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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 THURSDAY 25 JULY 2013

AT 2.04PM

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

ASSISTANT COMMISSIONER: Thank you. Please be seated.

MR KHAN: Assistant Commissioner, my name is Khan, K-h-a-n, I seek authorisation to represent Mr Neish in the temporary absence of Mr Harris this afternoon.

10 ASSISTANT COMMISSIONER: Yes, Ms Khan, you're given leave. Yes, Mr Downing.

MR DOWNING: Thank you, Commissioner.

Councillor Petch, before lunch I was asking you about the deal that you understood had been conveyed according to Mr Neish to him and you've denied to me that you had anything with it?---My - - -

20 You recall I asked you about that matter?---From ..... or from Mr Goubran?

No. I was asking, I was suggesting to you that you had arranged or spoken to Mr Goubran and arranged for Mr Goubran to have an indirect approach made to Mr Neish with the offer?---That is incorrect.

And you deny it. Now what I'm suggesting to you is what, what it was that led you to come up with the motion that you put up before Council on 8 May was the fact that that offer had been rebuffed?---No, no.

30 And can I - that motion you put up before Council I think you agreed with me to set up the community advisory committee failed because of the voting on it?---Exactly.

And when I, can I suggest to you that when that failed that's what then leads you to come up with the next idea which was an extraordinary meeting seeking that the term of Mr Neish's contract, sorry, the termination of Mr Neish's contract?---That is incorrect. As I formerly said to you if I wanted to broker that type of deal I would have accepted the offer of .....

40 Well it's correct isn't it and I'd that you be shown Exhibit 2 pages 72 and 73 that you had drafted a letter seeking an extraordinary meeting for the purpose seeking the termination of Mr Neish's contract?---That's quite correct. I put a notice of motion and signed myself and Councillor Tagg.

Right. And you'll see on the screen in front of you - - -?---Yes.

- - - a letter of 9 July to the Mayor and also a copy to Mr Neish?---And that was prepared by Mr Laface.

All right. That motion that went before Council it was voted on at a time when one of the Councillors who was in support of the Civic Precinct was absent and it was passed?---Well if I could just add to that. The Council that was absent often said to me and many other people that a General Manager that didn't have the support of the manager, the majority of Council should move on. I got the information that he was not going to be there and that was the opportune time to put that motion forward.

10 No. But in terms of the vote it was initially passed but then a rescission motion was filed?---That's correct.

After that there were Supreme Court proceedings commenced?---Yes.

And ultimately injunctions were ordered by the court and you and other defendants gave some undertakings about not taking steps to try and seek the termination of employment?---Actually I gave that undertaking on behalf of the Council to stop the first meeting, the, yeah, I think about the second or third court hearing after that.

20

But in any event what had happened again your attempt of having - I withdraw that. The motion seeking the termination of Mr Neish's employment was a mechanism you tried to utilise to prevent the Civic Precinct going ahead?---Well - - -

Correct?---Not exactly.

Well having failed with the motion for the community - - -?---Yeah.

30 - - - advisory committee wasn't this the next step that you were trying to have pursued to prevent the Council committing itself to the Ryde Civic Precinct redevelopment?---I think it has more in it than what you just vaguely put to me. You see in, I think in June Mr Neish came up and said to the Council that he was only supporting six Councillors and only getting their information and the other six of us Councillors came to the conclusion that it's time for Mr Neish to move on and that was also supported not only by us six but also by two other Councillors, one who didn't attend the meeting he was overseas.

40 But you agree with me that the vote at the time was initially in favour of the motion but then a rescission motion was filed?---Oh, yes, it was.

And then Supreme Court proceedings in effect intervened?---Intervened.

And is it the case that despite the injunctions and the undertakings well, the injunctions that were ordered and the undertakings that you gave - - -?---Yes.

You were still looking for a means to get rid of Mr Neish?---If there was a means to terminate Mr Neish's employment, yes.

10 Because you were frustrated that your various attempts at preventing the Ryde Civic Precinct redevelopment going ahead had been frustrated?---Well it's not so much my attempts it was the community's attempts the broader community, I was always acting in the public interest and I was, and I could tell you honestly there was not one member of the community that rang me and said we're in support of this project, the whole community after it got the airplay, it got the newspapers were all ringing me to say keep going you know what are they trying to do with us.

Would you agree with me that at the end of this period of time that by the time the motion for the community advisory committee had been put up and hadn't succeeded - - -?---Mmm.

20 - - - your extraordinary, sorry, the extraordinary meeting seeking to terminate Mr Neish's employment had been held, Supreme Court proceedings had then ensued?---Yeah.

You were, I think you agree with me you were still looking for a means to try and bring about Mr Neish's termination of his employment?---Well it seemed like an up hill battle all the way through because we were waiting for ICAC to come down with their, their findings quite frankly and a lot of my Council were getting very frustrated it was taking so long to come down with that determination, however we had to just bite our time and when this porn issue come up I had no idea until I looked at it that that was probably the, the, the vehicle that we could use to terminate Mr Neish's employment.

30 Thank you, Councillor Petch. Now, before lunch I asked you about whether you had disclosed to other persons the fact that you were coming to the Commission to give evidence. Do you recall those questions?---Yes.

And you told me with the exception of Mr Belling you hadn't?---Not to my knowledge.

Well you - - -?---No really, not to my knowledge.

40 You're not confused about it are you?---Well, I don't recall ever telling anybody else I was coming here to give evidence.

Well, you understood you received a summons and I'd ask you to have a look at a document - - -?---Yeah. Thank you.

At the time you received the summons you knew didn't you that it was not appropriate other than in talking to your lawyer about it to disclose the fact that you were appearing in ICAC to give evidence?---No I wasn't aware of that. I was only aware of the fact - - -

Well, did you read the summons at the time?--- - - - that I'm not to discuss what I'm dealing with at ICAC.

10 Did you, did you read the summons at the time?---I just read the summons and I have to be there at 9.30 on Friday, 15 February, at Level 21, and the examination will deal with the circumstances relating to and following the investigation reporting of pornographic material discovered on the City of Council laptop issued to Council General Manager, John Neish by officers of the Council, and - - -

So you read the first page?---That's all.

Did you read the second page?---Not really.

20 You didn't read the part that says in large bold capital, "You must not disclose information about this summons, including the existence of the summons, which is likely to prejudice the investigation to which it relates?"---No, actually I didn't. I only read the first page.

So do you say - - -?---I - - -

- - - you didn't have any understanding - - -?---No.

- - - you shouldn't be talking to other people about - - -?---Yeah.

- - - coming to give evidence?---Well, I, I, it's always been my knowledge that you can't talk to people about what you're going to do with ICAC.

30 Right. Okay. Well, in any event when you came and gave evidence, and this is in the transcript of your compulsory examination - - -?---Yes.

- - - at page 187 you were asked about whether you had spoken to anyone about coming in to the Commission that day and you said, "Only my lawyer," and you confirmed it was Mr Belling?---To the best of my knowledge, yes.

All right. So that was on the morning of 15 February this year?---Right.

40 All right. Commissioner, I tender these summons.

ASSISTANT COMMISSIONER: Yes. That will be Exhibit 86.

**#EXHIBIT 86 - COPY OF A SUMMONS TO APPEAR AND GIVE EVIDENCE ADDRESSED TO MR IVAN PETCH - DATED 8 FEBRUARY 2013**

MR DOWNING: And Councillor Petch, I'm going to ask you to listen to an audio recording?---Yes.

**AUDIO RECORDING PLAYED**

**[2.13pm]**

10 MR DOWNING: Now, Councillor Petch, do you recall, do you recognise that as a phone call between you and .....?---Yes, I do.

On 11 February, 2013?---If that's what it says, yeah.

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

ASSISTANT COMMISSIONER: That will be Exhibit 87.

20 **#EXHIBIT 87 - COPY OF AN AUDIO CASSETTE AND  
TRANSCRIPT OF A TELEPHONE CONVERSATION BETWEEN  
COUNCILLOR PETCH AND ..... ON 11 FEBRUARY 2013  
AT 18:19:19**

MR DOWNING: And we'll have copies made available.

Now, you'd been served with your summons just some days before then hadn't you, correct?---Yes.

30 So in your evidence earlier today you told us that after Mr Belling, your lawyer, on 1 February had told you that it was confidential, this material, in respect of Mr Neish and that it shouldn't be disclosed to anyone else, that despite having told people before then you were very concerned that no harm would come to Mr Neish's family and you told no one else. That was a lie, wasn't it?---Not, not exactly.

40 Well, what part of it wasn't a lie?---The fact that the part that wasn't a lie is that I didn't want it propagated in the media and I didn't want the, the whole of Sydney talking about Mr Neish because of the impact it would have. Mr - I don't recall this conversation to be quite - - -

Who's ..... by the way?---Sorry?

Who's .....?---..... is one of the leaders of one of the activists groups that have been supporting the, the anti-development.

So he was someone who was somewhat of an opponent of Mr Neish in his involvement with Ryde Civic Precinct redevelopment?---I think so, yes, you could put - - -

So you think, did you think that perhaps disclosing to him the discovery of pornography on Mr Neish's laptop might have been something that might have gone further?---No, not with him.

10 Right. You didn't ask him to not disclose it to anyone did you?---Oh, I knew he wouldn't.

Right. Now, I'll put to you again - - -?---And I don't, I don't recall the, the - having said that to him.

20 But you positively told us this morning that after the advice Mr Belling gave you you told no one else?---That, that's my, my recollection but obviously I'm proved wrong. I make thousands of phone calls and I make hundreds of conversations with people. I don't recall every, everything I said in every conversation and I don't even to this date recall even disclosing to anybody this but you've obviously got the, the records.

Councillor Petch, this was a significant matter, I mean, something that you were very excited about, the discovery of the material on Mr Neish's computer wasn't it?---It was a way we could terminate Mr Neish.

30 I understand that but it was something that you were very excited about, when you spoke to a number of people on the phone you could barely contain your glee could you?---I wouldn't call it barely containing my glee, I was - when I spoke to the people on the phone and as representing a large section of the community that we were getting satisfaction and that was the only, the only way we could, it was the only out that we could use to, to terminate Mr Neish's employment.

I want to put this to you fairly and squarely, that the evidence that you gave us today earlier about having taking, not taking any steps to disseminate this material in respect of Mr Neish after the advice Mr Belling gave you on 1 February was a lie?---Oh, well, I should have responded to that saying I don't recall having said it and that's the fact now.

40 You know, well, you know quite well - - -?---No, I don't know.

- - - don't you - - -?---No, I don't know.

- - - that you spoke to a large number of people about this?---I don't, don't recall having spoken to a large number of people about it. If I did I'd have no, no problem in telling you so.

