both Ms Gilkes and Mr Booth entered into Deeds of Guarantee and Indemnity?---That's correct.

Now in terms of the actual payment of the, the loan (not transcribable) you've told us that the loan was \$250,000?---That's correct.

20 Do you recall what part of the money was paid directly by Councillor Petch to The Weekly Times?---I, I was advised that he had given 15,000 prior to um, Ms Gilkes providing the mortgage.

That is before the actual mortgages were, that security was in place that money had been paid separately?---Well, he, he had signed all the relevant documents, the Caps Loan Agreement(?), the Deed of Security Interest and the mortgage. So the documents had been executed but in answering your question before the main mortgage with Ms Gilkes, yes.

30 So \$15,000, is that your understanding, it was paid cheque directly from Councillor Petch?---I don't know how it was paid. I was only advised that that was the amount that was given.

In any event some monies were paid into your trust account?---No, there was a cheque made payable to Mr Booth for the balance.

Which was then deposited into your trust account wasn't it?---Yep, because I had advised Ivan that obviously I've got to take out the first month's um, interest and registration fees and so forth.

40 If I can ask Exhibit 43, pages 1115, just be brought up. Do you recognise that as your trust account - - -?---Trust account.

- - - statement - - -?---Yes I do.

- - - in respect of this transaction?---Yes I do.

And if we go down you'll see that it shows the, the payment in of \$235,000?---That's correct.

And then the disbursement of those moneys?---That's correct.

And I take it the moneys were paid out in accordance with the instructions you had - - -?---That's right.

- - - from Mr Booth?---Yeah.

10 Now, you'll see on 31 October there's a payment there of \$50,000 that was made from your trust account to Alramon?---Yes.

Now you're aware aren't you that Alramon is a company controlled by Mr Cerreto?---Yes.

And are you able to tell us why it was that or how it came to be that you paid moneys to Alramon?---Well, as I understood it it was a repayment of a loan that Mr Booth had obtained from Alramon.

20 And who gave you those instructions?---Mr Booth.

So that he'd had a previous loan for \$50,000 that was now being repaid? ---That's correct.

Now, are you aware of whether the loan has been repaid to date?---The loan to Mr Petch?

The \$50,000 - sorry, the \$250,000 loan - - - -?---To the best of my recollection it hasn't been repaid, no.

30 And do you still hold - - -?---The CT, yes.

The certificate of title in respect of which property?---There's only one property which is Ms Giles' property at Mosman.

Ms Gilkes?---Ms Gilkes.

Didn't Mr Booth also put up a security property he had at Kirribilli?---No, only had a caveat, caveat of interest on those properties.

40 But to the best of your knowledge the loan hasn't been repaid?---No. The main, the main security is the Mosman security so I retain title for that.

And do you recall speaking to Mr Cerreto, this is just in respect of the \$50,000 that was to be repaid to Alramon and discussing with him whether there were some monies that he had to pay to The Weekly Times and Mr Booth in respect of outstanding advertising?---I did speak to him about the loan and to confirm (a) what Mr Booth was saying, he did say that he did owe - - -

Being, being what?---That he borrowed \$50,000.

Right?---And that there was some moneys that he had to pay for advertisement.

So you wanted to confirm that with Mr Cerreto?---Yeah.

10 And what did Mr Cerreto say? Did he confirm that there were some moneys that he needed to pay The Weekly Times for outstanding advertising?---He said that from memory that he had advertised the, the master plan from memory or he did some works with him that he had to pay.

And was there some discussion about whether once the moneys had been repaid to him he would then settle the accounts from The Weekly Times? ---That's what I understood, yes.

20 Well, did Mr Cerreto indicate that?---Yes, because I put it in writing.

Do you recall in the course of the loan transaction discussing with Councillor Petch whether he might need to declare any interest with the Council in any dealings it had with Mr Booth or The Weekly Times?---I recall that I had a conversation, a telephone conversation with Mr Petch or Councillor Petch regarding the loan and saying to him that he should declare an interest and I think I even sent him an email to that effect.

30 So you say you recall having a discussion where you indicated to him that from that point onwards because he had entered into this loan and mortgage transaction with Mr Booth he would need to disclose that interest?---He would have to - when dealing with that particular person, yes.

Or did you tell him whether it involved The Weekly Times or Mr Booth? ---I think I just referred to it as the parties to the loan agreement so it would have included both of them.

That, that did include both the company, The Weekly Times Gladesville Pty Limited and Mr Booth, didn't it?---Oh, it would be, yeah.

40 Could I ask that Exhibit 43 page 2586 be brought up. Do you see that's an email from you to Councillor - I'm sorry, from Councillor Petch - - -? ---Yes.

- - - to you of 11 October?---Yes.

If we scan down the page you'll see there's an earlier email from you at 12.41 to Mr Petch?---Yes.

Sorry, Councillor Petch?---Yes.

And you've enclosed the loan documents and indicated to him that he would need to declare - - -?---Declare an interest.

"Well as discussed you'll need to declare any interest at Council regarding any dealing with Mr Booth or The Weekly Times Gladsville Pty Limited"?
--Yeah, yes.

- 10 So in terms of timing is it the best of your recollection that the discussion you'd had was earlier than this?---It would have been, sorry, if you just go back up, it would have been either the day during the day on the 11th or I would have spoke to him about it probably the day before. 'Cause I would have prepared the documents and then issued them out to him.

And do you recall what Councillor Petch said to you about that matter?---I think he said he would attend to it.

- 20 Do you recall becoming aware at some point that there'd been a complaint against Mr Neish that pornography had been found on his work laptop?---I was aware of that, yes.

Are you able to say how you first became aware of that?---Ivan called.

Telephoned you?---Yes.

And when was that do you recall?---I'll be honest I can't give you an exact date.

- 30 Do you recall what he told you?---I think he would have disclosed that he had or that someone had produced or approached him with the fact that there was pornography on Mr Neish's computer.

Can I ask you to listen to a, a phone message which will be played and the transcript should appear on the screen.

AUDIO RECORDING PLAYED

[10.57am]

40

MR DOWNING: Now, Mr Laface, do you recognise that as your, the initial part of the call as your, the message on your phone?---That's correct.

And do you recall receiving this message?---I would have received a text message.

Do you also check your messages sometimes and listen to the, the audio?---I think sometimes or sorry, when you have voice to text when it sends it to

you as a text you can't access the actual voice component 'cause I've tried in the past.

But do you recall whether it was in the - - -?---I recall getting either the text, yes, of the details.

And you understood it was a message from Councillor Petch?---That's right.

10 And you'll see at the top of the page there's a date 1 February 2013 8.36am?---That's correct.

Commissioner, I tender the audio and the transcript. There is one matter that it seems to me to have been mis-transcribed. It refers in the first part, first line of the transcript for Councillor Petch's message to - "I, I little bit of matter from heaven arrived" it should actually be "a little bit of manner from heaven arrived" and I'd asked that that be corrected.

ASSISTANT COMMISSIONER: Yes. That will be made Exhibit 44.

20

**#EXHIBIT 44 - COPY OF AN AUDIO CASSETTE AND
TRANSCRIPT OF A TELEPHONE MESSAGE LEFT ON MR
LAFACE'S PHONE BY COUNCILLOR PETCH ON 1 FEBRUARY
2013 AT 08:36:47**

18 MR DOWNING: Do you recall after receiving that message, oh sorry, I'll
20 tender the, physically tender the transcript from the audio. Do you recall on
22 that morning of 1 February, 2013 calling Councillor Petch back not long
24 afterwards?---I probably would have, yes.

All right. I'll ask you to listen to another telephone conversation.---Yes.

And I can indicate before it's played this one has been edited to some degree, Commissioner, to take out parts that aren't relevant to the matters that this Commission's, that this inquiry is dealing with.

40 **AUDIO RECORDING PLAYED** **[11.01am]**

MR HARRIS: Assistant Commissioner, I might just rise if I may just to remind there's a suppression order in relation to the name and I'd ask it be applied to the transcript and the recording of that particular piece of evidence.

ASSISTANT COMMISSIONER: Yes, there is an existing suppression order in respect of and his - - -

MR HARRIS: Thank you.

ASSISTANT COMMISSIONER: Thank you.

MR DOWNING: Mr Laface, you, you heard that recording?---Yes.

10 And do you accept that that was a telephone conversation where you'd called Councillor Petch back on the morning of 1 February, 2013?---Yes, yes I do.

And having heard the conversation you'll recall that you said that you would probably, I think, "You should probably have a meeting with your team"?---Yes.

Who did you mean by "your team"?---Ah, it would have been um, the balance of the defendants.

20 That is the, the other defendants in the Supreme Court proceedings? ---That's right.

You weren't referring to Mr Cerreto?---No.

Or Mr Goubran?---No.

In the course of the conversation Councillor Petch mentioned that he'd given it to Bryan Belling.---Yes.

30 And did you understand at that time that Mr Belling was a lawyer who was acting for Councillor Petch advising in respect of Mr Neish's employment?--I, I was, yeah, I believe so, yes.

So you've confirmed for us earlier in your evidence that the last advice you could recall being asked for or giving was, in respect of Mr Neish's employment was in about November, 2012.---That's correct.

So at this point you weren't being retained as a lawyer to advise on that issue?---No, because he said Bryan Belling was the one they'd engaged.

