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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 TUESDAY 23 JULY 2013

AT 10.08AM

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

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

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

MR HOLMES: Commissioner, Holmes for Mr Laface. Just before we start, in the examination of Mr Laface yesterday he was asked to produce a document being a media release by email issued by Publicitree and that was at transcript page 560 to 561. He had a look for that last night, has been unable to find it yet. He had an upgrade in software two months ago which has made it more difficult to retrieve so he's currently consulting an IT specialist to find out the cost and how long that would take and I'll keep Counsel Assisting and the Commission informed and updated.

ASSISTANT COMMISSIONER: Thank you for that. Yes.

<JOHN FRANCIS BOOTH, on former oath

[10.09am]

MR DOWNING: Thank you, Commissioner.

Mr Booth, yesterday you gave evidence about Mr Barry O'Grady, you recall that evidence?---Yes.

And I want to make sure that I've properly understood it but you say that he began placing ads in The Weekly Times in about April 2012?---No.

Sorry, he came and saw you in April 2012?---Yes.

And what, indicated that he wanted to place some ads?---Yes.

When did the first ads that he was responsible for placing start to be appearing or when did they start to appear in The Weekly Times?---July '11.

July '11. And was your evidence that from that point he would come and speak to you on a week to week basis?---Pretty well, yeah.

And indicate who he wanted to place an ad for?---Yes.

So he would pop in and speak to you and identify particular Councillors who he was keen on supporting?---Yes.

And you say it was those who were opposed to the Ryde Civic Precinct redevelopment?---Yes.

And he indicated that he would like to place a particular ad promoting them for re-election?---Sorry, what was the last question?

He would like to, he would then indicate to you that he wanted to place ads for those particular Councillors promoting them for re-election?---Yes.

Because this in the lead up to the election campaign?---Yes.

And did he sometimes provide you paper copies of the actual ads to run, that is the layout of what was going to appear?---No.

10 Did he ever give you documents setting out the ads or were they always sent to you from elsewhere?---They were either one that might have been created in-house, he would come in and sit by the, by the graphic artist and do it physically or it was provided, usually sent electronically if it was from somewhere else.

Who, who would send them electronically after Mr - - -

MR SIMPSON SC: Excuse me, Commissioner, could Mr Booth have the microphone a little closer to his mouth. We, we just can't hear him down here.
20

MR DOWNING: We might just need to have the, the microphone made a little bit closer to Mr Booth, I think the parties towards the back are having difficulty hearing him.

ASSISTANT COMMISSIONER: Well, he can move forward I think. Can you move forward, Mr Booth, closer to the microphone and try to speak above the microphone I think gets the best - yeah, over it I'm told gets the best acoustics?---Thank you.

30 MR DOWNING: So he would come in and speak to you, he would identify the Councillors he wished to run ads for?---Yes.

And you say he did, would he not, were there no occasions when he gave you the physical documents that were to appear in the paper?---Not that I can recall.

40 So how did, so tell me again, how did he then have those documents or those ads made up? You say he would sit next to a graphic artist?---Ah, the ones that were done in-house but - - -

So he would physically sit there and direct the graphic artist about how to create the ad?---Yes.

What, did he have photos or did you get photos off the internet?---Ah, oh, no, we, we have most of the photos on file of the candidates.

Okay. So there were some he would literally sit there and what, dictate the text of the ads?---Yeah, only one or two, the majority were ones that were supplied.

Right?---Ah hmm.

So those - - -?---And authorised by the, the candidate.

10 So the ones that he dictated on the spot, would he indicate who it should say was authorising the ad at the bottom of it?---Yeah, if he'd got the authority. A couple of them he'd put his own authorisation on but he wasn't keen about having his, his own profile heightened.

And you've produced - so those ads started in July?---Yes.

And they ran during parts of July?---July, August.

20 And then in September up until the date of the election?---September, the first week of September and then he put a thank you in on the week after the election.

All right. Now, yesterday you produced a - when I say produced I mean physically handed over a particular Weekly Times invoice for Barry O'Grady from August 2012, correct?---I, I guess I did.

And I'll have it put in front of you?---Did I hand it over or did you get it somewhere?

30 I think it might have been provided by someone else but - - -

ASSISTANT COMMISSIONER: Mr Bender I think.

THE WITNESS: I don't think I handed anything over did I?

MR DOWNING: Well, let me be fair then, I'll make sure that you see the document first. You see the invoice, I asked you some questions about it yesterday, you remember about the fact that it has just the address West Ryde?---Yes.

40 And accept from me that counsel appearing for Councillor Salvestro-Martin had produced this, that is handed it over yesterday but indicated that this is a document that came from The Weekly Times. Now, do you know when this was printed out by The Weekly Times?---No.

Do you say this was something that was created back in August 2012?---I'm not sure.

Well, each month when someone places ads you generally create an invoice, that's your system isn't it at The Weekly Times?---Yes, that's the general system.

All right, well you've told us that Mr O'Grady was placing ads from July through to August through to September?---Yes.

Do you have invoices for him for the ads in July and September?---I don't know um - - -

10

Have you looked for them?---Um, well since I've, we've found that um, I think one of the problems was that um, I'm not sure whether these were actually prepared, or whether they were prepared after we realised that he wasn't being invoiced at the, originally.

Or prepared after - - -?---Because, because I, because I was dealing verbally with him, that was the problem.

Do you think they might have been prepared after he was dead?---No. No.

20

You're certain they were prepared before his death?---I, well I, well I, I can't say, vouch for that. It might have been, it might have been after we got the Parisi um - - -

Your - - -?---email, letter even.

Your system, your system at the Weekly Times, Mr Booth is that at the end of each month where anyone has placed an ad an invoice is generated, correct?---Yes, yes.

30

So that your system working as it should you would expect that there would have been an invoice at the end of July for Mr O'Grady?---Yes, if, if I'd written out the, if I'd written out the invoice which I hadn't because he was dealing personally with me as a personal friend and I must admit - - -

Well - - -?---That wasn't the normal procedure.

Well we know whatever your personal dealings with Mr O'Grady were, that is handwriting things. We know that you came to somehow have on your system an August, 2012 invoice for him, correct?---Yes.

40

So it would follow wouldn't it that it's likely that whatever you did in August in order to bring these ads into print you did the same thing in July?--Yes, and September.

And September?---Yeah.

So it would follow wouldn't it - - -?---Yes.

- - - that there should be invoices for Mr O'Grady for July and September?--
-yes.

Have you looked for them?---Um, no but I, I believe that - - -

Have you asked someone to look for them?---Ah, well we're have in, tried
to investigate with Ulrike and - - -

10 And have you, have you located any invoices for Mr O'Grady in July and
September?---We have these printed out now. I'm not sure whether these
were, particular what date these were prepared. I could make inquiries for
you on that.

But is it the case that the inquiries you've made have not turned up any
invoices for Mr O'Grady for July or September, 2012?---I haven't found
any, no well - - -

20 No one's found any - - -?---No.

- - - have they?---No.

Is it Ms Eichmeyer, your partner who's been making those searches?---Yes.
Ah hmm.

30 Right. Now, do you recall if Mr O'Grady contacted you after August, 2012
to say, "I've got this invoice which is billing me for about \$7,600 worth of
Coxs Road ads"? Do you recall if he contacted you about that?---No. No.
Not that I'm aware.

Because this invoice contains reference to six ads doesn't it for Coxs Road?
I'm sorry, eight, eight ads for Coxs Road?---After 4, after 4 July you're
referring to?

Well this invoice that you have produced, and Commissioner, I'll tender it
now. It's the August, 2012 invoice from the Weekly Times made out to
Barry O'Grady of West Ryde.

40 ASSISTANT COMMISSIONER: That hasn't already been tendered?

MR DOWNING: I don't believe it has. I'll check that. No, we had
Councillor - - -

ASSISTANT COMMISSIONER: No.

MR DOWNING: - - - Petch's invoices yesterday, Exhibit 50. And we had
others from Councillor, or in the name of Councillor Salvestro-Martin
marked but I don't believe this one has been made an exhibit yet.

ASSISTANT COMMISSIONER: Yes. The, the invoice, the August invoice for Barry O'Grady will be Exhibit 52.

#EXHIBIT 52 - COPY OF A WEEKLY TIMES TAX INVOICE – AUGUST 2012 MADE OUT TO BARRY O'GRADY, WEST RYDE

10 MR DOWNING: And I take it at some point you realised that this invoice from August, 2012 was billing Mr O'Grady for advertising that he had nothing to do with? Mr Booth, at some point did you realise that this invoice to Mr O'Grady was billing him not just for the election doubles on 29 August but for a series of Coxs Road ads between 1 and 22 August?--- Well I, I wasn't aware of those invoices at all until quite recently.

But you say that you can recall him can you coming to see you particularly in respect of the Save Ryde ads for the six councillors and saying I want to place these ads?---Certainly, yes.

20

And the other ads for the various councillors we went through yesterday in August do you say that you also have a - - -?---Which ones, which ones are they you're referring to now?

Well in August 2012 you've produced a series of – in Exhibit 21 there are a series of ads from August 2012 for different councillors and you remember I took you through them yesterday?---(No Audible Reply).

30 If we go to Exhibit 21, page 1313, it'll come up on the screen in front of you. This is the August 2012 invoice to Corporate Development Australia and it lists the same ads I took you through yesterday for that month as the invoice for Mr Cerreto and the invoice now for Mr O'Grady. Go to page 1314, at the bottom of the page an ad for Councillor Petch, and 18 by seven ad. And is it correct that you identified that as one of the ads that Mr O'Grady had asked you to place?---Yes, I believe so.

I'm sorry Councillor Tagg that page?---Tagg, yeah.

40 The next page is an ad for 1 August, at the bottom of the page Councillor Petch?---I believe so.

And then if we go to the next page I think you said with Councillor Salvestro-Martin, at the bottom of the page?---Not that one, no.

Not that one?---He paid for that one himself.

He paid for that one himself. Then if we go to page 1318, at the bottom of the page it's another ad for Councillor Petch, the picture of Councillor Petch

with the dogs. That's another one that I think you identified as one that you believe Mr O'Grady - - -?---It could have been. They all look, they look rather the same at the moment, but there were a number that I identified yesterday.

Right. And then at 1319 - - -?---Yeah, they're the same ones, mmm.

- - - 1319 you told us that the ad for Councillor Maggio at the bottom wasn't one that he'd placed?---No, no, definitely not.

10

1320 - - -?---(not transcribable) the wrong side of it.

- - - I think you identified that as the ad for Councillor Salvestro-Martin that Mr O'Grady did place?---Yes.

And then Councillor - sorry, 1321 the ad for Councillor Laxale, I think you identified that as one you thought he placed?---I believe so, ah hmm.

20

1322, an ad from 22 August for the Ivan Petch team?---Yes, I believe that's - - -

You believe that's one he placed?---I believe that's one, ah hmm.

And 1324 it's another ad for Councillor Petch. And I think you identified that as one that Mr O'Grady had placed. And then finally if we go to 1326 and 1327 that's the Save Ryde ad?---Yes, yep, yes, yes that's true.

And you, you have a particular recollection do you - - -?---Yes.

30

- - - that this is one that he came and saw you about and wanted to place. And do you have any recollection of where it was that that layout or artwork came from that constitutes that ad for the Councillors under the Save Ryde banner?---Which one?

Well the Save Ryde ad. You told us you have a particular recollection of Mr O'Grady coming and speaking to you about that?---Yes, but one, oh I see you're pointing to - - -

40

I'm sorry it's the same one?---Sorry, sorry, I was - - -

The same screen. Was that one that was done with the graphic artist in the offices?---Yes, I believe that was. I'm, I'm not sure whether that one actually was done in, 'cause I wasn't overly impressed with that. I don't know why, there was something funny about it, the look of it, but anyway we (not transcribable) the yellow one but it's, that was certainly one that he paid for.

Now, now just thinking about Mr O'Grady, you knew him for a number of years?---A long time, over 50 years, yep, ah hmm.

Right. And is it the case that he was – up until his death late last year he was retired?---He, he was a retired nurse, yes.

Living on a pension?---I'm not sure if it was on a pension, he seemed to be reasonably well off. But he was a very generous type of person as I think you could see from, I did bring a couple of papers in when we did - - -

10

Mr Booth - - -?---Sorry?

- - - please just try and direct yourself to the questions. He was a retired psychiatric nurse, that's correct isn't it?---Yes, I believe that's the case.

And you say you weren't aware whether he was living on a pension?---No.

He lived pretty modestly didn't he?---He, he lived modestly but he, he didn't seem to be hard up. He, he had quite a, quite a - in his house he had quite a collection of artefacts and things.

20

So you'd been to his house?---Well, I had been there one time quite a long time ago.

And did you know that - - -?---That was well before this, this (not transcribable)

Prior to his death his partner had died?---I don't know, I - - -

30

Well, was he living by himself?---I, I only knew, I only ever saw him on his own, I know because when he died it was one of the neighbours that informed me.

Right. So did you know - as far as you were aware he - was he estranged from his family?---I don't know.

So you're telling us that Mr Barry O'Grady, a retired psychiatric nurse, came and saw you and arranged for all of these ads to be placed?---Yes.

