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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 2.03PM

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

ASSISTANT COMMISSIONER: Please be seated. Yes, Mr Downing.

MR DOWNING: Thank you, Commissioner.

10 Now, Mr Mahony, I asked you before lunch about the letter you sent on 22 June, 2012 and this is the correct order isn't it, so on 15 June you have the conference with clients, you receive instructions then to send a letter threatening proceedings?---Correct.

You give some advice about an association being formed and about the type of proceedings that might be threatened?---Yes.

On 16 June you then review the documents that Councillor Petch has given you?---Yes.

20 And on 20 June you draft a letter?---Prior to that I think I briefed counsel.

Right. Now, I took you to the documents before and you acknowledged that there's markings on them in pretty obvious places - - -?---Yes.

- - - that they're confidential?---Yes.

Had you done any work in respect of the Local Government Act and the activities of councils prior to this time?---Yes.

30 You were aware, weren't you, that under the Local Government Act there's particular provisions about information and the use of information?---Yes.

And were you aware that there's a model Code of Conduct that's applied to different, well, to all councils?---Yes.

40 And can I ask you to have a look at Exhibit 1, pages - we'll start at 1596, it'll come up on the screen. You see this is the Code of Conduct for Ryde Council, go to the second page at the bottom, you'll see that it's the version that was endorsed by Council on 27 September, 2011 and I'd ask that you accept from me that this was the version that was in place as at 2012? ---Yes.

Were you aware that under the model provisions for the Code of Conduct there were parts that dealt with the use of Council information?---No, not, no, not specifically.

Well, can I ask you to have a look at page 1611 if you bring that up. I take it though even though you didn't have you say a particular awareness of the provisions of this document in respect of the use of information - - -?---Yes.

- - - you'd understand wouldn't you though that Councillors would have to use material that they received in the course of their Councillor duties that's confidential on a confidential basis?---Correct.

That is that they wouldn't be at liberty to distribute it to whoever they choose?---No, that's right.

10 Well, if you look at page 1611 under 5.8 you'll see that it provides that in respect of information obtained in your capacity as a Council official you must only access the information needed for Council business and must not use that Council information for private purposes. Now, wasn't what you understood Councillor Petch doing when he saw you was using Council information about this Ryde Civic Precinct redevelopment project for private purposes, that is to assist a fledgling community organisation in order to threaten proceedings against Council?---If that's the definition of private purposes, yes.

20 Well, you understood he was there for private purposes though, he wasn't there as a representative of Council was he?---There as a - no, he wasn't giving instructions as a Councillor.

Well, then he could only have been there for private purposes presumably? ---I, I presume so, if that's private purposes means.

30 Did it cause you any concern that what he was doing was feeding you Council information, confidential Council information, which he was asking you to use to threaten proceedings against Council?---The majority of what I put in the letter was given to me in conference directly from the clients and they're only, they're only a few parts of the information that he gave me that I was able to use to fill in a few gaps.

But even, you've told us that Councillor Petch was a person who spoke quite a lot at the initial meeting?---Yes.

And you've told me that the majority of your - I withdraw that. It was the majority of your instructions ultimately came from Councillor Petch?---Oh, I didn't say the majority, I said he was an equal contributor.

40 I thought you'd agreed with me earlier that when you actually thought about the actual obtaining of instructions and provision of information that he had probably provided more than the others?---Well, sorry, I mean the instructions yes but at the actual meeting he was an equal contributor to the information I received at the first meeting.

Well, did you have any concern that given that he's there not as a Council officer, sorry, as a Council member that he's been privy to a whole lot of confidential information that there might be a bit of a problem with him

giving you that information and you then using it to threaten proceedings against Council?---I didn't, I didn't consider it, no.

Did you think there was anything that might be a breach of the conduct?
---No, I didn't think about it at the time.

Or the Local Government Act?---No, I didn't think about it at the time.

10 Reflecting on it now would you accept that given, when you're given documents by him marked plainly confidential and you're using those in part as well as other information that Councillor Petch and others had given you to threaten proceedings, that that creates a pretty significant conflict for Councillor Petch as a Councillor?---In hindsight that's probably the case, yes.

20 Because he's coming to you saying here is this organisation that - or this group of people, group of residents that wish to threaten proceedings against Council, I'm a Councillor of the Council, here is information I've got in the course of my duties as a Councillor, I don't wish to be seen as part of this organization but I'd like you to threaten on behalf of this organisation which you'll form some proceedings against the Council?---I think, I think the only reservation of that is that it's not a problem in relation to matters which were in the public domain like those, those parts of the Council meetings that were published or available for publication.

30 But there's no doubt at all that what you had went well beyond that, the information you had?---Certainly I wasn't sure whether the committee meeting which was not marked confidential was in fact public domain material. The other was confidential and I appreciate that and I basically skimmed through that and I don't think there was any part of that that I used because it wasn't relevant to what I was doing.

Well, but to the extent that Councillor Petch expressed views to you in the meeting on 15 June - - -?---Yep.

You couldn't know for, with any degree of confidence that what he was telling you was material available to the public as opposed to material that he'd obtained - - -?---No.

40 - - - on a confidential basis through his work as a Councillor?---No, I couldn't.

Well - - -?---But a lot of, a lot of what he said was corroborated by um, information given to me by the other members of the public who were there.

Which can be consistent with two things, I mean, one proposition might be that that was material that was available in the public domain. Another

possibility would be wouldn't it that Councillor Petch had been a bit generous in making that material available to other persons who shared his interest but who weren't part of Council?---They're two possibilities. I don't know which one it was.

After the well, I withdraw that. On 20 when you drafted the letter - - -?---
Yes.

10 And do you recall that you prepared a draft and then sent it to someone?---
Yes.

And it was Councillor Petch you sent it to?---Yes.

Can I show you an email, do you recognise that as an email from you to Councillor Petch on 21 June, 2012?---Yes.

Where you've referred to several emails and, of yesterday and today?---Yes.

20 In which Councillor Petch has suggested amendments to the letter to be sent to the Council?---Yes.

So you sent it through to Councillor Petch for his final approval?---Yes.

And you made reference to certain amendments that had been made - - -?---
Yes.

30 - - - in the email and to the fact that the letter was to be sent to all Councillors as well as the Mayor, was to be emailed to Ross Woodward, the Director of the Department of Local Government, and that once it had been forwarded to Council it was going to be copied to Alan Jones?---Correct.

And you saw Councillor Petch's confirmation that that could take place?---
Yes.

So I take it he was the person that was giving you the instructions for the purpose of the content of the letter?---Yes. The um, ah, Mr Cooper also had some input into the content of the letter.

40 Do you mean for the purposes of the discussion at the initial meeting?---No, this is for the, the meeting, the - - -

Well, do you have any record of any email communication with Mr Cooper where he's settled the content, or suggested the content?---I, I recall that he sent me an email pointing out a number of things that he wanted to be put into, into the letter. I think that was, that was the email.

You recall an email from him?---Yep.

Are you certain it was for the purposes of this letter?---Ah, it might have been for the purposes of the subsequent letter to, I can't recall actually.

But is it the case that, so Councillor Petch gave you some instructions as to the content of the letter - - -?---Yes.

And also as to what should be done with the letter, who it was to be sent to and where it would be released?---Yes.

- 10 I tender a copy of the email and the attachment to it which is the draft letter, Commissioner.

ASSISTANT COMMISSIONER: That would be Exhibit 60.

#EXHIBIT 60 – COPY OF AN EMAIL FROM MR MAHONY TO MR PETCH DATED 21 JUNE 2012 WITH DRAFT LETTER ATTACHED

- 20 MR DOWNING: So is it fair to say that at this point Councillor Petch was the main source of instructions for the purposes of the activities of the Ryde Concerned Citizens Association?---Correct.

So having confirmed those instructions you then sent the letter on 22 June?--Ah, was that the Friday, I, I think it went on the, I'm not sure if it went on 22 or actually on the Monday.

Well, if you, if you go back to the document in Exhibit 28, page 1214?---Ah
hmm.

- 30 It's dated 22 June?---Which is the Friday, yes.

And it does seem that it was sent by, was it certified mail?---Right.

Just see there's, the - - -?---Yes it was.

- - - label's at the top?---Yeah. It wasn't, wasn't email or faxed I don't believe. So it probably got there on the Monday.

- 40 Now, can I ask you then to look at some emails at pages 1222 to 1223 of Exhibit 28. Do you see there's an email from you to Councillor Petch – now there's actually no date on your email which is in the middle of the page but if you look at the emails above and below- - -?
---Ah hmm.

- - -it would seem that you received an email from Mr Best at Clayton Utz at 5.10pm on Monday, 25 June?---Yes.

And that was enclosing a letter from Clayton Utz – if you go to the next page 1223 you'll see the enclosed letter?---Yes.

It would seem that you then forwarded that letter on to Mr, Councillor Petch?---Yes.

And you'll see Councillor Petch then forwards it on to Mr Cooper according to the email of 25 June, 2012 at 9.07pm?---Yes.

10 So you accept don't you that you forwarded it on sometime in it would seem the early evening or late afternoon of 25 June to Councillor Petch?---Yes.

And in the email you've asked Councillor Petch if he could, "give an estimate of the number of people that the association you have formed represent." Do you see that?---Yes.

I take it that represented your understanding, that this association was something Councillor Petch had formed?---That's how it reads. Um, I think he encouraged the association to be formed but that's as far as I know, I
20 don't know actually um, whether he was as instrumental in forming the association. He came, he came with the clients um, who are members of the community to the meeting ah, and- - -

Having as best you can recall being the person that actually organised the meeting in the first place?---As far as I know, yes.

So can you think of any other construction we could put on that language other than that it was your view when you sent the email that this was an association that Councillor Petch had himself formed?---Ah, I think the
30 other possible um, um, interpretation would be that it's, it's an association he assisted to be formed. I really don't know.

Well, in any event, if you go to the letter from Clayton Utz- - -?---Sure.

- - -that was a response to your letter, wasn't it?---Yes.

So that you'd sent a letter out on behalf of this association?---Yes.

40 It had gone to Council and it now appeared from this letter at page 1223 that the Council had retained Clayton Utz to act on their behalf?---Correct.

And in that letter, Clayton Utz asked you to provide urgent details of who you were acting for and indicated that they were instructed that your letter contained information or referred to information which was confidential? ---Yes.

Now, to the extent that you'd had any, any doubt at all about whether you might have been given confidential information prior to this point, did this

letter cause you to pause and wonder whether in fact Councillor Petch had given you material which was confidential Council documents or information?---Yes, yes, it did.

And did you raise that concern with Councillor Petch and ask him whether he believed he was in some, in a proper position to provide you with that material?---No, I did not.

10 What did you do to raise it with him?---I didn't, I basically sent the letter which mentioned that it was confidential, the letter from Clayton Utz.

Well, if we go then to page 1222, what you did was you forwarded this letter and the email from Mr Best at Clayton Utz on to Councillor Petch?
---Yes.

And you asked him for information?---Yes.

20 So I take it again you've sent it to Councillor Petch rather than Mr Cooper because you regarded him as the primary source of instructions?---Yes.

Now, if I ask you to go – could you please go ahead now to page 1276 of the same exhibit. Do you see that that is a letter that you sent to Lend Lease on 29 June?---Yes, I recall that.

And do you recall that was a letter that you sent out to basically make the, make, try and dissuade Lend Lease from progressing their deal with- -?
---Totally because the matter was urgent and it was of the highest public interest to stop it.

30 So that, so that having tried on behalf of the people that had seen you to persuade the Council that they should stop because you were going to threaten proceedings- -?---Yes.

- - -if they took it any further, you also wrote to Lend Lease to try and dissuade them from progressing it?---Yes.

40 And can you recall whether this letter was in terms of it's content something again that was drafted on the basis of instructions mainly from Councillor Petch?---From both Councillor Petch and from Mr Cooper.

Now, I took you previously to your bill, and it's at page 1247, the same exhibit, for \$2,777.43. If we could scan down so that we can see the total. You'll see there's your fees then Council's fees, and then disbursements coming to a total of \$2,777.43?---Yes.

And do you recall that, you sent this out on 26 June?---Yes.

And on 28 June that you were in fact paid some \$2,700?---Ah, I'm not sure of the exact date but it was, it was around about then.