40 Now, in the course of the telephone conversation Councillor Petch indicated he was meeting Norm at 10.30 and he'd leave a copy with Norm for you. Did you understand he was referring to Norm Cerreto?---Yes I did.

And he was indicating that he would leave a copy of what this material indicating what had been taken off Mr Neish's computer?---That's what he says, yes.

Had you at that point any knowledge about whether Mr Cerreto had some knowledge of what had, the complaint that had been made against Mr Neish?---I wouldn't be able to answer that. Probably not. I'm not, not aware, no. Not that, at that point probably not, no.

Did you ultimately get a copy of something from Mr Cerreto?---I did not.

10 Do you recall having a further conversation with Councillor Petch in respect of this particular matter, that is the complaint that had been made against Mr Neish arising out of the use of his laptop?---Definitely, I had a number of them.

Do you recall having any discussion with Councillor Petch where he asked you to organise a particular meeting?---A particular meeting?

A meeting with other persons?---Mr - he asked me to organise a number of meetings, yeah, no.

20 Well, before I move on to that - - -?---Yeah.

- - - Commissioner, I I'll tender the audio and the transcript of the call between Mr Laface and Councillor Petch of 1 February, 2013 at 8.59am.

ASSISTANT COMMISSIONER: That will be Exhibit 45.

30 **#EXHIBIT 45 - COPY OF AN AUDIO CASSETTE AND
TRANSCRIPT OF A TELEPHONE CONVERSATION BETWEEN
MR LAFACE AND COUNCILLOR PETCH ON 1 FEBRUARY 2013
AT 08:59:45**

MR HOLMES: Commissioner, if I can just get a copy of that at the earliest conveniences.

ASSISTANT COMMISSIONER: Yes.

MR DOWNING: Thank you, Commissioner.

40 I'll ask you to have a, to listen to another telephone conversation and again the transcript should come up on the screen in front of you, Mr Laface.

AUDIO RECORDING PLAYED [11.13am]

MR DOWNING: Mr Laface, do you recognise that as a telephone conversation you had with Councillor Petch on 7 February?---Yes, I do.

Where you called him?---Yes.

Now Councillor Petch at one point in the conversation indicated “and he’s coming to have a talk to me in a similar vein to what I talked to the other bloke this morning about”, do you see that, it’s on page 1 of 3 if we go back to the first page?---I think he just went past it or she, whoever’s - - -

10 Oh no, the first page, page 1 of 3, do you see he said, “He’s coming to have a talk to me in a similar, a similar vein to what I talked to that other bloke this morning about?---Yes.

So did you understand that he was indicating, that is Councillor Petch was indicating that Mr Johnson was coming to have a chat to Councillor Petch about whether he would cease his employment with the Council?---That’s the inference, yes.

20 Commissioner, before I ask any further questions I’ll tender the audio and the transcript.

ASSISTANT COMMISSIONER: That will be Exhibit 46.

**#EXHIBIT 46 - COPY OF AN AUDIO CASSETTE AND
TRANSCRIPT OF A TELEPHONE CONVERSATION BETWEEN
MR LAFACE AND COUNCILLOR PETCH ON 7 FEBRUARY 2013
AT 15:29:51**

30 MR DOWNING: Had you had any prior discussions with Councillor Petch about whether he had some desire that he would be able to sack or in some way bring to an end Mr Johnson’s employment?---I may have, yes.

Are you able to recall when relevant to or by reference to this date which is 7 February when you’d had those discussions with Councillor Petch?---I can’t recall the exact date.

40 Are you able to recall what he told you, did Councillor Petch indicate to you he was trying to find a way to get rid of Dominic Johnson as well as Mr Neish?---No, no, two separate things, Mr Neish is separate so that one was dealt with in July which led to the Supreme Court proceedings. He approached me about Dominic Johnson, that his understanding that he had been misleading Council.

Was that that in relation to particular advice he’d given Council regarding land that Mr Goubran owned?---I’m not sure if it was Mr Goubran’s but I can say that I attended a Council meeting where one of the questions that were asked of a Councillor was in relation to the height of the building and

then I think he answered with an additional two floors that weren't reflected in the plan.

Earlier on 1 February where you'd had the discussion with Councillor Petch he'd indicated to you, hadn't he, that the result of, as a result of this discovery of material on Mr Neish's laptop that it might be possible to get rid of him?---That's correct.

10 So you understood that he wanted to get rid of Mr Neish?---Well, at that point the Supreme Court proceedings were on foot, yes.

Had he ever asked you about whether - I'll withdraw that. Had you, do you recall him at or around this time, that is in early February 2013 raising with you his desire to also get rid of Mr Johnson?---Sorry, which date was it?

In early February 2013?---Possibly, yes.

20 Did he say something to you about whether he'd put some proposal to Mr Johnson or whether he had an approach from Mr Johnson?---Yes, he did, he did say that Dominic Johnson had approached him in the Mayoral suite and said that he wants the same deal, I don't know, the, the standard or the same deal as the prior general which I assume was Mr Neish and I understood Ivan turned around and said, well, no, he had no problems with him.

Are you saying that's what Councillor Petch told you?---I think so, yes. I think there was a telephone conversation to that effect.

30 At page 2 out of 3 of the transcript of the telephone conversation there's a discussion you have where you asked the question, "So the General Manager has indicated he's going to resign," we'll bring it back up. The second page. You see the line there that says - - -?---Yes, yes.

And Councillor Petch said, "Oh, not only that, mate, I've got all the terms here and that's why I've got to draft with Bryan Belling and now I got Dominic Johnson going to do the same thing." So you understood that he was indicating that - - -?---He was going to resign.

40 - - - Mr Neish was going to resign but also Dominic Johnson now - - -?
---That's right.

- - - wanted to do the same thing. And you asked, "So he's put a proposal to you to resign?" and Councillor Petch said, "I want to get that message to Norm and to John Goubran." Can I ask what message did you understand that he wanted to get to those persons?---Well I assume it would be the resignation of both the General Manager and Dominic Johnson.

And Norm I take it you understood as Norm Cerreto?---Yes.

Based on the communications you'd had with Councillor Petch did you understand why he wanted to get this information to Mr Cerreto and Mr Goubran?---I'm not sure.

Did you understand that he was asking you to get that message to Mr Cerreto and Mr Goubran?---Yes, he did.

10 And did you contact those persons?---No, I never relayed the message. I think the media did it for them.

I'm sorry?---The media did it for them.

That is that made people aware that Mr Neish was leaving?---Yes.

Well Mr Johnson didn't ultimately leave though did he?---No, no, I'm just referring to the one.

20 Do you recall on 7 February 2013 organising a meeting at the Eastwood Rugby Club?---At the Eastwood Rugby Club? To be honest with you I used to meet quite often at various clubs with the Councillors. Ex-Serviceman's Club.

After this conversation on 7 February did you in fact attend a meeting at the Eastwood Rugby Club with Mr Cerreto?---I probably did. I don't, I can't recall exactly.

30 Well think in terms of the events, on 1 February Councillor Petch informed you about the discovery of the pornography on Mr Neish's computer. You've heard those conversations?---Yes.

On 7 February you've had this conversation where you'd spoken about Mr Neish leaving and Mr Johnson possibly leaving the Council as well and Councillor Petch asked that you get a message to Norm and to John Goubran. Can you recall on that, later that day attending a meeting at the Eastwood Rugby Club?---Yes, I think I do.

40 Can I ask you to have a look at Exhibit 43 page 850. It'll come up on the screen. Now do you recognise that as your signature?---Yes.

And what I'm suggesting to you is that's a sign in from the Eastwood Rugby Club for 7 February. Do you - - -?---Yeah, I agree with that.

Do you remember now attending?---Yes.

And I'll ask you to look at the next page. Do you see on the same date as the sign in by it would seem Norm Cerreto?---Yes.

Now do you recall now attending a meeting there on that day?---Yes.

Can you tell us what was discussed at that meeting?---There was another gentleman by the name of Steven - - -

Sorry?---There was another gentleman there.

Who was that?---It was in relation to - just got - the name escapes me now. There was another gentleman his first name's Steven. Was a conference
10 with the three of them where they discussed 'cause - - -

Sorry, the three of them. So Mr Cerreto, this other person - - -?---Myself.

- - - Steven and you?---Yeah.

Anyone else present?---At that point earlier on, no.

Did someone come during the meeting?---Yes.

20 Who was that?---Mr Goubran.

Right. Do you think that it may have been the case that you did contact Mr Cerreto or Mr Goubran on that day after Mr Petch asked you to?---No, I, I received a phone call from Mr Cerreto to attend the club, there was a gentlemen there - - -

So was Mr Cerreto - - -?---It was a mutual, there was - - -

- - - phoned you and asked you to attend did he?---From memory, yes.
30

All right?---And there would have been a gentleman that Mr Cerreto was doing business with a commercial fit out and they were having a discussion there and then later on Mr Goubran turned up.

All right. In the course of those discussions did you speak to Mr Cerreto and Mr Goubran about the discovery of material on Mr Neish's computer?
---To best of my recollection I advised them that Ivan had telephoned me to advise that Mr Neish had resigned.

