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THE HONOURABLE DAVID IPP AO QC

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON FRIDAY, 7 OCTOBER, 2011

AT 2.10PM

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THE COMMISSIONER: Mr Campbell.

MR CAMPBELL: Thank you, Commissioner. Commissioner, would you excuse me for a moment?

THE COMMISSIONER: Yes, certainly.

MR CAMPBELL: I just need to check something with my learned friend Mr Naylor. Thank you, Commissioner. I beg your pardon.

10

THE COMMISSIONER: Yes, certainly.

**<MICHAEL JOHN HOWARD, on former affirmation [2.10pm]**

MR CAMPBELL: Excuse me, Mr Howard, for holding you up. I think just before lunch we got to the stage where you'd had a phone call from, from Ms Verdeyen?---That's right.

20

And I think we got to the stage where you actually met her in person?---Yes.

Was, was that, was that in - what year was that in?---I think it was either 2010 or it could have been 2009, late 2009.

Can I ask you this question: During the time that you were at the council - oh, you're still at the council. During the time you were at the council and Mr Lapham was, was, was the team leader did, did you ever have any authority to procure any goods on behalf of the council?---No, I didn't.

30

THE COMMISSIONER: Procure meaning order?

MR CAMPBELL: I'll make that clear, Commissioner.

Did you, you understood me to mean did you have the council's authority to place an order for any goods with any supplier?---I could write out the order but I could not okay it. I had to be signed off by - - -

40

By whom?---Some, oh, by someone senior to myself in, in our particular section it would have been Mr Lapham.

THE COMMISSIONER: So you couldn't yourself order goods?---No.

MR CAMPBELL: And you're, you've been a long-standing public servant, you understand this terminology. You did not have any delegation in your own right to, to buy anything for the council. Is that true?---No, that's correct.

And the - tell me this, and during the time you were at Ballina Council did you ever write out an order from NCH Australia Pty Limited for any chemicals yourself?---With Chemsearch?

Yes?---I don't believe I did.

Now, could I, Commissioner, could Mr Howard be shown folder 9, tab 46 and I'll - when you're - and I'd like it open at page 293?---293?

10 293 and you'll have to put it, turn it up in landscape mode. I suppose I should ask you this question, I beg your pardon, Mr Howard?---Yes.

I should ask you this question, did you ever purport to exercise authority to order goods on behalf of the council, ie, as though you had approval already?---I don't believe I did.

Okay. Could you just look at this document I'm showing you and if you, you'll see that there's a number of columns, the second-land column counting from the, from the left has got the heading "Buyer name". Do you  
20 see that, top of the page?---Sorry, I'm sorry, I don't see where you mean.

THE COMMISSIONER: Look at the top?---Right.

And do you see under schedule point 8 there's a line that begins on the left-hand side "Customer number"?---Yes, yes, customer name.

Run, run your eye along that line and you'll come to buyer name.

MR CAMPBELL: Go down the column until you first come to your name?  
30 ---Yes.

Okay. Now, that's, that's, that, that entry tells us, Mr Howard, that someone says that on 20 May, 2009 you placed order number 8-3-3-9 with Ms Verdeyen for goods to be supplied by Chemsearch?---Right.

Now, now can you tell me did you ever place that order?---Well, I may have placed the order but I certainly wouldn't have signed off on it. I didn't have that delegation to sign for it but I may have placed the order. I don't - - -

40 THE COMMISSIONER: What do you mean by placed?---I may have been asked to, to get a certain product for that, for the, for the council, for example - - -

When you say get you mean order?---Well, I mean order but I, I didn't actually - - -

Well, you better, I don't understand what - - -?---Okay.

You better start from the beginning?---All right. Okay. You want a, a bag of apples and you say to me get you some apples, so I write out an order - - -

Yes?--- - - - for apples.

You write the order out?---I write the order out - - -

Yes?--- - - - but you sign it because I don't have that delegation to actually buy the apples.

10

What do you do with it once you've written it out?---It would be either faxed or, or emailed- - -

To whom?---To, to, to the company.

To the seller?---To the company, so it would be Chemsearch.

But only, do you do that before or after you get your superior to sign off on it?---After.

20

You don't do that before?---No. No. It would have to be okayed. I don't have any authority to buy anything at the council.

Well- - -?---Except when I was working in the store I could order only stationery and that type of thing, but I had no other power or authorisation to purchase anything.

MR CAMPBELL: Right. Well, if you write out the Commissioner's order for apples- - -?---Yes.

30

- - -before you fax it to the supplier, does it have to go to somebody else to, to sign off on it before it gets faxed?---Yes.

And, and what we'd like to know is, if it's, if it's to do with chemicals for the, for the response trailer- - -?---Yes.

- - -who signed off on that?---Well, well, it would be Mr Lapham because he was in charge of the, of that, of the water, he was team leader for water and sewer.

40

Okay. And now, now just before, now, do you have any recollection, actual recollection of that order in May of 2009?---Well, no, I don't, I'm afraid.

That's all right.

THE COMMISSIONER: Do we know what the order is, Mr Campbell?

MR CAMPBELL: I'll have to check. I'll ask, I'll ask that that be, that be done.

THE COMMISSIONER: So that's order 8-7-0-9?

MR CAMPBELL: Yes. But the invoice is at the back of the, yeah, well, okay. Well, pardon me, Commissioner, not to hold things up I'll ask, I'll ask Ms Lee to do that and I'll just have to give, give, hand over part of my brief for that to be done. We'll get the answer to that question.

10

THE COMMISSIONER: Yes. Thank you.

MR CAMPBELL: Do you, do you remember, you can't remember placing it actually, can you look to the final column and it says, this entry, and this is written by Ms Verdeyen we know from previous evidence, "Please send to me", at an address- - -

THE COMMISSIONER: To me?

20 MR CAMPBELL: Sorry, Commissioner?

THE COMMISSIONER: Did you say, "Send to me?"

MR CAMPBELL: That's what it says. It's from Ms Verdeyen though, Commissioner.

THE COMMISSIONER: "Please send, please send MSDS's." Sorry, I'm looking at the wrong one.

30 MR CAMPBELL: Yes, yes.

THE COMMISSIONER: I beg your pardon. I'm sorry. "Please send to me." Yes.

MR CAMPBELL: "Please send to me", at an address, "One Hitachi GPS with an order code, thank you." Do you see that?---Sorry, I don't.

Well, go back to the first entry having your name, Michael- - -?---Yeah.

40 - - -Howard?---Yes. "Please to me at , , , ."

Yeah. Well, that address, can I say it's, I didn't mention that address- - -? ---No.

- - -because the address is the subject of a suppression order, as we say? ---Oh, sorry.

So, so just, just, just ignore the address?---Right.

It says, "Please send to me at", an address- - -?---Yeah.

- - -One Hitachi GPS." Do you see that?---Yes.

Now, do you remember ever having had any conversation with anybody about a Hitachi GPS?---No, I don't.

Have you got one?---No.

10

Have you ever received one?---No.

I'm going to ask you something in a moment, as you know, about something you did receive?---Yes.

But can I ask you this question, did you ever receive anything from, did you ever receive anything from Ms Verdeyen?---The only thing that I ever received from her, other than a hat and I think it was a little golf towel, was actually a gambling game.

20

Yeah?---And that's the only thing I've ever actually received from her.

Okay. That was my question. So she's given you small things?---Yeah.

And she gave you those small things when you met her?---Yes.

And would you understand those small things to be what's regarded as token gifts?---Yes.

30 Right. Now, did she ever hand anything to you at any time when, when you met her for instance?---Only, only the hats and the, and the golf, the golf towel and, and she said to me one time, "Come out to the car", and that's when she gave me the, the token thing as that was a little gambling game in a tin.

What did it have cards and things in it?---Yes, yeah.

All right. Okay. But now did anyone ever deliver any product to your home at any time?---Never.

40

Was anything ever delivered to your workplace by a courier company from Chemsearch?---Not that I know of. Not, not addressed to me, no.

Nothing, nothing ever turned up at your workplace with your name on it from Chemsearch?---Not that I, not that I know of, no.

All right. Now can we – and at one stage you did you meet Ms Verdeyen. Do you remember telling us that?---Yes, I did.

Well without going through too many of the details, when you met her did she ever talk to you or did she talk to you on that occasion about things called promotional items?---Never.

Did you meet her once or more than once?---I've met her I think twice.

On either of those occasions did she ever talk to you about something referred to as promotional items?---No, never.

10

All right. Now - - -

THE COMMISSIONER: Did you place an order with her? Did you, did you decide that you wanted to buy anything she was selling? Sorry, that's the question I'd like you to answer?---Right. She did mention one particular item which was an absorbent, if you remember earlier we were talking about - - -

20

MR CAMPBELL: Yes?--- - - - and she had this, it was like, like little grains of rice. It was inside a paper bag, inside a cardboard box. And you, you then put that into what had been spilt, put it over it, it'd absorb it. I think it was 110, 120 times it's normal volume. And then it went like a, a jelly - - -

THE COMMISSIONER: Yes?--- - - - and you could remove that - - -

I understand, but leave the description?---Okay.

30

So she showed you that?---Yes.

And?---She gave us a small sample to try.

Yes?---Yes.

Did you, did you say you wanted to order it?---At that time no, we just wanted to trial it.

Did you ever tell anybody that you wanted to order it?---I think I mentioned to Mr Lapham that it was a good product.

40

That wasn't my question. Did you, did you tell anybody that you wanted to order it?---No. Do you mean like Ms Verdeyen or someone like that, I didn't - - -

Or Mr Lapham?---Well I may, we trialled the product and I, I may have said to him it's a good product.

But that's not asking for an order is it?---I beg your pardon?

That's not asking him to authorise an order?---No, it's not.

And you didn't write out an order?---No. To my, to my recollection I didn't, no.

And did you decide on any quantities of that that you would need?---No.

MR CAMPBELL: Do you remember the name of that product?---I honestly can't tell you the name of the product here and now.

10

And - - -?---I can only describe the, the, the container that it was in.

Did anyone ever tell you the price of the product?---I think it was fairly expensive. I know that much but I couldn't tell you the exact amount.

How did it compare in price for Sphag, what did you call it, Sorb?---Sphag Sorb.

Yes?---I believe it was a lot more expensive.

20

Did you think it was a better product than Sphag Sorb?