Well, you also told the Commission on the last occasion, that is on 15 February, that the only person you'd spoken to about coming in was your lawyer Mr Belling?---Right.

Correct? Four days prior to that in the call that we've just played to you you told ..... that you were coming into the Commission on Friday?  
---Right, yes.

10 You don't suggest between the 11<sup>th</sup> and the 15<sup>th</sup> you'd forgotten that do you?---I said to you earlier I made no secret and I didn't know it was a, a secret that I couldn't tell anybody I was coming to the Commission, I, but I knew I had to not disclose what I was talking to the Commission about.

Councillor Petch, I'll take you back to the transcript?---Yes.

You were asked when you came and gave your evidence in compulsory examination, "Now have you, have you spoken to anyone else about coming in today?" and you said, "Only my lawyer" - - -?---Yeah.

20 - - - and you identified that lawyer as Bryan Belling?---All right.

There was no ambiguity in that question was there?---No.

You were asked whether you had spoken to anyone else about coming in and you lied?---Well, I didn't lie, it was just a fact that I didn't recall having spoken to anybody.

30 Are you seriously suggesting to the Commission - - -?---Yes, I am seriously suggesting - - -

- - - that between the 11<sup>th</sup> - - -?---Yes.

- - - and the 15<sup>th</sup> - - -?---Yeah.

- - - you'd forgotten that?---Because I played no importance on it. I, I don't recall it.

40 You told further people in that period between the 11<sup>th</sup> and the 15<sup>th</sup> didn't you?---Well, you demonstrate to me how I've done this.

All right?---I don't recall having done that.

Well, I'll ask that you listen to another audio recording.

**AUDIO RECORDING PLAYED**

**[2.21pm]**



MR DOWNING: Councillor Petch, having heard that audio do you accept that's a telephone conversation between you and .....?---Yes, I do.

And who's .....?---..... is what we call a head hunter, she's the person that goes out - - -

10 A recruiter?---A recruiter for management and everything else and she's done an excellent job in the past for Ryde.

And you accept that that was a call between you and her on the 13 February 2013?---Yes, I do.

Commissioner, I tender the audio and transcript.

ASSISTANT COMMISSIONER: Yes. I'll mark that Exhibit 88.

20

**#EXHIBIT 88 - COPY OF AN AUDIO CASSETTE AND  
TRANSCRIPT OF A TELEPHONE CONVERSATION BETWEEN  
COUNCILLOR PETCH AND ..... ON 13 FEBRUARY 2013  
AT 18:10:26**

ASSISTANT COMMISSIONER: Mr Downing, I presume that ..... and ..... aren't being called, I think I should suppress their names in those circumstances.

30

MR DOWNING: Commissioner, I'm, I'm content with that. The fact of whether it was one person or another is really neither here nor there.

ASSISTANT COMMISSIONER: And I mean I think they can be referred to if, if necessary by their positions. I think the significant thing is that they weren't members of the Council or anybody who should be getting this kind of information. So she - - -

40

MR DOWNING: Commissioner, I'm content with that.

ASSISTANT COMMISSIONER: ..... a recruiter. What was ..... position?

MR DOWNING: ..... was a community group leader I think.

ASSISTANT COMMISSIONER: All right, yes. Well I suppress their names. They may be described by those positions they hold and that yes, that audio is 88.

**THE NAMES OF ..... AND ..... ARE  
SUPPRESSED**

MR DOWNING: Now, Councillor Petch, contrary to the evidence you gave this morning you in fact told ..... about the pornography having been downloaded from the internet during that call two days before you came to ICAC?---I don't recall but there was, just a general conversation, I don't recall everything I say and obviously that was an error on my part, it was a slip of tongue it wasn't intentional.

You also told her that you had to go to ICAC to give evidence on Friday. So that's two days before you came in?---Mmm.

When you gave evidence on the Friday that you told no-one but your lawyer you knew that you'd given that, you've given that information to .....?---I can honestly don't recall having this conversation with ..... except to let her know that we would be asking her to put her submission in to recruit a General Manager.

Your answer in respect of that last question was a lie wasn't it?---No, it wasn't a lie.

Now earlier on I asked you about whether you understood that you weren't supposed to tell people about that you were giving evidence at ICAC and I think you said that you hadn't read the second page of the - - -?---That's correct.

- - - summons so you didn't know that?---Yeah.

Can you, we'll bring up on the screen an earlier telephone intercept that was played today involving a conversation between you and Mr Stavrinis on 10 February, so that's 5 days before you came to the Commission. Exhibit 28, sorry, 78 page 145.

No, I don't want to play it, just the transcript please.

So page 145 just the third page of 9 in the transcript. Can, if we go down to about two-thirds of the way down the page do you see, it was played earlier today you would have heard it but it shows you saying, "I don't know, mate, I'm giving evidence on Friday, that's unofficial I'm not supposed to tell anybody this." So you did know you weren't supposed to tell people?---(No audible reply)

You did didn't you?---I'm talking a journalist and I'll be honest with you I, I have to, you know tell him what, he was wanting to know what it's all about and I simply said to him no, I can't tell you.

Councillor Petch, you were under no misapprehension at the time you came to the Commission that you were not supposed to speak - - -?---Yeah.

10 - - - to other people and you knowingly spoke to other people, a number of other people and told them that you were coming into the Commission to give evidence. Correct?---I may have just told, I didn't tell them what I'd be giving evidence about, that's the point but obviously with ..... it was, must have been a slip of the tongue.

So you didn't tell anyone anything to do with the subject matter of the evidence?---No, I can't.

I'll ask if you listen to another telephone conversation, please?---Yes.

20 **AUDIO RECORDING PLAYED** **[2.30pm]**

MR DOWNING: Councillor Petch, you heard that conversation?---Yes, I did and the, that person I was talking to is ....., ....., he was the .....at Ryde.

Commissioner, in the same way as the other two witnesses I'd ask there be a suppression order in respect of ..... identity.

30 ASSISTANT COMMISSIONER: Yes. And I think I should also suppress the specific detail that he was the ..... - - -

MR DOWNING: .....

ASSISTANT COMMISSIONER: - - - ....., whatever he was because that would identify him.

40 ..... **NAME AND PROFESSION IS SUPPRESSED**

MR DOWNING: And you accept don't you that this was a phone call on 14 February, that's the day before you came to the Commission and gave evidence?---I accept that now, yeah.

Commissioner, I tender the audio and the transcript.

ASSISTANT COMMISSIONER: Yes. That will be Exhibit 89.

**#EXHIBIT 89 - COPY OF AN AUDIO CASSETTE AND  
TRANSCRIPT OF A TELEPHONE CONVERSATION BETWEEN  
COUNCILLOR PETCH AND ..... ON 14 FEBRUARY  
2013 AT 11:29:54**

10 MR DOWNING: Now, Councillor Petch, in the course of that phone call you referred to Mr Neish and said, "That's not the final chapter. I'll have the last say on that I can assure you." You were referring to the fact that you were going to square up with Mr Neish weren't you?---Not really.

You were intending to square up by releasing the pornography in respect of - - -?---No, I'd given an undertaking I wouldn't release the pornography and I never did.

You never took that undertaking the least bit seriously did you?---Yes I did.

20 Well, we'll come to that. In the course of this phone call which is the day before you came to the Commission - - -?---Ah hmm.

- - - you told ..... that you were going to be at ICAC tomorrow?---I don't recall telling him that because we'd just had long conversation between, talk about a multitude of things. I don't really recall saying that to him but now you have the recording of it obviously I did say it to him.

30 And, and you didn't just say nothing about the content of what you would be coming to ICAC to talk about, you said you'd be giving evidence against Mr Neish. Do you accept that?---Yes I do, actually.

And you made mention of the fact that the reason he'd been fired was that he'd been downloading porn on the Council's computer?---Yeah, well I apologise to the Commission for, for that because I didn't recall having said that to him.

40 Your earlier evidence in respect of not telling anyone about giving evidence - - -?---Yeah.

I withdraw that?---Yeah.

Your earlier evidence about not having disclosed the fact of the pornography to anyone after 1 February was a lie?---It wasn't a lie, it was just, that I just didn't recall doing it.

Is it the case that you didn't recall it because there was so many people you spoke to it's now hard to keep track of them?---No. I wouldn't say that either.

All right. Can you think of any of the people that you were friends with that you didn't disclose it to?---Oh well, I'm friends with ah, thousands of people so ah, I'd probably say ah, ah, 999,999 out of all the people I know I didn't do that.

10 Now, in the course of that conversation you said that he used the Council's website to download it?---Ah hmm.

That's on page 3 of 5?---Right.

Did you ever bother to ask the IT employee that came to see you whether in fact he had used the Council website?---Yes he did, he gave me evidence in the, in, with the, with the CD.

20 Yeah, are you sure that that's the case and that it wasn't in fact the case according to IT employee that it had been a Council laptop but it had been used by Mr Neish at home connected to his own internet account?---Well, the information he gave me was connected to the ah, mainframe of the Ryde City Council and that - - -

30 Are you sure it's not just an excited conclusion you drew?---Not a conclusion I drew, it's evidence he gave me. And ah, I ah, sought with Mr Bellings through the Acting General Manager to have ah, an IT expert come in, a forensic expert to look at the ah, the mainframe to see if that in fact could be verified. And the General Manager, Acting General Manager said to me, "We'll send it off to ICAC. They may want to do that."

Well - - ?---And then the reply came back from ICAC, "Do it yourself," so we left the General Manager to organise a person and from that point in time I've never heard another word about it.

The Acting General Manager you're referring to, is that Danielle Dickson?--  
-Yes it was.

40 It wasn't her idea to have a forensic person look at this material was it?---  
No, it was Mr Belling's idea.

All right. It was you instructing Mr Belling and he suggesting you should have it checked out to make sure it was bona fide?---Exactly.

Now, this is a call that I, sorry, I withdraw that. When you gave evidence in your compulsory examination on, I'm sorry, on 15 February that was the day after you'd had this conversation with ..... Do you

seriously suggest that at that time you'd forgotten that you'd told him you were coming in to give evidence?---Yes I do.

That's a lie isn't it?---No, it's not a lie.

All right. Now, that call with ..... - - -?---Can I tell you something? If I had recalled it I'd have no problems disclosing it to the Commission.

10 Can I put this to you squarely, Councillor Petch, you are prepared to say whatever it takes to try and exculpate yourself in this aren't you?---I'm, could you say that a bit slower?

I'll try and say it more slowly. You are prepared to lie to this Commission for as long as it takes and as often as it takes to try and cover your position aren't you?---No. I'm not covering my position and I'm not lying.