40 Did you say anything about the discovery of the material on Mr Neish's computer to Mr Goubran or Mr Cerreto?---To the best of my recollection I probably didn't.

Do you recall whether they said anything to indicate that they were aware of that matter?---I can't distinctly recall.

Doing your best, I mean this was a significant event wasn't - - -?---Yeah. No, no, no, I understand I'm just trying to do my best in terms of

recollection but I can say that I can't distinctly recall if they were aware of it but I just had indicated that, that the General Manager had resigned.

Well there must have been some discussion at that point about why he resigned wasn't there?---To be honest with you I can't quite recall if there was or wasn't because as I said we were there Norm, a gentleman called Steven, we were talking about an unrelated matter.

So a business matter?---That's right.

10

Right. But Mr Goubran then turned up. Now you're aware weren't you that Mr Cerreto was no particular fan of John Neish?---I, to be honest with you I don't think he ever, ever said anything that bad about him.

So you - do you say you had knowledge of any view he held about Mr, Mr Neish?---I recall a conversation with Mr Cerreto where the gentleman across the road, I forget the family's name.

Is this the Bietolas?---Yes, there was a gentleman - - -

20

In Coxs Road?---Yeah, there was a gentleman within that family that had a conflict with Mr Neish at Parramatta.

But dealing with Mr Cerreto himself do you say you don't have any recollection of him ever expressing a view about Mr Neish one way or the other?---In terms of him making reference to me about the General Manager I think he would have probably, probably indicated - to be honest I can't recall.

30

You say he probably would have indicated. Are you working off your recollection or are you reconstructing based on something?---No. I'm just trying to go off the best of my recollection.

Well do you say that doing the best you can according to your recollection that Mr Cerreto had never expressed any view to you about Mr Neish?---Oh, look I think - I'm just trying to think of all the conversations I've had with him. I, to best of my recollection I don't think he actually expressed an opinion to say that he disliked or hated the person or that he wanted him gone or anything like that, no.

40

Well at this meeting on 7 February when Mr Goubran arrive did Steven the person that was there in respect of the, the business dealings with Mr Cerreto did he stay or did he depart?---No, he stayed.

Well do you recall there being any discussion amongst the four of you then about the discovery of material on Mr Neish's computer?---From the best of my recollection I don't think we discussed the issue of the computer.

So any discussion about what it was that had led to Mr Neish having, well coming to resign?---To the best of my recollection was I indicated to them that they, that he had resigned. But I don't think I, I would have said to them about the CD or the porn to the best of my recollection.

Thank you, Commissioner.

10 ASSISTANT COMMISSIONER: Mr Laface, I'm very surprised by your reaction to some of this information you got from Mr Petch. In the first, in one of these conversations Exhibit 45 he told you that he'd given a copy of this pornography to Mr Cerreto did he not?---I don't know if he did or didn't, I never received it.

No. He told you he'd given a copy didn't he?---Yes, he did.

And you weren't alarmed by that at all?---No, because see my understanding of their relationship is that they're quite close, they're always
- - -

20 They're quite close. He's, he's a local developer being given confidential information about a disciplinary matter involving a Council staffer?---But I can't - - -

What, what has their being close got to do with that?---I can't - I'll look, he said it to me, I've never received the CD, Commissioner, all I can say is I can't stop him from giving information to anyone.

30 Yes. Well you could have said I don't want to get a CD from Norm Cerreto, you shouldn't have even given it to him. That's what you should have said isn't it?---In hindsight that's probably a view I should have taken but I didn't really turn my mind to it.

Now this second conversation it appears it's still being negotiated whether Mr Neish will resign, he says he's got some draft terms there, that's what he told you isn't it?---Well he said pretty much he was going to resign, yes.

Yeah. Again it wasn't a matter of public knowledge at that time was it?---I think it was. There was a media release that night.

40 Prior to your discussing it with - - -?---Definitely.

Yes. But he's asking you to pass it on to Norm Cerreto and Goubran isn't he?---That's what he, that's what he's asked for, yes.

Well again what has it got to do with them?---That's a question that they may have to answer I'm, cannot unfortunately answer that question.

Well you didn't caution Mr Petch that he shouldn't really be discussing it with them until it's public did you?---I didn't express that view, no, I didn't.

Is that because you, you knew that he often discussed confidential matters with Mr Cerreto?---I've always seen them together, they're very close, I have not, I probably drew an assumption but in answering your question have they shared confidential information I wouldn't be able to answer it but I can say you know I always see them together, he's always at Coxs Road. I understand that you know from seeing them that you can observe that they have a close relationship.
10 You would have known that information about what may have been found on Mr Neish's computer was confidential wouldn't you?---That I would have known?

Yes?---Oh, yes.

Well it's obvious isn't it?---Yes.

And yet you made no comment at all about the fact that he indicated he'd given it to Mr Cerreto?---I didn't turn my mind to it, Commissioner.
20

Yes. We'll adjourn at this time for 15 minutes.

SHORT ADJOURNMENT

[11.31pm]

ASSISTANT COMMISSIONER: Thank you, please be seated.

MR HOLMES: Commissioner, if I, if I may, Commissioner, sorry just - - -
30

ASSISTANT COMMISSIONER: Yes, Mr Holmes?

MR HOLMES: Just in that last line of questioning on two occasions, Commissioner my understanding was that the questions related to an awareness that Mr Laface knew the CD had been given to Mr Cerreto. Just in fairness to the witness there wasn't, the transcript reveals only an intention to do that at some point in the future, not as an event that had already occurred.

40 ASSISTANT COMMISSIONER: Yes. Well I would have thought even more reason that advice should have been given if he thought it hadn't happened yet. But I take your point.

MR HOLMES: Thank you, Commissioner.

ASSISTANT COMMISSIONER: Yes. Does anybody, yes Mr Hyde?

MR HYDE: Thank you, Commissioner. Mr Laface, I appear for Mr Petch in these proceedings.

Can I start by, if I may asking you about Exhibit 42, that's 500 pages of a file that it seems you produced to the Commissioner and I noted in your evidence, and this is not intended as a criticism in any way, but I noted in your evidence you indicated that Mr Petch had, had not paid a number of invoices. I got up to about page 300 in the short time available and saw that there were invoices that appeared to have been paid. And I don't want to go through the process of showing them all to you but do you accept that some of the invoices appear to have been paid and are stamped with - - -?---Yeah, definitely.

- - - that sort of marking?---Yes.

All right?---There is invoices that have been paid.

So there's no suggestion that there are accounts that have in some way just been left and, and not attended to by Mr Petch?---The only ones to the best of my memory is the Supreme Court.

All right. And they're - - -?

ASSISTANT COMMISSIONER: And - - -?

MR HYDE: - - - subject to - - -?

ASSISTANT COMMISSIONER: I'm, I'm sorry Mr Hyde, could I just clarify something? Are you talking about the big file?

MR HYDE: I'm talking about Exhibit 2 which is, this Exhibit 42 which is the 500 or so pages provided.

ASSISTANT COMMISSIONER: So that, but that folder's all about the loan isn't it?---That's been paid Commissioner, yes.

ASSISTANT COMMISSIONER: So invoices to do with the loan agreement - - -?---Has been paid.

Have been paid? You were talking about invoices as I understand it where Mr Petch approached you on behalf of the other - - -?---Councillors, yes.

Councillors. I just wanted to ask you about that. Sorry to interrupt you, Mr Hyde. But when individual Councillors as they then were approach you like that as I understand it it wouldn't be for the Council to pay would it if they wanted to get legal advice about how they can draft a, a motion or – do you, do you know. I'm just asking you. I don't know.---I would um, and this is

only an assumption Commissioner, I assume that if they come to approach me for advice then they're liable for it.

They're liable?---Then they would be liable for it.

Yes, they would be liable wouldn't they? And they're the invoices you're referring to that have not been paid at this time?---That's correct.

Thank you. Yes, Mr Hyde?

10

MR HYDE: Thank you, Commissioner. If the witness could be shown Exhibit 43 and in particular page 1126. Now, Mr Laface before I ask you questions about that document it's the case isn't it that there are two retainers to your knowledge - - -?---That's correct.

- - - that you have with Mr Petch?---That's right.

20

And the one that's up on the screen now dated 11 October, 2012 covers those matters associated with Council, that being a fair summary of the professional services that you were retained to advise on?---That's correct.

And that would cover matters such as employment issues, it would cover matters such as the drafting of Notices of Motion?---That's correct.

30

And at no stage did you ever indicate to Mr Petch when he asked you questions, for example about the employment of Mr Neish that you were not retained to provide advice with respect to that sort of matter, would you agree with that proposition?---Sorry, can you just repeat that if you don't mind?

Yes. You, to put it plainly it would be fair to say that you never said to Mr Petch when he asked you questions about employment related matters that you would not advise him because you were not retained to do that?---That's right.

Thank you?---All right.

Yes, nothing further. Thank you, Commissioner. Thank you, sir.

40

ASSISTANT COMMISSIONER: Thank you. Does anyone else wish to – yes Mr Neil?

MR NEIL QC: Yes, thank you, Commissioner. Mr Laface, I act for Mr Norman Cerreto. And could I ask Commissioner, if the witness might be shown Exhibit 18?

ASSISTANT COMMISSIONER: Yes.