I'll ask you to have a look at a document - - -?---I've seen a trust account receipt which said it was paid in cash so I'm not sure of the date. Or an office, it would have been a trust account receipt. Thank you. Yes, that's correct.

10 Do you recognise is a Mahony Taren - - -?---Yes.

- - - Trust Account Receipt - - -?---Yes.

- - - for \$2,700 cash - - -?---Yes.

- - - received on 28 June, 2012?---Yes.

Commissioner, I tender that document.

20 ASSISTANT COMMISSIONER: Yes. That trust account receipt with be Exhibit 61.

#EXHIBIT 61 – COPY OF A MAHONY TAREN LAWYERS PTY LTD LAW PRACTICE TRUST ACCOUNT RECEIPT DATED 28 JUNE 2012

30 MR DOWNING: Now, can you recall was it Mr Cooper who brought the money into you?---It was.

So he brought you the money in cash?---Yes.

Did he indicate to you who had actually provided the funds?---Ah, no. No. I was actually away at the time but I did speak to him on the phone when he visited the office with the cash.

40 And did he say anything about who had been the source of funds?---I, I recall that he, he said something like um, "We've got the money together. This is probably all we can get."

Did he say anything about whether Councillor Petch had paid it out of his own pocket?---Oh no. No. He didn't, he didn't mention Councillor Petch at all.

So he didn't say anything about - - -?---No.

- - - that Councillor Petch might have managed to find the funds from an anonymous benefactor?---No. Nothing to, nothing like that all.

Did he mention Barry O'Grady?---No, never heard that name. My understanding was that he had actually said, passed the hat around and that this was almost all he could get. In fact, the bill as you can see was paid \$76 short.

Now, if you go back to your bill which appears at page 1248, the same exhibit, that is Exhibit 28 you'll see there's an entry there for 25 June, 2012, "Phone from Ivan and drafting resolution"?---Yes.

10

Now, was that a resolution or, I withdraw that. Do you recall now that that referred to a phone conversation you had with Councillor Petch on that day?---Yes.

So 25 June was also the day on which you had forwarded on to Councillor Petch the letter from Clayton Utz?---Yes.

So do you recall having a conversation with him on that day about a particular resolution that he wanted to put before Council?---Yes I do.

20

And was his instruction that he wanted you to assist him in drafting a resolution that he could put before Council as to what Council should do in response to this letter from, that had been sent to Council on behalf of the Ryde Concerned Citizens Association?---Correct.

So at this point your instructions were, Councillor Petch and others come and see you, he indicates to you that he doesn't want to be part, or seen to be part of this particular community association that's to form?---Yes.

30 He gives you instructions amongst others to draft a letter threatening proceedings against the Council?---Yes.

He gives you documents which are marked as confidential?---Yes.

And which appear to have come from the Council?---Yes.

You then get him to settle the text of the letter which you send threatening the proceedings?---Yes.

40 He gives you direction as to, to whom it should be sent?---Yes.

The letter goes out. You get a response from a firm of solicitors on behalf of the council?---Yes.

- - - raising a concern that you've had access to confidential information, or referred to it in some way in your correspondence?---Yes.

Councillor Petch then gives you directions to or instructs you to prepare a motion which he wishes to put before Council as to how Council should manage or deal with the threatened proceedings raised in your letter?---Yes.

10 Did you have a concern at this point that there was something improper about the way in which Councillor Petch was instructing you?---I didn't actually because the whole matter was of such huge public interest and concern that the public policy benefits outweighed any other concerns I may have had, but I can understand that Councillors sometimes use or work with community organisations to achieve a result which they're also trying to achieve on the floor of Council.

Well, I mean you would be aware that Councillor Petch was perfectly entitled to raise concerns about the Ryde Civic Precinct redevelopment in Council?---Yes.

And to vote according to how he thought that project should be managed? ---Yes.

20 And you were aware that there had been votes?---Yeah, yes.

Were you aware at this point that there had been deadlocked votes on a number of occasions and the Mayor, Councillor Etmekdjian, was using his casting vote?---Yes.

30 Didn't it concern you that what Councillor Petch was doing was in effect setting up a sham community association in order to create some perception of community outrage at this project and then use that as a means of threatening proceedings against Council?---What I experienced at that first meeting was community outrage and, and- - -

ASSISTANT COMMISSIONER: Yes, from three people?---Yes, yes, Commissioner. Three, three people who were also- - -

40 Sorry, how does that justify – I don't understand how public policy justifies a Councillor potentially breaching the Local Government Act. Are you suggesting it does?---No, no, but what, what I'm saying is that in answer to the question as to where there was public concern, the three or four people who were there also said that they had petitions from about 3000 people who were vehemently opposed to the whole project and on the face of it, from what they told me, that the project was one that actually needed to be stopped.

And that justified breaching the Act and the Council's Code?---Well, I'm not saying that it did justify it.

Well, why are you raising it then?---I- - -

You've raised it in the context of explaining why you didn't think Mr Petch had a conflict of interest or, or was potentially breaching confidentiality?
---Oh, no, I think, I think he – in hindsight he did have a conflict of interest and he did have um, he may well have breached confidentiality, but it was more in the context that I didn't see a big problem with a Councillor mobilising support from the community to, to- - -

Yes, if it's done honestly?---Yeah.

10 If it's not done behind the pretext of some sham organisation?---Yeah, I don't think it was a sham organisation. I never, I never saw- - -

Was it ever formed?---It was an unincorporated association so it was never incorporated, no.

And never signed up any members?---I'm, I'm not aware of who was signed up and who – I left that all to Mr Cooper.

Yes, Mr Downing.

20

MR DOWNING: Mr Mahony, was your thinking at the time when Councillor Petch was giving you these instructions in, was it mid to late June- - -?---Mmm.

- - -that the public policy concerns of these residents that had come to see you trumped duties of confidentiality?---No, I didn't, I didn't actually consider that question at all. My only consideration was that ah, I never saw or thought that – it never crossed my mind that Councillor Petch was doing something for his own benefit. It appeared to me that he was doing something for the benefit of the community.

30

But you understand don't you a distinction between a Councillors presenting a petition to Council and saying these thousands of people are opposed to this project and the Council needs to listen- - -?---Yes.

That would be one means of raising- - -?---Yes.

- - -a concern about, on the part of the public about a project?---Yes.

40 It would be quite another for a Councillor to in effect set up or form a community organisation and have it threaten the Council he's a member of and then direct you to draft a motion as to how the Council should respond to that threat?---Well, firstly, as I said, he wasn't a member of the association as far as I'm aware. I don't know for sure whether he formed it or they came – the, the community members came to him to ask him to form it.

I took you to your own email before where you referred to it as having been formed by Councillor Petch?---Yes, I, yes, yes.

What I'm struggling to understand is what your, what – I withdraw that. Did you give any thought at all during the time you were acting for the Ryde Concerned Citizens' Association as to this possible conflict of interest issue?---No.

10 Now, could I ask you to have a look at a document in Exhibit 37 and if we can bring it up on the screen, it's Exhibit 37 and it's an email on 23 October, page 1291. Now, if you go to the bottom of the page you'll see there's an email from you to Mr Cooper on 23 October at 3.14pm?---Yeah.

Now, it's the case isn't it that by October 2012 the Council elections had happened but you were still doing some activities in respect of the Ryde Concerned Citizens Association?---I was.

20 But it still had never been formed as an actual entity of - - -?---Not an incorporated association, no.

And to your knowledge it still had no membership register or listed members had been signed up?---I don't know who was signed up but I, I believe that at least the people at the meeting when I received the first instructions were part of the organisation.

So Mr and Mrs Cooper?---Yes.

Mr Peake?---Yeah, and there was another gentlemen that I - - -

30 And another gentleman you don't recall?---I can't recall, yeah.

Now in this email to Mr Cooper you refer to the fact that you'd recently been contacted by ICAC with a view to trying to ascertain the identity of the persons for whom you acted?---Mmm.

40 And you referred to the fact that there'd been a summons issued and you've indicated, "As you can imagine all that we could tell ICAC was that our client was the Ryde Concerned Citizens Association and that we don't know the identity of the members thereof other than yourself as acting president, spokesman and point of contact"?---That's the truth.

Well, you could - didn't you know the identity of the other members at the time?---No, well, apart from - I was - apart from possibly Mrs, Mrs Cooper ah - - -

Mr Peake?---Mr Peake, I only actually - and I think you recall in the private session I couldn't recall who it was and then I reviewed the file subsequently and I saw his name there.

Well, wouldn't it have been a more fulsome response to indicate that there were those persons who you understood were the members of the association but also that Councillor Petch was actually the person providing the majority of the instructions?---Well, not, not if you're asking for the membership of the association, he may well have been a bit like you, counsel assisting the association but he wasn't actually a member of the association.

10 Well, you didn't understand him to be a lawyer acting on behalf of the association?---No, I, I, I meant, I meant he was, he, he was someone assisting the association in a capacity as an advisor in relation to the matters that the association was interested in.

Well, to the extent that the association had any activities he was the driving force of them wasn't he?---He was.

Thank you, Commissioner.

20 ASSISTANT COMMISSIONER: Thank you. Does anyone wish to examine - yes.

MR HYDE: If I may, Commissioner.

Mr Mahony, I appear for Mr Petch in these proceedings. Mr Mahony, if I could go directly to Exhibit 28 and in particular page 1214 which is your letter addressed to the Mayor of the City of Ryde?---Yes.

30 Now, I think you said in your evidence that you got counsel's opinion in relation to some aspect?---Yes.

And would it be fair to say that you sought counsel's opinion as to the legality or otherwise of what it was that the Council was proposing to do with respect to the redevelopment?---Correct.

And would it be fair to say that if you turn to page 1216 of Exhibit 28 that you foreshadowed that illegality or potential illegality at item number 1, that is you identified subsection 377(1) of the Local Government Act?---Correct.

40 And when you had regard to the Local Government Act and in particular that section did you have in mind 377(g), (h), (i)?---No, that, that statement in clause 1 came from the advice from counsel.

I see?---I had no part in, in designing it.

All right. But none the less it was a topic that you sought an opinion from Council on and it was provided to you and you caused that then to be incorporated into your letter?---Yes.

All right?---Yes.

Now, did you understand from your discussions with the association, and in particular Councillor Petch that he was of the view that Council was indeed engaging in what might be termed illegal activity by reference to Section 377 of the Local Government Act?---That wasn't discussed, I don't believe with Councillor Petch. I believe that was something that we, we came up with after receiving Council's advice.

- 10 All right. And did you turn your mind to whether if it were the case that the Council was in some fashion engaged in illegal activity whether that might affect the reasonableness or otherwise of Councillor Petch disclosing what on the face of the documents might be termed confidential information?---I didn't turn my mind to it.

MR DOWNING: Commissioner, I object because I think this witness has given evidence that it just didn't occur to him at all.

ASSISTANT COMMISSIONER: Yes, that's correct, Mr Hyde.

20

MR HYDE: Well, it might not have occurred to him in examination by Counsel Assisting but that ought not, with respect stop me from asking the question.

MR HARRIS: Assistant Commissioner, I object in relation to my client. I think it's been clear that my client has been doing nothing illegal. This question directly would seem to imply that and I object to the question on that basis.

- 30 ASSISTANT COMMISSIONER: Well, I think it's more suggested the Council was acting illegally in delegating to him not that your client had done anything illegal. But I'm sorry, I don't, is your question directed to the issue that if the Council was acting on their powers then it was all right to breach the act to bring them to heel, is that what you're saying?

MR HYDE: Well, I'm not putting it in those terms but - - -

ASSISTANT COMMISSIONER: Well - - -

- 40 MR HYDE: - - - at the end of the day you will, Commissioner, no doubt be asked to consider whether it was appropriate or not for the confidential information to be disclosed and whether there are any circumstances which might otherwise ameliorate or excuse the conduct of Councillor Petch.

ASSISTANT COMMISSIONER: Well, that's a matter for argument. I wouldn't find this witness's views on that issue helpful at all.

MR HYDE: Well, only to the extent that he has, he has plainly in the document which is in evidence drawn attention to some illegality by reason of the reference to Section 377. It's plainly stated on the face of the document.