40

And how many did he pay for?---Well, he wanted to pay some up front.

How many did he pay for?---He did pay for any at this stage.

You mean as at today?---Yeah.

So he placed ads in July?---Mmm.

And you can't come up with an invoice for that month?---No.

August there's an invoice that you've got which contained reference to the
saveryde ads - - -?---No, no, he pays, he just - - -

- - - but also to a series of Coxs Road ads?---Yeah.

And you can't come up with one for September?---No.

10 Mr Booth, can I suggest to you that the evidence you are giving about
Mr O'Grady is a lie?---No.

You saw that he came and saw you with - and you particularly remember
the saveryde ads because Councillor, because Mr O'Grady wanted to
support each of the Councillors in those ads?---Yes.

20 Right. Can I ask you to have a look a document. Okay. And we can bring
it up on the screen. Do you, if you go to the top of the page do you
recognise this as page 4 from the 22 August, 2012 edition of The Weekly
Times, you see that at the top of page?---Well, it certainly appears to be the
case.

The letters to the editor?---Yeah.

And do you see under letters welcome there's a letter that's - or there's a
heading "Perram the key to Mayor's rule"?---Ah hmm.

And if you read through that do you see it's a letter, when you go to the
bottom, from Barry O'Grady of Melrose Park?---Ah hmm.

30 Now it's the one and the same Barry O'Grady you've been telling us about
yesterday and today?---Ah, yeah, it would be, yeah.

And do you see in that letter Mr O'Grady comments on an earlier letter
from someone else from the week before's Weekly Times?---(No Audible
Reply)

Are you able to read it?---(not transcribable)

40 Yeah. I'll, I'll read out relevant parts of it?---Okay, yeah.

"It was a timely letter from Sheeren Khor Weekly Times 15 of August,
'Beware of push for development'. She rightly points out that ratepayers
have a right to be cynical about the motivation behind the support for the
project by the Mayor and notably ALP Liberal backed Councillors. She
goes on to say Councillor Terry Perram deserves out," I think that might be
a typo, it should say "our"?---It looks like a typo, yeah.

“Our support. In fact, it is Councillor Perram who has caused this situation. It was his key support of the Liberal Mayor that has given the Mayor in effect two votes. When votes are tied six all the Mayor uses his casting vote to push the proposals for the Ryde Civic Precinct forward in spite of community opposition. Councillor Perram is like the character who helps a bushfire, ignites it then rushes over to hold the fire hose. Councillor Perram supported the pro developers Liberal candidate for Mayor three years in a row and close to an election is now crying foul.” So do you see that letter?
---Yes.

10

In that letter Mr O’Grady was expressing some criticism of Councillor Perram wasn’t he?---It sounds like it.

Right. Now I’ll - - -?---So what’s the point?

Could I ask you then have a look at the letters to the editor, and this will come up on the screen as well, from 5 September and you’ll see again, at the top of the page, page 4 of The Weekly Times, Wednesday, 5 September, 2012?---Ah hmm.

20

Do you see a letter under the heading, if we scan down the page, “Now Councillor does back flip”?---Ah hmm.

And if you read that, and I’ll read it out for you?---Thank you.

“Dear Sir, once again Councillor Terry Perram, Weekly Times Letters 29 August, attempts to paint himself as an opponent of the Pro-Development Liberal Councillors. He states, ‘I pleaded with the Liberal Councillors to show some consideration for the residents in the gallery but to no avail.’

30

This is the same Councillor Perram who sided with the ALP women Councillors and voted for Councillor Etmekdjian for Mayor giving him the crucial casting vote on the Ryde Precinct. Councillor Perram has voted for Councillor Etmekdjian for three years in a row. Now close to the Council elections he changes, he starts. Don’t be fooled into supporting him”?---
Yep.

So - - -?---What’s the point?

Well, I’ll tender those two letters, Commissioner.

40

ASSISTANT COMMISSIONER: Yes, those letters will be Exhibit 53.

**#EXHIBIT 53 – COPIES OF 2 LETTERS TO THE EDITOR,
APPEARING ON PAGE 4 OF THE WEEKLY TIMES, DATED 5
SEPTEMBER 2012 AND 22 AUGUST 2012**

MR DOWNING: We'll have physical copies made. So do you recall that Mr O'Grady was a fairly regular writer of letters to the editor?---Oh, only on and off, not terribly regular but, no.

10 So having seen those letters you say that the same Mr, same Mr O'Grady who was writing in the weeks leading to the election indicating that people shouldn't be fooled into supporting Councillor Perram came to you and asked to place an ad supporting for re-election six Councillors, one of whom was Councillor Perram?---Ah, he only ah, he didn't promote, he didn't have any individual ads for Councillor Perram at all.

But you've, but you've seen the Save Ryde ad, can we - - -?---That was, he was, he was, he was the exception.

Can we please bring up Exhibit 21, pages 1330 and 1331 and I want you to have a look at it on the screen?---Yeah, sure. Ah hmm.

20 So you say you have a particular recollection of this ad as being one that Mr O'Grady came and spoke to you about and asked to be placed?---Sure.

And if we go across to the next page you'll see - - -?---Ah hmm.

- - - there among the six Councillors is Councillor Terry Perram?---Yep.

30 Are you seriously suggesting to the Commission that the same time as Mr O'Grady was coming to you and asking to have this ad placed he was writing letters to the Weekly Times indicating that people shouldn't support Mr Perram?---Um, I don't, I, I don't see all the letters because I have a sub-editor that looks after the, the letters column. But ah, in this case here he was supporting the six Councillors um, who were opposed to the development. He wasn't necessarily, necessarily supporting Councillor Perram specifically apart from the fact that he was one of the six who had voted against that ah, development.

Mr Booth?---And that's, they're, they are the six that are identified there.

Mr Booth, when you gave your evidence in the compulsory examination earlier this year - - -?---Ah hmm.

40 - - - you identified these ads as having been placed by Norm Cerreto?---Well that, that was incorrect.

Well - - -?---That, because - - -

That was your evidence at that time wasn't it?---That, that was, that was because they were, they had been incorrectly ah - - -

Mr Booth, the first - - -?---Billed.

- - - evidence you gave to the Commission in compulsory examination earlier this year was that Norm Cerreto was responsible for this ad, correct?--Well I, you showed me something, yes, I didn't have a chance to read it but I - - -

You saw the transcript yesterday?---Yep.

10 You identified other ads but this ad was one of them?---Yes, sure.

Yesterday you told us that it was Barry O'Grady that was responsible for this add being placed?---But it was.

Thinking about it today do you think it might have been Theresa Brennan who was responsible for coming and seeing you and placing the ads?---Who?

Theresa Brennan?---Who's she?

20 Name doesn't ring a bell?---No.

What I'm suggesting to you, Mr Booth is that the evidence you are giving is a lie and a concoction?---No.

30 That you have spoken to either Norm Cerreto or someone on his behalf after you gave your evidence in May to the Commission in compulsory examination and you are now at the request of either Mr Cerreto or that person trying to give evidence in a way to explain away what you told the Commission the first time round?---No.

And I suggest to you that the August, 2012 invoice, which is Exhibit 52 made out to Barry O'Grady is something which has been concocted again after you gave your evidence the last time?---I can't say yes or no to that. I'd have to check on ah, when, when they were prepared. I know that they weren't prepared at the, in June or July last year because um, it had, accounts department hadn't been advised correctly.

40 You understand that lying to the Commission is a very serious matter don't you?---I sure do, yeah.

You also know that presenting documents which you know to be falsified is a serious matter?---Certainly.

To the best of your knowledge when was the August 2012 invoice made out to Mr O'Grady first created?---Well I'm not, I can't, I can't positively say at this stage, I'd have to check on that.

Mr Booth, have you been asked by anyone to come to the Commission and give the evidence you are now giving about Mr O'Grady and his responsibility for the ads?---No, definitely not.

Can you explain why you didn't mention him at all when you first came to the Commission and gave evidence?---No I can't.

10 On the last occasion when you gave your evidence and this is in the transcript of the earlier compulsory examination, Exhibit 51 at pages 310 to 311 your evidence was that the various ads listed on the invoices made out to Corporate Development Australia and Norm Cerreto were placed by Mr Cerreto and described on the invoices as being for Coxs Road because that was the account name?---Yep.

That's the truth isn't it?---They were, sorry am I misreading the question?

20 Just so that it's fair I'll read to you from the transcript, it's up on the screen now pages 310 at about line 47 you'll see that I asked you some questions about the invoices and forgetting the page reference numbers I asked you about the particular ads in July 2012 and about the invoices and I asked you about whether they'd been organised and paid for by Mr Cerreto and you said, "I think that'd be right." And then I asked you about why the invoices refer to them as all being Coxs Road and you said, "Because that's, that was the account name." And then over the page I asked you, "So even though the ads had nothing themselves to do with Coxs Road they were political ads, a number of them, the account was Mr Cerreto's account under the name Coxs Road. Is that what you're telling us?" And your answer was, "Yeah." Was that the truth?---Whereabouts is that? I don't, is that in the - -

30 It's at the top of the page that's open in front of you?---At the top of the page?---I'm not quite sure what the question meant there.

Well the question was about – I'll withdraw that. Your evidence on the last occasion was to the effect that even though these ads were political ads that Mr Cerreto was being billed for them under the heading Coxs Road because that was the name of the account. Was that the truth?---I'm not sure what you're, what the question is. If, sorry - - -

40 Well if you go back to the invoices in the July/August period?---Mmm.

You've seen them on, if we can bring up page, the first page of Exhibit 21, the July 2012 invoice. Exhibit 21, page 1302. You see all of the ads referred to throughout July are under Coxs Road?---Yep, ah hmm.

And I asked you about that on the last occasion and you confirmed that despite the fact that a number of them were actually political ads they'd been paid for by Mr Cerreto and they had been described as Coxs Road in

the invoice because that was the, that was the actual account name?---Yeah, and that was incorrectly billed. I thought I explained that. I thought up til the - - -

What I'm asking you is - - -?--- - - - up to 4 July.

- - - was it in fact the true position as you described it on the last occasion that these were ads paid for by Mr Cerreto and well I should – I withdraw that?---Sorry?

10

Is the true position that these ads referred to in the invoice besides the actual ads that were refer to the Coxs Road Landowners Master Plan, they were ads organised by Mr Cerreto and they were referred to in the invoice as being Coxs Road because that was the account name?---No. I say it was incorrectly billed. I've just found that out, you know, quite recently since we had this, you know, probably in the last few weeks or whatever that we had this balls up with the computer system and apparently we've had a – these billings going out and that's why we had the problem and that's why we had the inquiry and the dispute with Cerreto.

20

But the first notice you got from Mr Cerreto about some dispute as to ads being placed after 4 July which he wasn't responsible for that was in about December last year wasn't it?---It would have been around about Christmas time, yeah, ah hmm.

Right. Okay. Now thinking again about the savvyde.com ads that I've already taken you to a number of times?---Yes.

Do you know Mr Anthony Stavrinis?---Yes.

30

Has he had some role at The Weekly Times?---He's done a little bit of writing for us.

As a journalist or - - -?---As a journalist, yep.

- - - as a PR agent?---As a journalist basically.

Does he work on a freelance basis?---And as a, well he's only been doing volunteer. He was hoping to be able to get a job, that was what he was doing. He was doing a bit of, a bit of freelance stuff, yep.

40

But what, you say you're not paying him anything?---No.

What sort of stuff was he writing? Was he writing copy for ads or was he writing articles?---A little bit of editorial material.

Was it generally editorial critical of the Councillors who were supporting the Ryde Civic precinct redevelopment?---I suppose basically, sir.

Right. Now for how long has Mr Stavrinis had this role at The Weekly Times?---Oh some weeks. I was, I was away for June.

Go back to when you think he first became involved. When did he first start to do this freelance for The Weekly Times?---I don't know, some time, some time last year.

10 Before the election?---I'm just trying to think, he probably did, he did some, I'm just trying to think now. I can't, I wouldn't know exactly, I couldn't put a finger on it.

But you say he's written some editorials?---Ah hmm.

Now thinking about Mr Stavrinis, do you think it might have been him who actually placed the Save Ryde ads?---No, no. Though he did know Barry, I know that, yeah.

20 But you say you have a particular recollection of Barry coming and speaking to you about those very ads?---I thought it was that one. I'm just trying to, 'cause it was all a bit confusing and I was away.

Mr Booth, I've asked you specifically about the Save Ryde ads and you've told me - - -?---Yeah, yep.

- - - you have a particular recollection - - -?---Yeah well I know, that sort of leaves an impression on my head that ad because to me it wasn't a totally attractive ad, I suppose that was what I was getting at.

30 All right. Well what I'm asking is whether you might be mistaken about that and whether in fact it might have been Mr Stavrinis who placed the ad. Could that be the case?---I don't know. Well he, he was, he was doing a little bit with Barry, I know that.

Forget Barry for the moment?---Yep.

I think we've exhausted the topic of Barry - - -?---I can't really forget him.

40 - - - for the day?---I can't really forget Barry.

Try and think about Mr Stavrinis. Do you recall if Mr Stavrinis might have in fact been the person who approached you and asked to place the ad for the six Councillors under the Save Ryde banner?---Not that I recall.