MR NEIL QC: Mr Laface, could I just ask you to go to page 859 which is the commencement of an opinion by Mr Greg McNally SC which as we see from page 864 is dated 21 February, 2013. Do you see that?---Ah, yes.

And the topic of the opinion I think shortly stated relates to whether or not Mr Johnson had misrepresented some information. Have you seen this opinion before?---Yes, I have.

Were you shown it by Mr Cerreto at any time?---Yes, I would have.

10

And did you understand that Mr Goubran had a concern about the way the Council planning officer, Mr Johnson, had dealt with an application by Mr Goubran in relation to one of his properties?---Yes.

And I just want you have a look at page 865 of these documents. At the bottom of 865 there's an email from Mr Parisi that goes over to page 866 to Mr Cerreto and it appears to John, that may be Mr Goubran, and it seems to be sending a copy of the advice, do you see that?---Yes.

20

And then as you go to the top of page 865 later in the day there's an email from Mr Cerreto to Mr Parisi, do you see that?---Yes.

And it seems to be in relation to the advice, do you see that?---Yes.

Now, was it, was it on this - can you recall whether it was on, on or about this date, 21 February, that Mr Cerreto showed you the McNally opinion? ---Yes.

30

And did he ask you some, to give you some, give him some views about it? ---Yes, he did.

And did you help him in terms of the content of the email that he sent to Mr Parisi?---Yes.

Is the - does the email in effect reflect the views that you gave Mr Cerreto? ---Yes.

Yes, thank you. Thank you, Commissioner.

40

ASSISTANT COMMISSIONER: Yes, Mr Stanton.

MR STANTON: Yes, thank you, Commissioner.

Mr Laface, I appear for Mr Goubran. Could I ask you this. You were asked by Mr Downing, Counsel Assisting, that - a question with words to the effect this is Mr Goubran's land, do you recall that question?---Yes.

Do you have any knowledge that that land in fact was owned by Mr Goubran other than accepting the question from Counsel Assisting?
---Not aware if he owns it but accepting the question that was put to me.

So you've got no knowledge one way or the other other than what Mr Downing suggested to you that the land was in fact owned by Mr Goubran?---That is correct.

10 And secondly if I may, please, sir, you referred to the meeting at the Eastwood Rugby Club, about what time was that because the sign in doesn't say exactly when you signed in?---Oh, it would have been probably between the hours of 8.00 to 8.30, even 9 o'clock.

In the evening?---Yes.

And how long were you there yourself, sir?---Probably in the vicinity of half an hour.

20 All right. And you arrived, Mr Goubran wasn't there?---No, that's right.

How long after you were there did Mr Goubran arrive to your knowledge?
---He was probably there for the space of five minutes, if that.

Yes, I appreciate that by my question was - - -?---Towards the end.

Sorry?---Towards the end.

30 Well, how, how, how much towards the end was it?---Probably five to 10 minutes before I left the venue.

Before you left. So he arrived five to 10 minutes before you left, he was there for five minutes you say?---Yes.

And he then left?---That's correct.

40 And what was discussed between you and he and Mr Cerreto in that five minutes?---The only - well, predominantly a lot of the discussion was about the building issue that Mr Cerreto had with a commercial fit out with a gentleman Stephen and then towards the end of it I had indicated that, you know, Mr Neish has resigned and that was it.

And that was in the five minutes that Mr Goubran was there?---Pretty much.

Yes. Yes, nothing further, thank you.

ASSISTANT COMMISSIONER: Yes, does anyone else wish to ask any questions? All right. Thank you, you're now excused - - -

MR DOWNING: Sorry, Commissioner, there was just one matter.

ASSISTANT COMMISSIONER: Yes.

MR DOWNING: Just before the break, Mr Laface, you gave some
evidence about a media release and knowledge about Mr Neish's
employment coming to an end as a result of the media release and the
conversation - sorry, the discussions that you had with Mr, Councillor Petch
were in the course of the telephone intercept on the morning of 7 February?
10 ---(No Audible Reply)

You need to give a verbal response, sorry, Mr Laface?---Yes, sorry.

And the meeting that you had at the Eastwood Rugby Club was on the
evening of the 7 February?---Yes.

Can I ask you to have a look at a document which appears at Exhibit 2 page
71. Is that eh media release you're referring to?---No.

20 Sorry?---No.

Do you say you saw another media release about Mr Neish's employment -
- -?---Yes.

- - - coming to an end?---Yes.

ASSISTANT COMMISSIONER: How do you know this isn't the one you
saw?---'Cause it didn't come from the City of Ryde.

30 Where did it come from?---It was a, oh, something Public Tree, it was an
email sent out.

MR DOWNING: Publicitree?---Public Tree or Publicity Tree from
memory. It was an email - - -

And you say that was, that was earlier than the 8 February wasn't it?---That
was the afternoon of that, that meeting.

40 ASSISTANT COMMISSIONER: Well that wasn't an official
announcement from the Council?---No, but it - - -

You know who's behind Publicitree don't you?---I am now, yes.

Yes. Well that's not some official notification is it?---As far as like me
reading it and an acceptance to a media release, Commissioner, I did read it
as a media release.

When did that come out?---That afternoon from memory, I could find it on my system and provide it if I need to.

Yes. I think that would be helpful - - -?---No problem.

- - - if you could. Sorry, do you want to say something?

10 MR KRITHARAS: Excuse me, Commissioner, I couldn't hear the answers to when the media release was received. Was it, there was no answer or there was no recollection to that?

ASSISTANT COMMISSIONER: I think he said in the afternoon - - -

THE WITNESS: In the afternoon. Sorry.

MR KRITHARAS: The afternoon of what - - -

20 ASSISTANT COMMISSIONER: Do you, do you know what time?---No, I can't recall exactly.

MR KRITHARAS: On what date, I'm sorry, Commissioner.

ASSISTANT COMMISSIONER: 7 February.

MR KRITHARAS: Thank you.

30 ASSISTANT COMMISSIONER: So you still have a copy of an email - - - ?---I should be - - -
- - - prior to this official announcement by the Council?---I should, I should be able to dig that up, yes.

Interesting. That'd be good we'd like - thank you.

MR DOWNING: Thank you, Commissioner.

40 So is this - the day of the week you'll see from the media release the 8 February is a Friday. If you go back you'll see it on the top it's faint by Friday 8 February?---Yes.

And your meeting at the Eastwood Rugby Club was on the evening of the Thursday of the 7?---Yes.

And you say that prior to this media release dated the Friday the 8 coming out that you'd received some communication from Publicity Tree indicating that Mr Neish was resigning?---Yeah.

And if you go back to Exhibit 2 page 63 you'll see that's the deed of release and separation and you - - -?---Yes.

- - - already told us you're aware that Mr Belling from K & L Gates was acting for - - -?---Yes.

- - - on behalf of Councillor Petch in respect of this matter?---Yes.

10 That he'd been retained on, do you understand he'd been retained on behalf of the Council in respect of Mr Neish's employment?---Who, K & L Gates?

Yeah?---Yes.

If you look at the second page you'll see it's dated 8 February?---Yes.

But you say before this deed was entered into you'd received some communication from Publicity Tree indicating that Mr Neish - - -?---Yes.

20 - - - was resigning?---To the best of my recollection, yes.

Thank you, Commissioner.

ASSISTANT COMMISSIONER: Thank you. Yes. Well that concludes your examination, Mr Laface, you're now free to go.

THE WITNESS EXCUSED

[12.08pm]

30

ASSISTANT COMMISSIONER: Yes, Mr Downing.

MR DOWNING: Thank you, Commissioner. The next witness will be John Booth.

ASSISTANT COMMISSIONER: Yes.

40 MR SIMPSON: Commissioner, can I just indicate that Mr Booth will give his evidence taking an oath and can I make an application for a declaration under section 38, the terms have been read and explained and could I also while I'm on my feet seek a suppression order in relation to his residential address and again whilst I'm on my feet can I indicate to you, Commissioner, and also Counsel Assisting that for my part at least I found my client a little bit hard of hearing so that might be a matter that needs to be taken account of.

ASSISTANT COMMISSIONER: Yes, thank you for that. 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.

10 **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**

Could the witness be sworn please.

ASSISTANT COMMISSIONER: I make a suppression order in respect of the private residential address of this witness.

THE PRIVATE RESIDENTIAL ADDRESS OF MR BOOTH IS SUPPRESSED

10

ASSISTANT COMMISSIONER: Thank you, Mr Downing.

MR DOWNING: Thank you, Commissioner.

Mr Booth, at any time I stray away from the microphone and you do have difficulty hearing me, please let me know?---Thank you.

20 Now, if you could state your full name for the Commission please?---John Francis Booth.

And your date of birth?---23/2/1932 which means I've got my OBE to go with my AM.

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

And Mr Booth, you are the proprietor of The Weekly Times newspaper at Gladesville?---At Ryde.

30 Oh, I'm sorry, the company is Weekly Times Gladesville Pty Limited?
---Yes.

But it's known as - - -?---It was, it was founded in Gladesville.

It's known as The Weekly Times?---(No Audible Reply)

Sorry, you just need to give a verbal response rather than nodding so that we can record it for the transcript?---Sorry?

40 You just need to give a verbal response rather than just nodding your head because the transcript can't record a nod of the head?---Oh, I'm sorry.