ASSISTANT COMMISSIONER: Yes, but he said he never turned his mind to the fact that Councillor Petch may have been releasing confidential information so I don't know how you can ask him whether he thinks any such release was ameliorated by reason of this issue.

10

MR HYDE: All right, I, I accept that, Commissioner.

ASSISTANT COMMISSIONER: Yes.

MR HYDE: I'll move on. If you could then, Mr Mahony, turn the page to page 1217 and in particular paragraph numbered 4, do you there suggest that some further step ought to have been undertaken in circumstances where there was to be what was in affect a private/public partnership?---Yes.

20

And was it your intention to inform Council that by reason of not seeking additional scrutiny from the Director General there might be some illegality in that regard?---That was my intention yes.

All right. Pardon me, Commissioner. Now, Clayton Utz wrote to you regarding the disclosure of what they perceived to be confidential information and I think you've given some evidence about that?---Yes.

Now, self-evidently can I suggest you would have turned your mind to the topic of confidential information at that point?---Yes.

30

All right. And did that cause you to take the issue up with Mr Petch at all? ---No, I didn't.

All right. Did it cause you to take the issue up with anyone else?---No. Part of that reason was that there was almost none if any of the confidential information that was marked confidential that I used or needed to use in the letter.

40

Now, the document that is Exhibit 59, which is this large bundle- - -?---Yes.

- - -has attachment 5, attachment 6 and attachment 7 on the face of the front page. Do you have a copy of that bundle?---I don't have it with me, no. Yes, I see those.

Now, can I invite you to turn to page 79 and the numbering is in the bottom right-hand corner and we'll just use this as an example?---Yes.

Do you see that that has marked on it the word confidential?---I do.

Is that the form in which you received the material from Councillor Petch?
---Yes, other than the fact that the document was pink.

All right. So it was in those terms and it had marked on it the word confidential?---That appears to me to be a true copy of the document I received.

10 All right. And have you produced the advice that you sought from counsel regarding the legality or otherwise of the Council's activity – and I think the name of the counsel was Mr Nothey, is it?---Notley.

Notley?---Notley, yeah. Have I produced it?

Yes?---To whom?

Well, to the Commission?---No, I haven't been asked to.

20 All right. And do you have that available to you?---Ah, I don't believe so. Um, I um, perused my file this morning and I – for some reason it's not there.

All right. Commissioner, can I invite Counsel Assisting to tender that document?

30 ASSISTANT COMMISSIONER: I don't think we have it and it's irrelevant. I really couldn't care less what that advice is. We're not going to be making any ruling on the issues raised in that letter about the legality or otherwise of the Council's actions.

MR HYDE: Well, it might, it might not be the Council's actions but it might, you might be ruling on Mr Petch's actions.

ASSISTANT COMMISSIONER: Yes.

MR HYDE: And Mr Petch's actions in my submission are informed by the advice that he received from Mr Mahony.

40 ASSISTANT COMMISSIONER: How could they be informed by an advice that wasn't obtained till after he'd handed over the documents?

MR HYDE: Well, informed to the extent that Mr Petch had it in his mind that the Council was acting contrary to the Local Government Act – he'll give that evidence. So to that extent- - -

ASSISTANT COMMISSIONER: He can give that evidence. In my view the advice that was subsequently obtained is irrelevant to whatever he had in his mind at the time.

MR HYDE: May it please the Commissioner.

ASSISTANT COMMISSIONER: Thank you.

MR HYDE: Yes, nothing further, Commissioner.

ASSISTANT COMMISSIONER: Thank you.

MR HYDE: Thank you, Mr Mahony.

10

ASSISTANT COMMISSIONER: Does anyone else wish to examine Mr Mahony? Yes, Ms McGlinchey.

MS McGLINCHEY: Mr Mahony, I act for Mr Cooper. Can you hear me?--Yes, I can.

Right. Thank you. Mr Mahony, I think you said in your earlier evidence that in relation to the meeting which was ultimately held on 15 June, the initial contact came from Mr Cerreto?---That was my recollection, yes.

20

And I think you might have said in your evidence, I'm sorry I wasn't in the room, so tell me if I'm misstating you, that Mr Cerreto told you that he was referring some clients to you?---Yes.

Did he tell you who he was referring?---Only some members of the Ryde community.

Okay, all right?---I don't recall that he actually mentioned any names, he may have but I don't recall that he did.

30

ASSISTANT COMMISSIONER: I think you said earlier he may have mentioned Mr Petch was the only - - -?---Mr Petch, that's right, right's right.

But nobody else?---Nobody else.

MS McGLINCHEY: What was your relationship with Mr Cerreto?---I acted for him as I said probably a few months earlier, I had met him for the first time, he gave me instructions to carry out a certain matter which I carried out and I haven't seen him since.

40

Did he just ring you out of the blue and tell you that he was going to do that or was it in the context of another conversation?---It was basically I think he, he realised that I had done a good job on his matter and he, he mentioned that he would be referring clients to me.

When you met with Mr Cooper and the others on 15 June did you tell Mr Cooper that you were, that the referral came from Mr Cerreto?---I can't recall, I can't recall.

Well, do you think that that would be important to do that?---I would have thought Mr Cooper would have known that Mr Cerreto had referred the clients.

10 Did you assume that?---I would have assumed that. I actually - if, if I could recall I'd tell you but I actually can't recall how, how that happened.

Would it surprise you to know that Mr Cooper has no, had never met Mr Cerreto and has nothing to do with him?---No, that wouldn't surprise me, Mr Cerreto was not at that meeting.

I think that you said earlier in your evidence that you initially opened a file in the name of Mr Petch?---Yes.

20 Is it the case that you opened the file before the meeting took place?---No, I would have opened the file afterwards but I can't recall as I said in the private hearing as to why Mr Petch's name was on the front of the file, probably because he was the, the best known person there but other than that I, I do recall specifically saying to Mr Cooper and the others that we needed to identify the client and it was at that time that Mr Cooper actually coined the name RCC, a bit like Ryde City Council, Ryde Concerned Citizens, that's what he said at the time.

30 And from that time it was clear to you that your client was the association including Mr Cooper?---Yes, the client was the association as I've said all along and, and the client through Mr Cooper signed the costs agreement.

And Mr Petch was not the client?---Mr Petch was not the client, no.

Mr Petch attended the meeting as an advisor as you understood it?---He, he assisted the client, he gave lots of information, lots of instruction but he was not the client per se.

40 Right. Would you agree with me that Mr Cooper has very strong ideas about the civic redevelopment?---Absolutely.

He's very opposed?---And passionate.

And he would have made those views very clear?---He did.

And he was also quite knowledgeable about the history of the project?---He is.

And would you say the same for Mr Peake and Ms Angel?---Yes, I'm not sure who else was there but Mr Peake and - those, those people who were there, they all contributed as I said in quite passionate terms and they were very knowledgeable on what they were talking about.

And at the meeting options were discussed on the best way forward to oppose the Civic redevelopment project?---Yes, and it was put on the basis that it was a very urgent matter and urgent action had to be taken.

10 And from that time forward in all matters you have - in letters that you've written you have made it very clear that the, the association was your client?
---Yes.

Now you wrote to the Council on 22 of I think June?---June, yes.

And in that letter you referred to the concerned ratepayers as your client?
---Yes.

20 And you, that was true?---Yes.

You weren't deceptive in that?---No.

You weren't trying to hide from anybody who your true client was?---No, I had no axe to grind for anybody, I was simply acting for a client who I'd never met before.

30 And the same was true in your letters to Lend Lease and Clayton Utz, you were, you told them very clearly who your client was and that was the association?---Absolutely.

No attempt to be deceptive or to cover up who the client was?---No, I had no reason to and I didn't.

Now, just in relation to the, to the, to the bill - I think it was, you said that it was your impression when it was paid that Mr Cooper passed the hat?
---Yes.

40 Right. Now, he didn't actually literally say that, did he?---He, he did say that at some stage, those words he, he said he'd have to pass the hat around. I can't remember - it may have been at that stage or it may have been after, possibly it was at that stage - but money was very tight and to the extent that the whole bill wasn't paid anyway.

Okay. And do you recall at the meeting it was explained to you that the association in its infancy had actually no funding at that stage?---Yes, and they had to rely upon contributions from people in the community.

Right. And that there was some intended fundraising proposed for the future?---Basically ah, I'm not sure whether it was fundraising as such but they were going to seek contributions from other people who held similar views to the members of the association to enable us to continue with the work.

And do you agree with me that at least in terms of the people that attended that, the meeting, Mr Cooper, Mr Peake, Mr Honey and Ms Angel, that they certainly believed that they were there representing a much wider group?

10 ---Oh, absolutely, absolutely. They, as I said to the Commissioner, they, they referred to 3000 people who had signed a petition ah, and it was clear to me that they were representative of a much larger group of people than current, than were present at that meeting.

All right. So there was nothing in any of this to suggest to you that the organisation was a sham organisation?---No, no.

It was unincorporated at that stage but clearly there were members- - -?
---Yes.

20 - - -even if informal members?---Yes.

Thank you, Commissioner.

ASSISTANT COMMISSIONER: So it wasn't a legal entity though, was it, could it have sued?---Well, no, no.

No?---You have to be incorporated to be able to sue.

30 I mean even an unincorporated association, doesn't it require articles of association or- - -?---It, it does, it does.

Well, this one never had any, did it?---No, this was, this was formed- - -

It was just a name really?---- - - -very quickly. Well, it's, it's- - -

40 It wasn't formed?---It, it, it's, it's a group of people who have come together for a common purpose who as that common purpose continues and as the association has a larger life would normally enter into some sort of Memorandum of Understanding or incorporation under the Incorporation and Association Act.

I think the most you could fairly say is there was a small group of people who intended to form an association if necessary?---Yes, yes, Commissioner.

Yes.

MS McGLINCHEY: Commissioner, could I just object. I mean there does seem this attempt to minimise this group of people.

ASSISTANT COMMISSIONER: No – there's an attempt to get some accurate evidence on the record.

MS McGLINCHEY: Well, can I suggest that we do that, Commissioner- - -

ASSISTANT COMMISSIONER: Well, I think we have.

10

MS McGLINCHEY: - - -because there may be many people who will come forward to say that they signed a petition and did see themselves as being part of an informal group.

ASSISTANT COMMISSIONER: That's totally irrelevant, totally irrelevant. They signed a petition. They were not members of this association.

MS McGLINCHEY: Well, Commissioner- - -

20

ASSISTANT COMMISSIONER: They – I mean honestly- - -

MS McGLINCHEY: - - -if you're intending to make- - -

ASSISTANT COMMISSIONER: You can't, you can't give evidence.

MS McGLINCHEY: No, I can't.

30

ASSISTANT COMMISSIONER: I'm getting the evidence from this witness.

MS McGLINCHEY: All right.

ASSISTANT COMMISSIONER: And I just asked him was it a legal entity and he had to agree it wasn't. It couldn't have sued anybody. And I think what I put to him is totally accurate. He met with a small group of people who indicated that they wanted to form an association and eventually may sign up some members. Is there anything inaccurate in that?---That's correct, Commissioner.

40

Thank you.

MS McGLINCHEY: Thank you, Commissioner.

ASSISTANT COMMISSIONER: Thank you, Ms McGlinchey. Yes, Mr Neil?

MR NEIL QC: Mr Mahony, I appear for Mr Norman Cerreto. I just want to ask you something shortly. At the time you went to this meeting as you've just told the Commissioner there was no formed organisation. Is that right?---Correct.

There were three or four people – I think you've mentioned one you can't remember the name of?---That's right.

Mr Cerreto was not there?---No.

10

Did Mr Petch or Councillor Petch initiate the gathering by contacting you? ---As I say, I don't actually recall who contacted me. That's as far as I can put that.

Is it reasonable that it could have been Councillor Petch who got in touch with you?---That is reasonable.

Could he have told you that he was doing that because he'd been referred to you by Mr Cerreto?---That's reasonable also.

20

Thank you.

ASSISTANT COMMISSIONER: Thank you. Any other questions for this witness? No re-examination, Mr Downing?

MR DOWNING: No, Commissioner.

ASSISTANT COMMISSIONER: Thank you, Mr Mahony. You are now excused?---Thanks, Commissioner. Yes, Mr - - -

30

THE WITNESS EXCUSED

[2.55PM]

MR DOWNING: Thanks, Commissioner. The next witness will be Councillor William Pickering.