20 Well, the call that we've just played to you was one with the ..... at about 11.30 on 14 February, 2013?---Right.

Now, that's less than 24 hours before you came into the Commission and gave your compulsory examination?---Well, I think - all I can recall talking to ..... is about having a meal with the lady over the road and that was all, everything else was - - -

So you remember the chateaubriand but not the rest?---I remember the chateaubriand because I was doing the catering.

30 Right. Well, this was less than 24 hours before you came to the Commission. Do you think in that period of less than 24 hours you spoke to anyone else about the fact that pornography had been found and that you were coming into the Commission?---Let me answer your question by saying I don't recall having spoken to anybody.

Can you listen to another recording please?---Yes.

**AUDIO RECORDING PLAYED**

**[2.41pm]**

40

ASSISTANT COMMISSIONER: Mr Downing, I don't think this is the right - this seems to be a different transcript than what's being said unless I'm - - -

MR DOWNING: I apologise, Commissioner. I'll see if I can have that rectified. I do apologise, Commissioner, what we'll do is restart the audio and have the transcript which corresponds with it now be put up on the screen.

**AUDIO RECORDING PLAYED**

**[2.43pm]**

MR DOWNING: Councillor Petch, do you recognise that that was a phone conversation between you and .....?---Yes, I do.

10 ..... was a former employee of the Council?---He was  
.....

And he departed some time before this?---No, not for some time just prior to that we, we had a very good strong relationship and had like a - - -

I'm suggesting you had any problem in your relationship with him I'm just suggesting that at the time of this conversation he was no longer at Council? ---Yeah.

20 He moved to Queensland hadn't he?---Mmm.

To take up a position with a Council there?---Mmm.

Is that correct?---Correct.

And you'll see from the transcript it shows the call at 15 February 2013 at 8.42 - - -?---Right.

- - - in the morning?---Well whatever it says, yeah.

30 Commissioner, I tender the audio and the transcript.

ASSISTANT COMMISSIONER: Yes. That will be Exhibit 90. And I suppress the name ..... except for the description of former Council employee.

40 **#EXHIBIT 90 - COPY OF AN AUDIO CASSETTE AND  
TRANSCRIPT OF A TELEPHONE CONVERSATION BETWEEN  
COUNCILLOR PETCH AND ..... ON 15 FEBRUARY 2013  
AT 08:42:00**

**..... NAME IS SUPPRESSED**

MR DOWNING: Now in the course of this conversation, Councillor Petch, you actually refer to the fact that you're going into ICAC now to give evidence against him?---Well I think he, I do accept that now. I don't even

remember making the call to him, I'll be very honest with you there was a lot of calls. These are only selected calls out of thousands of calls that I've literally had.

Are you suggesting that less than an hour and a half later when you came to the Commission to give evidence you couldn't recall having disclosed to .....

that you were actually on your way to give evidence that day?  
---Yeah, I couldn't. Otherwise I'd have no problem disclosing that to the Commission if I - - -

10

Have you had any treatment for memory problems, Councillor Petch?---No, I don't have memory problems.

You also - - -?---I just have a lot on my mind that's all.

You also told him not only that you're going into ICAC but to give evidence against him?---Mmm.

20

And that was your understanding of why you were going in wasn't it, to give evidence to try - - -?---Yes.

- - - and sink Mr Neish?---Well to give evidence not to sink Mr Neish but in fact to, to give ICAC the opportunity to investigate Mr Neish for his, for his activities.

30

Well I suggested to you earlier that you went in with the understanding that with some enthusiasm to give evidence 'cause you were, understood it was to give evidence against Mr Neish. That was your belief wasn't it?---I don't think it was enthusiasm, I don't think that's the word for it but I think it was a sense of justice.

And I suggest to you again that the reason you lied in your evidence previously was because you were keen to try and destroy Mr Neish and you were prepared to lie to that end?---No, I never had any intention of destroying Mr Neish and I think Mr Neish did a very good job of that himself and I might go on a bit further. When we talk about making revelations of Mr Neish's pornography I think ICAC in this inquiry has done a much better job than I could ever - - -

40

ASSISTANT COMMISSIONER: You did a pretty good job, Mr Petch.

MR DOWNING: Councillor Petch, in the course of that call you spoke to .....

about the fact that there would be more questions answered and you said, "Well push through and do what we have to do, mate, it'll all be done by the book"?---Yes.



And I take it the book you were referring to wasn't the Code of Conduct?---  
Well it's an expression, everything is done by the book you don't go off on  
tangents and do your own thing you do it - - -

Councillor Petch, would you agree with the proposition that the way in  
which you handled this complaint made against Mr Neish was as far from  
being by the book as it really could be?---I accept that, yes.

10 Now I'd asked you previously about the Code of Conduct and you told me  
you were familiar with it. Do you recall that evidence?---Yes, I do.

And you recall that the Code of Conduct and this is in Exhibit 1 page 1599  
to 1600, covered things like requirements of acting with integrity, with  
selflessness, with impartiality. You're nodding, I'll need to get a verbal  
response - - -?---Yes, yes, yes, yes.

With honesty?---Yes.

20 And do you believe you acted in that manner in the way you handled this  
material in respect of Mr Neish?---Well, I think I hadn't handled the affair  
with Mr Neish on behalf the community exceptionally honest.

In the course of your evidence earlier you indicated some familiarity with  
the Local Government Act?---Yes.

30 And was that some familiarity that you've achieved through your time as a  
member of the State Parliament?---Not only as a member of the State  
Parliament but a member of the Local Government Committee of the State  
Parliament.

And you were aware that section 439 requires that each Councillor must act  
honestly and exercise a reasonable degree of care and diligence in carrying  
out his or her functions under the Act?---I do.

40 And do you say that that's the way you conducted yourself in respect of Mr  
Neish?---Well, I've always attempted to, to conduct all my business in, in  
that particular manner. We're all humans and we're all frail and we're  
subject to failures but my, my intention was to act honestly and with  
integrity on this.

Were you also aware of chapter 14, part 2 of the Local Government Act  
which sets out requirements as far as duties of disclosure are concerned?  
---Vaguely, yes.

Were you aware that under the Act and it's particularly section 449, that it  
sets out requirements in terms of preparing and lodging returns setting out  
interests that need to be disclosed?---Yes.

And were you aware also that section 451 sets out certain requirements in terms of disclosure and presence in meetings?---Yes.

And you were aware were you that according to section 451 that it required any Councillor or member of a Council committee who had a pecuniary interest in any matter which the Council was concerned with and that was present at a Council meeting or committee meeting at which the matter was being considered had to disclose the nature of the interest to the meeting as soon as practicable?---Yes.

10

Did you always do that?---Always.

And it also provided, that section, I suggest to you that the Council or member must not be present at or in sight of the meeting of the Council or committee at any time during which the matter is being considered or discussed by the Council or committee or at any time during which the Council or committee is voting on any question in relation to the matter? ---I'm very much aware of that.

20 Right. And was the way in which you conducted yourself during your time at Ryde Council?---Yes.

Now, Councillor Petch, you were aware of the complaint handling procedure at the Council as part of the Code of Conduct weren't you?---Ah, to a - yes, I do.

Well, you didn't someone to bring it to your attention as at February this year, you knew about it as Mayor?---Yes.

30 To the extent that you had any misapprehension about what it was and how it applied do you recall that Mr Newsome actually specifically brought it to your attention?---Yes, he did.

And if I could ask that Exhibit 17 pages 713 to 714 be brought up. Do you recall - if you go to the bottom of the page - well, sorry, at 713 if we go back to the top do you see there are two emails that day from Mr Newsome, there was one at 7.23pm where Mr Newsome apologised for not having earlier attached the complaint handling procedure?---Right.

40 And he did attach it in the email to you didn't he?---Let's see the email.

If we go down, if we go down lower in the page you'll see on 5 February at 7.19 - - -?---Right.

- - - Mr Newsome had sent you an email specifically drawing your attention to the complaint handling procedure and proposing certain action in the way in which the complaint against Mr Neish should be handled?---Let me have a look at this. Can you, thank you.

And if you go to the - - -?---Oh, hang on.

- - - top of the page - - -?---Hang on, I'm just trying to read what's on - - -

I'm sorry, please tell me when you've had the chance to read it?---Thank you. Yeah.

10 So initially you got the email setting out Mr Newsome's recommendations as to how the complaint should be handled and indicating that he wouldn't attach the complaint handling procedure, his initial email didn't attach it but he sent you one some minutes later attaching it, you recall that?---Yes.

And if you go to page 715 and following you'll see the actual Council complaint handling procedure was attached?---There's a - - -

You recognise that, don't you, Mr - - -?---I recognise that, is there a specific clause that you want to refer - - -

20 Well, not, not specifically but do you recall receiving this email?---Ah, I don't recall receiving it but if it's there I received it, yeah.

Well, if we go back to 713, Mr Newsome emphasised to you at point 2, if we go down the page, he emphasised to you in capitals and bold that the matter needed to be maintained as confidential?---Yes.

And he notes that you had stressed that point to Melissa, that was Ms Melissa Attia - - -?---Yeah.

30 - - - wasn't it?---Yes.

And at point 4 the proposal that Mr Newsome had provided was that following a discussion that he was proposing that you have that if you agreed to refer the matter for review by conduct review or a conduct review committee then that would be undertaken by accessing a particular panel of conduct reviewers?---Actually, I didn't agree to that at all.

40 Well, but that was the procedure that was provided for under your actual - - -?---The, yeah.

- - - Code of Conduct wasn't it?---Ah, if, if you have confidence in the people who are going to do it.

Well these people that were supposed to be on the panel, that is to either be appointed as a conduct reviewer or a conduct review committee - - -?---Ah  
hmm.

- - - were external people?---Ah hmm. You see ,the way it was put to me that we're going to have Council's legal counsel and others on there and I wanted to take this away from them and get my own counsel because I just didn't trust the advice I was getting from Council's counsel.

But even if you had a problem with the internal staff at Council - - -?---Yes.

- - - including Mr Newsome - - -?---Ah hmm.

10 - - - what was being proposed was that an external arms length conduct reviewer or conduct review committee be used as per your Code of Conduct - - -?---Ah hmm.

- - - to look at this complaint. Correct?---Well, well that's Mr Newsome's interpretation but I think I also have the, the right to seek external legal advice on this whole thing which I did.

Well, I'm not going to take you to the, the points within the conduct review committee but - - -?---Ah hmm.

20

- - - accept from me that one of the options there in terms of handling the complaint as Mayor - - -?---Ah hmm.

- - - I mean, you had options to dismiss it, to mediate it - - -?---Ah hmm.

- - - or have it mediated, but one of the options was to refer it off to an external conduct reviewer - - -?---Ah hmm.