That's all right. Now you own the shares in The Weekly Times Gladesville Pty Limited?---Do?

You own the shares?---I own the shares, yeah.

And you're a director?---I am.

And are you the editor of the paper?---I am.

Now, you've known Councillor Petch for some years?---Yes.

Could you just in brief tell us how long you've known Councillor Petch?
---Oh, probably over 50 years I would think.

10 And is that through - I'll withdraw that. At some point you were a member of the Ryde Council as well?---I was, before him, prior to him.

Right. How, when, doing the best that you can when do you believe you first met Councillor Petch?---Well, he used to be on TV as a boy, as a boy prodigy.

Sorry, he was on television?---Yeah.

Right?---As a musician, yeah, and he's, when he was a boy, a schoolboy.

20 I guess I'm more interested in his adult life but if you could tell us - - -?
---Well, everyone starts somewhere you know.

Tell us when you first recall coming into contact with Councillor Petch in the course of his civic activities?---Well, it might have been when I was on Council, when I was a Councillor I was in my twenties and I was also the founder and president of the Wallumetta Ryde Businessmen's Club and I know he was a member there, I know he used to visit there regularly.

30 And is this going back what, some, some years?---In the sixties, yeah.

Okay?---That's quite a while I think. Even before you were born almost was it?

I just - - -?---Or at least in nappies perhaps.

I just snuck into the sixties but thank you, Mr Booth. Can I ask you whether you're in fairly regular communication with Councillor Petch over recent years?---Certainly.

40 Does that involve telephone calls?---It would do, would do, and physical and meetings.

Emails?---I go to quite a few of the Council meetings, I used to go to all of them but I have one of my reporters that does most of the, that goes to all the Council meetings and sometimes I go, I try to go myself if I can, if I have, don't have - I'm out every night of the week with some function, we also cover Hunters Hill and other councils and I try to get along to keep up

with the current Councillors and I'm always welcome in the Mayor's suite after with other Councillors.

All right. Does Councillor Petch also send you emails from time to time? ---Sometimes, not all that regular I wouldn't think, I think we're, we're in personal contact too often for that.

10 Well, does he send you emails in respect of matters before Council from time to time?---Could do but not very often I wouldn't think but certainly sometimes I would imagine, yeah.

All right. Well, I'll ask you to have a look at some documents. I'll identify the relevant pages in a moment but, Commissioner, there's a bundle of documents in respect of Mr Booth that I wish to tender at this point. We'll provide copies to the parties.

ASSISTANT COMMISSIONER: Yes, that will be exhibit 47.

20 **#EXHIBIT 47 - BUNDLE OF DOCUMENTS IN RESPECT OF MR BOOTH**

MR DOWNING: The first pages I wanted you to have a look at, and there should be numbers hopefully in the top right corner as you go through, Mr Booth, are the documents at pages 1137 to 1138. And if you, it's also appear on the screen in front of you but do you have that page there? ---Which one are we looking at?

30 1137 to 1138. You'll see numbers in the top right corner?---One, one, one moment. Page, ah hmm.

Do you have that?---Yep.

And do you see that's an email that Councillor Petch sent onto you on 18 February, 2011? Do you see that Mr Booth?---1137?

You'll see at the top of the page there's a, a section that says - - -?--- (not transcribable)

40 - - - from Ivan Petch to John FB at weeklytimes.com.au?---Yeah, sure.

Okay?---Ah hmm.

That's you?---Yep.

Just out of interest are you able to say when Councillor Petch sends you email communications do you know whether it's from a Ryde Council email

address or whether it's from a, a private email address?---Wouldn't have a clue.

Well, you recognise this is an email that you received from Councillor Petch on 18 February, last year, sorry, 2011?---Um, can't say I can recall it at all but um - - -

Well, do you recognise it though?---It's - - -

10 Do you see that that's what it is?---Um, well I can see up the top that it's, say it's um, from Ivan Petch to John FB at Weekly Times.

And do you see it was forwarding on an email received by Councillors in respect of a motion that Councillor Petch had put up - - -?---Ah hmm.

- - - for a particular Council meeting?---Yeah.

Now, do you recall that from time to time Councillor Petch would send you these type of emails, that is forwarding you documents in respect of matters
20 that were before Council?---Um, oh possibly, I suppose so. I mean I, that's, I think that's sort of public information. What, what's the secret about this?

Well, I didn't ask whether it was a secret. I just asked you whether you recall receiving them, Mr Booth?---I don't recall it, no.

Right. Could you go to page 1139 and you'll see that at 1139 there's an email and then various attachments that go through to page 1153. Do you see the email there as one dated 4 February, 2012, 5.07pm?---Ah, 704 plus
30 1100?

Yeah, 17, or sorry, 17.07 of 04?---Ah yeah, from, attachments. Letter from Ross Woodward you mean?

So sent on, sent on a Saturday?---1139, page 1139 you're referring to?

Page 1139, yes?---Yeah. What about it?

Well, you see that's an email that's sent to you on Saturday, 4 February by Councillor Petch?---Yep. Obviously, looks like it.
40

And do you recall receiving this one? If you need to look at the content - - - ?---Ah hmm.

- - - over the following pages please do. But you'll see it's forwarding on an email that Councillors had received that day in relation to some communications from the Division of the, oh sorry, the, Mr Ross Woodward, the Chief Executive of Local Government within the Department of Premier and Cabinet?---Yeah, I'm aware of him, yep.

And do you recall receiving this now, it's a particular letter dealing with a problem with a quorum being achieved at Council meetings?---I don't recall this one, no.

Do you recall not, you don't recall that at all, that there'd been some problem - - -?---Well just, huh?

10 If you just wait and listen to my question, Mr Booth?---Yeah.

Do you recall there being a problem with Council not being able to achieve a quorum at a number of meetings that around - - -?---Oh, certainly. I, I know that because the bloody crooks were bloody well - - -

Mr Booth, Mr Booth, it'll save a lot of time - - -?---Yep.

- - - if you actually listen to the question rather than giving us your - - -?---Brief is best, yes.

20 - - - world view?---Brief is best. Thank you.

Do you recall at the time there'd been an issue with a lack of quorum being achieved at a number of meetings?---Certainly.

And do you recall at the time Councillor Petch forwarding on to you some correspondence from Mr Neish to the Division of Local Government and a response from Ross Woodward of the, the Chief Executive of Local Government within the Division of Department of Premier and Cabinet?---What's the question?

30 Do you recall now, having looked at the document receiving this communication?---Not really, no. But I get lots of communication so I - - -

Well, you'd understand that there's certain documents that come from within Council that are available to the public generally?---Yeah, ah hmm.

Things that you can access on the website?---I don't look at the website.

40 Well, I understand that. But you, you understand don't you that there's - - -?---I don't have time to look at websites, I'm sorry.

Mr, Mr Booth, you understand don't you that there are certain documents that are available to the public - - -?---Yeah.

Within Council?---Ah hmm.

And there are certain communications that Council receives that are internal, confidential documents?---Well possibly.

Well you've been a Councillor yourself?---Yes.

You understand that from time to time - - -?---But we didn't have all this hocus pocus then.

Mr Booth, you understand don't you that from time to time senior Council staff provide advice to the Councillors?---Yeah.

10 And advice of that nature informs the decisions that Council makes?
---Yeah.

And you understand don't you that certain document made available to the public, you understand that don't you?---What, all, all should be made available to the public.

Mr Booth, you're in a fairly unique situation in that you've been both member of the Council and you're also the proprietor of a local paper?
---And I'm also leader of The Weekly Times investigative teams of, of you
20 know reporters a the Stir Team.

You understand don't you that certain documents, certain communications within Council are confidential and are not released to the public?---Well that might be the modern idea.

You understand that's the position don't you?---Yes.

That not every single document, not every single communication within Council is available for public?---Not every one, no. If it's, if it's really
30 marked confidential it's intended to be in the best interests of the community.

Would you accept that a communication to Council from the Department, that is the Chief Executive of Local Government with a division of the Department of Premier and Cabinet would fall within a communication that would be regarded as confidential?---No.

So do you - your evidence is you don't recall receiving this email or the attachments do you?---Not really, no, quite honestly I don't but I - - -
40

Can I ask - - -?---I could have, I possibly did but I get so many and this probably would have come out in a press release as well.

You have no basis for saying that do you?---Yes, I do, I get lots of stuff like that from - it's a copy that they've sent and it comes out as a press release from the Department and from Ross Woodward himself.

So you say do you that you believe that this letter from Mr Woodward was something that was part of a press release from the Department?---It could well have been, I don't know 'cause I don't, can't recall the specific one. What's the date on this?

The date of the email is Saturday 4 February, that is the email to you from Councillor Petch?---What year though?

2012?---Yeah, ah hmm.

10

And the actual letter from Mr Woodward is dated 2 February it appears 2012?---Ah hmm. I can't say I particularly recall that, no, sorry.

Can I ask you this when you receive communications from Councillor Petch do you ever turn your mind to the question of whether they might be confidential matters or matters for general per view?---Oh, not particularly.

You take the view that everything that Council does should be, is, is fair game for public comment?---Certainly.

20

Can I ask you to have a look pages 1154 to 1157?---11?

54?---54.