THE COMMISSIONER: Or couldn't you decide?---They were both good products, but they were entirely different. The Sphag Sorb you would use it, it would clean it up and you would throw the whole thing away. The good thing about the Chemsearch product was that you could use it, dry it out and reuse it.

30

MR CAMPBELL: All right. But now I want to take you down the page, please, to the next, the next, I think I've asked you this, but did they ever deliver to you a Hitachi GPS device?---No, never.

The, go down the page till you see your name for the second time?---Yes.

Have you got it?---Yes.

Now if you look back across the page to the left, you'll see, this is said to be an order placed on 23 September, 2010. Have you got that?---Yep, 23<sup>rd</sup> of the 9<sup>th</sup> did you say?

40

I did?---Yes.

Thank you. Go back to your name?---Yeah.

Now do you, do you, I want to show you this document before I ask you any more questions. Commissioner, this document I haven't formally taken you to the GM's statement yet, but it's an attachment to the GM's statement and I will be tendering it in due course.

THE COMMISSIONER: GM?

MR CAMPBELL: The general manager, I beg your pardon, of the council. And it's, it's it is, perhaps for present purposes I can say it's in volume 13 and it's behind tab- - -

THE COMMISSIONER: The statement, is that the statement of Mr Littleford?

10

MR CAMPBELL: Yes, it is, Commissioner.

THE COMMISSIONER: Yes.

MR CAMPBELL: Mr Hickey, I beg your pardon, it's a statement of Mr Hickey.

THE COMMISSIONER: That hasn't, I haven't seen that.

20 MR CAMPBELL: You haven't seen it yet, but it's in the folder. I'm going to take you to it, Commissioner.

THE COMMISSIONER: Yes.

MR CAMPBELL: And it's tab 72, it's page 87. You don't seem to have a copy of the first order?

THE COMMISSIONER: I don't, well, my tab 72 begins at 101.

30 MR CAMPBELL: Well, if it's quite correct and I'm talking about tab, I'm talking page 188, it's page 87 of Mr Hickey's statement. I apologise for that.

THE COMMISSIONER: Mr Campbell, I'm lost. I'm- - -

MR CAMPBELL: Let me try again, Commissioner. It's my fault. Folder 13, tab 72.

THE COMMISSIONER: Are you looking at the tax invoices?

40

MR CAMPBELL: I am.

THE COMMISSIONER: Yes. No, I have that, thank you.

MR CAMPBELL: Thank you, thank you. Now, just look at that document for a moment?---Yes.

And I'll ask you some questions about it. Now, is that, does that relate, that's a tax invoice, does that relate to an order that you actually placed on behalf of the council with or without authorisation?---It possibly could be. I don't, I don't say that I've actually seen this document but I can't remember all those products.

THE COMMISSIONER: Well, why do you say it could be?---Well, it's obviously it from the council but whether I personally placed it, I couldn't tell you.

10

I thought you, I thought you said that you never did place an order when you weren't authorised to?---Well, I, I haven't never placed an order that I, when I wasn't authorised to.

So why do you say this could be one that you did place?---Oh, well, I'm, had it have been authorised I would have placed it, if it hasn't been authorised then I haven't placed it.

Yes. All right.

20

MR CAMPBELL: Well, just looking at those products, can you identify any one or more of those products which was a product you wanted for the response trailer?---Well, we wanted several items for the response trailer but we- - -

Well, Mr, Mr Howard, can you just tell me whether you recognise any one or more of those as- -?---Well, some of them I do remember, I do recognise, yes.

30 Okay. For instance what?---The Grenadier at the top.

Yes. What product was that?---Grenadier is a disinfectant.

Yes.

THE COMMISSIONER: You recognise it as what, as something you needed?---Yes, on the response trailer. But, see, the response trailer was to be used for- - -

40 No, no, I understand. Just, just wait for the question, please, Mr Howard, I do understand.

MR CAMPBELL: What I want to ask you, Mr Howard, is, is, I'm going to show you another document and I want to, I want to ask you whether this is some, I withdraw that. Did you ever have any email correspondence with Ms Verdeyen?---Not that I remember.

Well, do you, is it, looking back on it, having regard to what's happened, do you think you'd have a recollection or not?---I may have received or I may have sent her a, a, an electronic message, an email, but it would have only been in regard as to like an order or, or, or the like.

10 Do you have any recollection of sending her an email dealing with these matters, is what I want to- - -?---Well, I'm looking down the list and I can see that there are certain things there that we have used, the Grenadier, the Healthy Hands, which, which is a hand-cleaning product, the Chemene I don't know.

All right. There are at least two that you remember using?---Yes, yes.

So far as products for the response unit trailer was concerned, who was the authorising officer for that?---It would have been Mr Lapham.

So if you'd wanted something in relation to, to the response trailer, would you have to talk to him about it?---Yes.

20 And would you have to tell him what you wanted?---Yes.

THE COMMISSIONER: Could he order himself without talking to you?  
---Oh, of course.

For the response trailer?---Of course, yes.

30 So is it possible that Mr Lapham wrote this order out and placed on this all by himself?---Well it's possible, but I can't be 100 per cent sure that that is the case, sir.

But did you?---I don't remember placing it.

MR CAMPBELL: See you don't recognise all these products, do you think you would have placed a single order that contained all of those items?---I know it sounds silly but what is coming back to me, when, when we originally set up the trailer, we expected that the trailer would come fairly quickly. But it took us - - -

40 Mr Howard, can I just say this, I know this is helping you remember but we'd just like to try and get through this as quickly as possible?---Okay.

And I don't mean to stop you saying something pertinent, but have a sense you're not going to say something pertinent to our inquiry?---All right.

So, so all I want to know is if you could listen to my question and try and answer the question, is whether you can or cannot remember whether you need those products?--- Well - - -

THE COMMISSIONER: And keep in mind that this is, this was received -  
- -?---Okay.

- - - at the end of September, 2009?---A pallet did from Chemsearch  
addressed to me came into the, into the, our water and sewer section. It was,  
it was addressed to me and it came in and we put it up on the shelf waiting  
for the trailer to come along.

10 MR CAMPBELL: Was that while you were working in the - - -?---The  
water and sewer section, yes.

And not when you were in the store?---I don't believe I was in the store at  
that time.

All right. Now if you, I'm sorry, Commissioner, if you look at the bottom  
of the page where it says terms 30 days net, you'll see Commissioner that  
it's due on 27 October, 2010.

20 THE COMMISSIONER: Yes.

MR CAMPBELL: And it was drawn on 27 September, 2010.

THE COMMISSIONER: Sorry, when I said 2009, it's 2010.

MR CAMPBELL: Yes, thank you, Commissioner, yes.

THE COMMISSIONER: I'm sorry, it's difficult to read here.

30 MR CAMPBELL: Yes, of course. In September 2010 were you in the store  
or were you working under Mr Lapham?

THE COMMISSIONER: That's last year?---Yes. There was a short period  
that I was working in the store. Then I was taken back out and I went back  
to water and sewer, but I would believe that at 27<sup>th</sup> of the 10<sup>th</sup> - - -

THE COMMISSIONER: 27<sup>th</sup> of September?---27<sup>th</sup> of, well it says here 27<sup>th</sup>  
of the 10<sup>th</sup>. Oh, sorry, when it was actually placed, I'm sorry. 27<sup>th</sup> of the  
9<sup>th</sup>, 2010, I believe I would have been working in the store.

40 MR CAMPBELL: All right. All right. And do you have any recollection  
of ever ordering anything for the response trailer while you were in the  
store?---No, I don't.

Now, in fact, Commissioner - - -

THE COMMISSIONER: So when this pallet arrived were you surprised?  
---No, because at that time, this is where I'm getting confused, we had two  
orders for the trailer. There was one that came as I, as I was trying to say,

came early. But the trailer wasn't ready so that particular pallet of goods was put on the shelf waiting for the trailer to come.

Yes?---Eventually we got the trailer and some of those goods that were on the shelf had been used unbeknownst to myself and so we had to order some more goods.

10 And did you order them?---Well I would have given an order to Ms Verdeyen, yes, because that was the second time that I'd seen her and she was, she'd told me some certain products that would be good to put on the trailer and I said, okay.

You're changing your evidence now?---Well I don't - - -

I'm not saying there's anything wrong with it?---I don't mean to do that, sir, I just - - -

20 No, no, no, you're perfectly, you can do that. I'm not criticising you by doing it because I see that you're remembering things now. I'm just trying to find out whether you are. I mean are you saying that you remember placing an order with Ms Verdeyen?---Yes.

And did you get Mr, what's his name again?

MR CAMPBELL: Lapham, your Honour.

THE COMMISSIONER: Lapham, Mr Lapham's authority to do that?  
---Well I would have done, yes. With this second order - - -

30 So when the pallet came - - -?---Yes.

- - - addressed to you that's why you weren't surprised because you'd actually placed the order?---That was, yes. And that was the earlier one.

And when is that? When did that happen?---Well I believe, it may have been the earlier one and I'm thinking it was in, either late 2009 or very early 2010.

40 What was? What was late - - -?---That was, that was the pallet that came to work and was put on the shelf.

Yes. But which was the order that was addressed to you, the first one or the second one?---The first one. The first one.

But this is an order that was received on 29 September, 2010?---Yes.

So does that mean that you could not have, that the, the pallet that arrived addressed to you couldn't have been the pallet sent in response to this order because that pallet was sent much earlier?---That's correct.

MR CAMPBELL: Commissioner, before I go on, just for the benefit of others in the hearing room, I apprehend we will not get to Mr Warner today. I know that Mr Naylor and Mr Clay are waiting here in anticipation that we may. And I wonder whether it would be sensible now to excuse them from further attendance today.

10

THE COMMISSIONER: Yes. And they should return on Monday.

MR CAMPBELL: On Monday, yes.

THE COMMISSIONER: Yes.

MR NAYLOR: If the Commissioner pleases.

MR CLAY: May there be a general leave to be excused - - -

20

THE COMMISSIONER: This isn't - - -

MR CLAY: - - - (not transcribable) witnesses where appropriate.

THE COMMISSIONER: Of course.

MR CLAY: Thank you.

MR CAMPBELL: Thank you, Commissioner. Now Commissioner, could the, could the witness be shown page 26 of exhibit 35?---26?

30

Yes.

THE COMMISSIONER: 26 of - - -

MR CAMPBELL: Well it's not, yes, 26 of exhibit 35, which is the Littleford statement, Commissioner.