Do you recall him ever speaking to you about wanting to place that ad for Councillor Salvestro-Martin and the other five Councillors?---Not specifically, no.

Do you recall him ever indicating that, that Councillor Salvestro-Martin or Councillor Salvestro-Martin and the other five Councillors in the ad should be billed for the ad?---No.

Now can I ask you what's the standard charge at The Weekly Times for an 18 by seven colour ad?---It depends. It should be, it's \$12 a column centimetre.

10 Well if we go back to the first page of Exhibit 21 which is 1302 you'll see that's an invoice which refers to a series of 18 by seven colour ads and they're all billed at 950?---950, yep.

Have a look at the page in front of you?---Yep. Ah hmm.

Is that the standard charge?---Pretty much the standard, yeah, when we have a contract.

Does it sometimes go up and sometimes go down?---Yeah.

20 Right. Well, the Barry O'Grady invoice which is Exhibit 52 also lists 18 by seven charges of \$950 for each ad?---Ah hmm.

Now I take it Barry O'Grady was a person you had a particular affection for, if anyone was going to get a discounted rate would it have been him?---Ah, well, he, he wasn't asking for anything, any rate cuts.

30 Right. But you obviously had the discretion to give them to certain persons. If you were going to give someone a discount I take it Mr O'Grady would be pretty much top of the list?---Yeah, ah hmm.

But you didn't according to this invoice?---No, and I think they were, because they were invoiced the same as the others.

Now in Exhibit 29, which is some documents from Councillor Salvestro-Martin, there appear some Weekly Times invoices, if we go to page 1666, do you see that's got for the 5 September, 2012 ad, an 18 by seven colour ad for \$200?---Which one?

40 Do you see 5 September, 2012 ad A0178614, hopefully the cursor is going across the screen underneath it in front of you now?---Oh, yeah, yeah, ah hmm.

Do you see that's an 18 by 7 colour election ad for \$200?---Yeah, that's only his portion I think you'll find.

Well, go ahead - - -?---You might find that was sort of multiplied by six.

Go ahead to the next page, you see that's an invoice to Councillor Salvestro-Martin for June 2012 and for 13 June and indeed 6 June it refers to 18 by seven ads where there's a sharing arrangement and there's a particular figure there?---Ah hmm.

\$158.95. So it would seem, wouldn't it, that according to these invoices you normally indicate if it's been charged as the full cost of the ad or a share. Can you explain then how the ad for 5 September is costed at \$200?---How what?

10

How is the ad for the - sorry, the ad at page 1666 for 5 September, how does that come to be charged at \$200?---Well, well, that was a different ad, they, the Councillors would have come in and done a share probably with one of the reps.

But this ad, this particular invoice doesn't refer to it being a share, the other invoice does?---What, what, well, it must have been.

20

Well, 200 doesn't divide into - - -?---Well, well, 18 by seven for \$200 it'd have to be a shared one.

Well, \$200 doesn't divide into 950 does it, Mr Booth?---No, well, it doesn't have to be 950, I mean you, you negotiate.

Well, do you say that the - - -?---And, and the people advertising, they negotiate too, they always try and get it down, they say we've only got so much left in the can, you know, and they don't always deal - they, they weren't dealt with by me personally.

30

So you, you don't know what prices are set for particular clients' advertising?---Well, I don't deal with all those.

Do you know what the price is normally for an 18 by seven colour ad?---It, it can be up to about \$1,500 if we can get the top dollar.

And as low as what?---Hey?

As low as what?---It depends on what you can get.

40

As low as what?---It can be, I don't know, well, I don't know. It's, it's just, I don't want to, I don't give it away, if some, the rep says can we do it for like the opposition's given them a full page for \$200 I say let them have it, we don't want to bastardise our paper.

Well, what's the cheapest you would sell a half-page colour ad for?---Well, usually maybe 750, that'd be about the bottom.

And if you have a look at - oh, I withdraw that. Now, I wanted to ask you about a different topic and that is the loan that you took out last year. I started to ask you about it yesterday. You recall that you took out a loan from Councillor Petch?---Yeah.

And it was in October 2012?---(No Audible Reply)

Do you recall that loan in - - -?---Yes, yes, I said yes.

10 Sorry, and just one last matter about the advertising before I go - I'll come back to the loan. Do you know if there's a special rate that's been negotiated for Councillor Salvestro-Martin of \$600 for a half-page colour ad?---Well, it could have been.

Well, I thought you'd indicated that 750 was really the, as low as you'd go? ---That I would normally go, yeah. But if, if, if the, that's for one off. But when somebody's giving a lot of ads, we call it a contract rate and ah, I'm not, I'm not dealing personally with that. That's one of the reps so, they like to negotiate.

20

All right. We come back to the loan then. So you borrowed \$250,000 from Councillor Petch?---Yes.

Had you had an earlier loan that you had to pay out around that time?---Ah hmm.

And for how much?---What, the earlier one?

Yep?---Um, well there was for 500, yep.

30

\$500,000?---No, no, sorry. 50, 50,000.

50. So there was no loan for \$500,000?---No.

And was the loan for \$50,000 a loan from Mr Cerreto?---Yeah.

And when was that taken out?---Um, oh possibly maybe 12 months ago.

So about a year prior to October, 2012?---Um, possibly um - - -

40

Was it documented?---No.

Was there any security provided for it?---No.

So you what, you asked Mr Cerreto and he gave you \$50,000?---Ah hmm.

Was it paid by bank transfer, by cheque, by cash?---Ah, I think it was by cheque.

All right?---As far as I know.

And was that used for the purpose of, of running the Weekly Times?---
Yeah, cash flow, yeah.

All right. So come October, 2012 what was the particular reason that you
needed to take out another loan? Had you been asked by Mr Cerreto to
repay the existing loan?---No.

10

Had there been some timeframe that you knew you had to pay at the end
of?---No, but I wanted to.

And beyond that \$50,000 I take it you had some cash flow issues that you
wanted to deal with? Now, do you recall that that loan was made up of two
parts, that there was a \$15,000 component where you got a personal cheque
directly from Councillor Petch, do you recall that?---Yes.

20

And if you look at Exhibit 43, page 901, it should come up on the screen, do
you recognise that as a cheque from Councillor Petch to the Weekly Times
dated 10 October, 2012?---It certainly looks like it, yep.

And I'll show you a bank statement from a bank account for the Weekly
Times. And do you recognise that as being the bank account that's used for
the purposes of running the Weekly Times newspaper?---Ah,
Commonwealth ah - - -

30

Do you see there's an account identification number on there? Top left
corner?---Ah hmm. Oh yep, yep.

That ends with the word, the numbers 487?---Ah hmm. Ah hmm.

And do you recognise that as being the standard account into which
payments are made and payments are received for the Weekly Times?---
Um, I imagine - - -

Well - - -?---I don't normally look at these so I, I don't, I can't - - -

40

Well have a look at Exhibit 21, page 130 - - -?---Categorically say yes but
imagine that would be the case.

Mr Booth, just, just so that I'm being fair to you have a look at, we'll bring
up Exhibit 21, page 1302 again, you see the bottom of that, that's one of
your invoices, it actually provides there that you can make payments by
electronic funds transfer - - -?---Oh yeah.

- - - and there's a BSB and an account number, ends with the numbers 487?--
--487, yep. Yeah, certainly.

So that's your standard account isn't it?---Yes. Ah hmm.

All right?---Oh, apparently. Ah hmm.

Now, do you see on the bank statement that I've given you there's a record there of a cheque deposit on 10 October for \$15,000, bottom of the page, last entry?---Oh, yes.

10 10 October?---Yep. Yeah, certainly. Ah hmm.

And that was the same date that Councillor Petch signed the cheque - - -?---
Ah hmm.

- - - and you banked it didn't you?---Yep.

All right. I tender the one page bank statement, Commissioner?---Yep, sure.

ASSISTANT COMMISSIONER: That will be Exhibit 54.

20

**#EXHIBIT 54 – COPY OF A 1-PAGE BANK STATEMENT 10-12
OCTOBER – THE WEEKLY**

MR DOWNING: So there was a \$15,000 component that you received directly from Councillor Petch, and do you recall that there was a \$235,000 component that you received via the lawyer, Mr Laface?---Ah hmm.

30 Do you recall that?---What was the amount?

235. So there was \$15,000 that you got directly - - -?---I did deduct it from it, yep, ah hmm.

- - - from Councillor Petch paid to The Weekly Times account that I've just shown you. And that the other \$235,000 was paid by the lawyer. Do you recall that?---(No Audible Reply)

40 And if you go to Exhibit 43, page 899 which will come up on the screen in front of you. Do you see there's a bank cheque made out to John F Booth from Bendigo Bank?---Ah hmm.

And you're aware that that's Councillor Petch's bank aren't you, the Bendigo Bank?---Yes, ah hmm.

And your - - -?---But I didn't receive that.

Well it was paid to the lawyer and then it was paid out wasn't it to various -
- -?---Sorry?

That money was paid to Mr Laface?---It was, yeah, he, he - - -

And he then paid it out to various sources?---Yeah, he deducted the 50,000
from that before I received it.

10 Okay. Well if we could have a look at that - - -?---Plus, plus a months
interest in advance.

If we have a look at Exhibit 43 page 1115. You'll see this is a trust account
statement from AJL Legal, Mr Laface's firm. And if we go down the page
you'll see there's monies in it shows of \$235,000 on 24 October?---Yep.
That's the start of it, yeah.

And then 30 October you'll see there's a payment transferred to The
Weekly Times again to the account number ending 4-8-7 of \$176, 144?
20 ---Yeah, but I didn't see that first, first amount. You realise that?

Well I understand that. What I'm asking you though is you understood that
the \$235,000 was paid to the lawyer and then he was then paying it out to
various sources?---Yes, from that he was paying before I got the residue.

Well the first payment shown on there on 30 October, that is the first in time
was a payment to The Weekly Times of 176, 144. Do you see that?---Ah
hmm.

30 The second payment it shows was another electronic funds transfer on 31
October, 2012 to Alramon?---Ah hmm.

And that was a company that was controlled by Mr Cerreto. Correct?
---Yes.

So this was a payment of \$50,000. And you'll also see the next entry, 2
November, there are two payments there to the law firm AJL Legal and I'll
ask you whether you recall – you had to pay some legal fees in respect of a
loan?---Yep.

40 Now can I ask you again what were the circumstances of the loan? Did you
approach Councillor Petch and ask if you could borrow 250 from him?
---Yes. We were having a discussion one time and we, we were both
foundation directors of the Bendigo Community Bank so we'd known each
other, you know, for 10 years and I've sort of resigned, retired as a director
a couple of years ago, but so we knew each other well within that. And I
think we were just having a talk one time and he said oh he was going to,
'cause he's fairly open about all his affairs and he said he was going to

reinvest or turn over something and I said well would you be interested in getting a bit more than bank interest because I'm looking for a little bit extra at the moment. And he said yeah.

And did you nominate the amount you needed?---Well he, he nominated what he was going to roll.

But did you tell him how much you needed for the loan?---No.

10 I mean the loan was \$250,000?---Well he said 250 and I said well you know, I'd like to have that.

All right?---Yep. Pretty simple.

Did you discuss with him for how long the loan would be in place and the interest rate?---We didn't really, but the system when he prepared it he, he sort of put that in, he said it was six months at 10 percent.

20 Right?---Yeah.

And was there any discussion with Councillor Petch originally about providing security?---There wasn't originally with, with Councillor Petch. But the solicitor introduced - - -

Right. And it's the case that ultimately you entered into a loan agreement as did your sister Ms Gilkes?---Ah hmm.

And you also entered into a mortgage?---Yep.

30 As did Ms Gilkes. And it's the case that you put up a particular property as security?---Ah hmm.

Is that property in Kirribilli?---Yep.

And Ms Gilkes put one up on Mosman?---(No Audible Reply)

Sorry again, you need to give a verbal response rather than nod?---Sorry yes, sorry.

40 So that was in October 2012?---Yes.

And you've seen that monies were paid out in that month as well?---About November.

Have you - - -?---I think I actually got it about November I think by the time it appeared, by the time it came through.

Well they were, the figures were 10 October and then it would seem later in

October, I can go back to the - - -?---I think, I think I received it in November actually.

Well, there's a record there of the electronic funds transfer on 30 October? ---30 October was it?

If we go up again?---Oh, yeah.

Yeah. 30 October?---Oh.

10

Have you repaid the loan to date?---Hmm?

Have you repaid the loan?---No.

Has Councillor Petch approached you about repaying the loan?---No, ah, but I did get a letter just an automatic one from the solicitor and then I approached, I mentioned it to Ivan, he said don't worry about that, when you're, when you're able to do it. It was in relation to the interest payment actually, I - - -

20

Have you been paying the interest over the course of the loan?---No, I paid the first one and then he said don't worry about the interest, pay it all when you repay the total plus interest.

So the first one was paid for you by the lawyers wasn't it, that is AJL Legal organised for the first payment of interest?---Yeah, he, he deducted it at the beginning, yeah.

30

So you haven't paid anything since then?---No.