Do you have that there, an email from Mr, from Councillor Petch to you on 9 July?---Well, I'll have to read it but certainly up the top it says Ivan Petch and then it says john.f.b.

30

And do you see it's forwarding or Councillor Petch says in his email to - well, I withdraw that - - -?---A message I sent to the General Manager on Wednesday 4 July.

Well do you see what, that's forwarded on is a communication from Councillor Petch to a john@mtlawyers of the 7 July 2012?---And a copy to all the Councillors obviously.

Do you recall receiving this?---Sorry?

40

Do you recall receiving this?---No.

Can I ask you then to go ahead to page 1158. And do you see again it's an email from Councillor Petch to you also to john@mtlawyers?---(No audible reply)

Do you see that?---Yeah. The first page or the, is it the second page or - - -

So 1158?---Sorry? 1158. Yeah. Doesn't tell me anything.

Do you see if you go down to the bottom of page 1159?---The bottom or the top? Hey, there's nothing down the bottom.

1158 going onto 1159?---Oh, yeah. Onto 1159 you mean?

Do you see what was being forwarded on to you was some email correspondence in respect of an article in The Weekly Times and a response from Mr Neish?---“In response to the article in The Weekly Times today attached is my response to Councillor Petch for your information.” Who's this to? Who is that - - -

If you have a look at 1160 and 1161 it encloses a letter to Councillor Petch from Mr Neish. Do you see that?---Ah hmm.

Do you recall receiving that?---Not, not particularly I don't, can't, must admit.

All right. Can I ask you to look at 1162 please?---Yeah.

20 1162 to 1164. Do you see that's an email to you and also to john@mtlawyers from Councillor Petch on 11 July, 2012 at 17.49, do you see that?---(No Audible Reply)

Mr Booth, do you see that that's an email of 11 July, 2012 at 17.49?---I see it's an email at top, I'm just trying to read the content to see if I can remember it, I can't quite - - -

Well, I want to just make sure first of all we're on the same page, do you see it's 1162, is that the page you're on?---1162?

30 Yes?---Yeah.

And do you see at the top it actually reads, “Gentlemen, for your information and confidential”, do you see that?---Yeah.

Do you recall receiving this?---No. Regards, Ivan Petch.

Do you see it's forwarding on some legal advice that had been received from Mr Garnsey QC?---(No Audible Reply)

40 So do you see that, Mr Booth?---Yeah, I'm just reading the date because I'm trying to, I can't recall some of this. I know I was away overseas for a couple of weeks in June, end of June - - -

Well, this might help you in terms of timing - - -?--- - - - and - - -

- - - Mr Booth?---Sorry.

This might help you in terms of timing. Do you recall on 9 July last year that a letter was sent to the then Mayor and to Mr Neish indicating that there was to be a - seeking an extraordinary meeting for the purposes of terminating Mr Neish's employment, that's 9 July. Do you recall becoming aware of that?---Aware of, I'm sorry, could you repeat the question?

On 9 July - - -?---Yeah.

10 - - - a letter was sent to the then Mayor, Commissioner. Etmekdjian, and to Mr Neish indicating that Councillor Booth - - -?---That was a long time ago.

- - - Councillor - - -?---I was an alderman, I'm sorry, yeah.

Councillor Petch was seeking an extraordinary meeting for the purpose of putting up a motion to terminate Mr Neish's contract?---I can't recall what you're saying specifically but I can, I can recall that those things were happening.

20 Well, I take it at the time you were aware of those events, that there had been this move to bring a motion before Council to try and terminate Mr Neish's employment?---Yes, yes.

Well, on 11 July do you recall having this forwarded to you, that is this email from Councillor Petch forwarding you some legal advice in respect of Mr Neish's employment obtained from Mr Garnsey QC?---(No Audible Reply)

Do you recall that?---Not really.

30 And you've told us previously that you didn't turn your mind to whether things might be confidential. Do you recall this one at all, that is getting an email that actually said "For your information and confidential"?---No.

Do you recall any details of any communications you've had with Councillor Petch over the last year?---Yeah, but not - I can't say that I can recall these emails because I get thousands of - what appears like thousands, I get hundreds of emails every day and I just don't read them all, a lot of it just gets trashed because I haven't got time for all that nonsense.

40 Well, let's deal with the nonsense. Do you accept that a number of these emails deal with the question of the Ryde Civic Precinct redevelopment - - - ?---Yeah.

- - - and Mr Neish's role in respect of that?---Sure.

Now that nonsense was a nonsense that your paper was particularly interested in, wasn't it?---Sure.

So I - - -?---I, I - and I'm personally interested in it, yeah.

I take it you did take an - - -?---For the good of the community.

I take it you did take an interest in those communications then that dealt with that?---Oh, they weren't all in email, I mean, I don't read all the emails, sorry.

10 But if you had one that involved that topic, that is the Ryde Civic Precinct redevelopment and John Neish's role in respect of it, that would have been something of interest to you?---Possibly if I'd opened it, if I'd, if I'd known it was there but I - it's more likely, more likely to be personal communication, I believe in getting out and seeing, talking to people not sitting in front of a computer.

20 Mr Booth, it's the case isn't it that Councillor Petch had forwarded you information and fed you information in respect of this project and Mr Neish's involvement over a considerable period of time. You know that don't you?---Possibly but I've been a personal - - -

But when you say possibly what is - - -?---But I've been, I've been in more personal communication I would say rather than this stuff.

All right. Well we'll come to the personal communications in a moment. But do you - - -?---Yeah.

30 - - - recall getting a series of emails where Councillor Petch was sending you documents about the Ryde Civic Precinct redevelopment and Mr Neish's role in respect of that?---Not specifically. You're introducing me to this here and I can't really recall any of those so far but obviously it's come through, it's possibly things that I might have known about or had a clue about, somebody else might have told me about.

Could you have a look at pages 1165 to 1167?---Ah hmm. Do you see that's an email from Councillor Petch to you on 8 August forwarding on an email he'd received that day and indeed a letter he'd received from lawyers acting for the Council?---Ah hmm.

40 Lawyers being HWL Ebsworth, do you see that at page 1166?---Wait a minute. Oh, 1166. Ebsworth, ah.

Do you recall receiving that?---I can't honestly say I did, no, I can't say honestly I did remember receiving it, no.

Now it's the case isn't it that The Weekly Times took it pretty unambiguous position against the Ryde Civic Precinct redevelopment?---Sorry, what was the question?

The, The Weekly Times in its coverage took an, an ambiguously, took an unambiguous position against the Ryde Civic Precinct redevelopment?--- Yeah, selling off the community's assets - - -

I'm not asking for your rationale I'm just - - -?---Yeah.

- - - asking whether that was the position that was taken?---Absolutely, correct.

10 And - - -?---You're spot on there.

In respect it's the case isn't it that you, The Weekly Times ran a number of stories praising the efforts of the Councillors who were opposing the Ryde Civic Precinct redevelopment?---Yes. And criticising those who, who were in favour of the Ryde Civic Precinct redevelopment?---I don't think they got a mention.

20 Well do you recall running a number of pieces critical of Mr Neish and his involvement?---I'm not sure about that. Can you be specific about that? I was, I was more positive rather than negative.

Well you've told me you agree that you ran a number of positive pieces in support of the Councillors who were opposing the Ryde Civic Precinct?---I said yes to that.

Do you recall for instance stories criticising Mr Neish's conduct in respect of the Ryde Civic Precinct redevelopment?---Which one?

30 Sorry - - -?---Which story? You're going to quote are you?

I'm just asking you whether you recall?---Well you - recall what?

ASSISTANT COMMISSIONER: Did you, your newspaper write any articles critical of Mr Neish's involvement in the Ryde Civic redevelopment project?---Sorry, what was that?

40 Did your newspaper publish articles critical of Mr Neish?---I know we, we certainly had stories very positive opposed to the sale of the community assets and I don't know, you have to more specific in the second part of the question, Commissioner, I'm sorry, in relation to whether it was critical of Mr Neish.

Yes. Yes, Mr Downing.

MR DOWNING: Commissioner, I'll move on.

ASSISTANT COMMISSIONER: I think the papers will speak for themselves won't they?

MR DOWNING: Now can I ask you in early 2013 if you recall learning of a complaint that had been made by an IT employee at the Council in respect of Mr Neish?---Sorry, can you repeat that question, please.

Sure. Do you recall learning in 2013, early 2013 that a complaint had been made against Mr Neish regarding the use of his laptop computer?---I think everybody heard that.

10 Well, I'm asking you about you, not about everyone, Mr Booth?---Well, I, I
- - -

Do you recall learning - - -?---I'm not sure, specifically how I heard but I certainly did hear it, yes.

Well, we'll come to how you heard in a moment. But do you recall learning that the, there'd been a complaint made against Mr Neish that pornographic material had been accessed on his work issued laptop computer?---Yes.

20 I want you to do your best, try and think who it was that first told you about that?---It could have been one of the Councillors, it could have been somebody on the Council staff.

I want you to think about who told you?---Hmm.

You say it could have been one of the Councillors. Could you narrow it down perhaps?---Well, I know a couple who it wouldn't be.

30 Well let's exclude those and work to the ones you think it might have been. Do you think it might have been Councillor Petch?---It could have been. It's a possibility. He could be one of the culprits I guess, yeah.

Do you recall what he told you?---Sorry?