30 - - - or conduct review committee?---Yes, I, I saw that as like putting Dracula in charge of the blood bank.

So you had some reason did you to expect that these people on the external panel wouldn't be impartial?---Yes.

And what experience was that based on?---Because they were all appointed by Mr Neish.

The external panel?---Oh, the external panel. Oh, I think it was the internal panel that we were talking about at the time.

40

But you understood didn't you that under the Council's complaint handling procedure - - -?---Ah hmm.

- - - that the persons that would be appointed are external and independent and arms length from Council?---Right. And so is my legal counsel.

All right. Can I suggest to you that the reason why you didn't want to go down the path of the actual complaint handling procedure was because you

had an end in sight, that was getting rid of Mr Neish?---Well, that was our community's end in sight, yes. There's no, there's no question about that.

So that you didn't want to go down this path of having him, has his - - -?---No.

- - - having his conduct reviewed where he might possible be reprimanded or have his internet rights restricted in some way?---Ah hmm.

10 You wanted him out?---Yes.

So you decided to bypass the actual established procedure the Council had - - -?---No.

- - - getting an external lawyer - - -?---No.

- - - and look at trying to get rid of him?---I wanted to get advice from an external lawyer which way I should go.

20 And do you recall having a meeting with some of the other Councillors, Councillors Tagg, Salvestro-Martin, and Li on a particular day when a disabled playground, Livvi's Place was opened?---Yes.

In early 2013?---Ah hmm.

And do you recall on that occasion talking about the disclosure of, or the discovery of the material on Mr Neish's computer?---Yes, I, I think I had to let my ah, team know.

30 And do you recall expressing a view then that you didn't really want to go down the path of the Code of Conduct because it could drag on for ages?---No.

You wanted Mr Neish out?---No, we didn't discuss the going down the Code of Conduct path.

Well, I'm suggesting you did?---Well - - -

Do you deny that?---Yes I do.

40

The agreement that was ultimately negotiated was one whereby Mr Neish finished up immediately and was paid out 38 weeks pay. So was it your view that it was preferable to have Mr Neish paid out at Council's expense 38 weeks pay rather than having him go through the established complaints handling procedure?---I think in the long, long run yes, that was the, more preferable. That was, not in my view. It was the view of the, of the, the majority of Councillors.

Because you were aware weren't you that under his contract there was provision there that where you wanted to terminate him without cause that could always be done if you're prepared to pay up 38 weeks?---Exactly. Yeah, that's the legal advice we got.

So that was the option your, you decided to - - -?---Yep.

10 - - - take. Now, can I ask you did you have a view that Mr Neish had breached particular policy in his conduct?---Well, yes I do have a view and I think that was - - -

And what policy was that that you believe he breached?---I believe it was the misuse of Council equipment.

Is that a particular policy?---I don't know but Mr Neish seemed to accept it was.

20 Well you gave instructions to Mr Belling for the preparation of the deed under which his employment, Mr Neish's employment came to an end, correct?---Yes, correct.

And do you recall that one of the - - -?---I might add that was following a meeting with Mr Neish where we decided that he was going to part ways and then I got Mr Bellings to then prepare the document.

Well do you recall that under the deed and I'd ask it to be brought up. Exhibit 2 pages 63 and following. We'll start at 63. Do you recognise that as the front - - -?---Yes, I do.

30 - - - page of the deed of - - -?---Yes, I do.

- - - separation?---Yeah.

And do you see there's certain background facts that are stated on the next page, page 64?---Yes.

40 And do you see on that page G Ryde Council alleges that Mr Neish on or around 1 February 2013 breached Ryde's, Ryde Council's Code of Conduct?---(No audible reply)

And Mr Neish doesn't not admit the allegations. Do you see that?---Yes.

What part of the Code of Conduct was it your view that Mr Neish had breached?---Well let me put it this way to you I'm not an expert on the Code of Conduct I take all my advice from legal people as to the appropriate way to handle these tings. I presented the, as, as you well know the CD to Mr Bellings, he did an assessment and his assessment he felt that it was a breach.

Do you recall what provision of the Code of Conduct it was of?---I don't, I don't know whether the Code of Conduct or what it was, it was just a breach.

But I understand that you had formed the view that Mr Neish had in some way engaged in what might be corrupt conduct?---Well I don't think I, I use the word corrupt conduct, I don't think I've ever said Mr Neish's acted corruptly.

10

Please tell me if this is not right, I thought I'd asked you earlier today about whether part of your handling of this was for a complaint or a referral to be made to ICAC in - - -?---Okay, yeah.

- - - respect of the discovery?---Mmm.

20

Well tell me in what way - I withdraw that. I take it in seeking that ICAC become involved in the discovery of Mr Neish's having access to pornography you took the view that in some way that would constitute corrupt conduct?---Not necessarily it's for ICAC to determine whether it was corrupt conduct not me.

Well you wouldn't have referred it to ICAC if you didn't think it was corrupt conduct would you?---Well I took, I referred it to ICAC under, under advice not my own volition and I think that's well and truly documented in the evidence.

30

Can I suggest to you, Councillor Petch, that you conduct in the way in which you managed the information after the disclosure was made to you amounted to a very significant breach of the Code of Conduct?---Well I accept that, yes, I do.

You knowingly - - -?---I don't know if it was significant but it was obviously a breach.

40

You knowingly disclosed confidential information regarding Mr Neish and you did so with the intent to harm his reputation?---No, it wasn't to harm his reputation it was more to keep the, the people who had an interest in what was happening and then wanted to see the end of Mr Neish, keep them informed of what was happening.

Councillor Petch, earlier today I asked you the question it's correct that prior to coming in that is for the compulsory examination, I'm sorry I withdraw that. It was prior to, oh, yes, prior to coming in for your compulsory examination you'd sought that ICAC be informed about the discovery of pornographic material on Mr Neish's laptop?---I was advised to report it to ICAC, correct.

All right. Well you, and you indicated you agreed. I then asked you, because you took the view that that might constitute corrupt conduct and you said I do?---Well it could have but it's not for me to determine.

Well - - -?---You said it could have and I do agree - - -

Well I said because you took past tense the view that it might constitute corrupt conduct and you said I do?---It might not it did.

10 Well on what basis do you say that it might amount to corrupt conduct?  
---Because I was given legal advice that it might.

So you never formed any view of your own about it?---No.

20 Do you accept that there was no proper basis for you to disclose the information to the media?---Initially when I received the CD I was, and that was on the Thursday and I wanted to talk to .... on the Friday but they told me he was off on a long weekend he wasn't available and by Monday he had already disclosed it then to the junior officer in the IT section. I wanted to talk to .... about, about the, the, what he had really given me and what he wanted me to do with it. Having found that he'd given it to a junior officer in the IT section .... came up to see me to let me know that he'd been investigated by the head of his Department for making that complaint which clearly suggested to me that the information is now well and truly being leaked throughout the Council.

Are you finished, Councillor Petch?---Yes, thank you.

30 I'll ask the question again. Do you accept that there was no proper basis to disclose the information to the media?---There was no proper basis at all.

Do you accept that there was never any proper basis to disclose the information to your friends?---Well, technically there wasn't but morally there probably was.

You took a moral stance did you?---I took a moral stand, yeah.

40 Do you accept that the proper way to handle this complaint was according to the established complaint handling procedures?---Ah, normally I would do that but as I didn't trust the situation within, within the management what would happen to it I decided to get advice from Mr Bellings who I did trust.

What experience had you had of some difficulty with the external panel of conduct reviewers doing their job?---Well, the people who were referring it to the external panel didn't have my 100 per cent confidence.

So it wasn't the panel, it was the people that were suggesting that it be referred?---Exactly.



Right. What, you thought they'd interfere in some way?---Who knows.

The truth of the matter is that the only, the only outcome you were after was getting ride of Mr Neish and you wanted to use the pornography to that end, correct?---I think it was a very good vehicle and, and it was very convenient at the time, yes.

Now, Mr Neish finished up on 8 February, 2013?---He did.

10

And it's the case isn't it that you continued to instruct Mr Belling until some time in April for the purpose of him having investigations undertaken into the material?---Yes, I do.

And do you accept that after the date of Mr Neish ceasing his employment there was no proper basis to instruct Mr Belling to undertake that task?

---Well, there was indeed because we had to establish whether the information that we'd dismissed Mr Neish on was the catalyst for his departure was authentic.

20

Well, would you agree with this proposition, that under his contract that the - in terms of outcomes the most significant outcome that was available for Mr Neish was that his employment be terminated?---Exactly.

Right. Well, that had kind of, by 8 February that had become redundant hadn't it because he'd left?---Mmm.

So after that date what was the purpose in having Mr Belling pursue forensic examination of the material?---Well, I think - I have no answer to that but I, I expect it was to really satisfy our own minds that this was authenticated and I think Mr Bellings actually did that, I don't think I instructed him to continue on.

30

Well, he was acting on your instructions wasn't he?---Yes, but he - I don't think he had any instructions after Mr Neish left to, to continue forensic examinations.

Do you recall getting the report from Klein & Company in April of that year?---Not, only vaguely.

40

All right. Well - -?---You have it, do you? It'll be April of this year wouldn't it?

If we could bring up Exhibit 11 and page 792. Do you recall receiving this letter from K&L Gates enclosing the report from Klein & Company?

---Right. I tried to read it, it's gone.

The version that should be on the screen did have a redaction made to it previously - - -?---That no, that's got a picture of me on the screen.

- - - which unfortunately wasn't on that copy. I might have a - I'll see if we have a paper copy we can provide you, it's 11. If, could Exhibit 11 be provided, can I just have a look at it for a second before it goes? Okay. So Exhibit 11, page 792, do you recognise that as a letter that you received, or a letter dated 11 April, 2013 from Mr Belling to you?---Yes.

- 10 Enclosing an email from Nick Klein of Klein & Company in respect of his surveillance of the CD?---Yes.

If you go to the next page you'll see there's the actual email from Nick Klein?---Yes. Oh, I got a letter from him, is that the - - -

And then the following page, 794 - - -?---Yes.

- - - there's a report to Mr Belling of 5 April, 2012 in respect - - -?---Yeah.

- 20 - - - of the, his review of the compact disc?---Yep. I don't remember seeing this document, I'll be honest with you.

Well - - -?---I didn't receive it.

You did?---No, I didn't. I haven't received this, this is the first time I've seen the client, letter.

So you didn't receive it at all?---No.

- 30 Can you have a look then at page 797?---797, yep.

Do you see that's a letter from Mr Belling to Mr Klein of 11 April, 2013 as well?---Yes.