Now, just dealing with the \$50,000 amount that was paid to Alramon and you've told us that was a loan was Mr Cerreto had made to you earlier. Do you recall whether there was some discussion with Mr Cerreto around about the time of the repayment of this loan about whether Mr Cerreto once he'd had the loan repaid could settle or settle the payment of some outstanding advertising that he'd had with The Weekly Times?---Actually it was the solicitor who suggested that.

40

Well, presumably you must have made the solicitor aware that there were outstanding invoices for advertising on the part of Mr Cerreto?---Yeah, yes.

So what did you tell Mr Laface, that there'd been a number of invoices that were unpaid?---Yeah.

And did you ask him to pass that on to Mr Cerreto?---Ah hmm.

So this is as at October 2012?---Yes, it would have been, yeah.

And at that point were the invoices that were outstanding the invoices for July, August and September that we've already seen in Exhibit 21?---Well, they were the ones prior to that. I, I, I wasn't aware that those others had been - that well, those, the Barry O'Grady ones had been tacked onto him and it was only after that, that, that I was advised around about Christmastime that was the case.

10 Right. Well, could you have a look at an email, at Exhibit 43 page 2588 and do you see at the bottom of the page there's an email from Johanna Laface, did you understand that to be Mr Laface's wife - - -?---Yes.

- - - who worked in his office?---I, I found that out, yeah, when I did, I was trying to ring to chase up the, some money then I've, then I spoke to her, yeah.

All right. And it's an email - - -?---She said she'd try and chase it, then after that she said no, she couldn't.

20 Well, just - I'm only asking you if you know who she was but she works in Mr Laface's office, you knew that?---Yes.

And she sent you an email on 24 October in respect to settlement figures on the loan, do you see that at 3.17pm?---Oh, 24 (not transcribable)

30 And do you see in that she was indicating that she was going to set out the settlement figures for you to approve, that is for the payment of the \$235,000 that had been received by AJL Legal and she asked you to confirm the following, that the first point was \$50,000 made out to Alramon, "this is the repayment of the loan advanced to you by Norm. I understand this is to repaid from the proceeds, however, you will need to arrange for TWT invoices to be issued in order for you to recoup back some funds for advertisement, approximately \$20,000, therefore it will be the case that a refund will be made to you in payment of these invoices if you provide the invoices directly to me I may be able to transfer the difference"? ---Yeah.

Do did you have a discussion with, was it Mr Laface or, or Johanna Laface at that point about this issue?---Ah, with Johanna I think at that stage.

40 So you said that I've got these invoices that are outstanding and I'd like to have them paid, particularly now that Mr Cerreto's getting \$50,000 back from me?---Yeah.

Right. And did you understand Ms Laface was then taking that up with Mr Cerreto?---Well, I was hoping.

Did you in fact provide invoices to either Stefano Laface or Johanna Laface in order to get them repaid by Mr Cerreto?---Sorry?

Well, in this email you've referred, sorry, I withdraw that, Ms Laface has referred to you being able to possibly get payment on these ads if you could provide the invoices directly to her. Did you in fact provide them?---I imagine so. I would have referred that to Ulrike and I think, I'm pretty sure she would have sent them on. But then we got no action after that.

So you didn't in fact get payment on them?---Sorry?

10 You didn't in fact get payment on them?---Not, not for some time, yeah.

On 24 October, 2012, if we got to page 2591 of the same exhibit, you'll see there's an email there from, at the bottom of the page, it's 24 October, 2012, 18.09, do you see that?---Um, what, what are we looking at now, that's - - -

An email from Ms Eichmeyer?---Yep. Ulrike, yeah.

To Norm Cerreto, and also to info@delitalia. Do you see that email?---Ah
hmm.

20

24 October at 18.09. So this is on the same day as your, in email correspondence with Mr Laface's firm about the settlement of the loans and where the monies would be paid?---Yep.

Do you see that email?---Ah hmm.

And in that email Ms Eichmeyer confirms that the \$50,000 has been paid, that's to Alramon?---Yep. Ah hmm.

30 And she enclosed related invoices for payment saying, "Each only half page charge for a full page"?---Ah hmm.

And asked that Mr Cerreto attend to it?---Ah hmm.

Do you know which invoices she sent?---Yeah, it would have just been that, they were the um, what do they call themselves again? The um, Master Plan.

Coxs Road?---Coxs Road Master Plan ads, yep.

40

So what, the ads that you say were placed up until 4 July by - - -?---Up to 4 July, yes.

Or there were, there were two further weeks but you say Mr Cerreto wasn't charged for those. Do you know, but you've indicated that in fact payment wasn't made at the time?---No.

At the bottom do you see there's a PS?---Yep.

The P is slightly obliterated by hole punching but it's a PS in the email and it states, "Also I was told to send the invoices for Roy Maggio's campaign, also per and ultimately Booth but had no response. Who is paying for those." Do you see that query?---Yep. Ah hmm.

Now, do you have any idea why Ms Eichmeyer was corresponding with Norm Cerreto about who was going to pay for advertisements for Roy Maggio's campaign?---Yes, I do know.

10

Why is that?---Um, well Roy Maggio was sort of out of sorts with us at the time and um, I think he um, um, I'm just trying think how it goes, but he - - -

Well, did you ask Ms Eichmeyer to contact Norm Cerreto about payment for Mr Maggio's ads?---Um, not, no, it was a case of um, I'm just trying to think how it went now but - - -

20

What I'm interested in is - - -?---Roy, Roy, Roy, Roy was wanting to advertise and I wasn't keen about it and then um, um, I'm just trying to think um - - -

ASSISTANT COMMISSIONER: Mr Booth, the question is why was this being raised with Mr Cerreto? Why was he being asked about Maggio's campaign?---Ah, because I had met the two of them together one time and, and Norman said, "Oh, he's a good bloke, you should, you know, kiss and make up, shake hands," um, you know, blah, blah, blah.

30

MR DOWNING: Sorry, so - - -?---You should accept his - - -

Mr Cerreto - - -?---You should accept his advertising.

So Mr Cerreto mediated peace between you and Mr - - -?---Yeah. Ah hmm.

Councillor Maggio?---Yeah.

40

All right. Well, what's that got to do with paying for his advertising?---Well, it's just that um, I wasn't sure he was going to pay it. First I wasn't keen about it.

Well, was the reason you were corresponding with Mr Cerreto about paying for this advertising was he was someone - - -?---Well, I wasn't, I wasn't, that was - - -

Please, please - - -?---I don't, I don't know why Ulrike put that on there um - - -

Mr Booth, was the reason why there was some correspondence on behalf of The Weekly Times with Mr Cerreto about paying for advertising because you understood that he was someone that paid for political advertising from time to time?---No. It was just that, that I had met the two of them together and, and obviously look Roy's not a bad sort of a bloke, I think it's the Italian connection or something, you know you should accept his advertising and in fact Roy Maggio did pay for his own, he came in and paid for all his own advertising with his own cheque. So I sort of felt vindicated in that way.

10

I'm still having trouble understanding what that had to do with Mr Cerreto? ---Well he'd, he'd had a, I'd had a meeting with Norm about the other previous business and Roy had to be there with him. And he said you know, John you should be kind to Roy because he's not a bad sort of a bloke, he's a bit erratic but he means well. Please give him a go. And - - -

Well that was to what?--- - - - accept, accept his ad.

20

Well there's a difference between accepting someone's ads and having someone pay for ads isn't there?---Yeah he didn't pay. That's what I'm saying. And I wasn't sure, well Roy said he was paying for it and on that little email, I don't know why Ulrike put that there, obviously she was trying to jimmy them up to try and make sure that he, that, that Norm followed Roy up to make sure that he was paying. And Roy has since, did come into the office and pay his own cheque for his advertising. Which cheered me up no end, I can tell you.

30

Well I'm still having difficulty understanding what, what purpose there would be in emailing Mr Cerreto about payment for Mr Maggio's ads, for Councillor Maggio's ads. Are you able to assist us in that regard?---Well only that Norm said that I should, I should be prepared to talk to Roy and accept his advertising, 'cause I was giving them a bit of a bum steer at the time. I felt that - - -

So what you - - -?--- - - - he had done the dirty on me in relation to some council item at one time when he reneged on a promise to have an open discussion at council in relation to advertising.

40

Well was it your thought that Mr Cerreto having convinced you to accept Councillor Maggio's ads that he might now pay for them?---Well I wasn't, I wasn't really but Ulrike apparently had some doubts because we weren't too sure about Roy, you know, coming in. But as I say he did come in and he paid in full with his own cheque.

When was that?---It would have been September I suppose, just after the election. It wasn't long after.

Now - - -?---He was one of the earlier ones to pay in fact.

- - - you recall that in June of this year you received a letter from Parisi Lawyers in respect of the advertising Mr Cerreto had put in The Weekly Time - - -?---Yes, yep.

- - - for the Coxs Road Landowners Master Plan?---Ah hmm.

10 Can you have a look at, can you have a look at page 2375 of Exhibit 18, please. It will come up on the screen. Do you recall receiving this email? It's an email sent from Charlies Parisi at Parisi Lawyers to contact us at theweeklytimes.com?---I do. Actually it came a bit delayed because all the emails go via Ulrike and she was in Austria at the time and she junked it. It went to junk mail. And then she said, I got this email saying, oh - - -

Well if we go to the next page you'll see there's a letter of 14 June?---Yeah..... And she said, I found this - - -

20 Did you read that letter?--- - - - this was in my junk mail and I think you should see it.

Well do you recall receiving this letter?---It'd be the date on it, the 14th was it, was it dated the 14th?

14 June. Well that's, the email was received on - - -?---Yeah, a few, a few days after that.

Well the email is dated 17 June. The letter itself is dated the 14th?---Oh, right. Ah hmm.

30 So what's your best recollection about when you received it?---I would have, would have got it a few days after that I suppose.

Well, in fairness to you, Mr, Mr Booth - - -?---But I, I did see it, I did see it, yeah, and I was - - -

In fairness to you - - -?--- - - - quite taken aback, yeah.

Could you look at page 2378 in the same exhibit?---Ah hmm.

40 Do you see there's an email - - -?---'Cause I did, I did reply to it, yeah.

The same day, that is Monday, 17 - - -?---That's the 17th yeah, ah hmm.

And in the letter that you received from Mr Parisi he'd set out Mr Cerreto's complaint about him being billed for advertising - - -?---Yeah.

- - - hadn't he, and he'd indicated that the only period in which Mr Cerreto believed he was responsible for the Coxs Road landowners master plan ads was 23 May through to 4 July, correct?---Till 4 July, yeah.

And he argued the case that he shouldn't be responsible for ads after that point, despite them having been referred to in a series of invoices from you?
---Yeah, ah hmm.

10 And there was reference to a payment being made in December 2012 for \$6,270, do you at the top of the second page there's a letter, if we go back, page 2377, you'll see the reference there to a payment being made on 4 December?---4 December, yeah.

So you - - -?---That, that must have been when we spoke to Mr Cerreto - - -

So you get the letter - - -?--- - - - when, when we're chasing that money, yeah.

20 You get the letter and on the same day you email back saying thank you for your letter and I accept the explanation, go to page 2378, do you see that email?---Yeah, ah hmm.

Now, is it the case that you were contacted by Mr Cerreto or someone else that indicated that they were speaking on his behalf and asked to agree to this proposition, that is that he was only liable for ads up until 4 July?---That he was - - -

30 Were you asked to, to agree to that proposition, he was only liable for the ads up until 4 July?---Well, he was - - -

I should be clear, separate to this letter - - -?---Yeah.

- - - were you approached by either Mr Cerreto or someone who indicated that he was acting on Mr Cerreto's behalf saying we need you to agree to this proposition, that I'm only up for the ads till 4 July?---Yeah, I was approached, I was contacted and - - -

By who?---And they explained I - - -

40 By who?---Well, I think it was Mr Cerreto, I'm - - -

How recently?---Well, it would have been just prior to this letter I think.

Have you spoken to Mr Cerreto about the evidence you gave during your compulsory examination back in May of this year? Did you indicate to him you were asked about advertising - - -?---No.

- - - and who was responsible for it then?---No, no.

Are you certain about that?---Well, pretty, pretty sure, I can't recall having said anything about it.

10 Have you spoken to anyone about the evidence you gave in your compulsory examination earlier this year, told them what you were asked about and what you said?---No, because I - a few people asked me what did you say and I said I can't, it was such a haze I, I couldn't remember a thing about it, I couldn't - until you've showed me some of that I had no idea and I know I wasn't feeling too well that day but I, I hadn't been to bed and it was all a bit of a haze I must admit.

Who's asked you about the evidence you gave in your compulsory examination?---Oh, I can't, I can't say, I can't recollect who asked, who would have asked me.

Well, you just mentioned the fact that people have asked and you had to say well, I can't tell you?---Yeah, well, I'm just trying to think, somebody - - -

20 We're only talking about a couple of months ago?---Somebody probably did but I - I know somebody, a couple of people have but I can't recollect who.

Well, let's try, let's think of possible persons that might have asked you about that. Do you think it might have been Councillor Petch?---I don't think so, not that I'm aware of.

Mr Cerreto?---No, I don't think he did, not that I'm aware.