Do you recall what he told you?---Um, I imagine something in the line of what, what - - -

Well I don't, I don't want you to imagine or speculate?---We've heard here.

40 I want you to try and remember. We're talking about earlier this year, we're not talking about a couple of years ago of five years ago?---Yeah, I know. I'm just trying to think what, yeah I know but, you know - - -

Try and think of the circumstances?---You're not 81 and a half are you. You're memory's probably a bit better than mine. You lose a bit round the edges, you know. You'll learn I hope, if you live long enough.

Mr Booth, try and think, let's try and first of all with whether you think it was a face to face communication or whether it was a telephone call, or perhaps an electronic communication? Can't remember?---I can't remember. I know I've heard.

10 All right well, what do you - - -?---And, and I'm not sure whether through one of my staff members first or whether, whether it was through one of my reporters who might have told me, or whether I was told directly by maybe the Mayor or maybe one of the other Councillors or somebody in the Council staff.

All right, well - - -?---Because they were all talking about it.

Can I ask you to have a look at a document which appears at page 842 of Exhibit 47. If you look at the pages in front of you it should be the first one under the title page?---Ah hmm. 842, yep.

20 Do you recognise that as a picture of you?---Well I reckon it probably is. You can't always tell yourself can you but it looks - - -

Well, what I'm suggesting - - -?---I would believe, if you told me it was I'd have to agree with you.

What I'm suggesting to you is on the morning, late morning of Friday, 1 February, 2013 - - -?---Ah hmm.

- - - you had a meeting with Councillor Petch at Delitalia - - -?---Ah hmm.

30 Which you're familiar with aren't you?---Sure.

The café on Coxs Road?---I am.

Owned by Mr Cerreto?---Yep.

And you had a discussion there. Do you recall that now, does that assist at all?---I can't recall the discussion, no. But I, you know, I've been in and out of there. I go to the place over the road. I go all over, lots of coffee shops.

40 Perhaps could we play some, we'll play some footage for you and if you just have a look at that for a moment? It'll, should appear on the screen?
---Where do I see it?

It'll appear on the screen in front of you?---Oh, right, right, right.

VIDEO RECORDING PLAYED

[12.38pm]

MR BOOTH: Have we got any audio?

ASSISTANT COMMISSIONER: Could you just watch the tape, please.

MR DOWNING: Perhaps if we can just stop there, Commissioner.

ASSISTANT COMMISSIONER: Ah hmm.

10 MR DOWNING: Do you recognise that that's you at Delitalia? Do you see from the footage that that's - - -?---I recognise it's - - -

That it's you shown in the footage?---Yeah, sure. Ah hmm.

And do you see it's you being handed a document?---Oh, a piece of paper, I don't know if a document.

20 Do you recall now that you met with Councillor Petch at Delitalia that morning?---Well, if you say so. I, I know I've met him a couple of times out there. I've met him at the restaurant over the road. I've met him all over the place.

Commissioner, I'll tender the video the witness has just been shown in respect of Mr Booth's attendance at Delitalia on 1 February, 2013.

ASSISTANT COMMISSIONER: That will be Exhibit 48.

**#EXHIBIT 48 - CD CONTAINING FOOTAGE OF MR BOOTH
ATTENDING AT THE DELITALIA ON 1 FEBRUARY 2013**

30

THE WITNESS: What's that supposed to indicate?

MR DOWNING: Well, I'll ask you a question about it in a moment, Mr Booth. Mr Booth, do you recall now on reflection that it was on that day that Councillor Petch contacted you and asked you whether you'd meet him at Delitalia?---I don't, I don't know, I wouldn't know a specific date. I mean I - - -

40 Well, again, we'll try and narrow it for you?---If you've got a date there, I mean, I, I'd have to accept it if your person is correct that's taken that, I'd have to agree that was the day, I mean I won't dispute that.

Well, you're also aware, you're aware aren't you that Mr Neish ceased his employment at the Council on 8 February, a week later?---I didn't know offhand until you told me just then, I might have known if I'd referred back to my newspapers or my diary or something but - - -

Well, accept that from me - - -?--- - - - I wouldn't have been able to tell anyone that.

Accepting that from me and accepting that the film that's been shown of you and the photograph at page 842 is events, of events on 1 February? ---I wished they'd told me, I would have sat up better if you'd told me.

10 1 February, 2013, do you recall now that Mr, Councillor Petch asked you to meet with him because he had something he wanted to tell you about?---I don't know if that was the reason at all, I can't recall that, I mean that might have been but I, I certainly don't recall him requesting it but it could have been.

Do you recall if he - - -?---You might tell me.

Do you recall if he told you he had something exciting he wanted to show you in respect of Mr Neish?---I don't recall that at all, no.

20 Do you recall if the document he handed you at the time was a photograph, a page of small images of what he told you was pornography found on Mr Neish's computer?---I don't think so. Was it? Hey? I don't, I don't - - -

ASSISTANT COMMISSIONER: Mr - - -

MR DOWNING: Mr Booth?--- - - - think I've ever see that.

ASSISTANT COMMISSIONER: No, I'm sorry?---I don't think I've ever seen that.

30 Mr Booth?---Yes.

Are you making an effort to be accurate in your evidence?---I certainly am, Commissioner.

Now, I'd like you to think about this issue very carefully?---Yes, certainly.

Now, I'd like you to listen to the questions Counsel Assisting is asking and answer them fully and honestly?---Certainly.

40 Do you understand that?---I am.

Yes, Mr Downing?---I am. Are you trying to tell me that they're, they are images?

MR DOWNING: What I'm asking is whether you recall on that day that you met with Councillor Petch at Delitalia late on the morning, that he handed you a page of documents which were small thumbnail images of

what he described as pornographic images found on Mr Neish's laptop, do you recall that?---I, I don't recall seeing any images, no.

Do you recall him giving you something at this meeting?---Well, according to this here he's giving me a paper and I don't recall seeing any images.

Mr Booth, you, you accept don't you that learning that the General Manager of the Council had been caught with pornographic material on his laptop on his laptop would be something of some, would be news of some
10 significance, you accept that don't you?---Yeah.

Do you, do you say to the Commission that you have no recollection of what it was that you were given by Councillor Petch on 1 February, 2013 at Delitalia?---That's absolutely correct. I, I do not recall seeing any pornographic images. I had, would have no interest in looking at them and I don't recall those being images. Now, if they were I probably - I, I'm bugged if I know, you've got me there. Quite honestly I, I can't recall seeing images.

20 Well, do you have a recollection of getting a document from Councillor Petch on this day?---No.

Do you say, do you say you've received no documents to the best of your recollection from Councillor Petch in relation to the material found on Mr Neish's laptop?---That's correct.

Well, can you tell us what events you believe you were discussing with Councillor Petch on 1 February, 2013?---I wouldn't have a clue.

30 Is your honest response in respect of this issue - - -?---Yeah, sure, certainly, it's absolutely honest.

- - - that you don't recall being given anything by Councillor Petch in respect of Mr Neish's laptop and what had been found on it in early February 2013?---I know he, I know he told me about it but I don't remember having, I don't know that that is visual evidence, I know he did, he has mentioned it to me, he told me about it but others did as well.

40 Well doing your best now having - - -?---Yeah.

- - - looked at the footage and seen a photograph. Do you think it may have well in fact have been Councillor Petch who broke the news to you?---It may well have been but I can't in the gospel truth say it was.

Do you say, well who else do you say was talking to you about this issue as at 1 February 2013?---Sorry?

Who else do you say - - -?---Was that the question?

Do you say someone else at the Council told you about this matter on, by 1 February 2013?---1 February?

That's a week before Mr Neish resigned?---It's 2013 is it?

It is?---I'll just check my diary, see what day it - well I was with Victor Dominello at St Anne's Church at 10 o'clock re new signs that - and that's recorded because we had it in the newspaper.

10

Do you have any, do you have any record in your diary of where you were between about 11.30 and 12.30 on that day?---No.

Having seen the footage, you don't dispute do you where you went - Mr Booth - - -?---I know the next day that Ulrike was going off to Austria.

Mr Booth, I'm not interested in Austria?---You should go there.

20 What I'm interested in is whether you can tell us whether you accept that you were at Delitalia with Councillor Petch just before midday on 1 February 2013?---Well, well if your records are correct there I'd have to say, yes, so it must have been after I've been with Victor Dominello and the Ministers and so on doing a photo shoot at, at St Anne's Church.

And is your evidence that you can't recall anything about how it was you came to meet with Councillor Petch that day?---No, I do not.

30 And that you can't remember anything about what was discussed?---Sorry, I'm - ask me something which I remember, please.

Mr Booth, I'm suggesting to you that you're not making a genuine effort to answer these questions?---I am asking, I am trying to but I don't want to lie if you don't mind.

Do you recall if Councillor Petch said anything to you at the time about - I withdraw that. Do you recall a discussion with Councillor Petch in early 2013 where he expressed his desire to get rid of Mr Neish?---I think half of the community wanted to get rid of him.

40 I'm not interested in - - -?---Yeah.

- - - half of the community, Mr Booth, I'm interested in a discussion with Councillor Petch?---I, I, I - - -

I understand what you want to tell us but - - -?---Well I - - -

- - - I'd ask you to pay attention to my questions?---Yeah.