MR DAWSON: The Commissioner will now indicate that Mr Pickering will take an oath. He seeks a declaration under Section 38 and also an order under Section 112 that his home address not be published.

40

ASSISTANT COMMISSIONER: Yes. Thank you.

MR DAWSON: Thank you.

ASSISTANT COMMISSIONER: Yes, just take a seat Mr Pickering?

MR PICKERING: Thank you, Commissioner.

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. There is no need for the witness to make objection in respect of any particular answer given, or document or thing produced.

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

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

SUPPRESSION ORDER IN RESPECT OF THE PRIVATE RESIDENTIAL ADDRESS OF THE WITNESS

ASSISTANT COMMISSIONER: Could the witness be sworn please.

30

ASSISTANT COMMISSIONER: Yes, Mr Downing.

MR DOWNING: Thank you, Commissioner. Mr Pickering, if you could state your full name for the Commission?---William Edward Pickering.

And your date of birth?---It's 24 October, 1961.

10

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

Now, you are a Councillor at Ryde Council?---That's correct.

And when were you first elected to Council?---In 2008.

Now, is it correct that earlier this year you are asked for a particular development application that had been made to Council in respect of premises at 826 Victoria Road, Road to be called up?---That's correct.

20

Now, can I ask you what called up means in the context of a development application that has been lodged with Council?---Okay, called up means essentially that a committee will review the, the matter before it as opposed to it being approved automatically under delegated authority by professional planning staff.

All right. So you sought for this particular application to be called up earlier this year?---I believe it was actually initially late last year and then I did reaffirm that the call up was in place early this year.

30

And is the particular committee that matters involving development applications comes before, is it the Planning and Environment Committee?---That's correct.

And can I ask was the reason for you asking for this particular, sorry, I withdraw that. Were you aware that the particular development application was lodged by Mr John Booth?---I was aware of that, yes.

40 And was the reason for asking it to be called up a concern that someone had raised with you about the particular development application?---That's correct.

So you asked for it to be called up. Did it in fact then get called up before the committee, the Planning and Environment Committee?---The process was in place but ah, the matter has yet to be called up.

So the process now is that the matter will come before the particular Planning and Environment Committee for it to look at the actual application

and to consider it on its merits?---Yeah, that is in fact the case. But ah, I also am aware that Council has put that matter upon hold until the outcome of this inquiry.

All right. All right well, so certainly by April this year you'd made the request for the DA to be called up?---By April this year, certainly. In fact the matter was raised with me by a member of the community and businessman with the community in December last year.

10 And you believe it was then that you first made the request?---It was then that I first raised the matter verbally with Mr Johnson and then I reaffirmed my desire to have that matter called up earlier some time this year, say January or February.

So when you say Mr Johnson that's Dominic Johnson, the Group Manager, Environment and Planning?---That's correct. He is the person responsible for development applications and assessments.

20 So that where you, a Councillor wants a particular matter called up he's the person that you raise it with?---That's correct.

Now, can I ask you whether as at April this year you were familiar with a Mr Richard Henricus?---Yes, I'd met Mr Henricus on I believe two prior occasions, initially three to four years ago at a Liberal Party function at his house and then I think subsequent to that, 18 months later, at another Liberal Party function.

Did you understand he had some involvement in the local Liberal Party?
---Yes.

30 Right. Now in March 2013 did you receive a phone call from Mr Henricus?
---I think you'll find it was May.

Or do you recall some contact in March this year?---Oh, sorry, yes, I did receive a call from Mr Henricus simply asking me for Mr Petch's mobile phone number.

And did you provide that?---Yes, I did.

40 Subsequent to that do you recall some time in early May this year receiving some contact from Mr Henricus again?---Yes.

Can you recall what day that was?---It was on 1 May.

Do you recall what day of the week that was?---A Wednesday.

Right. And are you able to say what Mr Henricus said when he contacted you?---Mr Henricus indicated that he was calling from The Weekly Times

newspaper and that he wished to, to come and see me about advertising matters with that paper.

Did he say anything about whether he was working there or in what capacity he was calling?---Yeah, he did, he did say he was working there. I did indicate to him that I really didn't want to have a discussion with him. I think the evidence before this inquiry's pretty self-evident as to why I wanted very little to do with that newspaper.

10 Well, just for the - - -?---Sure.

In short form is your perception that you've got less than glowing treatment from The Weekly Times over recent years?---I think that would be a fair assessment, yes.

Okay. So what did you indicate to Mr Henricus?---I told Mr Henricus that as far as the TWT was concerned I was just not interested.

20 Did he say anything further at that point?---At that point he pleaded with me, he indicated that I would be aware of some of the personal circumstances he was finding himself in based on an AVO taken out against him by the Federal Member for Bennelong who was John Alexander, the ensuing court case and so forth and that he was in a bad situation and please can he come and see me.

Did you agree?---With some degree of reluctance, yes.

30 All right. Well, did he come at some point that day?---Yes, he, he attended my office I'd say probably an hour and half later, some time around 11.30, 12.00.

So I take it you knew he was coming having spoken to him earlier?---Yes, yes, yes.

And did he nominate a time at which he was going to attend?---Well, basically he said I'll come straightaway.

But what, about an hour and a half or so later he arrived?---Roughly, yes.

40 Now, did you meet with him in your office at that point?---Yes, I did.

And is your office located at Victoria Road, Gladesville?---That's correct.

Did you have anyone with you when you met with him that day?---Yes, I'd asked, because I was concerned on, on two levels, one he was approaching me on behalf of the TWT and obviously the concerns I have there had been mentioned and secondly I was concerned somewhat at his state, emotional state.

So who did you ask to be present with you?---I asked that my colleague, Nathaniel Smith, be present and sit in on any discussions that I had.

Now is Mr Smith a colleague at your work?---Yes.

And was he present for the entirety of the time Mr Henricus was there or for part of the time?---Yes. In fact Mr Smith actually met Mr Henricus at the door and brought him to my office and then basically at the end of the meeting escorted him from my office.

Well, doing the best that you can can you please tell us what then occurred during the course of the meeting and when you're describing a conversation if you could try and use the words used or words to the effect of them please?---Used, sorry?

Words that were used at the time or words - - -?---Okay, thank you.

- - - words to the effect of them?---The words that were used was, were, to the best of my recollection Mr Henricus said to I have been offered employment with The Weekly Times. I need to see if I can sort out this process or the disagreement between you and Mr Booth.

Did he say anything about the nature of the employment that he'd been offered or the position he'd been offered, what - - -?---What he said to me was that Mr Booth had indicated to him that he wanted to move on away from the paper and that Mr Henricus was in line for the position of general manager of that paper should everything go according to plan.

Right. Well, if you then continue on, what else did he say?---He said then that he wanted to, to determine if we were, if I was interested or the Liberal Party locally, the Liberal Councillors in particular were interested in advertising. He then, then got to the point where he said, you know, all of this was all up to me to which I responded that seems somewhat ridiculous, what do you mean, to which he responded, oh, you know, the Development Application, if you can make, if you can withdraw your problem with that that will make this feasible or possible.

Did you ask him what he meant by that?---Oh, my response was ah, that's what this, this is all about. What he was referring to obviously was the Development Application by The Weekly Times for the building of villas on the site at 826 Victoria Road.

Which by this time you'd already asked to be called up?---I had called up some time ago so effectively what he was suggesting is that I withdraw the call up.

And so he suggested that you might withdraw the call up and he suggested to you that you might then look at advertising or the other Liberal members of Council might look at advertising. Did he say anything more?---Well, his, his state was somewhat agitated. In, in fairness to Mr Henricus he, he was quite emotional, he was in tears, he had indicated to me that his wife had left him, he had also indicated that his wife had been involved in some situation that threatened her physical health, that he'd - I'm just trying to recall exactly but essentially she'd been found and had to be treated by ambulance and that she had left him and was living with her family. His,
10 his demeanour was one that he needed the job, that this was - - -

Sorry, you say his demeanour, I want to know - I want you to try and be clear about what he - - -?---Sure.

- - - said to you as opposed to things you drew from his demeanour?
---Okay. He said he needed this job - - -

MR GRIFFIN: Commissioner.

20 THE WITNESS: - - - to help him get back on his feet.

ASSISTANT COMMISSIONER: Excuse me, Mr Pickering, could you just wait.

MR GRIFFIN: We can't concentrate on this evidence because of commentary from the gallery.

ASSISTANT COMMISSIONER: Yes. Could, could anybody who's making commentary in the gallery please not because counsel is having
30 problems hearing the witness. Thank you. Yes, carry on, Mr Downing.

MR DOWNING: Sorry. Councillor Pickering, I was asking you then, you've described that he was agitated and upset and that he described some personal issues?---Ah hmm.

You say he said something about the fact he needed this job?---Yeah.

Can you continue on from that point please?---He needed this job to help
40 him get his life back in order to basically resurrect his marriage and that this was an opportunity.

So he - did he say anything further about the Development Application and what that had to do with the advertising he was discussing with you?
---Okay. The Development Application was based on John Booth needing that to meet financial requirements.

I want to try and be clear about what - - -?---Sure.

- - - things that you might have drawn conclusions on yourself - - -?---Okay.

- - - and things that Mr Henricus said. What did he say to you about it?
---He said it was - he had information that - I've got to be, I'm just -
effectively what he said was to move on, for John Booth to be able to retire
and move on this Development Application had to be approved.

10 So did you take that as a request that you assist in some way in having the
Development Application approved?---In relation to advertising what he
then said is if I was to do that the publicity that I'd received could be
reversed, that I would be reported in a positive way, that the relationship
with the TWT could be resurrected. In other words my interpretation of that
was that this was nothing more than withdraw the DA and we'll give you
good, good publicity so to me that was in my view a bribe.

20 Now, you say that he raised with you the prospect that Mr Booth might be
stepping away from the paper and that he was in line to be general manager.
Did you understand him to be indicating that it would be after Mr Henricus
would become general manager that this publicity might be changed or did
you understand him to be talking about a period whilst Mr Booth was still
the editor of the paper?---The impression I got was should I take this action
it would be immediate.

Did- - -?---We will do this.

Did Mr- - -?---Immediately.

30 - - -Henricus say anything about whether Mr Booth was aware of the
approach that he was making to you?---He never said – he, he did not say
directly that Mr Booth had instructed him to make this offer, no.

Did you ask him about whether he was speaking on his own behalf or
speaking on behalf of Mr Booth?---No, I didn't. I had made – I did however
make that assumption.

40 Were you somewhat taken aback by what was being proposed?---I was
taken aback by quite a number of events on that day, particularly the
demeanour of Mr Henricus. As I indicated to you he was highly emotional,
he was in fact crying, he was in tears. This was a very difficult situation for
me to be confronted with, to be quite honest.

What did you say to him then in response to what he proposed to you?
---Well, my – I was left in a very difficult situation. I, I did not want to in
any way antagonise the man 'cause basically because of his emotional state
and I said, "Richard, I have no issues with you personally, I need to now
look at the process." In terms – in the back of my mind I knew that this was
a matter that I couldn't deal with directly and that would need to be reported
under the Code of Conduct, but at that stage there was no way in the world I

was in any way going to create a problem with the individual whose emotional state was the way it was.

Right. Well, did you say anything further to him during the course of that meeting?---I – he did raise some, some issues in regards to the ADO situation, his personal concerns, the fact that he needed employment, all of those sort of things, more of general nature.

10 Right. Well, can I ask you, how did the meeting come to an end on that day, what was the last exchange before the meeting ended?---I guess the exchange was that ah, I'm just trying, no, it's not a guess, he did say he would be back in touch with me which um, obviously concerned me but the matter needed – I wanted to end the matter as quickly as possible.

All right. Well, did anything further happen that day, 1 May?---No.

All right. 2 May, do you recall if you got a call?---On 2 May I had a missed call on my mobile phone.

20 Are you able to say roughly what time?---I believe it would have been sometime around 9.30, 10.00 in the morning.

All right. Okay. So you had a missed call. Did you, did the number come up or was it a blocked number?---No, the number did come up.

And did you recognise it?---No.

Did you call it back?---I did.

30 And was it Mr Henricus who called you on that number initially?---It was.

So whose call you had missed?---It was Mr Henricus' call.