30 Well, doing your best who asked you about it?---Hmm?

Who asked you about it?---I don't know, maybe Ulrike, no, I couldn't put my finger on anyone but I just have a recollection a couple of people sort of saying oh, you know, how was it and I said oh, bloody awful but - - -

Who knew that you were coming to the Commission to give evidence, Mr Booth?---Good question, you might, you did I suppose, I'm just trying to think who else. I know I didn't promote it very widely, I didn't put it on the front page I know.

40 Well, putting aside publishing it in the Weekly Times who did you tell that you were either coming to the Commission to give evidence or you'd been? ---What was that last question, sorry?

Either you were coming to the Commission or that you'd been to the Commission to give evidence, who did you tell?---No idea.

Is that because there was so many you can't list them now or you just don't remember?---No, I don't think so. It couldn't have been many, I'm, I'm just

um, I really can't positively think of anybody quite honestly. Not something I was spruiking about. I'm um - - -

Well - - -?---There must have been, must have mentioned to somebody. I don't know.

Mr, Mr Booth, you say that the complain that Mr Cerreto took up with you, the complaint about being billed for ads that weren't his back in July of, sorry, in December of last year - - -?---No, it would have been - - -

10

December?---December, yeah.

So he indicated then that he didn't believe he was responsible for any ads after 4 July?---Yeah. Ah hmm.

Right. When you came to the Commission and gave your evidence in compulsory examination you said nothing about Mr Cerreto only being liable for ads up until 4 July did you?---Well, up to those that had been billed I wasn't, you know - - -

20

Well, if you, if the complaint had been made back in December then when you came and gave evidence in May of this year presumably you would have been in a position to tell us all the ads that had been billed to Mr Cerreto or Corporate Development Australia after 4 July were an error and in fact they weren't placed by him, they were placed by Barry O'Grady. There's nothing that prevented you from telling us that was there?---Oh probably, I don't know if I was asked was I, I - - -

30

What I'm suggesting to you is the date that you've given us yesterday and today of 4 July as being the last date when you accept Mr Cerreto was responsible for the advertising is a date that's been suggested to you by him?---It's only since um, in recent times that I've actually been aware of the invoices and, and the confusion that's been there, and the, and the fact that we had the computer crash.

Well you - - -?---And - - -

- - - produced the actual invoices that I asked you about on the last occasion didn't you, they were your documents produced to the Commission?---

40

When, when was that?

Prior to your evidence back in May of this year?---Oh, in May. Well, they were obviously printed out for me. I didn't look at them but I'm not sure - - -

Mr Booth, I want to ask you about one last topic and that is - - -?---Yep.

- - - the redevelopment that you are seeking in respect of your premises?---
Yes.

Now, could I ask you to have a look at a document and it's at page 1346,
and I'll just confirm which exhibit that's part of.

ASSISTANT COMMISSIONER: I think it's the last page of the Booth
bundle of documents which is 47 - - -

10 MR DOWNING: Thank you.

ASSISTANT COMMISSIONER: - - - if I'm right. Could be wrong.

MR DOWNING: You're right, Commissioner. It is. Thank you. So it's
Exhibit 47 I think is it or, Exhibit 47, last page. Do you see that's a letter to
you from the Council, or you care of certain architects - - -?---Ah hmm.

- - - on 15 May, 2013?---Yep.

20 Now, is it the case that 826 Victoria Road, Ryde, is that the premises that
the Weekly Times operates from?---Yes.

All right. And is that the site of what was formally, is it the Wallumetta
Businessman's Club or something of that nature?---Yes it was yeah, at one
time. It was a doctor's premises before that.

Okay. And did, did you some time ago lodge a development application in
order to redevelop the land?---Yes.

30 Into what, into - - -?---Into five villas.

Right. So would the intention be that the Weekly Times would move and
they'd be sold for residential - - -?---No, no, no. It's just, there were three
allotments there. Where the DA is in is not on the Wallumetta property.
It's um, two allotments next door.

Right. So you would stay?---Yep. Ah hmm.

40 But part of it would be sold off for residential - - -?---Of, of the next - - -
- - - premises?---Yeah, the extra area, yeah.

Okay. So five villas?---Five villas, yep.

And how long ago was that application put into Council?---Um, it seemed a
hell of a long time. But um, Peter Hall's the architect. He does most of the
stuff in Ryde and so this letter was, actually went to him. I didn't - - -

Well, just, just try and - - -?---I didn't see that.

- - - try and direct yourself to him question - - -?---Yes.

- - - Mr Booth. It'll just save us - - -?---Yes.

- - - a bit of time?---Yes.

10 When do you believe you lodged the application for this development?---I would have thought 12 months ago.

So has the process considering it being somewhat slow?---Yeah, certainly.

And are you aware of whether the matter, that is your particular application was called up before Council earlier in this year?---Not that I'm aware of, but it was, I did ask the officers and they said it was ready to go but then one of the Councillors, Councillor Pickering had put in a request that it be referred to a committee.

20 The Planning and Environment Committee?---Ah hmm.

And was that something you learnt in the first half of this year?---Oh a couple of months ago.

Right. So perhaps what in May or April, something like that?---Could be.

Now is Richard, and I want to pronounce it correctly, is it Henricus or Henricus? Do you know Mr Richard - - -?---Richard Henricus.

30 Henricus is it?---Henricus, Henricus.

Is he someone that has done some work for The Weekly Times this year? ---He, he was contracted to one of our contractors. He was doing the IT and updating our website. He's a friend of his and he brought him along to the paper.

So he was working not for The Weekly Times but for - - -?---He was not an employee of The Weekly Times.

40 - - - but a subcontractor?---He was working for Cyrius Media. Well I don't know if he was working for him but Stefan who own Cyrius, he was doing the upgrading of our web and upgrading a new software system. He was a friend of his through Ryde Rotary apparently. And he brought him in and - - -

Right?--- - - - and he spoke to Ulrike and said this fellow's supposed to be, you know, a bit of whizz but he had had some problems, he'd had an AVO - - -

MR SIMPSON SC: I'm sorry Commissioner, we just can't hear, we just can't hear (not transcribable)

MR DOWNING: You might just need to move in closer to the microphone again Mr Booth. So he was in there doing some work for this subcontractor who was looking after your IT needs at The Weekly Times?---I'm sorry, well he came in with him.

10 Right?---Yeah.

But was that in the period of about April/May/June this year?---We're up to, what are we now July, yeah, it would have been about April I think, April/May, yeah.

Okay?---He came in with, with Stefan, yeah.

20 Did you know Mr Henricus prior to him coming in to do this work?---Not really. I'd met him possibly three years ago at John Alexander's campaign launch at his, at, at Richard Henricus' house at Eastwood, when he had the campaign launch, about 100 people were there including John Howard and Alan Jones and so on.

So you've been to his house previously?---That was about three years ago just as a, as a journalist, as representing The Weekly Times.

30 Right. And was that the only contact you had prior?---Pretty much. I hadn't sort of, whether I met him occasionally around the place, but not really.

So he'd never done any work directly for The Weekly Times?---No.

Now do you recall in the period that he was doing this work for your subcontractor at The Weekly Times, did you speak to him at all about the delay that you'd had with the DA?---No, not really, no.

40 Do you recall speaking to him at all about Councillor Pickering having brought the matter up before council, that is call your particular matter up so that it was before a particular committee?---I'm not sure if I did, I think Ulrike might have. She was, she was dealing more with, with Stefan than I was.

But did you speak to - - -?---I'm out of - - -

- - - did you speak to Mr Henricus from time to time when he was there on the premises doing some work?---Only, only for a few moments.

Well do you recall whether you asked him at some point to speak to Councillor Pickering about your particular development application?---No, never.

Do you know if your partner, Ms Eichmeyer asked him to speak to Councillor Pickering - - -?---No.

10 - - - about your development application?---No she didn't, no. I think he might have offered to Ulrike but she certainly didn't, I think she would have said not on our behalf please because we can't stand him.

Did Ms Eichmeyer indicate to you that Mr Henricus had offered to go and approach Councillor Pickering on your behalf?---Well I've found out since that he was - - -

20 No, just please, think about what you've spoken to Ms Eichmeyer about, did she indicate to you that Mr Henricus had offered to go and speak to Councillor Pickering on your behalves?---I can't say positively that but I have heard since that the claim is that he has said that he would, he would go and talk to Councillor Pickering on my behalf and I certainly would never have advocated or given any permission for that.

Well, did Ms Eichmeyer indicate to you that Mr Henricus had proposed to her that he might go and speak on your behalves to Councillor Pickering? ---I can't positively say that. I think he indicated he knows Councillor Pickering.

30 And do you know what Ms Eichmeyer said to him on that being raised with her?---I think - well, she, I think she said not on our behalf please because John wouldn't appreciate it.

Did you ever speak to Mr Henricus about your desire to have this development application dealt with more promptly?---No.

Did you ever express that the, the wish that if it could be dealt with more promptly it would help you to get your development through and improve your cashflow?---No.

40 Did you ever ask or - ask Mr Henricus to speak to Councillor Pickering to try and prevail on him to assist in getting the DA approved and indicate that in return that some more positive coverage might be forthcoming in The Weekly Times?---No way.

Because there's no doubt is there is that Mr Pickering hasn't been the subject of very positive press in your publication for the last couple of years, you'd accept that wouldn't you?---Well, he's done, he's done nothing to deserve it.

Well, I take it that's confirmation on your part that he's had fairly negative press from your paper?---Sorry, what's the last bit?

I take it you're confirming through that answer that Mr, Councillor Pickering's had fairly negative press through your publication?---It's a two-way street.

10 Did you ever express to Mr Henricus that he might have some role at The Weekly Times if you were to move away from the paper?---No.

That he might become general manager?---Never.

Commissioner, is that a convenient time?

ASSISTANT COMMISSIONER: Yes. We will adjourn for 15 minutes.

SHORT ADJOURNMENT

[11.32am]

20

ASSISTANT COMMISSIONER: Thank you, please be seated.

MR DOWNING: Thank you, Commissioner.

Now, Mr Booth, you've told us in evidence that in respect of Mr Henricus he hadn't done any work for The Weekly Times but he was working for a contractor, is it Cyrius Media, and what he was doing was something to do with your computer system, so updating the software?---He was - sorry, I'd better get closer.

30

Sorry, you've told us he was updating the software?---Cyrius was, yeah, updating the software and the, the - - -

And your website?---Our website and the, and software.

Right?---Yeah.

And that was, and that was the work that Mr Henricus was doing for them? ---No, no.

40

So sorry?---No, that, no, that was Stefan Sojka and he had another person working for him who was called Shaun something.

But the company Cyrius Media, you'd contracted with them to do this work?

---Yes.

To update your website and update your software?---Yes, yes.

And they'd brought in Mr Henricus to work on those tasks?---Well, he, he, he came with Stefan, they were friends to start with.

Right. But he was working for Cyrius Media?---Well, he, apparently he was contracted, well, he was doing some contract work for Cyrius, yeah.

But he wasn't doing any work for The Weekly Times?---Well, apparently - - -

10

I asked you about this earlier, Mr Booth?---Yeah, well, he - - -

Do you recall?---No, you said was he employed, he wasn't employed by The Weekly Times.

Well, what was he, was he doing something for The Weekly Times?---He - apparently Stefan had said that he was some sort of a business whizz or sales whizz and he might be able to give some suggestions and so he had him in I think for about three weeks.

20

Doing what?---And he, he didn't do anything and I said, I asked Henricus are we paying anything for this fellow to be here and so he hasn't come back.

Well, was he selling ads for the paper?---I'm not sure what he was doing because I didn't have direct contact with him. He was, he was dealing with Stefan and Ulrike.

30

So you, you can't tell us whether he was selling ads for the paper?---No.

Do you recall, and this is - - -?---Well certainly there was, there was no ads sold by him anyway if he was.

Exhibit 51, which is the transcript of your evidence in compulsory examination, page 333, it will come up on the page in front of you, do you see at line 10 I asked you about Richard Henricus?---Ah hmm.

And I asked you if you knew that person and you said yes?---Ah hmm.

40

And I asked does he do something with the paper, you said, "Yes, I've known him in the past. He's doing something with us now," and I asked you what and you said, "Well, he's doing some sales." I asked, "For how long has he worked for the paper?" And you said, "About three weeks." I asked you, "So he has a sales role?" And you said, "Yes." And I said, "What, for advertising?" And you confirmed, "Yes." And then I asked you, "Does he do anything else, perhaps PR or liaising with people, or acting on behalf of the paper?" And you said, "Well that's what selling's about isn't

it.” So on 9 May this year you told us that he was doing sales, advertising sales for the paper. Was - - -?---Oh, he was supposed to be doing - - -

Was that correct?---Um, yes and no because he didn’t sell anything. Um, and he was - - -

10 So - - -?---I, I wasn’t sure because Ulrike had spoken to Stefan and then I, later one when he, I saw him around. I said, “What’s he supposed to be doing here?” And she said, “Well, he’s trying to do ah, an appraisal of, of improving the sales. He supposed to be a business consultant.” And um, I wasn’t very happy about him being there. He’d had the AVO out against um, by John Alexander. And John Alexander is a, is a client of ours as well as being a Member of Parliament. And they’d been in court. And I didn’t want spoil our relationship um, with him.