THE COMMISSIONER: Right. I think I just better say something to clarify the exhibits because I think I made a mistake towards the end. Exhibit 35 is the statement of Stuart Littlemore and I had said it was Exhibit 36, but it is Exhibit 35.

40

MR CAMPBELL: I beg your pardon.

THE COMMISSIONER: Exhibit 37 becomes, should be Exhibit 36. And Exhibit 38 should be Exhibit 37.

MR CLAY: Commissioner, you said Stuart Littlemore, and I'm sure he's always anxious to hear his name in public, but perhaps not in that context.

THE COMMISSIONER: I am very grateful to you Mr Clay. I'm just reading what's been put in front of me. Yes, it's the statement of Stuart Littleford.

MR CAMPBELL: I could ask for a direction that Mr Littlemore appear, Commissioner, but I won't.

10

THE COMMISSIONER: I haven't got the strength for that.

MR CAMPBELL: Now, okay, have you got it in front of you?---Yes, I have.

All right. Now you'll see that that's an email from, look at the bottom of the page, you'll see it's an email from Mr Lapham - - -

THE COMMISSIONER: What page are we going to now?

20

MR CAMPBELL: 26, it's of that exhibit, Commissioner.

THE COMMISSIONER: Right. Yes.

MR CAMPBELL: Now you see that that is an email from Mr Lapham to Ms Verdeyen. Do you see that?---I do.

And you'll see that it's, it sets out, it's dated 14 October and it sets out a suggestion that two orders might be placed. Do you see that?---I do.

30

Now does that help you in any way to say whether you placed any order in or about the middle of, I'm sorry, Commissioner, that was the wrong page. That time, that time of day. Go back please sir, to page 12. It's my mistake, it's not my teams mistake, Commissioner. But you see that he's communicating - - -

Are we looking at page 12?

MR CAMPBELL: No, we're, no, we're looking back at page 26, Commissioner.

40

THE COMMISSIONER: Right.

MR CAMPBELL: He's, he's looking at - Mr Lapham was talking about placing orders with Ms Verdeyen, do you see that?---Yes.

For a lot of different products. Now, did you ever send any email that looked like that?---No, I didn't.

Now, as you told the Commissioner earlier Mr Lapham had full authority to order things for the response unit in any event. Yes?---Yes.

All right. Well, let's go back to, if we can just close that document up if you wouldn't mind, sir, and could you go back to - do you still have, you probably don't, folder 9 in front of you and page 293, is it still there? Thank you?---Yes, I do.

10 Madam Associate, if you could remove that folder, folder 29 for the moment, thank you. Back to, back to schedule point 8, Commissioner.

THE COMMISSIONER: Yes.

MR CAMPBELL: Thank you. Now, you'll see that in respect of that order that was placed in your name, and this is, this is the order of September 2010 that there's a reference to leaving aside the, the product, the materials information, it says "Please send one promo code," there's a number, "Panasonic camcorder to Michael Howard, Sewerage Response Unit, 45"  
20 there's an address of the depot?---Yes.

"Thanks." Do you see that?---Yes, I do.

Now, did you ever at any time ask for that item?---No, never.

Did you ever have a conversation with Ms Verdeyen about that item?---No, I never.

30 Did you ever receive that item?---No, I didn't.

And when - and as at September 2010 I think you've told me to the best of your recollection you in fact were not working at the, at the, at the sewerage response unit depot, you were working in the store?---That's correct.

Now, that address that's there which is the address I asked you about before which is a public address in any event, it's - - -?---Yeah.

- - - 45 Southern Cross Drive - - -?---Yes.

40 - - - Ballina, that's the address of the, of the water and sewerage depot, is it not?---Well, I don't know about the number but the address is correct, yes.

And that's the place of work of Mr Lapham, is that correct?---Yes.

All right. Now, I'll come back to it but did you ever hear of that camcorder at any time?---No.

Did anyone ever have a conversation with you about a camcorder at any time?---No.

THE COMMISSIONER: Did you see a camcorder?---No.

MR CAMPBELL: Did you ever have a conversation with Mr Lapham at any time about a camcorder or any camera?---Not that I recall.

10 Going down the page there's another order and you'll, you'll see on the, on 19 October, 2010 which is attributable to you, do you see that?---Yes.

All right. Now, from what you have told us - I withdraw that. That page of volume 29, the Littleford statement, Exhibit 35 becomes relevant. Have I still got it have I? I do have it. Thank you. If I could go back to that, Commissioner. Do you still have - - -

THE COMMISSIONER: Exhibit 35?

20 MR CAMPBELL: Exhibit 35 and page 26, I've caught up with myself.

THE COMMISSIONER: Thank you.

MR CAMPBELL: Now - - -?---26?

26, you'll see that's an email from October from Mr Lapham ordering items - - -?---Yes.

- - - from Chemsearch, do you see that?---Yes.

30 Yeah. Now, have you seen that, a copy of that email before?---No.

Did you ever have any conversation with Mr Lapham about placing an order at that time?---No.

Did you ever have any occasion to place as many as three orders in respect of chemicals supposedly required for the response trailer?---No.

40 Now, if we - I'm sorry for jumping around, Commissioner, but I need to go back to page 293 of - - -

THE COMMISSIONER: That's quite in order, Mr - - -

MR CAMPBELL: Volume 9.

THE COMMISSIONER: Yes.

MR CAMPBELL: Now, let's go down to where your name appears on third occasion, do you see that, Mr Lapham?---Howard.

Mr Lapham, I beg your pardon, Mr Howard?---Yes, the one marked 19<sup>th</sup> of the 10<sup>th</sup>.

THE COMMISSIONER: Yes.

MR CAMPBELL: Yes, it is. Before I ask you this question I'm going to omit the address that appears there, do you understand?---Yes, I understand that.

10

All right. So you see it says "Please send one Grundig LCD TV and DVD combo to Glen Lapham," do you see that?---Yes.

Not Michael Howard?---Right.

An address is given, do you see that?---Yes.

Let me ask you this question: that address that's given is not your address? ---No, it's not.

20

No. Without reading the address out do you know whose address it is? --- (NO AUDIBLE REPLY)

Yes or no, it doesn't matter?--- (NO AUDIBLE REPLY)

Don't guess, do you know whose address it is?---Yes.

Okay. Whose address is it?---Mr Lapham's.

30 Thank you. Now, did you ever have any conversation with Ms Verdeyen about any Grundig LCD TV and DVD, with Ms Verdeyen?---No, no, I never.

All right. Did she ever show you any promotional brochure that had a picture of a Grundig LCD TV and DVD in it?---No.

Did you have a conversation with any person about a Grundig LCD TV and DVD?---Later on with Mr Lapham.

40 How much later on? This is October?---Look, it could have been a week, I don't know exactly.

THE COMMISSIONER: Well, what do you mean? Was it - - -?---Well, well, I, I - - -

Was it in 2010?---Yes, it would have been 2010, yes.

So it was - - -?---Late 2010 so if it's 19<sup>th</sup> of the 10<sup>th</sup> there it would have been around the tenth or the eleventh month.

MR CAMPBELL: And, pardon me, Commissioner.

THE COMMISSIONER: Of 2010?---Yes, yes.

MR CAMPBELL: That blue trolley of material is exhibit 36 in these proceedings?---Yeah.

10

I want you to leave the witness box and go and look at the item on the end, don't say anything just look at it. Okay. If you wouldn't mind sitting down again?---Yeah.

Have you seen that item before?---Yes, I have.

All right. You were going to tell me about a conversation you had with Mr Lapham about a Grundig TV and DVD?---Yes.

20 You've told us it occurred at some time in October or November 2010? ---Yeah.

Where did it occur?---At, at that Southern Cross Drive.

And who initiated the conversation?---Mr Lapham.

What did he say to you?---Well, I'm not exact words but - - -

30

Doing the best you can to recall - - -?---Yeah.

- - - but if you could put it in the language you think he used it would be helpful?---It was, Howard, I've got a TV for you, TV video for you.

And had you been expecting him to utter those words?---No, no.

And what did you say to it, to him?---Oh, okay I think or words to that effect. I may, I may have asked why.

40

Well, did you ask why?---I probably did.

Can you remember what - you say you probably did, is that your best recollection?---I can't remember the exact words.

THE COMMISSIONER: Well, I mean you won't - you don't get a TV every day do you?---No, no.

Out of the blue?---Well, I did ask and I, I expect I did ask and he just said because you've done some good work and - with the trailer and the, and the likes.

MR CAMPBELL: I see. That sounds like he was giving it to you as a personal gift from him. Did you have that impression at that time?---To be perfectly honest, no, I didn't.

10 What impression did you have?---Well, that, that it, it came from somewhere but I can't remember whether I knew at the time whether, or whether we'd discussed it that it had actually come from Chemsearch.

Was it in a box?---I hadn't seen it at that time.

Oh, I see?---And it, and it was a few days later that it, that it actually arrived- - -

Yes---?- - -at the depot and then it was given to me.

20 By whom?---Mr Lapham.

All right.

THE COMMISSIONER: Mr Howard, I just want to make it clear that this, this evidence is important in the inquiry?---I understand that, sir.

I'm not suggesting that you're not being anything other than truthful, I really am not?---Yeah.

30 I just want to point out to you that you really should be careful to tell the full truth about this television set?---Well, I, I, to the best of my recollection I'm, I'm doing that.

Yes, thank you.

MR CAMPBELL: Okay. But it's important that you don't speculate, it's important you just tell us things that you remember and if you think you're not sure about it you should say so?---Yes.

40 And you should tell us, but you should tell us the whole truth about anything I ask you about?---It did not, it did not arrive or I did not get it there and then.

Yes. Now, you said a little bit later on something happened?---That the TV arrived or a package arrived, I didn't know exactly what it was, at the depot, wrapped up and I believe it was addressed to Mr Lapham. And it was given, I gave it to him and then later on he said to me, "I've got that TV for you, it's there for you."

And when, and did he give you something on that, that, that conversation?  
---Did he?

Did he then give you something? He said, "I've got that TV for you."?  
---Yes.

Did he hand you something?---(NO AUDIBLE REPLY)

10 THE COMMISSIONER: Did he give it to you?---No. I got it from his desk but I don't know whether, or under his desk, but I don't know whether he actually gave it to me.