Do you recall a discussion with Councillor Petch early in 2013 where he expressed desire to get rid of Mr Neish the General Manager?---Not specifically but I know that there have been discussions about John Neish.

Do you recall a discussion with Councillor Petch in early 2013 where he indicated that material had been discovered on his laptop which would mean it would mean it would be easier to get rid of him?---Oh, I can sort of, I think I remember that part, yeah.

10 Do you remember him saying to you this pornography will be the way we can, will be the means we can use to get rid of him?---Now you're on the mark, yes.

When do you think that was relative to when he actually ceased his employment?---I can't, I don't know specifically, no.

Or was it before he finished up or after he finished?---Who, John Neish?

20 Yes. John Neish?---Well it'd have to be before wouldn't it?

All right. So, well I'm asking you that so - - -?---He wouldn't ask after would he?

Well your recollection is that prior to Mr Neish ceasing his employment that Councillor Petch said to you this material has been discovered and this will make it easier to get rid of him?---Yeah, that would be correct.

30 Did he indicate to you that he was intending to speak to Mr Neish and ask for his resignation?---After his resignation?

Ask for his resignation?---No, after.

Mr Booth, did - you've told us that you agree that you had a conversation before Mr Neish finished up where Councillor Petch indicated this material has been found and it'll make it easier to get rid of him. You recall? You agreed with me about that a moment ago?---Well I, I imagine it would be before, yeah.

40 All right. Well you've told me it was before?---yeah, I, yeah. Well I just said yes that's, yeah.

Do you recall that there was something also said in that conversation about the fact that - I withdraw that. Do you recall Councillor Petch also saying in the same conversation that he was going to ask for Mr Neish's resignation? ---Well I know he was going to ask for his resignation.

But doing the best to recall what Councillor Petch told you do you recall him indicating to you that he was going to ask for Mr Neish's resignation?

---Yes.

As a result of this discovery of material on his computer?---Yes.

And did he also indicate anything about whether he might say to Mr Neish that he should resign because otherwise this might become public?

---Possibly, yeah.

And cause considerable embarrassment to Mr Neish?---Yes.

10

Did Councillor Petch ever indicate to you an intention to leak the material to the press?---Um, I know he went to the opposition first according to the evidence.

Is that the Northern District Times?---Sorry?

When you say the opposition do you mean the Northern District Times?

---Northern District Times, Murdoch, yeah.

20

So was it your understanding that he was trying to shop this story around?

---Well, according to the evidence that was given here ah, he did contact the opposition first.

So, he came to you with the story, you accept that don't you?---Yeah.

At a time well before Mr Neish ceased his employment?---Oh, it would be before he, yes.

And do you recall - - -?---Before he resigned, yeah.

30

And do you recall him indicating to you in the course of that communication that he was going to ask for Mr Neish to resign and indicate that if he didn't it might become, it might become leaked to the media?---Um, don't know about the last little bit but I, I know it, it seemed to be one way of Mr Neish making that decision of leaving.

Well Councillor Petch in showing, in speaking to you about what had happened, that is the discovery of the pornographic material was offering it to you as something you could publish wasn't he?---Um, I'm not sure

40

because - - -

Well what do you recall him saying?---Well, I, I still haven't published, a lot of people said why haven't I published it and I don't know, I, I suppose I've got a soft spot for Neish in a way um - - -

I'm not really asking about why you didn't publish?---Okay.

What I'm asking about is what Councillor Petch said to you. Did he indicate to you in the communication that this was something that you could publish?---I'm not sure that was - - -

Well what - - -?---Was the intention. It possibly was. I'm not sure.

Do you recall what he said about - - -?---I, I know, I know he, huh, sorry?

10 Do you recall what he said about what you might do with this material?---
Not specifically, no. How could I?

Well, you could by listening to what he - - -?---Would you, can you remember what your wife said this morning?

Mr Booth, again - - -?---Yep.

This was something that was quite significant news for the right area, wasn't it?---Yeah, sure.

20 Something that might interest your readers? You accept that?---Yeah.

Something that you were interested in?---Ah hmm.

And you say you can't recall that detail about it?---Well, I'm telling you I know the overall impact of it but I can't say the detail. I mean, you're trying to get little bits of - - -

30 Well, what I'm trying to explore with you is what you can tell us about what Councillor Petch said to you when he informed you about this material, the discovery of this material on Mr Neish's computer? You understand that's what I'm asking about don't you?---Well I, well I guess he just told me that they'd, that the IT people had found something and that it was running around the Council Chambers, everybody was talking about it and everything so I, thought I should know. Something to that affect.

You can't identify anyone that provided this information to you before Councillor Petch, can you?---Not specifically I can't.

40 And doing your best would you accept that it was likely Councillor Petch who was the source of the information to you?---It's possible.

Well, can we push that from possible to probably or you're just not able to say?---I can't go that affect, I've got to be pretty accurate and careful what I'm saying, you know. Because I believe in accuracy.

Who else was talking to you about the discovery of pornographic material on Mr Neish's computer prior to Mr Neish's employment coming to an end?---Sorry?

Who else was talking to you about this matter prior to Mr Neish's employment coming to an end?---Oh, I think the, I think everybody in the world was talking, all the Councillors.

All right, talking to you?---Yep.

10 Who else was talking to you about this subject matter prior to Mr Neish, his employment coming to an end? You said it was possibly Councillor Petch?--Yeah.

I take it from that that you think it could have been someone else?---Ah
hmm.

Well who else was talking to you about this subject matter?---I don't want to name names if I, because I can probably get them mixed up because there's, if there's 12 Councillors and they're all talking - - -

20 Mr Booth, you know it was Councillor Petch who broke this story to you, don't you?---Well he certainly mentioned it to me, he told me about it.

No, you know he was the person who first gave you that information before you'd known about it from anywhere else?---I'm not, I can't be certain he was the first, I can't be certain he was the first one so - - -

And I'm suggesting to you that you're trying to assist him through the evidence you're giving to the Commission today?---No I'm not, no. I'm trying, I'm trying to be honest and accurate. Sorry.

30 Can you tell us anything else - - -?---I can't help you in that regard.

Can you tell us anything else you can recall Councillor Petch communicating to you when he spoke to you about the discovery of the material on Mr Neish's computer?---I know he was excited about it, when he - you know.

40 Did he express some glee about the fact that this would now be the, the final nail in Mr Neish's employment?---Well, to that effect, I think that's sort of public knowledge also isn't it?

And doing your best - - -?---Do you mind if I, do you mind if I have a glass of water?

Oh, not at all, Mr Booth?---I haven't had one all day and I - - -

Doing your best to recall what was discussed do you believe that it was in the conversation you had with Councillor Petch about the discovery of the material that he also said I'm going to ask for his resignation and indicate to

him that if he doesn't well, it might just find its way into the media?---Well, I imagine that's, you know, could be a paraphrase.

Now, you also, you know Mr Norm Cerreto, don't you?---Yes, sure.

And can I ask you what's the nature of your relationship with Mr Cerreto?
---Oh, a business relationship. I've known him for a long time, they've advertised in the past, his father advertised before him when they had the fruit shop, it's probably going 20 years ago.

10

Well, he's someone who, Norm Cerreto advertises in The Weekly Times?
---Ah hmm.

Have you known him in any context separate to his advertising with the paper?---Not particularly. I know the people on the other side of the road better, much better.

20

Is that the Bietolas?---The Bietola, Marsita Bietola, ah hmm, they tried to get me to open up out there 50 years ago when they were opening up the centre.

So that's the Bietola family who own property on the other side of Coxs Road from where Delitalia is?---Yes.

Now, it's the case isn't it that Mr Cerreto ran some ads for the Coxs Road landowners - sorry, I'll withdraw that. You've run some ads for the Coxs Road landowners master plan?---Master plan, yeah.

30

And that was last year?---Yes, it would have, yeah.

And you ran a series of ads promoting the landowners' master plan?---Ah hmm, yes.

And did understand that that was a master plan that had been developed involving both the Cerretos and the Bietolas?---Yes.

Now, you've produced to the Commission a series of invoices from The Weekly Times and ads that they relate to, haven't you?---Yes.

40

And do you recall that you were asked to identify through the documents you produced particular ads and who'd paid for them?---Yes.

And is that what you attempted to do in producing documents, that is identify relevant ads and then cross-reference them to the invoices that related to them?---Yes.

Can I ask that - - -?---Keep going, yeah, while you're hot keep going please.

Mr Booth, are you finding this amusing?---Not really, no, well, I, I'll either cry or - I've got to laugh or cry, I mean, it's not a nice position to be in, have you been in this seat here before?

Well, you do understand that Commission's looking at matters involving corruption?---Yeah.

And do you find that amusing?---No, I do not.

10 Can I ask you to have a look at - - -?---I started the Ombudsman campaigns 50 years ago, you know, and I - so I know what it's like.

Could I have Exhibit 21 brought up and I'll show you a paper copy just for the moment if I could.

ASSISTANT COMMISSIONER: Mr Downing, it might be better to start on this topic after lunch I think.

MR DOWNING: May it please the Commission.

20

ASSISTANT COMMISSIONER: We will adjourn at this time until 2 o'clock.

LUNCHEON ADJOURNMENT

[12.58pm]