Well, what was the position as at May, April and May, 2013 that Mr Henricus was out trying to sell advertising for the paper?---I’m not sure what his role was because I had no um, no part of - - -

20 Well, why did you tell the Commission - - -?---the dealing with him.

- - - on 9 May that he was doing sales for the paper for about three weeks - - -?---Well, I - - -

Which would take it back into mid April?---Well I thought that’s what he was, what he might have been doing but I, I wasn’t sure because I really didn’t have any - - -

30 What, so you took a punt last time when you gave your evidence?---Well I, I, I assumed that’s what he was doing?

Are you aware of whether Mr Henricus has ever approached any other Councillors to do with your development application?---No. Not as far as I’m aware.

I know you’ve told us that you didn’t give him any okay to go and speak to your - - -?---Well, certainly not, yeah.

40 - - - speak to Councillor Pickering about your development application?---No. Ah hmm.

Did you ask him to speak to any other Councillors?---No.

To your knowledge, well withdraw that. To your knowledge has he approached any other Councillors about the development application?---Not to my knowledge, no.

You told us earlier in your evidence about Mr O'Grady sitting down with the graphic designer at the Weekly Times. Who was that?---Who was - - -

The graphic designer?---Ah, Andy.

Andy's surname?---Ah, Cyprus, Cypriot ah, Protius, Protius.

10 And so Andy Protius, assuming the surname's correct is the graphic designer that would have sat down with Mr O'Grady on a number of occasions?---Yes.

And come up with ads?---Sorry?

And come up with ads?---Yeah, they were playing with them, yep.

Including the saveryde.com ad?---I'm not sure which ones they were, but he did come in early in the piece, yep, and um, later on they were, they were supplied ones. Ah hmm.

Thank you, Commissioner.

ASSISTANT COMMISSIONER: Thank you. Yes, is there an application to cross examine?

MR HYDE: Yes. Thank you, Commissioner. Mr Booth, I appear for Mr Petch in these proceedings. Mr Booth, you've given some evidence about Mr O'Grady placing ads from time to time?---Could you please speak up a little louder if you don't mind.

10

Sorry. You've given some evidence about placing ads from, that Mr O'Grady has placed ads from time to time. Could the witness be shown two documents?

MR DOWNING: We can bring them up on the screen if it will assist.

MR HYDE: Oh, if you could (not transcribable). Mr Booth, looking at those documents you can see that they're both advertisements, they're both advertisements in your paper? You have to say yes or no?---Sorry?

20

You have to say yes or no for the recording?---What's the question again?

The question is both of these documents are advertisements that appeared in your newspaper. Correct?---I'll have a look.

All right?---Yes, I would say they were, yep.

All right. Now do you see looking at the first advertisement which is dated 29 August, 2012 it has a picture of Terry Perram, Council Elections 2012 at the top? Do you have that one?---Yes.

30

Do you see that that is said to be an advertisement authorised by Barry O'Grady and then it gives his address?---What the Terry Perram ad?

No, I'm sorry, I'm just using that to draw your attention to the correct page?---Oh, right.

But the advertisement is down the bottom. Can you see that?---Oh you mean the half page down below?

40

Yes?---Yes.

All right. And do you see that that is an advertisement that appears to be authorised by Barry O'Grady?---Correct.

And is that one that you recall, thank you, is that one that you recall Barry O'Grady discussing with you at some point?---Yes.

All right. Thank you. If you can pick up the second document that's before you or alternatively look on the screen in front of you, do you see that - - -? ---It's not up yet.

Sorry?---You referred to this one.

Yes?---Yep. Ah hmm.

10 It's got the word "stop" written across the top?---Yes.

All right. Now do you see that that is, that bears a date albeit very small at the top, but a date of Wednesday, September 5, 2012?---Yes.

All right. And do you see that that is authorised by Barry O'Grady?---Yes.

And it gives his address?---Yes.

20 All right. And do you recognise that as being his address? Do you recognise, do you recognise the address on the document - - -?---Yes.

- - - that is 35 Lancaster Avenue - - -?---Yes, ah hmm.

- - - Melrose Park?---Yep.

All right. Thank you. I tender those Commissioner, if that's a convenient point.

30 ASSISTANT COMMISSIONER: Yes. Those two articles will be, sorry those advertisements will be Exhibit 55.

**#EXHIBIT 55 - COPIES OF TWO ADVERTISEMENTS
APPEARING IN THE WEEKLY TIMES 29 AUGUST 2012 AND 5
SEPTEMBER 2012 – AUTHORISED BY MR BARRY O'GRADY**

MR DOWNING: We can provide colour copies which might be easier to read, Commissioner.

40 ASSISTANT COMMISSIONER: Yes.

MR DOWNING: We'll have those made available.

ASSISTANT COMMISSIONER: Yes, Mr Hyde.

MR HYDE: Thank you, Commissioner. If the witness could be provided with Exhibit 21 and in particular page 1315. And perhaps if that could be put on the screen that would be very helpful.

Now looking at that advertisement Mr Booth, do you see – now is it possible Mr Booth that this is one of the advertisements that Mr O’Grady placed, that is the advertisement at Exhibit 21 page 1315, which is on the screen in front of you?---Yes.

Thank you. Now, just moving to a different topic, Mr Booth, do you recall that when you received the loan from Mr Petch that you had an advance for a sum of \$15,000 that was paid to you separate to the balance of the loan?---Yes.

10

And is it the case that you required the \$15,000 from Mr Petch in order to pay the printers at that particular point in time on an urgent basis?---Yes.

And did you convey that to Mr Petch at some point?---Yes.

And I take it that was the reason that you were then provided with that fund marked separately?---Yes.

20 Thank you. Yes, nothing further, thank you, Commissioner. Thank you, Mr Booth.

ASSISTANT COMMISSIONER: Yes. Does anyone else - yes, Mr Bender.

MR BENDER: I appear for Councillor Salvestro-Martin, Mr Booth. Your wife Ulrike as I understand it is responsible for invoicing at The Weekly Times, is - - -?---Can you speak up, please or could you talk into the - - -

30 I’m sorry. Your wife Ulrike is responsible for invoicing at The Weekly Times, is that correct?---Yes.

You need to indicate orally, Mr Booth?---Sorry.

You need to indicate orally yes or no?---I did say yes.

I’m sorry?---You’re getting like me.

40 And she was responsible for invoicing in August 2012?---Well, she doesn’t do all of it but she, she’s sort of office manager and we have a couple of other staff members who, you know, share those responsibilities but - sorry, what was the actual question?

Well, going back a step does Ulrike supervise the other staff that you just mentioned?---Yes.

And that was the position in 2012 was it?---Yes.

She was in Austria in August 2012, is that right?---In, in June and she was away twice in Austria and Colombia.

When was that?---June, July and September.

When she was away who was responsible for doing the invoicing?---One of the, one of the girls, either Debbie or Christine.

What is their responsibilities in, in the office generally?---Ah, reception and ah, and entering the, entering the invoices into the computer system and then on, printing them out and posting at the end of the month.

10 Those tasks apart from the reception task ordinarily occur under the supervision of your wife?---Yes.

Has her absence in those periods in 2012 caused invoicing problems for the newspaper as far as you're aware?---Well, I know we've had some problems but we had a computer crash, that was the worst part of it and everything collapsed and that's where we had this problem with the, that Cerreto account and so on, they, they, they joined up - she was trying to explain it to me how you have three layers but it's beyond me but the computer whizz kids could explain it better than I can.

20

Apart from the computer crash did Ulrike's absence have any impact on the organisation in terms of invoicing?---Sorry, what was that?

I'll withdraw that. Apart from the computer crash - - -?---Yes.

- - - did Ulrike's absence cause any problems in respect of invoicing?---It could have done, I'm not physically aware of it.

Nothing further, Commissioner.

30

ASSISTANT COMMISSIONER: Thank you. Yes, Mr Andronos.

MR ANDRONOS: Mr Booth, I appear for Councillor Perram. Mr Booth, The Weekly Times is published on a Tuesday, is that correct?

---Yes, ah hmm.

And I take it that on the day that it is published it is finalised for printing, is that correct?---What was that, was that question again?

40

Sorry, I'll ask, I'll ask that again. If it's a published on a Tuesday is it correct that it is finalised, the layout is finalised for printing on the day that it is published, is that correct?---That's right, I should be there now, yeah.

Yes. And what time of day is it ordinarily finalised for printing?---We're supposed to complete by 2 o'clock to get it onto the press.

Yes. Thank you, Mr Booth. Nothing further.

ASSISTANT COMMISSIONER: Yes, Mr Neil.

MR NEIL QC: Thank you, Commissioner.

Mr Booth, I appear for Mr Norman Cerreto?---Sorry?

I appear for Mr Norman Cerreto. Do you understand that?---Oh thank you. Okay. Yep, thank you.

10 Thank you. In the May of 2012 what was the invoicing system in your newspaper? Can you just tell us what the system was, how it worked? ---When you mean, you mean what was the system, it's - - -

Just describe it. Was it, how was it based? How did it work? Tell us what was the nature of the system for invoicing?---Well it all goes in, it's all computerised. I'm not quite sure of what the, how to explain, what the question is.

20 Well tell us what the system of invoicing was if you'd be so good?---When you say system of invoicing - - -

Well whatever the system was you have described some aspects of it as a balls up. Is that so?---That's right, yeah, we had a complete crash apparently. I wasn't aware of that previously, but I've become aware of it and Ulrike looks after that part of it. And we have a, a woman come in Liz. We also have our own general fellow, Glen who comes in and tries to clean up the, the mess. And there's always, with computers, a bit like women, you know, you can, hard to live with and hard to live - you can't live without them.

30 Well perhaps, perhaps we'll move to another question. Was the, was your, is it fair to say that your computer system for invoicing, well your system for invoicing between May and September 2012 was a complete shambles? ---We, we, no I wouldn't say that exactly, but we had - - -

Getting close to it?--- - - - we had, no we had a, we had a complete glitch when the system broke down.

40 Look at one stage for August, as I understand it, you had three different invoices issued to O'Grady, Corporate Development Australia and Mr Norm Cerreto for the same set of adverts. Isn't that right?---I know, that's correct. That's a real balls up. I can't, I can't believe it. It wasn't - - -

A complete shambles wasn't it?---Sorry?

It was a complete shambles?---Well it was only those particular ones, but somehow when we had, we were directed to take from Norm Cerreto's to other thing, it seems that one, whoever was, one of the, whoever the girls

was that was installing the, doing the invoices, the thing must have got duplicated or quadruplicated or triplicated on to three different invoice, invoice systems - - -

Is the other thing you're - - -?--- - - - for the same ads.

10 Is the other thing you're meaning to refer to the fact that at some stage you learn that Mr Cerreto had an arrangement with the Bietola family to in effect go halves in the bills up to 4 July?---I was aware but only afterwards. Mr Cerreto hadn't informed me early and he was getting the full bill. He then later told me that we should have been billing half to the other family across the road.

And what's your best recollection of when he told you that?---It would have been, well maybe, it could have been July I think.

20 Could it be earlier?---I might, I don't know if, I can't say precisely. But I know he did tell me but then we tried to bill the other family and they said that they weren't willing to pay.

Could I just ask you to look at two pages which I think have been provided to Counsel Assisting. Do you recognise those as - I'm sorry you haven't received it yet. Thank you. I want to ask you if you recognise those as a copy of an invoice May 2012 issued to Norm Cerreto Coxs Road Centre and one dated June 2012 issued to Norm Cerreto Coxs Road Centre. Do you see that?---Yep, yes.

30 And, Commissioner, I don't think they've been tendered. If I'm wrong I'll apologise but I'd like to tender those.

ASSISTANT COMMISSIONER: Yes. I'm make them Exhibit 56.

#EXHIBIT 56 - COPIES OF TWO WEEKLY TIMES TAX INVOICES DATED MAY 2012 AND JUNE 2012 - NORM CERRETO

40 MR NEIL QC: Thank you. Now, was this the situation that the Council had come up with a master plan for Coxs Road and the residents had come up with another one, master plan for Coxs Road?---Yes.

And Mr Cerreto had involvement in the second one?---Yes.

Or the non-Council one?---The, the, the Landowner's Master Plan.

Yes. And was the, were the two plans put on public exhibition by the Council for public comment?---Yes.

And was the, as best as you can recall was the exhibition period between, I think 9 May and 22 June, of 2012?---Something like that.

And Mr Cerreto wanted to have some advertisements proclaiming the virtues of his Coxs, or his and his citizens Coxs Road development plan put in the paper, correct?---Certainly, yep.

And did you understand he wanted to do that for the period of the public exhibition and for about two weeks thereafter to thank people?---Yes.

10

And I think in the long run there were a large number of citizens who made some kind of contribution by way of submission or the like to the Council, is that right?---Correct, yes.

About the different plans?---Yes.

And Mr Cerreto, his cut off date for the adverts as far as he was concerned was 4 July, is that right?---4 July, that's correct.

20

Yes. Now, the, I just want to ask you something about a piece of evidence you gave in the private hearing, Exhibit 51, page 304, if it's possible to have the witness shown that either in hard copy or on the screen, Commissioner.

ASSISTANT COMMISSIONER: Yes, Mr Neil.