MR CAMPBELL: All right. Well- - -

THE COMMISSIONER: Did he either give it to you or tell you where it was so that you could get it?---Well, I assume that he told me where it was and I picked it up but I can't, or he handed it to me, but I can't remember exactly what happened at that, at that incident when I got the TV.  
20

MR CAMPBELL: All right?---And then I took it back out into the store because the store actually butts onto their office and, and I took it home.

Right. Now, why did you take it home?---Well, it had been given to me and I thought, thought it would be a nice gift for my wife's daughter for Christmas.

Now, did it occur to you that, at any time that that was a gift of benefit you were being given that was covered by the council's policy?---Yes.  
30

When did that occur to you?---Probably when I received it.

Sir, I need to ask you, that's obviously more than a token gift. Do you agree?---Yes.

And being more than a token gift, what was your obligation in relation to it?  
---I should have told the council that, that I had it and it would have been put on a, on a, on a record.

40 A register?---A register, yes.

That is if the council had decided you were entitled to keep it. Is that correct?---Well, they would have either understood, sorry, given it to me and said that you can keep it or they would have used it for training or whatever.

Did anyone ever mention to you training before about the TV? Who said that to you?---Oh, no, but I'm just saying that if the council had kept the

product they would have used it within the depot or within the council I would assume.

Well, don't worry about that too much at the moment. Why didn't you comply with what you knew to be the policy?---I don't know. It was- - -

You're a very long-standing public servant?---Oh, I understand that and I knew it was wrong, but- - -

10 THE COMMISSIONER: Did you think there was something fishy about this?---Well, I assumed at the time that it had come from, with the, with the goods that had been ordered so I- - -

Had come from whom?---I beg your pardon?

Who did you think it had come from?---From Chemsearch.

MR CAMPBELL: Was Chemsearch's name on the packaging?---Well, I didn't see their name on it.

20

Did somebody tell you it came from Chemsearch or was it just a deduction you made?---No, I think it may have been mentioned that it was from Chemsearch or from, from Jacqui.

From Jacqui?---Yeah.

THE COMMISSIONER: Who mentioned it?---Mr Lapham.

30 You said, I got the impression that you were saying that it was part of, it came with the order?---No, it didn't come with the order, sir, it came- - -

Was it connected, did you think it was connected with the order?---I don't know how I came to know. To be perfectly honest it's a long time ago but - - -

No, sorry, just listen to the question. Did you think that Chemsearch, well, let me put it this way. Did you wonder why Chemsearch had sent the television set?---Well, I assumed it came with the order, you know.

40 What do you mean, it came with the order?---Um- - -

Do you mean it was a promotional gift? Is that what you're saying?---Yes. But I, I, jeez, I'm getting myself into trouble here saying, trying to work this out, but to put it in what I actually knew, when I was told by Mr Lapham that he had a TV for me he said that, or I assumed, I can't remember the exact conversation, I can, I can picture myself standing there in the yard talking to him about it, but what we actually said I don't know. I assume that I, that I knew it was from, from Chemsearch.

Why do you assume that?---Because of, of the conversation we had. I can't remember exactly what happened, sir, but, but- - -

All right. So he, he told you had a television set for you?---Yes.

And he led you to believe that it came from Chemsearch?---Yeah.

Is that what you say?---Yes.

10

All right. And what else?---And- - -

And that it was in connection with the order?---And then it arrived at the, at the, at the, at the council depot a few days later and then either that day or the next day he gave it to me. But I do remember that it didn't have Chemsearch's name on it, it had a promotions company on it.

MR CAMPBELL: Okay. Just before I ask you about that, when you, when you said to the Commissioner that you thought it came with the order, do you mean you thought it had been thrown in by Chemsearch?---Yes. Yes, not actually ordered.

20

Thrown in, Commissioner.

THE COMMISSIONER: Thrown in- - -

MR CAMPBELL: Meaning?

THE COMMISSIONER: - - -as part of the order or after the order had been delivered?---Because we ordered the stuff, that it came with it.

30

I see.

MR CAMPBELL: I think that- - -?---And- - -

- - -something that's thrown in Commissioner might be a collateral benefit?

THE COMMISSIONER: Yes?---Yes, yes.

40 All right.

MR CAMPBELL: Could you, you've still got volume 9 there, have you, sir?---I think so. Is that that one?

The big one?---Yep.

Could you look at page, tab 45, page 263?---263, yes.

Yeah. And have you got it open?---Yes, that's correct, yes.

Now, did, can you, can you, can you see that, that that has a date of 16 November, 2010 on it? Do you see that?---Yes.

And do you see that on the, it talks about Ballina Shire Council at the top?  
---Yes.

Mr Lapham's name is mentioned?---Yes.

10

And Ms Verdeyen's name is mentioned?---Yes.

The goods are described, TV/DVD combo?---Yes.

And you'll see there are some, under that matter there are, there are, there are some details including sender details. Do you see that?---Yes.

And it says, "Paula M Promotions Pty Limited."?---Yes.

20 Does that give you, bring back recollections?---Well, it was, it was some promotion thing on it, yes.

All right. And then across the other side of the page it says, "Receiver details." Do you see that?---Yes.

And, and then it's got Mr Lapham's name?---Yes.

Right. And it's got the same address, don't mention it?---Yes.

30 The same address which was mentioned in that document I was asking you about earlier. That's right, isn't it?---Yes, yes.

Yeah. Does that help you remember some of the circumstances?---Only the fact that, that I remember that it had that promotions company on it.

Yes.

THE COMMISSIONER: And you see it's dated 16 November, 2010?  
---Yes. That would probably be about- - -

40

The time, that's about the time you got it?---Around about the time that I got it. I know it was a few weeks before Christmas 'cause I had it hidden at home.

Hidden?---Oh, for my, for my, from my- - -

I see. From your wife?---Yeah.

MR CAMPBELL: Hidden so Santa Claus could bring it?---Yes.

Is that correct?---Yeah.

THE COMMISSIONER: And Santa Claus had brought it?---She's, she's 23.

MR CAMPBELL: Yes, Commissioner, it's not a laughing matter, yeah.  
All right. Now, okay. Now, you took it home and you gave it to your  
10 daughter for Christmas?---Yes.

It was unwrapped and set up in your daughter's room. Is that correct?  
---Yes.

When did somebody next mention to you the television?---When did- - -

Not your daughter saying thank you?---No, I understand that.

Did somebody outside your home mention to you the television?---It would  
20 have been after we'd been contacted by ICAC.

Yes. And who was it who mentioned it to you after you'd been contacted  
by ICAC?---Mr Lapham.

Do you remember what month that was?---Oh, no, it can't be April, in May,  
around about May.

Do you recognise the gentleman at the end of the bar table?---Yeah, yeah.

30 That's Mr Grainger?---Yeah, I know, I can't remember his name, but, yeah.

You've met him before haven't you?---Yes, at the council chambers.

Yes. And, and was it, when in relation to when you met Mr Grainger at the  
council chambers was it? When, when in relation to that meeting was it?  
---A couple of days before.

Okay. The meeting was 14 July wasn't it?---I think we were rung on the  
Monday, on the Monday that Mr Grainger was coming up. And he was  
40 going to meet us on the Wednesday. So it would have been - - -

Yes?--- - - - Monday.

It might have been the Thursday he was going to meet you, 14 July?---It  
could, well I don't remember the exact date, but if that's what it was, yes.

You said we were rung up, what did, I mean did you receive a phone call  
from anybody?---From Mr Grainger I believe.

Oh, right. And after you received the phone call from Mr Grainger and he said he'd like to meet with you, did somebody else contact you?---I rang Mr Lapham.

You rang him. Okay. Did Mr Grainger mention what it was he wanted to talk to you about?---No, he just said I want to speak to you in regard to, he did mention the company Chemsearch.

10 All right.

THE COMMISSIONER: So why did you phone Mr Lapham?---Well because I knew what it was about.

Why did you know that?---Well I'd received a TV from Mr Lapham, and I knew, I knew we were doing the wrong thing. I've already admitted that. I just assumed that that's what it was in regards to.

I see.

20

MR CAMPBELL: Your guilty conscience suggested - - -?---And as soon as the word Chemsearch came up, which Mr Grainger did mention to me, I just, I just knew.

Something, had it been praying in your mind, this transaction?---Oh well, it had been (not transcribable) not so much then but earlier when I first got it I thought, you know, you're a dickhead, but - - -

All right. Anyway, so you rang Mr - - -

30

THE COMMISSIONER: You're not alone Mr Howard.

MR CAMPBELL: There's a lot of people involved in this, sir?---Yeah, I understand that.

THE COMMISSIONER: On both sides.

MR CAMPBELL: Yes, Commissioner. Now well you put two and two together and came up with four?---Yes.

40

And rang Mr Lapham?---Yes.

What did you say to him?---I said did you just get a call from ICAC?

What did he say?---And he said, yes.

What did you then say?---And I said, he said, I'm not sure what it's about. And I said, it's Chemsearch.

And when you said that did he have a response?---Yes.

What was it?---I don't know if I can say it can I?

THE COMMISSIONER: Yes, you can.

MR CAMPBELL: Well we're all grown up?---Fuck.

10 THE COMMISSIONER: We've heard it before.

MR CAMPBELL: And after that cleared the air what did he then say?---  
He, oh God, I can't think, well he didn't say anything then.

Did he have a suggestion for you?---Just said, at that time right then I don't  
think so. But we spoke again later that night.

Yes. From each others phones I guess. At work or at home?---I was at  
home.

20

Okay. And on the telephone?---Yes, mobile phone.

Did he, what did he say to you? Did he ring you or did you ring him?---I  
think he rang me.

What did he say to you?---Bring the TV back to work tomorrow.

30

Did he say why?---Oh well he didn't say, just bring back, I can't remember  
the, whether he did, but he may have said something else, but he said bring  
the TV back tomorrow.

Do you remember meeting him at a service station?---Yes.

When was that?---That following morning.

Oh, right. Well before we get to that when he said bring the TV back was  
there any further conversation?---I think he said meet me at the service  
station in the morning.

40 All right. Now - - -

THE COMMISSIONER: To pick up the TV?---Yes.

MR CAMPBELL: Anyway so this clandestine meeting took place. Is that  
correct?---Yeah.

And whereabouts did it take place?---At the service station in Ballina, BP.

What time of the morning?---6 o'clock, somewhere around there. It would have been maybe a bit earlier, no about half past 5.00.