And did you speak to him?---Yes, I did.

And what did you say to him at the time and what did he say to you?
---He asked me had I considered this matter any further and what was my decision, to which I responded, "Richard, I need to consider a number of things about this and I'm sorry, I don't have time to talk to you, I must go."
40 Effectively um, I wanted ah, to have no further discussion in relation to that matter. I already had made contact that morning to go to see Mr Bruce McCann to get advice on how this matter was, what actions I should take given my concerns in relation to what had been said to me.

Now, on 2 May were you by yourself when you missed, you noticed the missed call and then returned the call to Mr- -?---Yes, I was.

And are you aware of whether Mr Smith had any further contact with Mr Henricus?---Yes. He then rang the office and- - -

When you say he, is that Mr Henricus?---Mr Henricus, Henricus rang the office and asked to speak to Nathaniel Smith. The office put that call through to Nathaniel and- - -

10 And how are you aware of this, is this something Mr Smith- - -?---I was about to say, I was aware of it because Nathaniel ah, came to me and told me after the call.

Right. Sorry, so he came and spoke to you and said that a call had been received at the office, it had been put through to him from Mr Henricus? ---That's correct.

20 And what did Mr Smith tell you about the call?---Mr Smith said to me that Mr Henricus was encouraging him to pressure me to withdraw the Development Application, to the best of my knowledge. Something of that nature anyway.

Have you had any further contact with Mr Henricus since that time?---No, I haven't.

And is the status of the Development Application that your call-up remains in place but subject to an overall stay subject to what happens in these proceedings?---That's correct.

Thank you, Commissioner.

30 ASSISTANT COMMISSIONER: Thank you.

MR DOWNING: Pardon me for one moment. Just one last matter. Are you aware that Mr Henricus knew Mr Nathaniel Smith prior to the meeting on 1 May?---Yes, I am.

Are you aware that Mr Henricus had coached him in football?---In Rugby, yes.

40 Right. Thank you.

ASSISTANT COMMISSIONER: Thank you. I would imagine there would be limited parties who would seek to examine this witness but, Mr Stewart?

MR STEWART: Yes, thank you, Commissioner. Mr Pickering, my name is Mr Stewart and I appear for Mr Henricus. You've said that you were first elected as a Councillor in 2008?---That's correct.

And you're still serving on Council?---Correct.

And from the evidence you've given there's clearly no love lost between Mr Booth from The Weekly Times and yourself?---I would suggest that there is a mutual dislike, yes.

Right. And I think the evidence you gave is that you had met Mr Henricus twice over a period of years?---Correct.

10 And when he first, when he came and saw you on 1 May, you're a Councillor in the area, were you aware that he was assisting The Weekly Times?---The phone call that I received from him, the first phone call before he came to see me, he did say, "I am working and calling from the TWT."

Did he tell you that he was working there as a contractor for five weeks?
---No.

Didn't mention that at all?---No.

20 And were you surprised when he told you that Mr Booth was moving on?
---To be quite honest I did not even think about that. It, it does follow though, if you look at Mr Booth's age it's not unusual to, to, to think that that might in fact be, be the case.

Right. And in relation to Mr Henricus' – you said his demeanour, he was very emotional?---Mmm.

He was irrational, I think was the word you used?---I don't think I used the word irrational, he was emotional, certainly.

30 Right. And you're aware that he'd had a number of instances in his life
- - -?---Yes.

- - -prior to coming to see you?---Absolutely, yes.

And were you aware that he had been admitted to hospital some weeks before?---No.

40 And did he mention to you when he came to see you that he was there to see whether if the development went ahead, he could get a job working for another firm?---No.

Didn't mention that?---No.

Okay. And how long did this meeting take on 1 May?---To the best of my recollection, roughly about 45 minutes, something of that nature.

So it wasn't in the range of 20 minutes, a very short meeting?---I can't say. To the best of my recollection it would have been around 45 minutes.

Okay?---I had a number of client meetings that day and obviously I was keen not to, for it not to go too long and I was actually concerned at the length of time it had gone.

I suggest to you that when Mr Henricus first attended your office he sat down and he did mention the DA at 862 Victoria Road and that you then launched into a tirade of, an absolute abuse of Mr Booth and said you wanted nothing to do with him if he was there on behalf of Mr Booth?--- That's totally incorrect.

10

Well I suggest to you at no time did Mr Henricus say that he was working on behalf of TWT?---Well, that's totally incorrect too.

I also put it to you at no time did he say that he'd be taking over from Mr Booth?---Totally incorrect.

And I put it to you at no time did he say he was there selling advertising on behalf of TWT?---Totally incorrect.

20 I have nothing further, Commissioner.

ASSISTANT COMMISSIONER: Thank you. Mr Stewart, there are a number of other matters raised in evidence by this witness about statements allegedly made by Mr Henricus. Obviously we're not bound by the rules of evidence of here but - - -

MR STEWART: Exactly.

30 ASSISTANT COMMISSIONER: We do expect people to put direct significant conflicts if there are any, and if they're not that's, that's fine.

MR STEWART: Commissioner, I have certain instructions in relation to what took place and my instructions accord to a very short engagement and well, with leave, Commissioner, Mr Pickering, I put it to you that the conversations I put to you were the only ones that were had during the course of that meeting on 1 May? That it was a very, you had a very short meeting with Mr Henricus, he came in, he made a comment about 862, sorry 826 Victoria Road and then you launched into an abusive rant in relation to the Weekly Times, and that was really the only conversation that took place?---I would advise you that, and I guess we have another witness to that conversation.

40

MR STEWART: Yeah?---And I'm sure that the, the truth ensue. But let me advise you that Mr Henricus' state was such that the last thing I would do would be in any way conduct myself in a, in an antagonistic, excuse me but, I would not in anyway want to antagonise Mr Henricus. My demeanour was always polite, in fact I was quite concerned for Mr Henricus.

Well why didn't you just, when he rang you why didn't you tell him you didn't want to see him?---When he first rang me I did tell him that. In fact I, I said to him, "Look, there's no love lost between John Booth and I. I'm just not interested in advertising with the TWT." And as I indicated previously he was quite insistent and basically said ah, "Please, can I please come and see you? I'm in a really difficult personal situation." And based on the fact, on that fact I, I said well, okay and that's why given that phone call I asked that Nathaniel Smith also sit in on that meeting.

- 10 I also put it to you at no time did he mention about advertising with the Weekly Times on behalf of the Liberal Party or anybody else?---Well I would put it to you that that's totally incorrect and ah, I guess there'll be another witness to that conversation.

Thank you. And I also put to you at no time did he say that he could reverse the adverse publicity that you'd suffered with the TWT if you assisted him?--Well I put it to you that that's totally incorrect as well.

Thank you. Nothing further.

20

ASSISTANT COMMISSIONER: Thank you, Mr Stewart. I don't imagine anyone else would be in a position to cross examine this witness. No? Mr Downing, do you wish to re-examine at all?

MR DOWNING: No.

ASSISTANT COMMISSIONER: Thank you. That concludes your evidence?---Thank you, Commissioner.

- 30 ASSISTANT COMMISSIONER: Councillor Pickering, you may now leave. Yes, Mr Downing.

THE WITNESS EXCUSED

[3.25PM]

MR DOWNING: Thank you, Commissioner. The next witness will be Nathaniel Smith.

- 40 MR OATES: Commissioner, I act for Mr Smith.

ASSISTANT COMMISSIONER: Yes.

MR OATES: I indicate he'll take the oath but I seek a Section 38 declaration if you please and also a non-publication order with respect to his address.

ASSISTANT COMMISSIONER: Yes. Thank you, Mr Oates. Just take a seat there, Mr Smith. 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. There is no need for the witness to make objection in respect of any particular answer given, or document or thing produced.

10

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

20

ASSISTANT COMMISSIONER: I make a non-publication order in respect of the private residential address of this witness. Could the witness be sworn, please.

NON-PUBLICATION ORDER IN RESPECT OF THE PRIVATE RESIDENTIAL ADDRESS OF THIS WITNESS

ASSISTANT COMMISSIONER: Yes, Mr Downing.

MR DOWNING: Mr Smith, could you state your full name for the Commission, please?---Nathaniel Gerrard Smith.

10 And your date of birth?---21 June, 1980.

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

Now, Mr Smith you're a work colleague of Councillor Pickering?---That's correct.

And can I ask where you work?---At Hugo Halliday PR and Marketing at Gladesville.

20 And do you recall, withdraw that. Have you been coached by Richard Henricus in rugby union at some point earlier in your life?---Yes, I believe it was in 2001.

When you were playing junior football?---Oh, it was ah, sort of grade football. I had an injury and I, I was playing at Eastwood and I then went to Beecroft Rugby Club where he was coaching.

Now, do you recall events occurring on 1 May this year?---Yes I do.

30 And were you, I withdraw that. Can you tell us did Mr, did Councillor Pickering ask you to attend a particular meeting that day?---Yes he did.

And did he tell you who the meeting would be with?---Yes he did.

And who was that?---Richard Henricus.

Can you recall roughly what time of day that was?---It was around about 11.00-something, about 11.30, between 11.30 and 12.00, around, around that time. I - - -

40 And - - -?---Wasn't watching the clock at that, at that stage.

Did, did Councillor Pickering speak to you after Mr Henricus was present at the premises or before he arrived?---Before he arrived.

And did you, do you recall when Mr Henricus arrived who greeted him and brought him in?---I did.

And did you then go into Councillor Pickering's office?---That's correct.

Now, can you try and recall as best you can, again using words that were used or words to the effect of them what was said by Mr, Mr Henricus, what was said by Councillor Pickering, and to the extent that you said anything, what you said?---Okay. When I answered the door I saw Richard standing there. Richard came in. Um, I said, "How are you?" Um, obviously he'd been through a bit of, some issues in the last few months as reported.

10 Were you aware at that point that he'd had some issues in his private life?---
Yes.

And did, did he seem upset or emotional when you saw him?---When he saw me he started getting emotional and started crying.

That is before he even went into Councillor Pickering's office?---That's correct.

All right. So did you then take him into the office?---Yes I did.

20 And can you tell us then what was discussed?---Well, Bill ah, said to Richard, "I'd like Nat to be a witness here, and I, I trust Nat," and um, he wanted me to, just to sit down next to Richard, opposite the, the desk. Richard starting talking about what had happened over the last few months um, how he's been, he's gone through the depths of hell - - -

That is affairs in his personal life?---Yes, affairs in his personal life.

30 And he'd become more upset in discussing those matters?---Yeah, he did. He was, he was talking, that's how the conversation started.

Was he crying?---Yes he was.

All right. At some point the conversation changed from his personal affairs to something else?---Yes, he started speaking about the, starting work at the TWT.

40 Well, what did he say about that?---He said he ran into John Booth several weeks or possibly a month before and he met him, saw him at a Rotary Function and he explained to John Booth how his life was going and how his wife had left him and then John Booth apparently said to him, "Why don't you come work for me?"

So did he state that he was doing some work at The Weekly Times?---He said that, yes.

Did he describe what his position was or what work he was doing?---He said he was working on – apparently a business consultant – he said he was working on layout work of the paper and possibly and things like that.

Did he say anything about advertising?---Not I – he did mention um, he mentioned he was in that sales/advertising sort of area and restructuring the layout of the paper.

All right. Continue then – what else did he say during the conversation?---He got talking about what he was doing at the TWT and then he said, I would like to eventually take over the paper and to do that we need this DA situation basically sorted out.

10

Did he say something about Mr Booth and whether Mr Booth would be continuing at the paper or perhaps moving on?---He said Mr Booth has other business interests and wants to get out.

Get out of?---Running the paper.

And he indicated that he might be taking over?---That was the perception.

20

Try to, as best you can tell me not so much about what your perception was -- -?---He said he, he wanted, he was um, if this DA went through he'd get the keys to the office. They were the words he used.

Right. And did he say anything else at that point?---He talked a little about the DA and Bill acted surprised, is this what this is about.

And what did Mr Henricus say anything further about the DA at that point? ---Um, not necessarily, I don't know if he knew too much information. I was surprised because I didn't know anything about the DA.

30

He said something to the effect that, "if the DA would go then he would get the keys to the office?"---Basically, yes he did say that.