30

MR NEIL QC: Have you been shown some, do you have, do you have some private compulsory examination evidence in front of you there? You don't. I wonder if 304 could be put on the screen. Oh, thank you. Now, if you go down to about line 30, if that could be done please, do you recall that you were shown by my learned friend, Mr Downing some documents. Do you see it's, there's reference to documents there? See that, Mr Booth?--- Which line are we looking at now, sorry.

Right, let's go to, let's go to line, just below line 30?---Yeah.

40

My learned friend, Mr Downing asked you to look at page 21 of some documents he was putting to you then. I, I don't know that they're exhibits here but he was showing you some documents on that occasion. Do you see that? Do you see what's written and there and what you answered?---Where ah - - -

Line 30. All right - - -?---130?

Now if I could ask you look at page 21 of volume 1 and so on?---Yeah.

Do you see that?---Yep.

And then just below that it is said, "21 is a May, 2012 invoice to Corporate Development Australia, correct?" And you said, "Where are we? Oh, May. Yep." Can you see that?---Yes.

Now, in light of the fact that you were shown in the witness box in May of this year, 9 May an invoice to Corporate Development Australia, and if you look at your next, the next question/answer you were asked if you, "Were you later asked to change in the invoice name to Corporate Development Australia?" Do you see that?---Yes.

10

Now, what I want to ask you is this, are you sure that Mr Cerreto ever asked you to change from Cerreto to Corporate Development Australia on the invoices?---I, I believe that was the situation.

Could you be mistaken about that?---Well, it was, it was Corporate - that's, I think that's the name, I've got Corporate Development Australia as far as I know there was a, I was, I, I, was, I thought at first that was the half going to the Marsita Bietola family when he said to invoice to that, that name.

20

You see I want to suggest to you he didn't give you the name Corporate Development Australia, would you think carefully and see whether you can agree with me or not?---Well, which one was it then?

Well, did he say something to you about the Bietola family?---Well, to be fair to the Bietola family saying that they, they were supposed to pay half.

30

Now, all right. Would this be the case, that if you changed from billing Mr Cerreto to Corporate Development Australia you must have done it some time about May of 2012 because you were shown in the private hearing an invoice of May 2012 address to Corporate Development Australia, correct?

MR DOWNING: Well, I object.

THE WITNESS: Yeah, that, that's so, yes.

MR DOWNING: I object to that. I object to the question because it misleading.

40

ASSISTANT COMMISSIONER: Yes. Mr Neil, I think particularly with this witness - I mean we do allow leading but I don't think that question's fair in its term because there's been quite a bit of evidence about matters being changed later. I don't think we could guarantee in any way that that was when it was changed for example. I don't know that you're going to get any sort of useful evidence from this witness on that topic or indeed any topic but if you want to, if you want to try to elicit something in another way you can.

MR NEIL QC: It may be, Commissioner, that you're correct but the - and in view of a lot of his evidence yesterday and today I don't need to ask him about quite a bit of that evidence but we had asked if we were able to be provided with the exhibits that had gone with the private hearing, that accompanied it and we were told that they weren't available. Could I just - to limit this ask if it's possible to have a look at the May invoice referred to at line 34 on 9 May, 2013?

10 MR DOWNING: Commissioner, my concern about this is though that there seems to be suggestion that the fact that in May of this year there was an invoice to Corporate Development Australia dated May 2012 some way indicates that it was issued in that name at that time and I didn't understand that to be the effect of the question, sorry, the effect of Mr Booth's evidence.

ASSISTANT COMMISSIONER: You mean - as I understand the question it's being put that he was told in May 2012 to change the name.

20 MR DOWNING: But I think it's based on a premise that the fact that there was an invoice made out to Corporate Development Australia with that date on it must mean it was issued in that name at the time, that doesn't follow.

ASSISTANT COMMISSIONER: Well, that's right and that's - but I, I - there are, there are invoices in evidence which have been issued to both Mr Cerreto and to Corporate Development Australia, Mr Neil.

MR NEIL QC: Yes, but not from (not transcribable)

30 ASSISTANT COMMISSIONER: Not - and I don't see actually how it would assist you to, to look at the May invoices unless you can tell me why.

MR NEIL QC: Well, I'll move on, Commissioner.

Could the witness be shown Exhibit 21.

ASSISTANT COMMISSIONER: Any particular part or - - -

40 MR NEIL QC: Well, I want to ask him to look at the - well, perhaps I'll just, I'll shorten it for a moment. Is this the case, Mr Booth, that your firm, Weekly Times, I won't ask you about timings at this stage, but your firm issued invoices for July, August and September advertising with the invoices directed in respect of the same advertising, one set of invoices to Corporate Development Australia and one set to Norm Cerreto?---Yeah, I believe that to be the case, I find it quite amazing, yeah.

And have you any idea when it was that the invoices dated July, August, September to Norm Cerreto were actually created?---When they were created?

Yes, when they were, when they were compiled?---What each one of them?

Yes?---Well month by month I guess. They go out on the last, we print the invoices off on the last day of each month.

And have you any idea when the invoices for the same advertisements dated July, August and September 2012 addressed to Corporate Development Australia were created or compiled? Did the same happen, month by month?---Month by month, yeah, ah hmm.

Now another topic, you have given some evidence about a discussion with Mr Cerreto what you called Christmas or thereabouts in December 2012 about his part of what he owed and what he said was the Bietola family part?---Yep.

And he'd made it plain to you can we take it late 2012 firstly that he was, he and his group were only responsible to 4 July?---Yes.

20 And secondly that they had to be divided up?---Yes.

And but you tell us yesterday that you meant to do something about this but you slipped in doing it. Is that right?---Yes.

And I just want to ask you could you look at these documents, these have been provided to Counsel Assisting, Commissioner.

ASSISTANT COMMISSIONER: Yes, thank you.

30 MR NEIL QC: These emails dated 3 December, 2012 between Ulrike in your office and Christina Corniti about the account including possibly of having some money sent by electronic transfer. Have you had a chance to read those?---(No Audible Reply)

Were you aware that Ms Christina Corniti worked for Mr Cerreto?---No.

All right. I seek to tender those, Commissioner.

40 ASSISTANT COMMISSIONER: Yes, that email exchange will be Exhibit 57.

#EXHIBIT 57 - EMAIL EXCHANGE BETWEEN CRISTINA CORNITI AND ULRIKE EICHMEYER

MR NEIL QC: Could I ask you this, that was an amount of \$6,270 transferred electronically from Mr Cerreto to The Weekly Times on 4

December, 2012?---I'm not certain of the date, but I know there was an amount, but that sort of rings a bell.

Could I just show you a document, I'd like to ask you to look at a receipt?
---Okay.

I don't think we've given that to Counsel Assisting, Commissioner, but I, we can provide more copies.

10 ASSISTANT COMMISSIONER: Thank you.

MR NEIL QC: Now, so if I could just ask you if this, could it be that either late November or very early December prior to 3 and 4 December could it be in that time frame that Mr Cerreto told you that he was only responsible for the ads up to 4 July and that, they were to be, go halves with the other family?---That could be correct, yes.

20 All right. Now, there was some questions about a loan that you made, that you obtained from Mr Cerreto. Did he, do you recall that, that this loan arrangement was made with Mr Cerreto late in July, 2012?---July? Um, I'm not, I'm not certain of the exact date but um - - -

All right, can you - - -?---That could well be. Yep.

Did he give you, did you have trouble with paying the printers at the time?--
-Yep.

And did you ask him for some emergency loan in effect?---Yes.

30 And did you tell him that, how long did you tell him you'd need it for, initially at least?---Oh, I probably said for a couple of months.

Could have been a few weeks?---Oh, I'm not sure now. Yep.

Could have been a week or two?---Could have been. Ah hmm.

All right. And did he give you a cheque for \$20,000 payable to the Weekly Times as part of the loan?---It could well be.

40 And did he give you another one that was, that in affect went to the printer, for \$30,000?---That's possible, yep.

And as it turned out when you got the \$250,000 from, pursuant to the loan arrangements with Mr Petch, bearing in mind you handed back some for interest and so on, but when that transaction came about you paid out Mr Cerreto, correct?---Correct.

And, all right, there's seems to have been at that stage some possible inquiry about whether Mr Cerreto could pay some of, such invoices as he owed. Is that right?---Yes.

But, isn't it correct that the loan you got from Councillor Petch happened in the last week of October, I think between 24 and, or thereabouts and a few days later in October you got the Petch arrangements - - -?---Yes.

- - - completed?---Correct.

10

And you've got the 6,270 payment I suggest to you, they made it about five or so, six weeks later on 4 December. Do you accept that?---Yes.

Yes. Now Mr Maggio, he favoured the Ryde precinct redevelopment didn't he?---Yes.

And he paid for his own advertising in your paper. Correct?---Yes, yes.

20

And would this be the case, you never saw Mr Cerreto come into your newspaper and sit down with any graphic designers to design advertising did you?---No.

Nor, nor did he ever send you any mock ups of adverts for councillors did he?---No.

And - - -

MR DOWNING: Sorry, was there a response, I didn't - - -

30

MR NEIL QC: Oh sorry, did you answer? I thought he, I thought he (not transcribable)?---Yeah I said no.

Yes. And I just want to ask you one thing, do you recall getting a letter from Mr Parisi and could the witness again be shown please Exhibit 18 and I draw your attention to page 2376. And sir, if you look at the second page of that letter, 2377, that, at the top of that page refers to the payment of 6,270 on 4 December. Correct?---Yes.

40

And later in the page it says in effect that the Fazzolari family, and they were joined, they, they, they, you understood that they were jointly involved with the Bietola family, in their side of the arrangements. Is that right? ---Yes.

The letter in effect says that Mr Cerreto's been let down by them, but he'll pay out their half. Correct?---Correct.

And have you since received a further sum of \$7, 600?---Six thousand, six thousand two seven, no 7,000, yeah.

What I'm putting to you is he's saying that he'll send you shortly the \$7,600 which would make up a total of 13,870 as your newspaper received the 7,600?---Yes.

Thank you. If you look at the top of page 2377, the second sentence in the first paragraph starts, We note. Do you see that?---Yes.

10 And it says, We note that our client advised you then that the invoices for the period after 4 July, 2012 were not our clients, however it appears that you have not since updated your records. Now can you have a look at that sentence?---Yes.

And that, the phrase, the word then is referring is it not to 4 December?
---True.

20 And, yes. Now I just want to ask you this, you weren't able to say what persons that raised the question of you giving evidence at the private inquiry. Correct?---Sorry, what was that?

When Mr Downing asked you to name any persons who'd asked you whether you'd given any evidence at the private inquiry you weren't able to name anybody were you?---No.

Now were they a few number of people whoever they were?---Sorry?

30 Were they, were they few in number whoever they were?---Oh it would have been a very few. I might have been even been dreaming it. Quite honestly it's hard to know because they tell you you can't tell your mother something you know, it's pretty hard to fathom.

And did I understand that you gave some evidence earlier this morning that Mr Cerreto had contacted you, I think you said shortly before you got Mr Parisi's letter in June this year?---Yes.

Now, are you sure of that? I want you to think carefully. Did you, did you see Mr Cerreto generally in community affairs in any event at times?---I did see him, yeah, you know, at functions and so on.

40 I want to – what I want to suggest to you is you're mistaken because I want to suggest to you that Mr Cerreto did not speak to you about the matter of what invoices he owed in respect of what periods between the time of your private inquiry, private examination evidence and now. Do you agree with that?---That could be right.

All right. Thank you.

ASSISTANT COMMISSIONER: Yes. Is there any other examination sought? Mr Downing, do you wish to re-examine at all?

MR DOWNING: No, commissioner.

ASSISTANT COMMISSIONER: Thank you. That concludes your examination, Mr Booth. You are now free to go?---Thank you, Commissioner.

10 Thank you.

THE WITNESS EXCUSED

[12.41pm]

ASSISTANT COMMISSIONER: Yes, Mr Downing.

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

20

ASSISTANT COMMISSIONER: Yes, just take a seat, Mr Mahony. And do you wish to seek a section 38 declaration?

MR MAHONY: Yes, miss.

ASSISTANT COMMISSIONER: Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by this witness and all documents and things produced by 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.

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

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

MR MAHONY: Take an oath.

ASSISTANT COMMISSIONER: Thank you.

ASSISTANT COMMISSIONER: Yes, Mr Downing.

MR DOWNING: Thank you, Commissioner. Mr Mahony, if you could state your full name for the Commission?---John Francis Mahony.

And your date of birth?---22 September, 1952.

10

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

And, Commissioner, in the same way as other witnesses I'd ask that there be a suppression order in respect of Mr Mahony's private address.

SUPPRESSION ORDER IN RELATION TO MR MAHONEY'S PRIVATE ADDRESS

20

ASSISTANT COMMISSIONER: Yes, I make that order.

MR DOWNING: Now, Mr Mahony, you're a solicitor?---Yes.

And acting in practice through the firm Mahony Taren Lawyers?
---I was, I've now commenced my own practice under the name Mahony Law.

Mahony?---Mahony Law.

30

Mahony Law. Okay. But as at 2012 you were practising under the firm named- -?---Mahony Taren, I was.

Now, I wanted to ask you about your particular knowledge of the Ryde Concerned Citizens' Association?---Yes.