And did you have the TV with you?---Yep.

Was there a conversation between you and Mr Lapham?---Oh there obviously was, but I can't remember what, what words we spoke.

10 Was there any conversation about any other products, like goods of this type?---(NO AUDIBLE REPLY)

Excuse me, Commissioner, could I ask if your associate would go across to exhibit 36 and extract from it the, the camcorder which is under the iPhone?---Oh, the, yeah. That - - -

Now, I'll just stop you there, sir, because - - -?---I've never seen this before. Okay.

20 Well it makes my question redundant?---Sorry.

All right. But have you heard tell of it sometime before?---Yes.

Where did you hear tell of it?---Mr Lapham had spoken to Jacqui and she'd said that I'm down for a, I'm down for a camcorder.

Well when did, were you present when he had that conversation?---I was told that.

30 By whom?---By him.

When?---Well it was either the night when he rang me at home or at the service station, but I can't remember which at the moment.

THE COMMISSIONER: What he said you were down for a camcorder. What did, what did he mean?---That, that Jacqui, that a camcorder had been put down to my name.

40 By whom?---By, by Chemsearch or whoever the promotion company was or, or whatever.

Yes. And?---And, and I said, well I'd never had the (not transcribable) I said, I've got the TV. But I can't - - -

Did he say anything to you about what should be done about the camcorder?---Well I can't remember exactly but I think along the lines that the camera would be with the, with the, with the, the camera would be with the TV at work. But I can't remember, I'm sorry.

MR CAMPBELL: Pardon me, Commissioner. What I'm told is an iPhone is part of Exhibit 36. Have you ever seen such a device?---No.

You told us that the, did you ever receive something like that?---No, never.

Did you ever see Mr Lapham use one?---Never.

10 Just put it down for a moment. You told us the store was adjacent to the depot?---To, the store has two entrances. One entrance is, goes into where, which was the team leaders office, which was also, and you could also access the small kitchenette and toilet there.

During the time you worked in the store did you ever go into Mr Lapham's office?---Oh, regularly.

Did you ever see a TV on top of a filing cabinet in his office, like the one you took home?---There was a TV in there.

20 Was it like the one you took home?---I honestly can't tell you that, but there was a, I know that there was a TV in there.

THE COMMISSIONER: When?---I beg your pardon?

When was the TV in there?---Oh, there'd been a TV in there for a long time.

From before, before, well for a long time from when? What year?---Oh, early 2010 there'd been a TV in there.

30 MR CAMPBELL: It had certainly been in there for a long time before you got given your TV?---Yes.

THE COMMISSIONER: Months before? Several months?---Several months, yeah.

MR CAMPBELL: And you didn't ever see that camcorder box in his office did you?---No, never.

40 On the trolley you probably recognise what's known as a baby, a Weber baby Q barbecue?---Yeah.

Does the council have barbecues for employees to use from time to time? ---Yes. There's two, there's two barbecues at work. One that was purchased by the water and sewer section.

Ah hmm?---And one that was purchased by the social club.

All right. And the one that was purchased by the water and sewerage section, where was it kept?---In the water and sewer section.

And, and what brand was it?---Oh, I have no idea what brand it was.

Was it a Weber?---No.

Is that it in the trolley?---That's a Weber but that's not the one we had at work, no.

Well, what did the one you had at work look like?---Oh - - -

10

THE COMMISSIONER: Much bigger?---Yeah, with a, with a hood on it.

MR CAMPBELL: A bit bigger than the desk in front the witness box - - -?  
---Yeah.

- - - and with a big hood on it, is that right?---Yes.

It had many burners?---Four burners.

20 To no doubt feed a, feed a crowd of hungry workers?---Yes.

THE COMMISSIONER: And the baby barbecue is pretty small?---Yeah.

You can have a look at it?---Oh, I've got one at home but it's nothing to do with this.

MR CAMPBELL: Mr Howard?---Yes.

30 I'm the bloke who tells the jokes around here, okay. Now, anyway. So you know what they're like and how they work?---Yeah, yeah.

All right. All right. All right. But, all right. Now when you - did you see - so you didn't see any of those things lying around the, the depot for, for months before Mr Lapham suggested the clandestine meeting at the service station?---No, no.

All right. Did you - - -

40 THE COMMISSIONER: Sorry, Mr Campbell. In these discussions where he mentioned the camcorder did he mention Jacqui?---Yeah.

What did he say?---That he'd spoken to her.

And?---And that, that I, I was down for a, for a, for a camcorder.

Do you know - I'm trying to understand the context in which this was said so I can understand why he said that. What did, what was he really saying

to you or what was the implication of that?---Well, I can only assume that, that she thought that I've, I've got a camcorder.

MS TRAILL: I've got to object, your Honour.

THE COMMISSIONER: Yes.

MS TRAILL: This witness can't give evidence that assume - - -

10 THE COMMISSIONER: Of course he can, the laws of evidence don't apply. Have a look at the ICAC Act, it's there in black and white.

MS TRAILL: If your Honour pleases.

THE COMMISSIONER: I beg your pardon? Did you say something?

MS TRAILL: I said if your Honour pleases, I mean, Commissioner pleases.

THE COMMISSIONER: Yes, Mr Campbell.

20

MR CAMPBELL: Thank you, Commissioner.

Well, perhaps I, I could take you back, do you still have folder 9 there?  
---Yeah.

Can we go back to page 293?---Yes.

And can we, can we go to the entry for 23 September, 2010 that I asked you about a little while ago?---23<sup>rd</sup> of the 9<sup>th</sup>?

30

23<sup>rd</sup> of the 9<sup>th</sup>, 2010?---Yeah.

And if you look at, if you look at the material in the box beside, to the right of your name - - -?---Yeah.

- - - it says, "Please send one promo Panasonic Camcorder to Michael Howard"?---That's right.

Do you see that?---Yes.

40

Do you think that's got anything to do with the idea that Mr Lapham was expressing when he said Jacqui's got you down for a camcorder?---Yes.

THE COMMISSIONER: Do you know who got the camcorder?---No, sir.

MR CAMPBELL: Did Mr Lapham ever tell you whether he received it?  
---He may have.

But you can't be sure one way or another?---No, sir.

THE COMMISSIONER: So the television set that - once you gave it to Mr Lapham was that taken back into the office?---I assume so.

And you didn't see it there?---I beg your pardon?

You didn't see it there?---It must have been there because Mr Grainger said that they'd picked up a TV and video unit from the, from the office.

10

MR CAMPBELL: When he saw you on 14 July?---Yes.

Right?---He saw us in town then they came out to the depot.

THE COMMISSIONER: You don't know if the camcorder was in the office?---No, sir.

And the barbecue?---No, sir.

20

You've never seen those before?---No.

MR CAMPBELL: You see, did Mr Lapham mention to you that he was bringing anything from home back to work after the call from ICAC was received?---Only the camera I believe.

Only the camera?---Yes.

Which camera?---The one that you showed me, the camcorder.

30

The camcorder that's back in the trolley?---Yeah.

Did he mention he was bringing that back into work did he?---Yes.

What did he say to you about that?---Well, he, well, at the service station he, he said can I put these in the office.

I'll put these in the office?---Yeah.

40

So he had the camcorder with him?---I would assume so, I didn't actually see it.

THE COMMISSIONER: When he said these what did he mean? I mean, did he not point out what he was saying?---I didn't see what he had.

I see. What, did he have something with him?---No, I didn't see anything.

MR CAMPBELL: Did he, was, was his car there?---Well, his car would have been there, yeah.

What type of vehicle was it?---It was a work car, a Ford or, Ford.

Sedan, station wagon?---No, no, like a ute thing, one tonner type thing.

All right. Did you see if anything was on the back of the ute?---No, I didn't.

In any event, I'll withdraw that. Pardon me for a moment, Commissioner.  
All right. Now, did you have any further conversation with Mr Lapham  
10 about these matters?---The morning, the morning at the service station he  
told me that he was, he said don't worry about it, I'm, I'm, I'm leaving the  
council today or he may have said that on the telephone, I don't know, but  
he said that he was leaving the council.

And has he left the council?---He left that day.

Now, I just want you to just to search for a moment the back of your mind  
and tell us whether there was any further snippet or otherwise of that  
conversation at the service station you can recall?---No, I can't, I'm sorry.  
20

All right. Now, you - did Mr Lapham make any suggestion to you as to  
what should be said to ICAC?---Oh, gee. Something he said. I'm sorry, I  
can't remember exactly but tell them, there was something said but I, I  
honestly can't remember exactly what it was.

All right. Now, sir, you - is it, is it the case that you saw Mr Grainger and  
another officer from ICAC on 14 July, 2011?---Did I?

Did you?---Yes, I certainly did.  
30

And did you do your best to answer all of Mr Grainger's questions  
truthfully?---I did.

And, and, and do you, did you tell him about these events I've been asking  
you about this afternoon?---Yes, I did.

All right. Including - did you tell him about the conversation that you and  
Mr Lapham had about what might, what, what, what should be said if  
anything to ICAC, do you remember that?---Yes.  
40

Now, did you follow Mr Lapham's advice?---I don't believe I did.

All right. And, Commissioner, I don't have any inconsistencies in the  
statement but I'd seek to tender the, tender the record of interview in any  
event.

THE COMMISSIONER: Yes.

MR CAMPBELL: I tender, Commissioner, the, the record of interview between Senior Investigator Paul Grainger and Michael Howard in the presence of Investigator Simon Berry at Ballina Shire Council on 14 July, 2011 which - there's a tab for it in volume 13, tab 70 which is a - - -

THE COMMISSIONER: Sorry?

MR CAMPBELL: Tab, tab 70 is empty, Commissioner, in volume 13.

10 THE COMMISSIONER: Yes. So it's the record of interview of the, the, Exhibit 38 is the record of interview by senior investigator, Paul Grainger and investigator Simon Berry of Mr Howard.

**#EXHIBIT 38 - RECORD OF INTERVIEW BY SENIOR INVESTIGATOR PAUL GRAINGER, INVESTIGATOR, INVESTIGATOR SIMON BERRY AND MICHAEL HOWARD**

20 THE COMMISSIONER: What tab is it again, please?

MR CAMPBELL: It's volume 13, tab 70.

THE COMMISSIONER: Thank you.

MR CAMPBELL: Just if I can try and prompt you, sir, do you have a copy of it there, have we given you a copy of it?---No.