And he states in that letter, "Following instructions received from the General Manager, Councillor Ivan Petch, and Acting General Manager, Ms Dickson I'm able to confirm that all matters including the compact disc reviewed by you have been reported under Section 11 of the Independent Commission Against Corruption Act?"---Right.

40

To ICAC for investigation?---Yeah. Yep.

So on reflection do you think the evidence you just gave about not having received it might be wrong?---I don't recall receiving this letter. I can be honest, I can honestly say I don't recall (not transcribable).

All right. Mr, or Councillor Petch, can I suggest to you that you at no stage until the receipt of this material in April withdrew Mr Belling's instructions to have the forensic examination undertaken?---Yes. Yes, I got - - -

Can I suggest to you that there was no proper basis to continue to instruct Mr Belling to have that done once Mr Neish had finished up his employment?---I, I, I don't ah, really, I can't comment on it. I don't know.

10 And can I suggest to you that what was motivating you to have this investigation continued was malice?---It was?

Malice?---No, there's no malice with it.

Now, in terms of who you told about the pornography - - -?---You want this ah - - -

If we could have that returned, thank you?---Yeah.

20 All right. In terms of who you told about the pornography you told Councillor Salvestro-Martin?---Yes.

Was he the first person on the, the evening of 31 January?---I don't know if he was the first person. I informed - - -

You told Mr - - -?---I, I informed my, my Councillors, my team.

All right. You told Mr Cerreto?---Yes.

30 You told Mr Belling?---Yes.

You told Mr Laface?---Yes.

Mr Laface, I withdraw that. Mr Belling was the lawyer acting for you in respect of Mr Neish's employment?---Yeah, and Mr Laface was the general lawyer representing me.

40 Well, Mr Laface has given evidence that he wasn't acting for you in respect of this particular matter, that is Mr Neish's employment?---That may be the case but - - -

Do you agree with that?---I think Mr Laface was advising me on all sorts of motions that ah, that we could use to ah, to ah, if necessary ah, delay the whole ah, construction process - - -

Can I - - -?--- - - - until after the elections.

Can I suggest to you that you disclosed it to Mr Laface as a friend, not as a lawyer?---I think as a lawyer.

All right. So you had Mr Laface and Mr Belling both advising you on the employment?---Yeah.

You also disclosed it to Robbie Patterson?---I did disclose it to Mr Robbie Patterson on a very confidential basis.

Right. Mr Booth I suggest you disclosed it to?---No, I didn't disclose it to Mr Booth.

10

Did you disclose it to Councillor Laxale?---I can't remember.

Well, he was a member of your team wasn't he?---Yes, but he wasn't a member of the, the, the original six.

Well, I'm going to suggest to you you did disclose to Councillor Laxale? ---Okay. If I did, I did, yeah.

Mr Stavrinis, did you disclose it to him?---Yeah, probably.

20

Well, you've heard the telephone recordings that have been played haven't you in the course of Mr Stavrinis' evidence?---Yeah, yeah.

You're not in any doubt about it, are you?---No.

Did you disclose it to Warwick Cooper?---No.

You discussed it with him didn't you?---No.

30

Never?---No, not to my recollection. Not to my recollection.

Are you giving an honest answer about that?---Yes, I am. I have no reason to say I didn't if I did.

Do you recall, well, you recall from the audio we've played since lunchtime you also disclosed to .....?---Obviously, yeah.

.....?---Yes.

40

Do you know a .....?---Yes.

Who's he?---I think he's the fellow that was running the Golden Goal training at the, the old Ryde Bowling Club, he was having - - -

Do you recall disclosing it to him?---No, I don't.

Are you denying it?---I'm not denying it, I don't recall disclosing it to him.

Councillor Petch, on 1 February, 2013 in the telephone conversation you had with Mr Belling - - -?---Yes.

- - - which is Exhibit 10 you indicated that if the information in respect of Mr Neish got to the national press it would destroy Mr Neish absolutely?  
---That's exactly how I felt at the time and before I had the meeting with Mr, Mr Belling who advised me not to go down that road and, and in fact to first of all give him the disc so that he could have it forensically examined to, to validate its authenticity and then secondly that I should be always  
10 cognisant of the consequences of these types of actions because it may impact on Mr Neish's family and from that point in time I, I backed off completely about doing anything with the press and that's why I said to Mr Patterson just keep it, keep it under wraps, don't print it but if it does break and it's not out of my, totally out of my control then you'll have the inside running.

You were here for Mr Stavrinis' evidence yesterday and today?---Yeah.

Do you seriously say that you did not after 1 February, 2013 authorise him  
20 to release the material to the media?---No, I did not, no, I did not.

ASSISTANT COMMISSIONER: Mr Petch, were you here when the tape - you actually said on the tape words to the effect can you, can you arrange to leak it. Do you recall that?---No, I don't recall - - -

You used the word lead?---Did I?

Although you objected to it earlier?---Yeah.

30 Well, if you said that that would indicate that you were in favour of it being leaked would it not?---Not - well, if I said that it would have been something in the case of making a press release but Mr Stavrinis being a, a journalist, whether you give them green lights, red lights, nothing, they'll still do their own thing so I have no control over Mr Stavrinis in what he does with the media or anything else so it wouldn't matter if I suggested it leak it or anything else that in fact he would, he wouldn't or he would do it.

And you don't think asking him to leak it would encourage him to do it?---I don't, I don't recall asking him to leak it. Did I say that in the - - -  
40

MR DOWNING: Well, can I ask you, Exhibit 80 is the telephone conversation between you and Mr Stavrinis of 13 February, 2013?---Right.

I don't wish to have it replayed but could we bring the transcript up please. Can I ask you to have a look at the bottom - or page 2 of 5, about halfway down the page Mr Stavrinis says, "Um, now do I have the green light on the other stuff yet? Do you think we should expedite," and you made the inquiry and eventually you asked, "About the porn." Mr Stavrinis

confirmed, "Yeah," and you said, "I, well, I can't say anything on the issue as you well know, mate, because I have given an undertaking," and he says, "Yeah, of course you can't, you can't," and you say, "So you," Mr Stavrinou says, "Um," you say, "Work out a way of leaking that," he says, "Huh," and you say, "Can you work out a way of leaking that," and he says, "Well, I will." Now you, you've heard that conversation you've read the transcript. I'm going to ask you again?---Yeah.

10 After this meeting you had with Mr Belling you actually went out and instructed Mr Stavrinou on your behalf to leak the material to the media, didn't you?---I didn't - I'll be honest I didn't go out to ask him to leave the material, he asked me did I have a green light, a red light knowing full well that a journalist, a journalist doesn't matter what you say to them if they've got a story they want to run it they'll run with it and I - - -

20 He was acting on your behalf wasn't he? You were directing him and he was doing PR work on your behalf?---He was doing PR work but I wasn't directing him to, to issue statements and probably as a thing I just, I can't, can't understand why I would have said that.

Now I asked you before about whether you'd spoken to Mr Cooper about the pornography. Do you recall being here when a telephone conversation between you and Mr Cooper was played?---No, I don't.

You don't recall - - -?---Could you play it again?

I don't want have it played again - - -?---Okay.

30 - - - Councillor Petch. It's Exhibit 38?---Can I - - -

Do you recall having a discussion with him about Mr Neish and his computer having been commandeered?---Well can you put that on the screen and I can read it.

Exhibit 38.

40 ASSISTANT COMMISSIONER: Mr Downing, while that's being done I think I should - you mentioned another person that Mr Petch allegedly spoke to ..... - - -

MR DOWNING: .....

ASSISTANT COMMISSIONER: ..... I think I should suppress his name as well on the same basis as the other persons. So I suppress the name of ..... who's a, what is he?

MR DOWNING: He had something to do with the soccer, soccer ground or soccer club Councillor Petch had said.

ASSISTANT COMMISSIONER: But he's nothing to do with the Council?

MR DOWNING: No, he's not.

ASSISTANT COMMISSIONER: All right. A non Council person.

..... **NAME IS SUPPRESSED**

10

MR DOWNING: Can you, do you see the transcript in front of you?  
---Yeah.

Now, Councillor Petch, by all means read it but in the course of this conversation in addition to the other people you told about going to ICAC you've mentioned that that you were giving evidence on Friday didn't you?---Well I haven't seen that yet.

20 Second page 2 of 3?---Yeah, I can see that there.

By this point you told Mr Cooper that, about the discovery of the pornography on the computer hadn't you?---I'm not sure if I've told Mr Cooper, I think Mr Cooper may have been aware of it as many people in the community were unfortunately but - - -

You saw to it that many people in the community became aware of it didn't you?---A lot of people were asking me questions.

30 Well you volunteered it to a large number of people didn't you?---I volunteered to close confidants of mine who I could trust and deserve an explanation what's going on.

Councillor Petch, would you agree with this proposition that when you told Mr Belling on the 10, sorry, the 1 February that if the information about Mr Neish got to national papers it would destroy him absolutely - - -?---Yeah.

40 - - - you had the intention of actually making that come to be?---That, on that particular occasion when I had got this information as Mr Bellings put it, it was like manner from heaven and I thought the total impact of that would be a, a - but that was more out of emotion than, than reality and when I had the talk with Mr Bellings he dispelled all those sort of emotions out of my mind.

All right. I want to ask about a different matter now, Councillor Petch?  
---Yeah.

Do you recall, could we bring up Exhibit 18, page 854. Do you see that's an email under the heading, "Information re: Bunnings Site - - -"?---Right.

- - - that you sent to Anthony Stavrinis on 26 November, 2012?---Right.

And you were forwarding weren't you material that you'd asked Linda Smith to find for you?---Yes, my secretary.

10 And you'd given her a description about the particular advice from the department that you wanted, hadn't you?---Ah, that's what it appears to be, yes.

That is that you'd said something to the effect of, "Look, there's this advice to Dominic Johnson from 20 June, 2012 from the department. Can you get it for me please"?---Yep.

20 And she in the email says to you, "I think, I believe this is what you're seeking. It's not addressed to Dominic but to one of his staff. The date and subject matter seem to match what you're looking for."---Right.

And do you recall that the circumstances under which you sent this to Mr Stavrinis?---No, I think Mr Stavrinis just asked if I could get a um, any information on the Bunnings site for him.

Well, would you accept that the material that you were sending on was internal and confidential advice from the department to the Council about the particular use of land in the IN2 zone?---I don't accept it was confidential.

30 So did you understand that this advice from Ms Karac-Cooke at the department was something that could be broadcast to the community?---Well, not necessarily. I think, I believe in transparency and if there's a, somebody's got an application in then they, they should be much aware of the, the shortfalls and ah, of what the department's saying about it. I have no problems with that.

Well, in this case you say Mr Stavrinis asked you for it?---Yes.