Now, do you recall that in June of last year that you met with a number of clients to discuss the formation of a particular community association?
---Yes.

40

And if I could ask you to have a look at Exhibit 28 at page 1248, it will come up on the screen in front of you. Do you recognise that as a bill that you – if we go to 1247 just the page before, you can see a bill from your firm or then firm of 26 June, 2012 to the Ryde Concerned Citizens' Association?---Yes.

And if you go to the next page there's schedule of attendances?

And the first one is an attendance on 15 June, 2012, conference with clients, one point two hours?---Correct.

And JFM is a reference to you?---That's me.

Does that assist you in recalling that was the date of the first meeting?
---Yes.

Can I ask you then, can you recall who attended that meeting?
10 ---To the best of my recollection Councillor Petch was there, Warwick Cooper and his wife and I understand Phil Peake, there was I think one other gentleman whose name I didn't record.

Does Rex Honey ring any bells or - - ?---Not really, I wouldn't like to speculate, I, I, I didn't record the name.

So it's the case you didn't make any note of who attended at the time?
---Only, only those persons. Well, I actually didn't recall, Warwick Cooper and um, ah, Councillor Petch were the only ones who I noted down as
20 attending.

Now, are you able to recall whether it was Councillor Petch who rang up and organised the meeting?---No, the um, the clients were referred to me by Mr Cerreto.

And had you acted for Mr Cerreto previously?---Just previously, yes, for the first time.

So what was the first contact you had that led to this meeting, was it a call
30 from Mr Cerreto or from Councillor Petch, or from someone else?---Um, I actually can't recall. Um, I - - -

Do you know if it was a contact with you personally or whether it might have been through a secretary or someone else at the firm?---It was probably um, a contact with me personally ah, most likely ah, to arrange a meeting which obviously occurred on 15 June to meet with members of the Ryde community.

And how did you come to understand that there'd been a referral from Norm
40 Cerreto?---He had mentioned that he was going to refer um, these people to me.

Had you been acting for him in something else around that time?---I, I had acted for him once and once only previously, probably a month or so earlier.

So what, some time in approximately May he'd mentioned that there would be a community group coming to see you?---Yes.

Did he mention a Councillor Petch would be coming along as well?---Yes.

Did he tell you something about the nature of this community group?---Only that there was a problem with the Ryde Civic Redevelopment and they needed some help.

So legal advice - - -?---Yes.

- - - in relation to it?---That's right.

10

All right, so is it the case that you can't recall specifically who rang up?---No I can't.

But an arrangement was made for a conference - - -?---Yes.

- - - on 15 June?---Yes.

Did you know who was coming to that conference prior to their turning up?---No. Other than possibly Councillor Petch.

20

Because Mr Cerreto had mentioned him - - -?---Yes.

- - - in your earlier discussion?---Yes.

All right. Now do you recall was it during that meeting that there was a discussion about those present wanting to take some steps to try and prevent the Ryde Civic Precinct Redevelopment from going ahead?---Yes.

30

And in the course of that discussion did Councillor Petch speak about his view in relation to that?---Yes.

Did he indicate his strong opposition to that project going ahead?---Yes he did.

And did, did you know Councillor Petch prior to this meeting?---No. No.

So you'd not met him before?---No. No.

40

And do you recall separate to Councillor Petch did the others present, for instance Mr Cooper, speak about his views in relation to the Ryde Civic Precinct Redevelopment?---Yes he did. Yes he did.

And were views expressed by all of the persons present?---Yes.

To the best of your recollection?---Yes.

In the course of that first meeting did Councillor Petch give you some documents?---He did.

And I'll show you, do you recall if your, that the version you got of them originally were in a particular coloured paper?---They were um, white with some pink.

All right. I'll ask you to have a look at, sorry, it's quite a slab of documents but I'll have them provided to you and to others. And I'll provide two copies for the Commissioner. We can bring them up on the screen as well but I'll tender them in a moment. First of all can you have a look through.
10 You'll see hopefully the first page of the documents will have the number 2042 at the top right corner?---That's correct.

And you'll see it seems to be a Council, a City of Ryde document?---Yes.

And it does seem to be something to do with a well, it's described as, "Item 5, Report of the Civic Precinct Committee Meeting 3/12 held on 6 June"?---Yes.

And then you'll see it lists, "Civic Precinct Committee Minutes at page 1,"
20 and then in the index it then goes on to the second item being, "The City of Ryde Precinct Redevelopment Tender Report, page 3," and then a series of attachments?---Correct.

And the attachments include an executive summary, a WT memorandum, Lend Lease images, probity insurance report, an evaluation report, a legal risks and financial overview, and a commercial and risk principle document?---Correct.

Looking at those now to the best of your recollection are they the documents
30 Councillor Petch provided you?---Yes they are.

Commissioner, I'll tender those.

ASSISTANT COMMISSIONER: Yes. That will be Exhibit 59.

MR DOWNING: Commissioner (not transcribable) Exhibit 58, I - - -

ASSISTANT COMMISSIONER: I don't know whether I actually said it
40 but the document that Mr Neil produced about 6270 being sent, I don't know whether I formally marked that but that would be Exhibit 58.

**#EXHIBIT 58 - COMMONWEALTH BANK RECEIPT DATED 4
DECEMBER 2012 FOR THE AMOUNT OF \$6,270.00
TRANSFERRED FROM DELITALIA TO THE WEEKLY TIMES**

#EXHIBIT 59 - BUNDLE OF DOCUMENTS PROVIDED TO JOHN MAHONEY BY IVAN PETCH ON 15.6.12

MR DOWNING: Thank you, Commissioner.

Now, Mr Mahony, I take it a fair bit of the time at that meeting which again going back to the bill seems to have been for 1.2 hours was taken up with discussion?---Correct.

10

Did you glance through the documents at the time?---Not at the meeting, no.

Right. But if we go back to Exhibit 28, page 1248 you'll see the following day, 16 June it does refer to perusing documents 1.2 hours?---Yes.

And was that perusing these documents?---They, they were some of the documents.

20

Now, I take it at some point either during the meeting or on the following day when you were reviewing them you noticed that a number of these documents were marked in capitals "Confidential"?---I, I'm not sure whether I noticed it but I subsequently have noticed it, at the time.

Well, I mean it's marked on the index?---It's marked, yes, the pink ones were confidential, yes.

30

And indeed if you actually go to the attachments, for instance you'll see at page, you'll see numbers on the bottom of the documents, if you go to page for instance 79 and that number's on the right bottom hand corner?---Yes.

You see that that's marked confidential as well as it being referred to as such in the index?---Yes.

And it's the same with the other two isn't it, attachment F which is at 228? ---Yes, E and F are the same, and G.

40

So you're saying that you can't recall whether you actually noticed they were confidential at the time you received them or when you read them the following day?---I can't recall whether I did but I probably did, I wouldn't have missed that I wouldn't have thought.

Now, I take it you understood these were documents that came from the Council?---Correct.

And on reading them did you regard them as a report from particular committee to the Councillors about this project?---Yes.

And did you understand that they contained commercially sensitive information about the various tenders that had been received by the Council?---Yes.

For instance comparing the different tenders, looking at their merits from different perspectives?---Yes.

10 Now, can you recall whether the contents of the document were discussed at the meeting on 15 June, 2012?---Not the contents of the documents. I received quite a few instructions at that meeting which, most of which then reappeared in the letter that I sent to Council and in fact the majority of what I, if not all of what I put in the letter to Council came from the discussions that were given, that I had with the clients who were very forthcoming and knowledgeable on the subject that we were, we were discussing.

Right. Well, do you recall Councillor Petch speaking quite a bit during that meeting?---Yes, he did but no more than anybody else.

20 Did he make reference to particular problems he perceived with the Ryde Civic Precinct redevelopment?---Yes.

In terms of benefit to the community?---Yes.

Cost?---Yes.

The loss of public ownership of land?---Yes, all, all of that was set out in the letter that I subsequently sent to Council.

30 And do you recall whether during that meeting you made any inquiry of Councillor Petch about where these documents had come from?---No.

Did Councillor Petch at that meeting indicate anything about whether he was present as a putative member of the Ryde Concerned Citizens Association or whether he was there in his capacity as a Councillor?---He, he certainly was not a member of the Ryde Concerned Citizens Association which was only then being formed and he made it clear that he was not a member of that committee.

40 Did he say anything to express an intention that he should be seen at some distance to the Ryde Concerned Citizens Association which was to be formed?---Yes, I believe he would have said words to the effect that it was not appropriate for him to be involved as a Ryde Concerned Citizen because his role was as Councillor.

Right. But you didn't understand that, that Councillor Petch was present and seeking to retain you on behalf of the council?---No, certainly not.

All right. Well in the course of that meeting was there a discussion of whether some letter might be sent to threaten proceedings against the Council?---Yes.

And was your advice sought in terms of formulating that letter?---Yes.

And perhaps a basis for a threat of some legal action?---Yes.

10 And did you give some opinion about what basis there might be for legal action that the Ryde Concerned Citizens Association might bring?---Yes.

And what was that advice?---Well the advice first of all was based on the facts that had been given to me that the Council appeared to be operating outside its jurisdictional limits, outside its capacity and that on that basis it was possibly open to challenge. I then sought further advice from counsel, from a barrister, who confirmed that part of what Council was doing was contrary to the Act.

20 Right?---And I put that in a letter, so it's all in the letter.

This is the letter that subsequently was sent?---Yes, on 22 June or whenever it was.

30 Now was some advice given in that first meeting about whether there might be some need to form a particular form of body or association for the purposes of any litigation that might ensue?---Yes. I made it clear that I wanted to know which entity I was working for because what I had before me was a number of very concerned citizens who were very emotional about the whole issue and very informed. And they made it clear to me that this was totally contrary to public policy as they believed and that they wanted to stop it because it was just wrong for the citizens of Ryde. And it was, it was a very emotional meeting. And I basically, in answer to your question, I said well we've got to, we need some sort of body for whom I'm acting rather than desperate people here and there who I don't know.

40 Right. And so did you suggest that a particular form of what, an unincorporated association might be formed?---Yes, I think, I think that was my suggestion. I've been involved in some of these matters before in other cases.

And did Councillor Petch say anything about whether he would be part of that unincorporated association or again whether he should remain distant from it?---I can't recall whether he said he would or he wouldn't, but he certainly was not part of the association. I can certainly recall that.

And at that point did you understand the association to constitute the people except – if we take Councillor Petch out for the moment - - -?---Yes.

- - - the people that were present in front of you?---The people who were present in front and they, and they also said, those people in front of me said that there were other people who would contribute to what the association did and would effectively become members of the association.

Now could you have a look at Exhibit 28 at pages 1214 to 1218. It'll come up on the screen in front of you in a moment?---Ah hmm.

10 Do you recognise that as the letter that you - - -?---Yes.

- - - sent to the Mayor of Ryde?---Yes, it is.

And that's the letter arising out of the instructions you received at the - - -?
---Correct.

- - - the meeting?---Yes.

That is that you're to write a letter express the concerns of those - - -?---Yes.

20 - - - persons making up the Ryde Concerned Citizens Association?---Yes.

And to threaten some proceedings?---Yes.

And if you go to page 1218 you'll see that that was, as well as being sent to the Mayor was copied to the General Manager and it would seem all Councillors?---Yes, the matter, the matter was expressed to be as being very urgent and urgent action was taken and we wanted to ensure that as many decision-makers as possible were informed of it so that no one was missed.

30 And also sent to Ross Woodward at the Department?---Yes.

Now, in terms of formulating that letter do you recall that the process was that you received the instructions at the meeting?---Yes.

You then reviewed the documents that had been provided to you by Councillor Petch - - -?---Yes.

- - - on the subsequent day, the 16th?---Yes.

40 And can I ask you, did you have an understanding at that early point when you were first seen about who your client was?---Yes.

Did you have a file opened at the time?---Yes.

And did the file have a front sheet nominating a client?---Yes.

And did that nominate Ivan Petch?---Yes.

Was that your understanding about who the client was?---Not, not at the end of the meeting, I thought that may have been the client when, before the meeting started but certainly after the meeting it was clear that the client was the association which then entered into the costs agreement which of course as you know we need to have signed.

So that the association was something that Councillor Petch indicated he wouldn't be a member of?---Correct.

10 But is it the case that throughout the time when you acted for the Ryde Concerned Citizens Association the majority of your actual instructions as to what to do, what to say, what to send actually came from Councillor Petch?---Correct.

So notwithstanding that he wasn't part of it he provided the instructions to a large degree?---Correct.

20 Now did you have any discussion about fees at that first meeting?---I think I may have given, told the meeting what my hourly rate was at that time and basically I, I, I think I recall that they said they would have to basically pass the hat around, they were very concerned, they being the members who said they were to be members of the association, they were very concerned that costs didn't get out of hand because there wasn't a lot of money going around that they could obtain to pay legal fees.

Did you agree to act on a pro bono basis?---No.

30 Did Councillor Petch say anything about whether he might be able to obtain some funds that could be used to pay your fees?---No, no.

Commissioner, is that a convenient time?

ASSISTANT COMMISSIONER: Yes. We will resume at 2.00pm.

LUNCHEON ADJOURNMENT

[1.02pm]