30 Could you look at, turn up page 13 of the 44 pages. It has page 18 in the top right-hand corner?---Page 13, yes.

13 of 34. Do you see at line 15 there's, there's, there's a, there's, there is a statement attributed to you, it's perhaps a little less colourful than the one you gave us today, about Mr Howard's, not Mr Howard, I'm sorry, Mr Lapham's exclamation, but do you see that he said, do you see you told Mr Grainger there about, about what he said when he rang you back?---Yeah. As I, as I said to you earlier, "They've got you for the video camera."

40 He said to you, "I think they've got you for a video camera."?---Yes.

And you said, "I've never seen a video camera."?---Yes.

All right. Now, when he told you to bring the TV back to work, did he make any suggestion that there should be, it should be said that it had always been at work, do you remember anything about that?---Possibly.

Well, is possibly suggesting that you don't- - -?---Well, if I, if I, if I've said that I did, then that's what happened.

All right. Thank you, Commissioner. I'll find that reference for you, Commissioner, but I don't have any further questions at this stage. Oh, I do have a further question. I beg your pardon. Now, after you were interviewed by Mr Grainger did you have to front the boss?---Yes, I did.

Who was that?---Paul Hickey and John Truman of the council.

10 And just so we all know, what's their jobs?---Paul Hickey is the general manager of the council- - -

Ah hmm---?- - -and John Truman's the, the manager of water and sewer and all the, all the like things, you know construction and all that.

All right. And how, was it, was it, was it a, was it a friendly interview? ---Well, I didn't enjoy myself 'cause it was pretty hard.

Yeah. And how long did it go for?---Oh, 45 minutes, something like that.

20 How did you feel about yourself when you, when you were having that interview?---Oh, I felt terrible 'cause I told them how I'd stuffed up.

How did you feel about yourself when you, when the wrong that you knew you were doing was exposed in this manner?---Oh, well, I felt humiliated.

Is that one of the reasons- - -?---I felt very very foolish that I'd, after all those years that I'd, you know, eventually stuffed up.

30 What, what, what would you say to any other government employee who was thinking of taking a present without declaring it?---Don't do it.

Now, was there any disciplinary ramification?---Yes, there was.

And what was the disciplinary ramification?---I was removed from the store, I got a four months, a three-month, three-month demotion in pay, it went onto my personal record and I was given a last chance and no more chances, if I stuff up, I'm gone.

40 How did, how did your colleagues at work treat you?---No one knows so far.

So far. Up until now?---Yeah, that's right.

Yeah. Listen, you- - -?---I've told, I've told three or four people there what happened.

As a station officer in the fire brigade you must have left that service with a very good record?---I did, yeah.

Was that something you were proud of?---Yes, very.

How do you feel about having besmirched your record in, in the way that you did in this case?---Oh, I felt humiliated and (not transcribable) that's about it.

No, that's okay. Thank you, Mr Howard, for answering my questions?  
---Thank you.

10

I have no further questions.

THE COMMISSIONER: Yes. Mr Clay, do you have questions?

MR CLAY: I have no questions, thank you.

THE COMMISSIONER: Ms- - -

MS TRAILL: I have no questions, Commissioner.

20

THE COMMISSIONER: I beg your pardon?

MS TRAILL: I have no questions, Commissioner.

THE COMMISSIONER: You have no questions. Mr Naylor?

MR NAYLOR: No, thank you, Commissioner.

MR CAMPBELL: Well, might Mr Howard be excused, Commissioner?

30

THE COMMISSIONER: Yes. Mr Howard, you may be excused. Thank you for your evidence?---Do I have to come back?

No?---Thank you.

**THE WITNESS EXCUSED**

**[3.26pm]**

40 MR CAMPBELL: I call Glen Lapham. Mr Lapham is not represented, Commissioner.

THE COMMISSIONER: Please sit down, Mr Lapham. Have you, have you been here all day, Mr Lapham?

MR LAPHAM: Yes.

THE COMMISSIONER: And do you recall that, who was the other witness who wasn't represented?

MR CAMPBELL: I'm sorry?

THE COMMISSIONER: The other witness who wasn't represented?

MR CAMPBELL: Mr Howard.

10 THE COMMISSIONER: Mr Howard.

MR CAMPBELL: Mr Howard.

THE COMMISSIONER: Do you recall that when Mr Howard, before Mr Howard gave evidence I gave him an explanation about some protection I could offer him?

MR LAPHAM: Yes, I do.

20 THE COMMISSIONER: Do you remember what I said?

MR LAPHAM: Yeah.

THE COMMISSIONER: Would you like me to make the same order so that you're protected in the same way?

MR LAPHAM: (NO AUDIBLE REPLY)

30 THE COMMISSIONER: I beg your pardon?

MR LAPHAM: Yes.

THE COMMISSIONER: All right. Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by Mr Lapham and all documents produced by him during the course of his evidence at this public inquiry are to be regarded as having been given or produced on objection and accordingly there is no need for the witness to make objection in respect of any particular answer given or document produced.

40

**PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY MR LAPHAM AND ALL DOCUMENTS PRODUCED BY HIM DURING THE COURSE OF HIS EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND ACCORDINGLY THERE IS NO NEED FOR THE WITNESS TO**

**MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT PRODUCED.**

THE COMMISSIONER: Now, Mr Lapham, you have heard me tell other people this and I will say the same to you. You are obliged to answer all of the questions you are asked and it is a serious criminal offence either to refuse to answer or to give false answers. Do you understand that?

10 MR LAPHAM: Yes.

THE COMMISSIONER: And I emphasise that because the penalty for giving false evidence in a public inquiry is a gaol term of up to five years, so it's really important that you give truthful evidence. Do you wish to give your evidence under oath or do you wish to affirm the truth of your evidence?

MR LAPHAM: (not transcribable)

THE COMMISSIONER: Yes, Mr Campbell?

MR CAMPBELL: Thank you, Commissioner. Mr Lapham, please state your full name?---Glen William Lapham.

You have to speak up a little, I'm afraid?---Glen William Lapham.

10

Thank you very much. And at one time were you an employee of the Ballina Shire Council?---Yes.

When did that cease?---Well, 13 July, I think.

2011?---Yes.

The day before you had an interview with Mr Paul Grainger- - -?  
---Yes.

20

- - -of ICAC?---Yeah.

Two days after you learned that ICAC would be coming up to interview you. Is that correct?---Well, I knew, well, they told me, they just rang me and said that they're going to come, they want to talk to me.

They rang you on the Monday I think. Is that correct?---Yeah, might have been the Monday.

30

So if it was the Monday, it was two days after they rang. Is that right?  
---Yep.

And you knew, didn't you, what it was they wanted to talk to you about at the time you resigned?---Ah, they didn't tell me exactly what it was.

But you'd worked it out, hadn't you?---After when Michael Howard rang me. But that wasn't the reason why I left.

All right?---There was many occasions I was going to leave the council.

40

I see. You've heard Mr Howard give evidence here today before the Commissioner?---Yes.

Now I just want to give you an opportunity before I start asking you questions to say whether or not the account you gave to senior investigator Grainger was the truth, the whole truth and nothing but the truth?---Pretty much what I can remember.

I see. There's nothing that you'd wish to change about the account you gave to senior investigator Grainger. Is that correct?---Not that I'm, only hearing from what Mick said about meeting at the service station and the reason why I, I done that is because I was going to take the fall for him.

I see.

THE COMMISSIONER: You were going to take the fall?

10 MR CAMPBELL: You were going to take the fall for whom?---Well you know what I mean.

THE COMMISSIONER: For him?---Like you know.

I'm sorry it that what he, I didn't hear you, I beg your pardon. You were going to take the fall for whom?---For Michael Howard, because I didn't want him to get in trouble.

MR CAMPBELL: Are you going to take the fall for yourself?---Well - - -  
20 It's a question?---The question to take the fall for myself?

Yes?---Fall for accepting promotions.

You see - - -

THE COMMISSIONER: Well there's another possible fall, and that's lying to the Commission?---Yeah.

30 MR CAMPBELL: You see your story to senior investigator Grainger was that your only sin was not to declare these gifts?---Well that's right, I didn't declare them.

But you did more than that didn't you? You actually lied to senior inspector Grainger about what you did with these gifts did you not?---Lying in what context?

Well okay if you're unsure of it I won't press for an answer now. I'll approach it in this way. Other than the TV, which Mr Howard has taken  
40 responsibility for, would you please leave the witness box for a moment and go and look at that blue trolley and inspect the goods which are Exhibit 36 in this inquiry?---This one, is it?

That's, yes it is, Mr Lapham?---The iPhone, the camcorder (not transcribable)

You've seen those before have you not?---(NO AUDIBLE REPLY)

Take a seat please. I better ask you that again. You've seen those before have you not?---Yes.

And they're all so called promotional items that you received for placing orders with Ms Jacqui Verdeyen of Chemsearch. That's correct isn't it?  
---Well from Chemsearch, yes.

10 Now what you told Mr Grainger was that each of those items was, was something which you got delivered, I'll withdraw that. Something which you got for work and that when they were delivered you kept them at work. That's so isn't it?---Well they were in the filing cabinet.

The barbecue was in the filing cabinet?---No.

Was the barbecue in the filing cabinet?---No, it wasn't, no.

You say that the camcorder was in the filing cabinet don't you?---Yes.

20 There are actually, there was more than one TV is there not?---There was two.

Mr Grainger didn't recover the second one, where's that?---I don't know.

I beg your pardon, is this the second one? I beg your pardon. Can this be shown to the witness?---Yep, that's the TV. Yep.

Okay. Could that be added to Exhibit 36, Commissioner.

30 THE COMMISSIONER: Yes, the second television set, what kind of television set is it?

MR CAMPBELL: It's actually a TEAC, Commissioner.

THE COMMISSIONER: The TEAC television set will become part of Exhibit 36. Is that right?

MR CAMPBELL: Yes.

40 THE COMMISSIONER: Is it 36?

MR CAMPBELL: It is 36. You, you accepted these promotional items as a personal gift did you not?---Not, not so much a personal gift, but it come with a promotion.

But you took it as coming with a promotion as something which was for you to have and to use as you saw fit. That's correct isn't it?---Yes, correct.

And in accepting those gifts for you to use as you saw fit, you actually arranged for some of them to be delivered to your home address didn't you?---Yes.