40 Did he explain why he wanted it?---No.

Now, he's a publicist and a PR person - - -?---Ah hmm.

- - - that was doing some work for you?---Yeah.

Did you think it was appropriate without any inquiry to forward on this material to a publicist?---Well, he asked me for the information, what he wanted it from, he might have wanted to get a, a, a ah, a journalistic angle out of it, I don't know.



He might - - -?---I just forwarded it.

- - - have wanted it to run some negative publicity about someone perhaps?--I don't know. I, I really don't know why he - - -

You didn't care to know did you?---No.

10 Well, this is the case isn't it, that there was a Council meeting on 13 November, 2012 where the Council considered a proposal by Bunnings to rezone land?---Yes.

Do you remember that?---Yeah.

And if we bring up - - -?---And I voted in support of it.

And if we bring up Exhibit 18, pages, page 871 do you see that that is a particular report - - -?---Right.

20 - - - prepared by, if we got to 872, report prepared by someone in Urban Planning at the Council and, oh sorry?---Right.

Prepared by someone in Heritage and Strategic, Strategic Planning?---Right.

And it was also approved by a Manager of a Urban Planning, a Mr Johnson?---Right.

30 And do you see, if we go back to 871 it was a report dealing with the proposal to rezone by Bunnings?---Right.

And you were aware weren't you that this was a report before Council at the time?---Well, I am, yes.

And do you recall after that meeting of Council on 13 November that it was then that you asked Ms Smith to find the email to Mr Johnson of 20 June, 2012?---Oh, probably yeah.

40 And she sent it to you, there's no date there but it seems you sent it on on 26 June?---Right.

Sorry, 26 November, 2012?---Right.

Do you think it might have been the case that you'd had a discussion with Mr John Goubran by this point - - -?---No.

- - - about his particular interest in land in the IN2 zone?---Actually, no. Actually I haven't even discussed this with Mr Goubran. I discussed it with another fellow on the - - -

Is that a Mr Ray Dresdner?---Ray Dresdner, yes.

All right, well - - -?---Mr Ray Dresdner made an appointment and came up to my office ah, with another fellow - - -

Okay?--- - - - and they were making complaints.

10 And was the complaint of the nature that he and other landowners, including Mr Goubran owned land that they wished to have rezoned?---Well, Mr Goubran's name didn't come into the conversation. Yes, he said he had land he felt that was being, it was the same zoning as Bunnings and the department had sent an advice out and the planning department had altered that advice to approve Bunnings and deny theirs, and he had great concerns about that.

20 All right?---And he left that with me. And I did nothing about it for quite a while until I got the letter from Mr Parisi which outlined the, brought all these things to the surface again. And having got a, a letter from a lawyer then I had to ah, act upon it and I acted upon it with the General Manager.

All right. Now, would you regard Mr Goubran as a friend?---Yes, Mr Goubran's been a friend for many years.

Right. Okay. And do you say that at no time up – at no time up until when you received Mr Parisi's lawyer – sorry, Mr Parisi's letter- - -?---Yeah.

30 - - -you had any knowledge that this was land involving Mr Goubran?---No, I didn't.

All right. Do you recall that earlier in 2012 that there was before Council at a meeting on 24 July, a particular submission in respect of the use of land in – pursuant to the draft Ryde Local Environmental Plan. Do you recall that? ---I don't understand what, the question.

Do you recall that earlier in the year – I've asked you to date about dealing, the council dealing with an application by Bunnings in respect of re-zoning - - -?---Right.

40 - - -in November 2012?---Right.

Do you recall that earlier in the year that an issue in respect of the use of land in the same zone had come before Council at a meeting on 24 July? --- (No Audible Reply)

Do you recall that?---Just rephrase the question again, I don't follow the question.

Do you recall that earlier in the year- - -?---Yes.

- - -on 24 July, a report came before Council dealing with an application to rezone land in the same area?---I don't recall it but if you say it happened, it happened.

If we could bring up Exhibit 1, page 536. Now, if you accept from me for the moment that these are minutes from a meeting on 24 July, 2012- - -? ---Right.

10

- - -you'll see towards the bottom of the page there's a reference to points, item 6 for the Council that night, draft Ryde LEP 2011 submissions? ---Right.

Do you see that?---Yes.

And can I ask you to go over the page, and do you see there's a reference there to a memorandum from the Group Manager, Environment and Planning, and you know that's Dominic Johnson?---Right.

20

Dated 24 July, 2012, being tabled in relation to this item. And do you agree there's a note there about persons that spoke at the meeting?---Right.

And it notes Ray Dresdner representing J Goubran and various other persons?---Right.

And then there's reference to a motion in respect of the draft Ryde LEP? ---Right.

30

So what I'm suggesting to you is you were aware from July 2012 when this matter came before Council that – and this is a meeting you were at- - -? ---Yes.

- - -that Mr Goubran had an interest in respect of the land- - -?---Well, I can see that now, I wasn't aware of it at the time. I don't go into all the fine print of who's representing who.

Well, do you deny that you had any knowledge through discussions with either Mr Cerreto or Mr Goubran as at July 2012 - - -?---Yeah (not transcribable)

40

- - -that Mr Goubran owned land in College Street that he was interested in having rezoned?---I, I know Mr Goubran owns properties in College Street but I wasn't aware he was involved in this particular one Mr Dresdner's involved in. Mr Goubran has some high, very high quality developments and the one that Mr Dresdner is referring to was a rather dilapidated area that he wanted to – he came up to see me and he- - -

Sorry, I want to be clear with this?---But I wasn't – I had no connection between Mr Dresdner and Mr Goubran, I can tell you that.

Didn't understand anything to do with- - -?---No.

- - -them being connected?---No.

Can I ask that Exhibit 19 be brought up on the screen. Now if you have a look at that - - -?---Yeah.

10

- - - you'll see that that's an email from you to Mr Cerreto on 27 June - - -? ---Right.

- - - where you say, "Hi Norm, this may be of interest to John Goubran"? ---Right.

And what you were sending on was an email from Mr Johnson the Group Manager Environment and Planning to or Councillors where he is setting out his response to a number of submissions regarding changes to light industrial zoning IN2 - - -?---Right.

20

- - - at 461 Victoria Road it's identified as the Bunnings site forwarded by John Goubran and signed by Mr Dresdner who else owns land in the IN2 Zone?---Right.

Now having seen that do you maintain your evidence that you didn't know about any connection between Mr Dresdner - - -?---No, not between Mr Goubran and Mr Dresdner, no.

30 So you didn't?---And I didn't.

Well on what basis - - -?---But Mr, Mr Dresdner came to see me with another fellow and I thought they were independent people coming with their own independent problems.

Well on, on what basis were you sending this email onto Mr Cerreto on 27 June 2012 - - -?---Right.

40 - - - suggesting it might be of an interest to John Goubran?---Well it may have been an interest to him.

What, do you think he's just a man who takes a wide interest in matters of planning and environment?---Not necessarily. It was, I can't even recall sending it but and it's you know you're asking - - -

Councillor Petch - - -?---I don't have all that good a memory on all these types of things.

I want to suggest to you - - -?---If it's a memory test today I'm going to fail.

I want to suggest to you that the evidence you are giving about your knowledge of Mr Goubran having an interest in this land is a lie?---No, it's not a lie. I, I knew Mr Goubran had his land I don't think Mr Goubran would want to re-zone his land because it's beautifully full developed, brand new site, I can't see any reason why he wanted to do that. I can understand Mr Dresdner who owned a depilated site further up the road wanting to do that but I had no idea that Mr Goubran had any holding or any interest in that land than Mr Dresdner.

Well you see in the email that you forwarded on from Mr Johnson it actually refers to the fact that several of the Councillors had forwarded a copy of submissions regarding changes to the zoning forwarded by Mr Goubran and signed by Mr Dresdner?---Yeah.

Who also owns land in the IN2 Zone?---And that was Mr Dominic Johnson's email.

Well it refers to the fact doesn't it that Mr Dresdner also owns land in the IN2 Zone suggesting that Mr Goubran does as well?---Well it does from what I read there but I didn't interpret that when I first received it.

Councillor Petch, I want to suggest to you that you knew full well by mid 2012 that Mr Goubran was one of a series of owners who owned land in the IN2 Zone who was seeking to have it re-zoned?---No, I didn't. I knew Mr Goubran owned specific land there as I said earlier which is full developed, I was totally unaware that Mr Goubran was an owner of any land in this old dilapidated area.

And I want to suggest to you that by November 2012 you were aware of a complaint by Mr Goubran that on the one hand his application or submission for re-zoning had been refused by reference to particular advice from the Department whereas in November an application by Bunnings had been approved by reference to the same advice?---You are absolutely correct but let me go, let me reiterate and explain to you, Mr Goubran spoke to me and I thought he was speaking on behalf of concerned land owners adjacent to him, I had no idea Mr Goubran had any owning of that land at all himself.

ASSISTANT COMMISSIONER: The second paragraph of this email - - -?---Yes.

- - - report from Mr Johnson refers to the fact that their land College Street and Buffalo Road meaning - - -?---Yes.

- - - Goubran and Dresdner I presume they wanted change to the zone which would enable bulky goods to be sold from their land. Did you see that?

---Yes, I can see that but I wasn't, just if I can explain it to you, Deputy Commissioner. Mr Goubran owns a very well built establishment modern building site with a, you know a commercial site with all sorts of activities -  
- -

In College Street?---Next to that there is a run down dilapidated building site which I thought belonged to Mr Dresdner. I gave no connection with Mr Goubran having any interest in that at all but I knew Mr Goubran was talking on behalf of the residents when he spoke to me on this whole thing.

10

MR DOWNING: That explanation you've just given is a lie isn't it?---No.

And you're trying to explain away a document which you can't explain away because it indicates your knowledge of ownership of the land and an intention to have it re-zoned by Mr Goubran?---Mr Downing, can I say to you this if I had any knowledge of that I would have no problem declaring that to you here and now.

20

What I want to suggest to you, Councillor Petch, is that in this case you forwarded on the email to Mr Stavrinis after being requested to locate it by Mr Goubran?---Not by Mr Goubran, if Mr Goubran had asked me to request it then I'd have sent it to Mr Goubran.

Can I suggest that you were forwarding it on to Mr Stavrinis because sometimes you like to have your communications done a little bit more indirectly?---No.

30

Well, had Mr Stavrinis indicated that he was seeking it on behalf of Mr Goubran?---No, he just asked me if I could find out what's happening with that - and I thought he may have been doing it on, in the back of my mind because I didn't connect Mr Goubran into it, I thought he may have been doing it on behalf of the, one of the other property owners.