All right. Was there any discussion then about Mr or at any time during the meeting about the publicity or coverage that Councillor Pickering had had in the past or might have in the future?---Just before he mentioned the DA he talked briefly to Bill about he wants to try and fix the relationship between the Liberal Councillors and the paper.

40

Right. Did he say anything beyond that?---After he mentioned the DA, he said, if I'm in charge of the paper we could work together and do good things for the community and get good articles out there about the Liberal Councillors.

All right. Do you recall anything else that Mr Henricus said during the meeting?---He was mainly talking – he kept on talking about that he wanted to get his wife back – he kept on bringing that back in. It was very confusing, the conversation kept going in tangents.

So partly to do with The Weekly Times and his desire to take over the paper at some point and partly to do with the Development Application and his expression that - - -?---He wanted to get his life back into shape.

His indication that he needed that to go through in order for him to get the keys to The Weekly Times.---That's correct.

But then also he referred to getting his life back together and reconciling with his wife?---That's correct.

10

Do you recall if you had anything to say during this part of the meeting?
---No, I sat there and listened.

All right. Did Councillor Pickering say something after hearing Mr Henricus out?---Bill was mainly looked quite shock by it, we both were shocked just mainly – but due to his emotional state. It was a very unusual meeting. I've never, I've never come across anything like this before.

20

Did Mr Henricus say anything about whether he was there with the knowledge of Mr Booth?---Not, no, he did not.

Or did he say anything about whether he was there at the request of Mr Booth?---No.

30

All right. Doing your best now – do you recall what Mr, Councillor Pickering said to Mr Henricus during the meeting?---Councillor Pickering basically said, listen, I feel sorry for you Richard, I want to see you get your life back together, I want to see you get back together with your wife and get on with your life but you know, there's certain processes that have to happen and I'm sure at that point in time Bill might have been thinking, what's going on here.

Did the meeting go for much longer from that point?---It went, it went for roughly anywhere between 30 and 45 minutes.

Did Mr Henricus say anything about whether he was approaching Councillor Pickering on behalf of anyone?---Well, didn't use those exact words, no.

40

So he didn't nominate anyone that he was there on behalf of?---No.

All right. So you say the meeting went for somewhere between 30 and 45 minutes. Can you recall anything else that was discussed after what you've described Councillor Pickering saying a moment ago?---No.

And the end of the meeting, did you have discussion with Councillor Pickering about what had just happened?---I had a very brief discussion because I had to race off and go to another, a function, I had things all that

afternoon and that night. So my mind was in other places that day because I was thinking about what I had to do later in the afternoon.

I take it from what you've described you were somewhat taken a-back by what Mr Henricus had asked of - - -?---I was.

- - -Councillor Pickering?---Correct, I was taken a bit back and went, what the hell was all that about.

10 Do you recall on 2 May, that is the following day something further happening in respect of Mr Henricus?---Yes. He called the office and the office transferred the phone through to my mobile.

All right. Were you at work at that time?---Yes, I was.

All right. And do you recall, did you speak to Mr Henricus?---That's correct.

20 And what was the nature of the discussion at that point in terms of what he said to you and what you said to him?---Richard, said, Hi Nat, how are you? I was going to call you yesterday afternoon or last night um, because I've been worried about this whole thing. And I said, "Okay mate." And then he said, "Has Bill made a decision?" And I said, "Listen, I'm sure Bill will do the right thing but the right thing in terms of , he's an ethical councillor he'll do the right thing - - -

30 Are you saying, what you've just described in terms of the ethical thing, that's what your belief was or that's what you actually said to Mr Henricus?---I said to Mr Henricus, "I'm sure Bill will do the correct thing in the guidelines of being a councillor." And he asked about the DA and I said, "I can't talk about this DA I'm not a Ryde Councillor – I have nothing to do with it."

All right.---Then I said to him, "I just want to see you get your life back together with your wife." And that was it.

That was the end of the conversation?---That's correct.

40 And have you had any further conversations with Mr Henricus since that time?---No I have not, no.

Excuse me please. Thank you Commissioner.

ASSISTANT COMMISSIONER: Thank you. Yes, Mr Stewart.

MR STEWART: Mr Smith, my name's Mr Stewart, I appear for Mr Henricus.

THE WITNESS: Yes.

MR STEWART: On this day, do you work in the office with Mr Pickering?
---Yes, I do.

Five days a week?---Most of the time, yes.

Right. And on this day he told you that Mr Henricus was attending?---Yes,
he did.

10

And he asked you to sit in on the meeting?---That's correct.

Did you take any notes of that meeting?---No, I did not.

Are you often asked to go and sit in meetings with Mr Pickering?---Not all
the time – I, because he was a member of the Liberal, he was a member of
the Liberal Party and I knew Mr Henricus – I did not know what the
meeting was going to be about.

20

So you didn't think it prudent to take any notes or you weren't requested by
Mr Pickering to take any notes?---No.

All right. You said in your evidence that it was a very unusual meeting?---
That's correct.

And Mr Henricus effectively started crying from the first time from the first
time he sat down?---He was crying when he came in the door when I
greeted him and suggested seeing you again had brought back all the
emotions, the memories of campaigns I've worked on and things like that.

30

And you said in your evidence he was there for about 30 to about 40-odd
minutes?---That's correct.

And when he left, did you discuss this matter with Mr Pickering?---I had a
brief discussion with him before I had to go.

Right. And subsequent to that, have you discussed what took place with Mr
Pickering on 1 May?---On 1 May, after 1 May or on 1 May?

40

On 1 May, you had this conversation with him, and then you left?---After he
left I had a quick discussions with him, like, what was all that about.

That's how bizarre the conversation was?---With Mr Henricus yes, because
it kept on going from his emotional state and then TWT and then talking
about the DA.

It jumped all over the place.---It jumped all over the place, yes.

Did you then subsequently talk to Mr Pickering about the conversation after 1 May?---I spoke to him the next day, yes.

This is when you had the telephone call?---Correct.

And you told him the contents of the telephone call?---That's correct.

Did you discuss, have you discussed the matter with Mr Pickering since that date?---I spoke to him after that day once or twice about it, yes.

10

Have you discussed the evidence that you both would give here at ICAC today?---No.

Not at all?---No, not at all, we have not discussed the evidence.

You still work in the office with Mr Pickering?---Yes, I do.

Do you see each other five days a week?---That's correct.

20

And not once have you decided, have you discussed the evidence that you would be giving today?---No, I have not.

And Mr Pickering hasn't approached you to discuss any of the evidence?---No, he has not.

And your office is at Gladesville I believe?---That's correct.

And you know of The Weekly Times?---That's correct.

30

You know Mr Booth?---Yes, I do.

Okay. And you're aware that Mr Booth has run the paper for years?---Yes.

And had you heard that Mr Booth might be moving on?---Well, only from the discussions that Mr Henricus told us during that meeting.

So the discussions from a man who was crying when he walked into the office who the evidence you give says that it was an irrational conversation, you accepted that as being correct?---No, the, the evidence, he was in a very emotional state - - -

40

Irrational, all over the place wasn't he?---He was a bit all over the place, yes, that's right.

And this irrational man, did you know he'd been working at the, he was working at The Weekly Times?---Not before that day.

So you'd heard nothing in the area of him being there?---No.

And you accepted at face value that he was going to take over the paper, is that what you're saying?---No, I'm not suggesting that, he was saying that in the conversation that he had with Mr Pickering.

You didn't believe him did you?---It's not for me to speculate.

10 And you never had a discussion with Mr Pickering about whether or not Mr Henricus was going to take over the paper?---When - after the meeting obviously we spoke briefly about it and we just thought it was both very bizarre what Mr Henricus was saying.

Bizarre in everything he said on that, that meeting of 30-odd minutes?---It was - 'cause it was all over the place, it was a little bit bizarre but it was a bit suspicious as well.

It didn't have a ring of truth to it?---It's not for me to speculate.

20 And what was the actual discussion concerning the DA?---It was about halfway through the conversation with Mr Henricus and he brought it up and spoke about the DA for, for John Booth to move on.

And is that at the time when Mr Pickering said oh, this is what this is all about?---That's correct.

30 And was the conversation closed down at that stage in relation to the DA? ---It was only briefly mentioned and then it went on to other matters in the conversation, back again to his wife and him wanting to get his life back together.

So most of the conversation from what you're telling us was not about the DA, it was about his life, the mess that his life was in, the whole lot?---It was, it was a combination of many things.

All over the place?---That's correct.

And then on 2 May you had a conversation with him?---That's correct.

40 And that was the last conversation you had with Mr Henricus?---That's correct.

And that's the last conversation you had with Mr Pickering about what took place on 1 and 2 May?---That's correct.

Did Mr Henricus mention the fact that he wanted to try and get a job if the, if the DA went through in a building company that was going to do some work on the site?---No, never heard that before.

Never heard that before. And he never told you that he was working as a, as a consultant at the Herald, at The Weekly Times?---All he said in the meeting was that he'd started work there a few weeks ago.

And you had no - did he have any advertising books with him or anything like that or did he mention - - -?---No.

- - - anything about advertising or did he have any contracts to sign people up with?---No, he did not.

10

Nothing at all, just walked in, totally - - -?---Just walked in.

Walked in, nothing on him?---Nothing on him.

No bag?---No.

Nothing?---Nothing.

20

Walked in crying?---He walked in, when he saw me he started crying.

And continued to cry during the entire time he was in the office?---At times he did and times he didn't when he was sitting down in Bill's office.

Yes. Thank you, Assistant Commissioner, no further questions.

30

ASSISTANT COMMISSIONER: Thank you. Mr Stewart, I think it would be helpful if you could just briefly put to this witness what you put to the former meeting, that is the limited nature of the conversation and Councillor Pickering's reaction to it.

MR STEWART: Thank you, Commissioner.

I'm going to suggest to you that this conversation was a very short conversation because as soon as Mr Pickering found out what it was about he just started an abuse against Mr Booth, saying he wanted nothing to do with anybody that had anything to do with Mr Booth?---That's not correct.

40

Well, I put it to you that - do you recall did Mr - I withdraw that. Was there any conversation from Mr Henricus in relation to asking questions about the land, about 826 Victoria Road?---All that Mr Henricus said, as I said before in the middle of the conversation if we get this DA over the, if this DA can go through then Mr Booth can move on.

Did Mr Henricus mention anything about Mr Booth?---All he said about - -
-

Apart from that comment?---Apart from that comment all that Mr Booth said - sorry, all Mr Henricus said was that Mr Booth wants to move on and get into other different business ventures.

He never said he just wanted to try and work out what the issue was with the DA, nothing along those lines, nothing at all?---He briefly spoke about the DA but not in technical terms about how many units were there and things like that.

10 Nothing like that. I've got no further questions.

ASSISTANT COMMISSIONER: Thank you. Yes, is there any re-examination, Mr Downing?

MR DOWNING: No, Commissioner.

ASSISTANT COMMISSIONER: No. Thank you for that, you are now excused.

20

THE WITNESS EXCUSED

[3.47pm]

MR DOWNING: Thank you, Commissioner, the next witness is Mr Henricus.

ASSISTANT COMMISSIONER: Do you want to start him or - - -

30 MR DOWNING: We've got 15 minutes left. I don't know that his evidence will be particularly long so I think it would be worthwhile if we could use the time this afternoon.

ASSISTANT COMMISSIONER: Yes. Is Mr Henricus here?

MR STEWART: He is, yes, he's here, Commissioner.

ASSISTANT COMMISSIONER: Yes.

40 MR STEWART: Commissioner, he'll take an oath, I've explained the declaration to him, he'd like the declaration and also a suppression order in relation to his private address.

ASSISTANT COMMISSIONER: Yes, thank you. Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by this witness and all documents and things produced by him during the course of his evidence at this public inquiry are to be regarded as having been given or produced on objection. There is no need

for the witness to make objection in respect of any particular answer given or document or thing produced.

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

ASSISTANT COMMISSIONER: I make the non-publication order in respect of the private residential address of this witness.

20 THERE IS A NON-PUBLICATION ORDER ON THE PRIVATE RESIDENTIAL ADDRESS OF MR HENRICUS

ASSISTANT COMMISSIONER: Could the witness be sworn please.

ASSISTANT COMMISSIONER: Yes, Mr Downing.