And those things that were delivered to your home address were kept at your home address until you heard that ICAC was coming to make inquiries. That's so isn't it?---Not, not, not totally true.

10 Not totally true. Is it partially true?---Well I might have had the camcorder in the car.

And the barbecue was at home?---Sitting there and then I took it back in probably two weeks before, three weeks before because I had no use for it.

We can see that it hasn't even been assembled?---Yeah.

20 But you, I suggest to you that you took it in on the day that you asked Mr Howard to bring his TV back?---No, that would've been a week before, two weeks before.

A week before?---Because I received that, I received that at home and I looked at it and I thought well I'm never going to use it, which I never did, so - - -

I suppose if you received it at home and you looked at it at home and you thought that might come in hand sometimes, you would have felt entitled to keep it. Is that correct?---No, not necessarily.

30 You say not necessarily, you've already told me that the only reason you took it back to work was because you decided it was of no use to you? ---Well in, in my context, you know what I mean. So - - -

You mean in your family context?---Yeah.

If you had decided that it could have been of some use to you in your family context, then it follows doesn't it that you would have kept it at home? ---Well it's a, being a barbecue, it's useful but I, I, I didn't want to use it, because it was - - -

40 THE COMMISSIONER: Why didn't you want to use it?---Well I just didn't use it. I don't know why, because it was a promotional gift and it come with the, you know, and that was it, it's just - - -

So where did you put it when you took it back to work?---In the shed.

MR CAMPBELL: And where's the shed in relation to your office?---Oh, probably 20, 25, 30 metres away.

And even, even, I'll withdraw that, Commissioner. The camcorder was in your car, it went backwards and forwards did it?---Oh, wherever and then I threw it in the filing cabinet and - - -

What threw it in the filing cabinet when ICAC were coming?---Well it might have already been in the filing cabinet because I might have moved it from the ute into the filing cabinet.

10 You might have done that I suppose on Tuesday - - -?---No.

- - - 12 July, 2011. Is that correct?---I don't think so.

THE COMMISSIONER: Did you talk to Mr Howard about the camcorder when you met him at the service station?---I can't recall. No, sorry, I can't recall.

MR CAMPBELL: Well you've heard Mr Howard's evidence today - - -?  
---Yeah, I know, I sat there and listened to it.

20 You listened to it very carefully I suppose. Is that fair enough or - - -?  
---Well not, well obviously I listened to it.

You didn't disagree with the truth of anything he said did you?---No.

THE COMMISSIONER: So he knew nothing about the camcorder until you told him about it. Is that right?---Well obviously, yeah.

30 So where else could he have known that you had the camcorder from unless you told him about it at the service station?---Well I probably, I probably did.

MR CAMPBELL: What about the iPhone, was that something you took and used?---No.

Is that something you carried in your car?---No.

Did you have it at home?---For a short period of time.

40 Well - - -?---And - - -

I didn't mean to interrupt you, you can answer the question?---Yeah, yeah, only for a short period of time and then I had it in the glove box of the car. And then from the glove box of the car to the filing cabinet.

Because you decided you had no use for it in your circumstances. Is that correct?---No, it would have come in handy for work, work purposes.

THE COMMISSIONER: Did you use it at work?---No, because at a, at a later date I, I, like Mr Howard, embarrassed of, because when I first started with Ballina Shire Council the policies and procedures were pretty crap to say the least and when, when ah, listening to Mr Howard's statement about having a meeting with Yasmin about an introduction, the introduction was about 20 minutes and she left the room and me and Michael Howard were talking and, and talking about answers so then when future policies come through then I realised that I was in the wrong for accepting the gifts and not putting them into the register. Well, I was like Mick, I was embarrassed and so on.

MR CAMPBELL: What new policy came through that made you realise you'd done the wrong thing?---About putting, placing items into the register.

About, about letting the, letting the council decide whether you were entitled to keep such gifts - - -?---That's correct.

- - - or not. When do you, when do you say that came in?---Oh, it was probably always in but it was never, ever promoted, it was never, ever - - -

THE COMMISSIONER: Are you saying you were never told about it? ---Well, we probably were told about it in the introduction but it was, it, it wasn't - - -

It wasn't emphasised?---No, no. And I can, I can guarantee you that the training was - how can I say it.

MR CAMPBELL: You say it, you're giving the evidence?---Piss poor from Ballina Shire Council.

I see. So the fact that you did the wrong thing is, is all - - -?---No, it's not.

Well, let me finish the question before you agree with the obvious?---Okay.

The fact you did the wrong thing is all the fault of Ballina Shire Council is it?---No, it's not, no, it's not.

Of course it's not. Before you started with the Ballina Shire Council you, you had long years working in local government in Queensland, didn't you? ---That's correct and I also had long years working in the private sector.

And whether its public or private the rules for a long time have, have been that it's not appropriate to accept substantial gifts from suppliers unless your boss says it's okay, that's right, isn't it?---Yes, and then in the, in the private sector it's, it's, you know, it's a little bit different.

And Gold Coast City Council was, was one of the - was that the council you worked for in Queensland - - -?---Yes.

- - - before coming south?---Yes.

And they're a big city aren't they, the Gold Coast?---They are now.

Yeah, well, they - - -?---I left in 2000.

10 In 2000?---Yeah.

You had a break before you started at the council?---At Ballina?

Yeah, when did you start in the Ballina Council?---2009.

You, so what did you do between 2000 and 2009?---Worked, worked for various companies, private, private enterprise.

20 But even in 2000 the Gold Coast City Council would have had the same type of policies that you're now aware that Ballina Shire Council has, that's right, isn't it?---Pretty much.

But anyway, you say that the policies didn't help - the existence of the policy didn't help you much to do the right thing. Is that correct?---Well, no, lack of training, lack of - and also lack of responsibility from my part.

I want you to look at - I'm sorry, I'll ask the Commissioner's Associate to put in front of you volume 9, tab 46, page 293.

30 THE COMMISSIONER: I can't remember what Mr Lapham said about the television set. Did he use the television set?

MR CAMPBELL: I haven't done that, Commissioner, I'll do it, I'll do it.

46, tab 46, 393?---Yes.

Just before I ask you about that, the television, the TEAC television that you had, did you use that?---At work?

40 I'm just asking you did you use it?---Yes.

You turned it on and used it?---Yes.

To look at things you wanted to look at?---Yeah.

THE COMMISSIONER: At work?---At work, yeah.

And at home?---No.

Did you take it home?---No.

Never?---Never, it was always at work.

And what were you doing with it at work?---Watching DVDs of sewer, water and sewer video footage DVDs.

10 MR CAMPBELL: You always had a TV in your office didn't you, right from the time you started there?---Yeah, 'cause I requested one.

And they gave you one?---Yes.

And that, that TV was put on top of your filing cabinet, that's right, isn't it? ---On my desk.

20 On the desk. So you had no need for a TV at work because you had one that the council had given you at your request. That's right, isn't it?---Yes, and then we had, the foremans had the TV.

The foremen had a TV too did they?---Yeah.

And there was also a large barbecue at work, wasn't there?---Yes, which (not transcribable) purchased.

You, you caused that to be purchased by the council, is that right?---Yes.

30 THE COMMISSIONER: Are you saying the foremen had their own television?---Yes, they had a TV out there as well.

So I still don't know what your answer is to Mr Campbell. Why did you need the television set in your room if you already had one?---Well, because it was 30 metres away and it saves me walking over there to look at their DVD.

MR CAMPBELL: But wait a minute, the council bought you a TV when you asked them to which you put on your desk to watch DVDs?---Yeah, yeah.

40 Correct?---Yes.

You told me that. That was before you got the one from Chemsearch? ---Yes.

The, the foremen had a TV/DVD set up - - -?---Yes.

- - - previous which they used for watching DVDs they had to watch?---Yes.

So at your place of work there were two council provided TV/DVD combinations within each access of your desk, that's right, isn't it?---Yes.

Before you got any of these TVs - - -?---Yes.

- - - from Chemsearch, correct, is it not?---Yes.

You also had, of course, a desktop computer did you not?---Yes.

10 And that was fitted with a DVD drive, wasn't it?---Yes.

So if push came to shove you could watch a DVD on your computer like a lot of people do?---But a lot of, a lot of the TVs won't play - a lot of the discs will not play on that laptop because it's a WIN, WIN whatever it is, I can't remember what file it is.

THE COMMISSIONER: What I don't understand is if you have two television sets to which you have ready access and one in your own office on the desk, why did you need another television set in your office?

20 ---Because it comes with a promotion.

MR CAMPBELL: Are you saying, Mr Lapham, that it was on offer so I took it, is that correct?---Well, correct.

And you found out it was on offer because Ms Verdeyen told you that, is that correct?---Well, only after the purchase.

Only after the purchase?---Yeah.

30 Have you had a conversation with Ms Verdeyen about these matters?  
---What, since - - -

Since you knew ICAC were interested?---I had one conversation with her a week before I think.

A week before when?---I think, well, before ICAC come.

40 Well, did she already know ICAC were interested at that time when you had that conversation with her?---She said that - I can't recall exactly but she said ICAC are looking into, not ICAC but people are looking, she didn't use the word ICAC, she said people are looking into promotions.

What did she also say to you?---Pretty, that was pretty much about it.

Well, did she, did she, did she say anything about whether it was important to say that the promotions were only mentioned after you placed an order?  
---No.

So you say on the solemn promise you've made today to tell the truth that you and Ms Verdeyen didn't have any conversation about promotions until after you placed the order, is that correct?---Pretty much.

So there was never a mention of a promotion around about the time a sale was being spoken about until you had placed an order and she said oh, now, you've placed that order you're entitled to this promotion?---Yeah.

10 That's how it worked. All right. Now, just let me ask you - you've got that book there, I was asking you about?---Yes.

But just before I leave that, let me get this straight, because I confess to being a little confused. You've got a number of TVs from Chemsearch. You didn't need TVs for work because there were already two. Is that right, one of which the council provided at your request. Is that right?---Yes.

20 Thank you. You got a Camcorder from Chemsearch. Did you have a Camcorder or any sort of video camera provided by the council?---No, not a video camera.

Did you ever ask them for one?---Not that I'm aware of.

You had a barbecue at work which you requested for the benefit of all your employees to use for legitimate socialising- - ?---Yes.

- - -or sustenance when you were working. Correct?---No, at monthly meetings.

30 Monthly meetings?---Yeah.

So you didn't need to have a barbecue provided by Chemsearch to use at work?---It just come as a promotion.