40

I want to suggest to you that the reason you asked Ms Smith to locate the material was for the purpose of trying to assist your friend Mr Goubran in respect of the issue he'd raised about the way in which his zoning application had been dealt with?---Well, first of all I was unaware that Mr Goubran had a zoning application in and I can say that here quite honestly and openly. If I was aware of that I would be very, very happy to declare it before this hearing but unfortunately I had no knowledge whatsoever that Mr Goubran was seeking an application to have his property rezoned because it was a fully modern property and it was going very, very successfully.

Your evidence in that answer is a lie, isn't it?---No, why do you keep saying it's a lie?

Because in fairness to you if I'm going to make submissions at the end of these - - -?---Yeah.

- - - this hearing that you've been lying I should put it to you squarely, Councillor Petch?---Oh, okay, well, I'm not lying.

Now, you maintain the evidence you've just given having read this email which is Exhibit 19?---All right.

10 We'll bring it back up again?---This one, no, all right.

It's on the screen?---Right. I think you said that was forwarded by Mr Goubran and signed by Mr Dresdner. Well, that's very much in line with what I've said you already, that Mr, Mr Goubran may have been lobbying on behalf of Mr Dresdner but I was totally unaware that Mr Goubran was an applicant.

20 Well, can I suggest to you that the reason you forwarded this on to Norm and said, "This may be of interest to John Goubran," was because you knew he had a significant financial interest in the land?---No, I sent it to Mr Stavrinis, not to Norm.

Sorry, if you look at the email that's Exhibit 19 that's not the one to Mr Stavrinis?---Is it?

This is the one from you to Mr Cerreto?---Okay. Well, I don't remember sending that. I remember sending it to Mr Stavrinis.

30 Well, that's a different email?---Yeah.

It's later in the year?---Right.

I'm suggesting this one on 27 June was sent by you - - -?---Okay.

- - - because you knew Mr Goubran had a significant financial interest in the land?---No, I didn't know that. I knew Mr Goubran was lobbying on behalf of the, the landowners there but . I can honestly say I did not know that Mr Goubran had any interest, financial interest in this property.

40 And I suggest that you later in the year sent to Mr Stavrinis that document from, the email advice from Ms Karac-Cooke - - -?---Yes.

- - - knowing it was a confidential communication with a view to again assisting Mr Goubran in his commercial interests in the land?---Well, let me, let me firstly say I didn't consider it to be a confidential document and I sent it to Mr Stavrinis because he asked me for it.

So that if any member of the public had approached you you would have asked Ms Smith to locate the email and forward it to?---Yes, I would because I believe in total transparency.

And can I suggest to you that you were happy to assist in forwarding this material on because you understood that what was being, what Mr Goubran wanted to do was investigate a possible complaint against Mr Johnson?

---I didn't - I'm not aware of Mr Goubran wanting to - I knew Mr Goubran didn't like Mr Johnson, he said that to me many, many times but - - -

10

And you wanted him out too didn't you?---No, I didn't because I had the opportunity of doing just that. Mr Johnson came up to me and he said, "The General Manager set me up but can I have the, the same sort of deal as he did, 38 weeks?" and I said, "Why would I want to do that?" He said, "Well, don't you want to get rid of me?" and I said, "No, I don't, I think you're doing a good job here, keep on doing what you're doing," and that's the exact words and he left.

20

Wasn't the impediment not so much that you didn't want to get rid of Mr Johnson but that he wanted 38 weeks' pay and you couldn't put that up to Council seriously?---I couldn't put that up and I, and I didn't count the, the, the prospect of him, him leaving.

So you deny, do you, that you wanted to get rid of Mr Johnson?---Yes, I do. I mean I know many others have, have lobbied me to try and do that but personally I have no animosity to Mr Johnson, I thought he was doing and carrying out his duties quite professionally.

30

Now, it's correct, isn't it, that you received from Parisi Lawyers a letter of the date 14 March, 2013? And this appears at Exhibit 18, page 867?  
---Yeah, yes.

Have a look at that?---Yeah, I'm very familiar with that letter.

Had you discussed with Mr Parisi beforehand the fact that it would be coming?---No, I didn't.

40

Had you discussed with Mr Goubran beforehand that it would be coming?  
---No. As a matter of fact Mr Goubran, when he had met me between this letter arriving and him making the initial complaints, or Mr what's his name, not the (not transcribable) the other one ah, the other name of the other owner that came up?

Mr Dresdner?---Mr Dresdner coming up to see me, Mr Goubran said, "What are you doing about it?" And he was getting quite agitated and I said, "Well, I don't have the information I need."



Do you recall if this letter was hand delivered to you at home?---No, I think it was hand delivered to me at the Council. I could be wrong, but I think it was hand delivered. Could have been at home, I think it was at the Council.

Do you know how Mr Parisi would know your home address?---No, I don't, but everybody knows it because I'm one of the Council that doesn't live in a post box, my addresses are well and truly listed.

So you say you didn't know this letter was coming?---No.

10

Do you recall attending a meeting on 16 June, 2013, at the offices above Delitalia?---No, I don't recall it but I may have done because I was regularly out there.

With Mr Belling, Mr Cerreto and Mr Goubran?---Well, if Mr Belling was there then I definitely was there.

Can I ask, do you recall that in respect of this issue the complaint that Mr Goubran wanted to pursue against Mr Johnson- - -?---Right.

20

- - -do you recall that you did retain Mr Belling to assist you?---Yes, I think I did yes.

Well, can I ask why you asked for him to assist rather than using General Counsel that you have within the Council?---Yes. Because I didn't trust General Counsel.

Right. Now, can I suggest to you that this was a complaint that was made through Mr Parisi's letter that you'd actually facilitated through the provision of confidential information- - -?---No.

30

- - -that you knew was going to Mr Goubran?---No.

And can I suggest that you assisted in doing that for two reasons, one being Mr Goubran was your friend. Do you agree with that?---I agree Mr Goubran was my friend.

But I'm suggesting that you assisted in facilitating this complaint through providing that confidential information- - -?---No.

40

- - -because Mr Goubran was your friend?---No, because I have another similar situation at, where Mr Goubran has had an application in for Eastwood and the fellow on the other side of the road ah, was also a friend of mine and he had a massive Development Application in and Councillor Terry Ryan said, although the Planning Department had recommended approval, Terry Ryan raised it with me, he said, "These are going to be the slums of tomorrow," and we refused it. And this fellow was a friend of

mine. In other words, because they're friends of mine I don't necessarily go along and tick all the boxes for them.

Right?---This particular one we refused it, it went to the Land and Environment Court and the Land and Environment Court upheld our refusal.

Are you finished, Councillor Petch?---Thank you.

10 Right. I'll ask you again. I'm suggesting that you assisted in releasing – assisted Mr Goubran by releasing confidential information, partly because he was your friend, and I think you've denied that?---He is my friend but I didn't, didn't ah, release confidential, confidential information.

And I'm suggesting it was also partly because you had an agenda to get rid of Mr Johnson?---No, I didn't have an agenda to get rid of Mr Johnson.

20 And you agree though don't you that you were quite keen in trying to negotiate his departure in February of this year at the time Mr Neish left but the problem was agreeing satisfactory terms?---Mr Johnson came to me at Mr Neish's behest to negotiate a settlement and, and I told Mr Johnson there and then I have no problems with the way he's conducting his business and as far as I can see, he said, "Then are you happy with me?" I said, "Yes, I am, continue on and do the job you're doing," and he left my office and that was the end of the conversation.

So do you say you've never had a discussion with anyone where you've indicated earlier this year an intention to get rid of Mr Johnson?---No.

30 Right?---Only with the general manager when I, when I ah, raised certain concerns and they were concerns really emanating from ah, from the ah, the ICAC disclosure.

Now, you know don't you that if Mr Stavrinis or Mr Goubran or anyone wanted access to particular Department of Planning and Infrastructure advice that Council had received there are legitimate channels they could use in order to obtain that?---Sure.

40 They could make an informal request to Council I guess?---They could, they could ah, put in, what do they call it, a Freedom of Information Request.

Freedom of Information Request?---Yeah.

But what you were doing was side stepping that process for Mr Goubran weren't you?---Not for Mr Goubran. I would ah, make that, in the eyes of transparency. If somebody come up to me and said, "Can you get me what the Council's position on this, that or the other thing is," provided it's not confidential information, of course (not transcribable).

But you say in this case Mr, your version is Mr Stavrinis asked you for it?--  
-Mr Stavrinis.

And did he indicate to you at the time that he wanted to investigate Mr  
Johnson's conduct?---No. Nothing to do with Mr Johnson's conduct.

So you didn't know what it was about?---He wanted to find out what advice  
ah, whatever it was that ah, had sent through. I could find no reason in the  
wide world why I should not send him that information.

10

But did you, did you say he didn't give any indication about what the  
purpose of him undertaking this investigation was?---No he didn't. No he  
didn't.

And you didn't care to inquire?---No.

Did you ever discuss with Mr Goubran or Mr Cerreto prior to the Parisi  
letter of 14 March, 2013 being received the need to either avoid or limit  
reference to that email of 20 June, 2012 - - -?---No.

20

- - - in the complaint that was being pursued?---No.

You deny that?---Ah hmm.

Councillor Petch, I wanted to ask you about a different matter now?---Yep.

And that's a matter of a loan that you made to Mr Booth - - -?---Yes.

- - - late last year. Commissioner, if you just excuse me for one moment.

30

Now, you recall don't you that in October last year you lent Mr Booth  
\$250,000?---Ah, I lent Mr Booth initially \$15,000 and then I, I loaned him  
the balance of \$235,000 to make a total loan of \$250,000.

50.?---Yes.

And you recall don't you that you initially wrote a personal cheque for  
\$15,000?---Yes I did.

And that was to the Weekly Times?---Yes.

40

And you then had a bank cheque on one of your accounts made for  
\$235,000 - - -?---Yes.

- - - that was paid to the lawyer - - -?---Well, it was made out to Mr Booth.

But, but it was actually physically, it went to the lawyer?---I gave it to the  
lawyer to give to Mr Booth and he - - -

And the lawyer is Mr Laface isn't it?---It is indeed.

And was it the case that at the time Mr Booth had spoken to you about the fact that he needed some help in meeting the running costs of the Weekly Times?---Well, the first \$15,000 to Mr, Mr Booth was a very serious cash flow situation. The newspaper's been - - -

10 But in the Weekly Times?---In the Weekly Times. The newspapers had been printed but the printers were not going to release them until he paid for them and I gave him a cheque for \$15,000 to cover the printing costs.