MR DOWNING: Thank you, Commissioner.

Mr Henricus, can you please state your full name for the Commission?
---Richard Henricus.

10

And your date of birth?---08/07/1959.

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

MR SIMPSON SC: I'm sorry, Commissioner, could we just ask for the witness to sit a little closer, we can't hear him down here.

ASSISTANT COMMISSIONER: Yes, can you try to speak up, Mr Henricus?---Yes.

20

MR DOWNING: Mr Henricus, is it the case that as at April to June this year you were doing some work for a company called Sirius Media at The Weekly Times?---Yes.

And that was work to do with the software and the website for The Weekly Times?---Yes.

And were you working in the employ of Sirius Media to assist in the upgrade of those systems?---Yes.

30

Separate to that did you do some work for The Weekly Times in the nature of selling advertising?---No.

Do you say that at no point you've done any work of that nature for The Weekly Times?---To what point, sorry, can you - - -

At no point during the period May or April to June 2012, sorry, 2013, you were doing any work selling advertising?---Towards the end of my five week contract with Sirius Media, in the last two or three days of my contract I assisted TWT towards to the end of my contract on, to sell already clients on a features page, so I wasn't doing any new selling, I was just bringing clients back onto an order form towards the end.

40

And how did that come about, did you speak to Mr Booth or did you speak to someone else at The Weekly Times?---No, it was Sirius Media towards the end of, end of a five-week contract I was working three days a week for, for five weeks and ah, it was just, just towards the end when we were

coming to the end of our, of our agreement and I was coming to the end of my agreement with, with, with Sirius Media.

Right. But the work you'd been doing up to that point was of a different nature, it was to do with upgrading the software and the Website?

---Assisting, yes.

10 How did you come to do that different work?---Because that upgrading came to an end round about on the fourth week and on the fifth week, just for a couple of days I just said, "How, how else can I help?" They were just trying to find work at that stage.

Right. And- - -?---Just trying to find work and keep myself working, that's all.

Well, who asked you to do that particular work with respect to the- - -?
---Well, I asked ah, I asked the owner of Sirius Media if I could just continue to do some work here till the end of the fifth week till I can find some other work before I moved on.

20

Do you recall was the period during which you did work- - -?---Yes.

- - -from mid-April through to mid-May?---Yes.

So mid-April to mid-May 2013?---Yes, somewhere around there, yeah.

And you say the only work that you did other than in respect of the Website and the software- - -?---Yeah.

30 - - -was in the last couple of days?---That's what I recall, yes (not transcribable)

At any point did you have a discussion with Mr Booth about a Development Application he had in for the premises from which The Weekly Times operated?---Ah, the only discussion I had with Mr Booth on that is I, I just asked if his, if it's true that his block of land is being sold next door and he answered to me yes. That was it.

40 Did, did he indicate that he had a Development Application out for it?
---Ah, all he said was that block of land is for sale. And I said, "Great, thank you." That's it.

So do you say he told you nothing about a Development Application?
---Not to me on, on that day, no.

Or on any day?---No, no.

Did you have any knowledge that there was a Development Application over the land?---Ah, no.

Do you say the first time you'd heard about a Development Application is through this Commission?---No. When he said his block of land was for sale ah, I then, I just contacted some friends of mine who are in the residential business of ah, of building to say that there's a block of land for sale and I think there is a – I'm really sorry, I'm getting mixed up, my, my apologies. Ah, there's a block of land for sale when I asked Mr Booth and there was five villas or something that has been put forward.

Sorry, are you telling us about a conversation with your friends who you contacted or about Mr Booth?---Could you rephrase the question from the beginning, please?

All right?---Thank you.

What I wanted to know was whether you learned at any point that Mr Booth had a Development Application in for this particular block of land?---Yes.

And how did you learn that?---I learned this when I was at work ah, one – I think it was a Wednesday or a Thursday very close to the end of April, I noticed there were some people on this block of land taking some photographs and, and some measurements. I then, I proceeded to ask what was going on. I went up to Mr Booth and said, "What's happening next door?" He said that he is selling his block of land and that there five villas on there and ah, I - - -

Did he, did he say he had a Development Application in in order to build the five villas?---I don't recall the actual wording, all I know is he said he had a block of land for sale and it's got five villas on it, that was it.

Well- - -?---Simple as that.

Well, five villas to be built on it or five villas on it?---Five villas to build word of to build or he had, he had five villas to build on it – words to those actual effect I don't, I don't recall that.

Do you recall him indicating that he was seeking to get Council permission to develop the land- - -?---No.

- - -to sell- - -?---No.

- - -to put five villas on it?---No, he didn't get that far, no.

So- - -?---All he said to me, he had a block of land for sale and there was about five on, on there and he's sort of trying to sell that block of land. That's it.

Well, did, did someone tell you that there was a Development Application in to put the villas on it?---No.

So do you say no one ever made- - -?---No.

- - -you aware of that?---No.

10 Well, you've told us that you took that information and contacted some friends of yours?---Certainly, yes.

Were these people that you knew that were in the field of property development?---Yes.

And was that a Mr Antoun?---Yes.

Who was the person that you contacted?---Ah, I contacted John Antoun.

20 And did you say to him, what, that there's this land you might be interested in?---Correct. There's an opportunity here, selling the land, I think there's five villas on it and I just gave him, I just passed him all the details and then he contacted Mr Booth and then it sort of went from there.

Did you have any further communications?---No.

Do you say that you spoke to Mr Antoun about whether there might be some work for you if in fact he developed it?---Yes.

30 Was that at that initial point or later?---Later. I just wanted to see if they were interested in it. All I did was I said there's a block of land for sale, I think there's about five villas on it to be sold, would you be interested. So I just passed on that information and then they took it from there.

Did you have some understanding that they then dealt with Mr Booth in some way?---Yes, they did.

40 And how did you find that out?---Well, they sort of told me they rang up and they were keen, keen on this property. I said, "That's great." And they thanked me for that and I said, "Listen, if you guys go ahead with this property I hope that I can put my sort of hat in the ring and get some sort of work from you guys as a safety officer, if you guys go through with this."

Well, do you say that they asked you to do anything at that point? ---No, no, just, no.

All right. Well, do you recall at, do you recall in March of this year contacting Councillor Bill Pickering?---Yes, I do.

Now, you've known Councillor Pickering for some period prior to March this year?---Yes.

He had previously attended functions for the Liberal Party that you'd organised?---That I organised? No.

Oh, I'm sorry, were they, was there a function at your house or- - -?
---My house, yes.

10 Right?---Yes.

And was that a function for the local Liberal Party?---Yes.

And are you a member of the local Liberal Party?---Yes, yes.

Right. So do you recall contacting Councillor Henricus this year – I'm sorry, Councillor Pickering this year, and asking for Councillor Petch's mobile phone number?---Oh God, ah, I don't recall.

20 Can you think of an occasion earlier this year when you wanted to find out Councillor Petch's mobile phone number?---Yes, I did. I, I do, I do, I do recall, yes.

Why did you want to find Councillor Petch's mobile number?---To invite him to my wife's birthday, which was on 15 February.

And do you recall that you didn't have the number and had to seek it from someone else?---No, yes, I think I rang a few Councillors and left messages and ah, and- - -

30

All right. Do you recall on 1 May, 2013, contacting by telephone Councillor Pickering?---Yes, I do.

And do you recall on that occasion saying that you wanted to come and see him?---Yes.

40 Do you recall on that occasion saying something to the effect that you were working at The Weekly Times and you wanted to come and see him about a particular matter?---No, I just wanted, I spoke to him about a particular DA and it was, why it wasn't approved, this block of land.

But how did you come to learn of this DA because I've asked you about the DA already- - -?---Yes, yes.

- - -and I thought your evidence was- - -?---Yes.

- - -all you knew was that Mr Booth had this particular land- - -?---Yes.

--that he was trying to sell--?---Yes.

--and that there was some intention he had to put villas on it?---Yes.

I thought your evidence to me was that--?---Yes.

--he didn't tell you about a Development Application?---The Antouns had already made an application and already made sort of contact with, with Mr Booth and they've had discussions, so the Antouns came back to me and
10 said, "Look, there is a DA on there, it's not been approved."

Right?---So I said, "Well, before we go any further, let me do some consulting and let me just ring up a couple of Councillors and just see exactly what the problem is before we go further with this.

So you say that the Antouns contacted you, told you that there was, they were interested in the land but--?---Yes.

--there was a problem with the DA?---Yes.
20

Do you say they said anything about Councillor Pickering?---No, no, they just said to me, just a, it was just a conversation.

No, but did they nominate any particular Councillor that you might contact?
---No.

Did they nominate any particular Councillor who had perhaps caused some problem with the progress of the DA?---No, no.

30 And you say you offered to contact Councillors--?---Yes.

--to see what could be done with the DA?---Yeah, just to ask the questions and what is the major problem with this DA.

And do you say that they agreed that you would do that?---I just asked, let me do, let me do some consulting and find out exactly what the problems are before we go any further with this.

40 And what did the - sorry, which Antoun was it - was it there are brothers aren't there?---Yes, there is.

So the person you initially called, was it John?---John Antoun, yes.

Now this subsequent communication where you spoke about, that you've just told us about, that is, where you there told of the interest of the Antouns but of the possible problem with the DA.---Yes.

Who do you say told you about that?---I think it was John Antoun.

And was that in a telephone conversation or a face to face meeting?---Face to face meeting, we just got together prior to this, had a chat to see sort of where we are – because I was looking for further work and I just asked the guys where they were at with the negotiations with this property. They were a bit hesitant and just said look – I think there is a problem with the DA.

10 When you say they – are you saying that John Antoun communicated this on behalf of someone else as well?---Just the two brothers, we were just having a chat.

So the other brother was there as well?---David Antoun, yeah, I think he was there, yes.

And do you say you offered to then contact Councillors to try and find out what was going on with the DA?---Just to yes, yes.

20 And do you say that one or both of the Antoun's said that that would be okay?---None of them said anything, I just used my own initiative to find some information out before I - - -

But you say you raised with them this proposition that you would go and do some consulting in respect of the DA?---Certainly, yes.

Presumably on their behalf?---Um, I just don't recall on that it was just, it was just a conversation, that's all. I didn't want to act on them we were just looking as a business opportunity - - -

30 But you say you raised with them, given their interest in this business opportunity that you would go and try and sort out what the problem with the DA was?---Definitely not sort out – I think you're mincing words with me. All I wanted to do was go and find out what the problem is with the DA. Now - - -

And what you - - -?---No, you're, just to be fair here, it's like any normal business transaction here, if you're trying to find out before we spend any money, what is the actual problems with the DA. That's all, it's a simple as that.

40 So you raised with the Antoun's - - -?---Yeah.

- - -the idea that you would go and try and sort out what those problems with?---Again, I can't sort out anything, I just wanted to go and find out, now there's a word between – what can you please explain in the wording of sort out. Sort out what?

You say you indicated to the Antoun's an intention that you would go and speak to Councillors to try and explore what the problem was?---Explore what the situation is, yes.

And do you say that you got any communications back from the Antoun's that you proposed that you could go and do that, to explore these problems. What do you say the Antoun's did or said?---Said it's up to you, he said, okay - - -

10 Can I suggest to you that you never raised with them this notion that you would go and speak to Councillors, do you agree or disagree?---I disagree.

And can I suggest to you that no one, none of the Antoun's said anything to indicate that it would be okay for you to go and speak to Councillors in respect of this issue with the DA?---I did say earlier on I used my own initiative to do that.

20 Well, you told me a moment ago, I asked you what your response you got and you said, "They indicated it would be okay". I'm suggesting to you that that's not the case, that that is not the truth?---It was just a conversation with three guys sitting down having a cup of coffee and working out what the best form of going forward.

What I'm asking you about though, is what was said. You've indicated that you proposed contacting councillors- -?---I don't, I do not recall what was said in that meeting.

Commissioner is that a convenient time?

30 ASSISTANT COMMISSIONER: You don't see any utility in trying to finish Mr Henricus?

MR DOWNING: I don't anticipate that it would be more than, subject to, obviously questions from other members, I don't anticipate that I'd be more than about ten minutes.

THE WITNESS: Please let me do this now.