We know that?---Yeah.

Just answer my question. You didn't need a barbecue from Chemsearch to use at work, is that correct, because you had one?---Yep.

40 Yeah. Obvious. The iPhone wasn't the first mobile phone you ever had, was it?---What do you mean by that?

Well, the time you got the iPhone you already had a mobile phone, didn't you?---Yes.

Almost everyone in the country does, don't they?---Yes.

Yeah. And the mobile phone you had at the time you got the iPhone was perfectly satisfactory for using when you had to make calls at work?

---Yeah, correct.

Perfectly satisfactory when you were in the field. Is that correct?---That's correct.

So this is a, all of these items, promotional items, were not necessary for you to use at work because you had an equivalent piece of equipment already. That's correct, isn't it?---That's correct.

10 Yeah. You just wanted them because from your point of view it looked like it was something for nothing. Is that correct?---Pretty much (not transcribable)

Pretty much. And pretty much something for nothing that you could use pretty much as you saw fit. Is that correct?---Pretty much, but as you can see, I didn't use 'em.

20 And it turned out that when you got the something for nothing you decided you didn't want to use it at all. Is that correct?---That's correct, yeah.

And so that at some stage you took it back to work, is that right, each, each piece of equipment got back to work you say. Is that correct?---Yes.

Because it was just cluttering up things at home I suppose. Is that correct? ---No, because it was just, yeah, well, not cluttering anything up at home, it's just that I didn't require it.

30 You didn't require it for your personal use at home you decided?---Yes. Well, not that I decided.

Well, at some time you must have realised that. That's correct, isn't it? ---Yeah, that's correct.

So you took it back to work and I'm suggesting that you took it back to work when you realised that ICAC were coming a-calling. That's so, isn't it?---That is not correct. That is not correct.

Now, let me ask you about page 393?---Yeah.

40 Okay. Could you, have you got it open? You've got to look at it in landscape?---Yep.

No?---393 on mine.

But it's my mistake yet again. It's page 293. Have you got that there now, sir? You'll see that it's a list of transactions. Do you see that?---(NO AUDIBLE REPLY)

You've got to turn it around?---Yep.

All right. You can see, I think you can see how this works. You can see that at the left-hand column there's a customer number?---Yes.

Second column, Ballina Shire Council. Work across the page, the first name you can see is Jacqueline Verdeyen. See that?---Yep.

10 Then there's a buyer name. And the first name is Gary Meredith. Is that right?---Yes.

Was he someone who was doing your job before you?---Correct.

Then we go down the page and we see as at 23 February, 2009, we have the first entry of your name, Gary Lapham. Is that right? Glen Lapham, I'm sorry. Is that right?---Correct.

20 And, and then she says, and the word - is an email or an order a requisition from Ms Verdeyen, don't worry about the address, you've heard me say that in court already, "Please send to me" at the address, "One Makita promotion radio." That was for you, wasn't it?---One Makita- - -

"One Makita promotion radio." Do you see that in the box next to your name?---I never received a Makita radio.

Never received that?---No.

Did she ever tell you you were entitled to that?---No.

30 Did you ever, you never got it. Is that right?---A Makita radio?

A Makita radio.

THE COMMISSIONER: Well, can you see it written there Mr- - -?  
---What, the first line?

40 MR CAMPBELL: It's actually the second line, you see. End of the first line, start of the second line, "One Makita promotion radio." Do you see that?---Yeah.

Yeah. Well, is that something that she delivered to you personally?---No.

Next line is Michael Howard's name. That's right, isn't it. See?---Yes.

That was in respect of an order that you actually placed in his name, wasn't it?---No. I didn't, I didn't put an order in his name.

You see, you were his supervisor, weren't you?---Yes.

You had a delegation, didn't you?---Yes.

What was the amount of your delegation?---Ten thousand.

He had no delegation, did he?---I think \$1,000 or something. I don't know. I'm not too sure when he moved into the store.

10 Well, you've heard him- - -?---I'm not too sure when, what delegation they gave him when he went into the- - -

THE COMMISSIONER: He had a small delegation for the store but none for water and sewerage?---Yep, that's correct.

MR CAMPBELL: So if he wanted to buy, I withdraw that. You knew that Chemsearch weren't supplying any materials to the store, didn't you?---Yes, Chemsearch did supply materials to the store.

20 Did they? Like what?---I'm not 100 per cent sure but they did.

You believe they did?---Yes.

They mostly supplied industrial chemicals and solvents, didn't they?---Correct, that's correct.

And, and, and you used them in the water and sewerage department?  
---Yes.

30 In any event, in any event, anything that he might want for his response trailer, you had to sign off on because it was part of your jurisdiction?  
---Yes.

So that an order, that order mentioning his name was an order that, that was placed by you in his name, was it not?---Yeah, and I probably signed off on it.

Yeah. And then the, the, there's a, there's a reference to the Hitachi GPS. Now, that's a machine, isn't it?---I've never seen a- - -

40 Never seen that---?- - -Hitachi GPS.

That was something that was never, never delivered?---A GPS?

Yes?---No.

I see. So- - -?---And I swear on my kids' lives and everything, I never received a GPS.

That's all right. You've already sworn once or made a solemn promise to tell the truth once, sir, once will do. All right. But okay, so you say that whatever this form says, they were never delivered to you?---Not a GPS, yeah, no.

And nor a Makita radio?---No.

All right. Now, if you go down, further down the page- -?---I'd like to actually see the Makita radio, what it actually looks like.

10

There's a picture of it which I'll show you in a moment, okay, but just, just bear with me, a picture of it in the brochure. Okay. The next, next reference to you is the, is on 7/10/2009 you put an order in and it says that there's one Straun high definition set top box order, do you see that?---(NO AUDIBLE REPLY)

Do you know what that is?---No.

20

Did you ever receive that matter?---No.

And there, there is a - then the next one for you is the, is 2/11/2009 and there's a, there's a reference to one Dyson compact upright cleaner. Do you see that?---Dyson.

I think it's a vacuum cleaner of some kind?---No.

Did you ever get that?---No.

30

No.

THE COMMISSIONER: Well, was it ever sent to the work?---I'm not a hundred per cent sure of that but there's no way in the world I ever received that.

MR CAMPBELL: Before the, the latter part of 2010 did you ever get any promotion from - did you ever receive any promotion from Ms Verdeyen? ---No. They're the, they're the items that I, I received as a promotion.

40

Yeah?---Other than that I can honestly say I have never seen or even heard about those items.

Had you ever dealt with her before you worked at Ballina Council?---No, I didn't, never.

I suppose in fairness to Ms Verdeyen, Commissioner, I should say she gave evidence that she didn't always deliver the promotions to which customers were entitled, for what it's worth.

THE COMMISSIONER: She didn't deliver?

MR CAMPBELL: She didn't always choose to deliver the promotion items to which customers were otherwise entitled.

THE COMMISSIONER: No, she, she would represent to her employers that X was entitled to promotional items and they should be delivered to her home and she said she would deliver, she would give - she wouldn't, she might not give it to X and she would decide who to give it to.

10

MR CAMPBELL: A more deserving customer perhaps?---

THE COMMISSIONER: Perhaps.

THE WITNESS: Going back a step, I've never seen those items, I've owned up to them, I've never met Jacqui in my previous work before ever and when I arrived at Ballina Shire Council on June or January, whatever, whatever month I started - - -

20 2009?--- - - - 2009, they had an array of Chemsearch and other array of chemicals already in the system. So it was already getting dealt with.

See, so you made these orders in late 2009 in the ordinary course of business for the shire council. Is that right?---Yes.

And, and if you were entitled to a promotion or the council was entitled to - - -?---I don't, I don't think I made a purchase, when was the first purchase, back 2010?

30 September 2009 was the first purchase you made?---Yeah.

I'll withdraw that. Probably May 2009 because that's the first one that's got Mr Howard's name on it?---For the response trailer.

Well yes?---Yeah. Because of the tornado, yeah.

40 So that's the first time you said you made one and you made four purchases between May and November, 2009 for which there were apparently four promotion items deliverable and you got none of them. I'm not questioning you I'm just checking with you?---No, I guarantee you, 100 hundred per cent.

THE COMMISSIONER: Do you know why the orders or do you know why it's Mr Howard's name appears here?---Well see I don't know whether I explained it to - - -

MR CAMPBELL: Mr Grainger?--- - - - Mr Grainger.

Senior Investigator Grainger.

THE COMMISSIONER: Yes?---But how it worked is we had a person in the office that put all the purchase orders together. Right. So Michael Howard might have went out and actually done, done the order, then he comes back in the office, he talks to me and says, okay, we need this for the response trailer. And I go too easy. Then the woman in the office then puts it all together and then it sits there and I sign it.

10 And, and at that time in 2009 had, had Ms Verdeyen ever spoken to you about the eligibility of people in your position to qualify for these promotional items?---No.

THE COMMISSIONER: Mr Campbell, excuse me, how long would you be do you think?

MR CAMPBELL: I'm looking at the time too, Commissioner. I'd have to say, thinking about the material which I wish to cover, covering it as quickly as I feel I can, I'd be at least half an hour I believe.

20

THE COMMISSIONER: Well I think we should adjourn then?---But that means I've got to stay overnight.

MR CAMPBELL: No, we're not coming back tomorrow, sir?---Hey.

Monday. I beg your pardon, Commissioner.

THE COMMISSIONER: Monday. We'll adjourn till Monday? Righto. Yep.

30

Monday, the 10<sup>th</sup>.

MR CAMPBELL: But could I, Commissioner, I'm not sure if this is regular in the Commission, but it could be best if, given that Mr Lapham is part heard in his evidence if perhaps he didn't speak about his evidence to any person outside the hearing room at this.

THE COMMISSIONER: Yes. Do you understand that Mr Lapham?---Yeah, yeah, yeah. Yep.

40

You should not discuss your, this evidence with anybody else?---Okay.

MR CAMPBELL: Thank you, Commissioner.

THE COMMISSIONER: We'll adjourn - - -

MR CAMPBELL: Will we adjourn?

THE COMMISSIONER: Yes, we'll adjourn until 10.00am on Monday.

MR CAMPBELL: Thank you.

**THE WITNESS WITHDREW [4.04pm]**

**AT 4.04pm THE MATTER WAS ADJOURNED ACCORDINGLY [4.04pm]**

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