20 All right?---Subsequent then later on the discussions um, he had a, a, I said, "I've got a loan coming up which matures I think in September, October," and, and I said, "I've got an investment coming, not a loan coming up and ah, for \$250,000." And he said, "Well, would you loan that to me and I'll pay you the interest, the other was paying 20 per cent on it." I said, "No, I don't want to, to get 20 per cent," but I said, "I'll talk to my lawyer," which I did, Mr Laface and see if we can, now Mr Laface initially didn't want me to loan him the money.

Because he was concerned about the security wasn't he?---He certainly was.

All right?---And then ah, Mr Laface did all the due diligence and finally got Mr Booth's sister to put her house up as guarantee for the loan. Because I said to Mr Booth, "I'm not lending you another \$15,000, I'm lending you \$250,000 and if you die tomorrow I'm want some security for my loan."

30 All right?---And ah, and that was on that basis. And Mr Laface diligently ah, put the contract in place and I loaned him the money. Now, if I can just go on and just tell you why I loaned him the money um, I've known Mr, Mr Booth ah, for probably 50 years. I see him as a delightful eccentric in many ways, a lovable eccentric. But Mr Booth's faith has always been in the community. There is not an issue that turns up in the community that Mr Booth's not there covering for The Weekly Times and as a result of this his newspaper has constantly won the award for the most outstanding local newspaper. So that, it's on that basis I didn't want to see The Weekly Times fail that I advanced the money.

40 I understand, Councillor Petch, you might be surprised when I say this but I don't challenge you at all in your motivations were to try and assist Mr Booth - - -?---Yeah.

- - - in keeping The Weekly Times afloat. Because you're aware from what he told you weren't you that he was finding it a bit tough in meeting the running costs of the paper?---It was.

And you entered into loan agreements and mortgages for the purposes of the loan - - -?---Yes.

- - - on the advice of your lawyer?---Indeed.

And do you recall the initial, you drew the cheque for the initial 15,000 on 10 October?---They had to be paid that date of the, to the printers.

So that the paper could be released?---Exactly.

10 And then the other 235 was paid some time later in October?---Yeah.

And you knew didn't you that that loan and mortgage arrangement you'd entered into meant that you had a pecuniary interest in relation to any dealings Council had regarding The Weekly Times or Mr Booth?---I did.

And to the extent that you had any doubt do you recall receiving an email from Mr Laface on 11 October 2012?---Could you tell me what those relate to?

20 If we could have it brought up?---Yeah, yeah.

Exhibit 43 page 2586. Do you see that's an email from, if we go down the page, do you see there was an email from, if we stop there, on 11 October 2012 at 12.41 from Mr Laface to you?---Yes.

And he was providing you with the attached loan documents - - -?---Yeah.

30 - - - and also stating, "As discussed you'll need to declare any interest of Council regarding any dealing with Mr Booth or The Weekly Times Gladesville Pty Limited"?---That's absolutely, correct.

So you knew that of your own - - -?---Yes, I did.

- - - on your own part?---Yes.

But to the extent that you had any confusion Mr Laface told you about it?---I had no confusion whatsoever.

40 And he referred to the fact not only that had he sent you this email but it had been discussed with you beforehand?---Yes.

Now do you recall a Council meeting on 26 March 2012 where an issue in respect of a Council's ongoing advertising came up?---2012/2013.

I'm sorry, 2013?---Thank you.

My error?---Mmm.

Do you recall that meeting?---Yes, I do.

And do you recall at that meeting Mr, Councillor Salvestro-Martin put a motion seeking and I'm paraphrasing here that because the Council was a monopsonous buyer, had a duty to act in the public interest with equity and fairness it should split the advertising equally between The Weekly Times and the Northern District Times?---Yes, he did.

You'd asked him to put that up hadn't you?---No.

10 Councillor Petch, were you present in, in the Commission?---I was there I didn't ask him to put it up, that's the answer to the question.

No. If you just wait until you hear my question. Were you present in the Commission the other day when a telephone discussion between you and Councillor Salvestro-Martin was played where you discussed the advertising?---No, I don't recall that. Can I have a look it please.

20 Can we have a look at - if we bring up Exhibit 36. Okay. Now do you see the, the transcript of the telephone conversation of 20 March in front of you?---Yes, I do.

And if you see - - -?---I've got a lot of - - -

- - - Councillor Salvestro-Martin towards the bottom of the first page raises an issue he wants to ask about the contract for advertising to the City of Ryde, do you see that?---Yes, I do.

30 Go over the page, you see you say, "I think you better put up, put a notice of motion up for next Tuesday's meeting" - - -?---Oh.

- - - and Councillor Salvestro-Martin says, "Well, that's," and then you say, yeah, that's what I'm, "For next Tuesday's meeting," he says, "Well, that's what I'm thinking too because um," and you say, "And a notice of motion that the contract needs to be divided between the national paper, two local papers and we do away with the Ryde City Vision."?---Mmm.

40 So you did tell him, didn't you, that he should put a motion splitting the advertising?---Well, I might have advised him. Can I go back to the beginning of that - - -

Of course?---Yeah. So he's calling me and he's talking about the, the advertising and I'm suggesting to him that he should put up a notice of motion, that's quite normal, I didn't put him up to doing that, it was - - -

Well, you didn't just say notice of motion, you said one seeking that the advertising be split, divided between the two papers?---Well, yes, probably I did, there's nothing wrong with that.

Do you recall - oh, Commissioner, I see the time.

ASSISTANT COMMISSIONER: Yes.

MR DOWNING: I mean, there's one short piece of audio I wanted to play. I don't imagine it would take more than about a minute and it might be neater if we do that now otherwise I'm happy to return tomorrow.

ASSISTANT COMMISSIONER: Is it about this topic?

10

MR DOWNING: It is.

ASSISTANT COMMISSIONER: Yes, I think you should play it.

MR DOWNING: Perhaps we could do that. Just while we're - oh, I'm sorry.

**AUDIO RECORDING PLAYED**

**[4.02pm]**

20

MR DOWNING: Do you recognise that as some, audio of some of the discussion at the meeting about advertising on that day?---Oh, sure.

Or I should say that night?---I certainly do.

Commissioner, I tender the audio and a transcript of it.

ASSISTANT COMMISSIONER: Yes, that will be Exhibit 91.

30

**#EXHIBIT 91 - COPY OF AN AUDIO CASSETTE AND  
TRANSCRIPT OF AUDIO EXTRACT OF CITY OF RYDE  
COUNCIL MEETING HELD 26 MARCH 2013, CLR PETCH, CLR  
ETMEKDJIAN AND UNKNOWN**

MR DOWNING: Do you recall in the course of that meeting after you'd asked Councillor Salvestro-Martin to put up the motion seeking the split of the advertising you, you spoke in favour of that?---Yes, I did.

40

And you referred to the fact that the print media was doing it tough?---Yes, I did.

And you knew that from your own personal dealings with Mr Booth?  
---Well, I think all, all the newspapers were - not only the, the, Mr Booth I think, the Northern District Times has got very, very thin over the years. It

means that the advertising is not there and their budgets are not there and you'll find that a lot of the newspapers are now going (not transcribable)

Councillor Petch, you made no disclosure of your financial arrangement with Mr Booth?---I didn't have to at that stage because we weren't dealing with a contract with Mr Booth.

10 You'd been given advice by Mr Laface that you would have to disclose anything at any Council business dealing with Mr Booth or The Weekly Times - - -?---Yes.

- - - you would need to disclose your financial interest and you didn't?  
---But we weren't, we weren't dealing with The Weekly Times.

You were dealing with a motion that the advertising be split between two local papers, the Northern District Times and The Weekly Times?---Can you give me the, the resolution of that motion please?

20 If we go back to Exhibit 35 I'll read it to you, the motion that at your suggestion Councillor Salvestro-Martin put up was that the General Manager not exercise the option to extend, further extend contact, and I won't read the number, for a further 12 months, that the City of Ryde as monopolous buyer has a duty to act both in the public interest and with equity and fairness and as such seek revised costs for the provision of advertising services from both The Weekly Times and the Northern District Times with a view to evenly splitting the advertising expenditure between both parties for a period of two years. The prices are to include 46 weekly  
30 Mayoral columns, general advertising, weekly basis - I'm sorry, general advertising, weekly basis ranging in size from half, from quarter page to full page, minimum six pages for community related events?---Right. And what else does it say, what happened?

That's the motion that was put up by Councillor - - -?---What happened to the motion?

The motion was ultimately voted on after some comments by Ms Dickson and it was passed in amended form but you spoke in favour of it didn't you?---Well probably I did but I, I - - -

40 And you made no disclosure of any financial arrangement with Mr Booth - - -?---Well - - -

- - - or the Weekly Times?---Well that may have been a slip of the mind but I, I took that - first of all we were dealing with the most significant part of that motion was cutting out the Ryde Civic View which was a gross waste of money, people weren't using it and I think Councillor Maggio actually moved the motion.



Councillor Petch, prior to this time all of the Council's advertising under it contract had been with the Northern District Times?---Exactly.

And you understood that if this motion was passed in a form that it had been put up at your request Mr Booth stood to gain financially to a significant degree?---Well I didn't draft the motion. I'll be quite, quite open about that, I did not draft the motion the motion came before the Council, Councillor Salvestro-Martin and I thought it was fair and equitable. I never gave any consideration because I didn't believe we were just dealing with The  
10 Weekly Times and I, if I avert I do apologise but it was not my intention.

Thank you, Commissioner. Is that a convenient time?

ASSISTANT COMMISSIONER: Mr Downing, can you indicate how much longer you expect to be with Mr Petch?

MR DOWNING: I would think I would be until about perhaps the morning tea adjournment tomorrow morning.

20 ASSISTANT COMMISSIONER: And could I ask for indications from other parties of estimates of who may wish to cross-examine this witness and how long they expect to take? Does anybody?

MR LLOYD: Commissioner, about 10 minutes subject to what Counsel Assisting puts he may well cover some of the territory - - -

MR STANTON: And I second Mr Lloyd for Mr Goubran if it pleases, Commissioner.

30 ASSISTANT COMMISSIONER: About 10 minutes?

MR STANTON: Yes, yes, no more than that, Ma'am.

MR NEIL QC: Commissioner, subject to thinking about it overnight I've got nothing arising so far but in the morning maybe something quite short.

ASSISTANT COMMISSIONER: Yes.

40 MR BENDER: I may or may not depending on what the witness says but it won't be more than 10 minutes.

ASSISTANT COMMISSIONER: Thank you.

MR HOLMES: I'm in the same position.

ASSISTANT COMMISSIONER: 10 minutes, all right. We'll see, we will see. All right. Thanks for that. We'll adjourn until 10 o'clock tomorrow morning.

**AT 4.09PM THE MATTER WAS ADJOURNED ACCORDINGLY**  
**[4.09pm]**