40 ASSISTANT COMMISSIONER: Yes, I get the feeling Mr Henricus would really like to finish and I think we should.

MR DOWNING: Thank you.

THE WITNESS: Thank you Commissioner.

ASSISTANT COMMISSIONER: Thank you.

MR DOWNING: What I'm suggesting to you is that you did not in fact raise with the Antoun's any intention of going to speak to Councillors?---I don't recall.

I'm suggesting to you that you didn't have any okay or permission from the Antoun's to go and speak to any of the Councillors about the is DA?---I don't recall.

10 All right. Do you recall then that you then attended a meeting on 1 May with Councillor Pickering?---Yes.

So you went to his work premises?---Yes.

And do you recall that meeting was some time in the middle of the day?---Yes.

20 And do you recall that throughout the meeting a Mr Nathaniel Smith was present?---He came into the meeting after about five or ten minutes into the meeting, yes.

I'm suggesting that he in fact greeted you and brought you in?---That's not, that's not correct.

Do you recall that you were upset and crying on that day when you arrived?---No.

30 And I'm suggesting to you that in the call you made earlier to Councillor Pickering asking to meet him you'd raised your work with The Weekly Times and the fact that you wanted to talk about advertising and he said to you, "I'm just not interested" or words to the effect?---No.

I suggest to you that when you attended on that day for the meeting around sort of some time between 11.00am and 12.00pm that in the course of the meeting you spoke about what you were doing at The Weekly Times?---No.

And you said words to the effect of, "that Mr Booth was interested in moving on and that you could well become the General Manager of The Weekly Times?"---No.

40 And you indicated that in order for Mr Booth to move on, he really needed his development application to be approved?---No.

And you indicated that if that could occur then Mr Booth could move on and you could come in as General Manager?---No.

And that some more favourable publicity or press coverage for Mr Booth might follow if in fact that occurred?---No.

ASSISTANT COMMISSIONER: Sorry, you said for Mr Booth.

MR DOWNING: I'm sorry, for Mr Pickering.---Mr Pickering.

Councillor Pickering?---Yes.

Because you were aware at that time weren't you that Councillor Pickering had had less than favourable coverage from The Weekly Times for a period of time?---No.

10

You're saying you're not aware of that?---No.

And do you recall saying through the meeting that the DA really needed to go through?---No.

What do you say you said in the course of that meeting then about the DA?--I came here, I just, the course of the meeting was I – I asked Mr Pickering what is the problems of the DA, I'm just here to ask the questions what is the major problems because I have some friends who are interested in this property and it will help me out for further employment.

20

Can I suggest to you that you said nothing of that sort to Councillor Pickering?---That's what I went to meet him for.

Well, that may be what you meant to meet him for but I'm suggesting that you didn't say that to him in the meeting?---I did say that.

And you say you raised that issue about the DA?---Yes.

30 And that you're friends were interested in the property?---Yes.

And that you were interested in possibly securing work?---Yes.

And what do you say Councillor Pickering said?---He started ranting and raving about his relationship with Mr Booth and how unhappy he is with the treatment he has from the papers. I tried at many times to interject and say this has got nothing to do with me. I have no interest in whatever relationship you have with you, yourself and with Mr Booth but he continued on his tirade. I could not get a word in.

40

Do you say he was losing control in the way he was speaking about Mr Booth?---No, he was, he was well he was in an excited state, he was, he stood up from behind his desk and he was preaching to me. This is, you know, about his history with TWT.

Can I suggest to you that that evidence about what Councillor Pickering said regarding Mr Booth is not true?---It is true.

All right. What do you say was said after that?---He mentioned about the hurt that the TWT had caused his family.

Can I suggest to you that that didn't occur in the course of the meeting?---It did.

10 All right.---He talked about the embarrassing, the embarrassment he's caused him, he talked also about um, the personal hurt that he's got from TWT um, he just kept going on about his own career being an ex-army officer. He talked about being a media specialist and he talked about a campaign that he was embarking on to be the new member of Bennelong and I'm saying, "Look, I don't want to get involved here, I'm not here to talk about politics."

Mr Henricus, none of that occurred did it?---It did occur that way.

20 Now did you recall that during the course of the meeting that you made some reference to personal issues you'd had in your own life?---At the very beginning, very, very briefly, he asked me how my wife was, I said we were having some issues but that was it.

Do you recall that you were upset and crying on and off during the meeting? ---No, no.

You deny that?---I do deny that, yes.

30 Do you recall that after you had got - I suggest to you that after you spoke to Councillor Pickering and raised with him the issue about Mr Booth wanting to move on, you possibly taking over as general manager, the DA being necessary to go through if that was to happen and the - - -?---Yes.

- - - better coverage that might be then provided for Councillor Pickering, Councillor Pickering said to you words to the effect of well, look, you know, I'll try and help you, mate, but just I can't deal with that now, I'll have to go away and think about that?---No, that's not true, I think he was doing his campaign speech about running for Bennelong.

40 Well, do you recall how long the meeting went for?---Oh, about 20 minutes. I actually got up and left. I wasn't getting anywhere. I excused myself and I left.

Do you recall telephoning the following day Councillor Pickering - - -? ---Yes.

- - - and leaving a message for him?---Yes, I did.

And he called you back?---He called me back, yes.

And do you recall this was some time around 10.00 in the morning?---Yes.

And do you recall you then asked him in the course of the phone call after he called you back - - -?---Yes.

- - - about whether he'd thought about what you'd put to him?---That's - no, that's incorrect.

10 Well, I'm suggesting to you that he - that in that conversation you asked him about whether he'd thought further about what you'd put to him the previous day?---That's correct.

What do you say you said?---I just rang him up and I said to Bill what the hell was that, I rang up prior to coming to your office to discuss about the DA and you invited me to your office to discuss the DA but I didn't even have that opportunity, you rant and raved about your, your problems with TWT which wasn't my interest and that was it and I said mate, what was that all about.

20 That's not the truth is it, Mr Henricus?---That is exactly what, why I rang him.

Right. Well, did you then call Mr Smith?---I called Mr Smith, yes, I did.

The same day, that is the day after the meeting?---The same day.

30 And do you recall saying to Mr Smith something to the effect can you try and speak to Bill to have him deal with what I raised yesterday?---No, I called Mr Smith because I was after to speak to Bill, to Mr Bill Pickering. I rang up Bill Pickering's mobile and I left a message and then I waited for about half an hour or so and then I rang up Nathaniel Smith to say that I'm after to see Mr, Mr Bill Pickering, that I've left a message for him, so forth, and that's what I remember saying that.

So in terms you say what, who, who did you call first on 2 May?---I called Bill, I called Bill Pickering first.

Right, and you spoke to him?---Yes.

40 And then you called for Mr Smith afterwards?---Yeah, I, I'm sure that was it or it could be the other way, yeah, I'm sure.

Thank you, Commissioner.

ASSISTANT COMMISSIONER: Yes. Does anybody wish to examine this witness?

MR STEWART: Your Honour just one - Commissioner, just one question.

ASSISTANT COMMISSIONER: Yes.

MR STEWART: Mr Henricus, had you ever worked at a newspaper office prior to April 2013?---No.

And the five weeks or the five weeks you spent there you were doing invoices weren't you in the, in the computer system?---Yes, I just spent three days a week for five, five weeks, yes.

10 So you had no experience in working or running a newspaper at all?---No, not at all.

Thank you, your Honour, thank you, Commissioner.

ASSISTANT COMMISSIONER: Thank you.

MR DAWSON: Commissioner, I have one or two questions for Mr Pickering if I may.

20 ASSISTANT COMMISSIONER: Yes.

MR DAWSON: Mr Henricus, were you in the room when your solicitor Mr Stewart was asking questions of Mr Smith and of Mr Pickering? ---Sorry, can you rephrase that question please?

Were you in this hearing room when your solicitor, Mr Stewart, was asking questions of Mr Pickering and Mr Smith?---Yes.

30 And did you hear Mr Stewart suggest to Mr Pickering and to Mr Smith that at the meeting on 1 May at Mr Pickering's business premises that you were irrational?---I don't know.

Were you irrational on 1 May at Mr Pickering's business premises during the meeting on that day?---No, I was, I was a bit, I was a bit emotional, not irrational, I was a bit emotional, I was sad about my private life.

Would you agree that your behaviour was - I withdraw that. Would you agree that your conversation was all over the place?---Not to my knowledge, no.

40

Did you hear Mr Stewart put that to Mr Smith during the course of the questions that Mr Stewart asked Mr Smith?---Yes.

And do you say that Mr Stewart did that contrary to your instructions?---No, I - no.

You see, Mr Henricus - - -?---Yeah.

- - - the version of events that you've given in the witness box today is the third version that we've heard about what happened at the meeting on 1 May isn't it?---Yes.

And I want to suggest to you that the version that you've given in your evidence today has been entirely fabricated by you, what do you say to that?---No.

10 And you've taken the opportunity haven't you to have a crack at Mr Pickering from the box, do you agree with that?---No.

And you've done that because you see this as an opportunity to damage him, don't you?---No.

20 Is there something amusing about my questions?---I have absolutely nothing to do with Mr Bill Pickering. I have no, I have no relationship with him, I've only met him about twice in about four or five years. I, I've, I have no reason to hurt him, I have got absolutely no interest whatsoever in, in Mr Pickering.

And the version of events that you heard him give in the witness box today and the version that Mr Smith gave is really what happened on 1 May isn't it?---No, that's incorrect - - -

Thank you, Commissioner?--- - - - and it's - oh.

ASSISTANT COMMISSIONER: Yes, thank you. Yes, no re-examination?

30 MR OATES: Just one, one matter.

ASSISTANT COMMISSIONER: Oh, sorry, Mr Oates.

MR OATES: Thank you, Commissioner.

Mr Henricus, I act for Mr Smith. After you had the meeting on 1 May did you have any further conversation with Mr Booth?---Ah, I, I don't recall.

40 When you say you don't recall that suggests that you may have?---I, I just don't recall, no, I - - -

You were still working at The Weekly Times weren't you?---Yes, I believe so, yes.

And you knew that Mr Booth still wanted to get his DA approved didn't you?---That was not my concern.

Well, you went to see Mr Pickering with that concern didn't you?---Yes, but that was the information I was going to pass on to the guys that were

hopefully going to purchase that, purchase that block of land. Mr Booth had nothing to do with it.

How did you fix on Mr Pickering as the Councillor to whom you should speak about the DA?---As, as mentioned earlier on Bill Pickering, we are part of the Liberal Party, it was a well-known fact that this issue was going on between Mr Bill Pickering and Mr Booth and there was no, there was a lot of issues between these two. It was a well, it was a well, it was a well-promoted fact.

10

So did you think that that well-promoted fact or that well-known fact about the animosity between Mr Pickering and Mr Booth was the reason that Mr Pickering may not be approving of the DA?---That's not my business.

20

Is that what you thought when you went to see him?---All, all I went there to see Mr Pickering was to see what was the problems with the DA, so - whether we could purchase this property and, and for my, and, and for myself to find work. I did not, did not want to get involved with the machinations between TWT, Mr Bill Pickering, that's not my business. I've just been caught in a blimbling trap, I've been caught in a whirlwind and I just wanted to find the information about this block of land for future work. That's it.

But there were 12 Councillors on Ryde Council weren't there?---Yes.

And you decided to approach Mr Pickering rather than one of the other 11? ---Yes.

30

And you say that was because of the animosity between Mr Pickering and Mr Booth, is that right?---No, it was a well, it was a well-known fact that he was involved in it within the Liberal Party.

A well-known fact he was involved in what?---In the DA process.

It's just coincidental is it that Mr Pickering was the man who'd called up the DA for Council?---That I, that I don't know about, all that inside information, I just went there to consult and get some information, that's all.

40

Nothing further, Commissioner.

ASSISTANT COMMISSIONER: Yes, thank you. No re-examination?

MR DOWNING: No, Commissioner.

ASSISTANT COMMISSIONER: No. Mr Henricus, thank you for your attendance, you are now excused?---Thank you.

You may leave?---Thank you.

THE WITNESS EXCUSED

[4.18pm]

ASSISTANT COMMISSIONER: And we will adjourn at this time until 10 o'clock tomorrow morning.

10 **AT 4.19PM THE MATTER WAS ADJOURNED ACCORDINGLY**
[4.19PM]