

E08/2469PUB00598
11/10/2011

JAREK
pp 00598-00637

PUBLIC
HEARING

COPYRIGHT

INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE DAVID IPP AO QC

PUBLIC HEARING

OPERATION JAREK

Reference: Operation E08/2469

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON TUESDAY, 11 OCTOBER, 2011

AT 2.09PM

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

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

THE COMMISSIONER: Mr Campbell.

MR CAMPBELL: Thank you, Commissioner I'll ask Mr Lapham to come forward again, please, sir and go to the witness box.

<GLEN WILLIAM LAPHAM, on former oath [2.09 pm]

10 THE COMMISSIONER: Mr Lapham, you're still under the oath - - -?
---Yes.

- - - and the section 38 order applies. Yes, Mr Campbell.

MR CAMPBELL: Thank you, Commissioner.

Mr Lapham, when you came back here today you were anticipating that questions would be asked about split orders, that's correct, isn't it?---Yeah.

20 And you, you got that impression from the nature of the questions I was asking you on Friday partly, is that correct?---Yeah, and, and newspaper clippings.

And, and what newspaper clipping did you read about that?---In the Telegraph.

Did that relate to the questions I was asking one of the officers of NCH Australia?---Oh, I don't know.

30 All right?---No, I can't remember, I just remember, I think it was an 11,000 and 7,000.

They were, they were, they related to the questions I was asking Ms Verdeyen about the orders you had placed, did they not?---Yeah.

And, and they, you'd understand now from me asking you about those orders directly that they relate to those emails in particular of 14 and 15 October, 2010. That's so, isn't it?---That's correct.

40 So in anticipation that that would be coming when you returned to the Commission you have written out this explanation - - -?---Yes.

- - - as - for, for splitting orders. Now, I don't want to do the document any injustice, sir, but essentially what you say is that you had a delegation of \$10,000?---Yes.

When you got there you formed the view that the storage of chemicals was somewhat in disarray - - -?---Yes.

- - - and that there was excess redundant stock that was - - -?---Yes.

- - - deteriorating into what you regarded as a dangerous condition, that's that, that's what you say, is that right?---Yeah, yeah, yes, that's correct.

You say and that that had to be disposed off, you say that?---Yes.

10 You say that there was a WorkCover inspection coming up and it had to be disposed of before then?---And cleaned up.

And cleaned up and that you had, you had no option but to order replacement stock - - -?---Yes.

- - - over and above your delegation?---Yes.

So you say that you had a legitimate reason - - -?---Yes.

20 - - - for splitting orders. Is that, is that - have I got that right?---I wouldn't call it splitting orders. I'd, I'd call it that the people that lumbered me with the job, which I wasn't qualified for, is I placed the order. Now, if, if, if I knew that an order was - that my limit was 10,000 why would I make an order 11,000 when it's got to go to the next level up?

Let me ask you this, sir. You said that you wouldn't call it splitting orders, that's what you did call it?---Well, you know.

That's right, isn't it?---Okay.

30 Well, let's, well, let's be accurate?---Yeah, well, I'm only going on what the paper said.

So you did call it splitting orders?---Yeah, okay, yeah.

40 Is that correct, in your, in your, in that statement. But look, it's quite clear, is it not, from reading those emails I put to you that on that occasion of 14 and 15 October of 2007 you were, you were communicating with Ms Verdeyen about splitting orders for the purpose of qualifying for three specific promotional items from NCH Australia, were you not?---Ah - - -

Were you not?---(NO AUDIBLE REPLY)

It's true, isn't it?---No, it was the promotion, they, they just come with the order.

Sir, she had told you what was available had she not?---Yes.

It's clear from the emails?---From the email.

Yeah?---Yeah.

You had selected what you wanted had you not? That's clear from the emails, is it not?---Yeah.

Yeah. And there was an exchange between you about how best to put the orders together - - -?---No.

10 No, sir, just let me finish the question. It's clear from the emails is it not that there was an exchange between you about how best to put the orders together so you could secure the three items that you had been communicating with her about. That's correct, isn't it?---By email.

Yes, that's correct you're saying by those words.

THE COMMISSIONER: Do you agree that that's correct?---Well, yeah, yeah, no, 'cause it was just - - -

20 It's pretty obvious isn't it, Mr Lapham?---Yeah, it's just that that was the promotion at the time.

Yes, Mr Campbell.

MR CAMPBELL: Thank you, Commissioner.

Now, I, I, I want to go back to ask you some questions about the meeting you had with Mr Howard on, on the morning of 12 July, 2011. Do you remember we discussed that already? I've referred to it as the clandestine meeting, you remember that?---Yeah.

30

You were certainly here when Mr Howard gave his version of events, were you not?---Yes.

You see, let me just put it to you again, you're here today. You called that meeting didn't you, with Mr Howard?---No, well, we both talked.

No, no, you spoke to him on the phone and you suggested to him that you should meet early in the morning at the servo, that's correct isn't it?---Yes, well, I said that last time I was here.

40

Yes, of course, I'm just confirming it with you?---Yes.

And you told him to bring back the TV you'd given him, that's correct isn't it?---Yes.

Because it had to go back to work, that's right isn't it?---Yes.

And I'm suggesting to you that you had brought back on that same day the things you had at home?---No, not correct.

You deny that?---Yes.

But when you were at the service station you also spoke to Mr Howard about what should be said - - -?---No, not correct, no.

Can I just finish the question?---Yes.

10

What should be said to ICAC, that's right isn't it?---No. I, I, like I said, I said everybody knew I was leaving, right, and I said to him, I said give me the TV and I'll take it back and I'll take the fall for you, simple as that.

Yes. Well, - - -?---That's what I said.

What you said – I'll withdraw that. You started out giving your evidence saying that you were taking the fall for Mr Howard, do you remember giving that evidence on Friday?---Yes.

20

All right. See, what you said to Mr Howard when he brought the television to you at the service station was, "Just tell them" meaning ICAC, "that I gave you this" meaning the TV, that's right isn't it? That's what you said to Mr Howard?---Yes.

Yes. And you said to him didn't you, "Just tell them you don't know anything about any of this" or words to that effect. That's so isn't it? ---About the TV?

30 THE COMMISSIONER: Yes.

MR CAMPBELL: Yes?---Yes.

Because that was your way, you say, of taking the fall, is that right?---Yes.

But you agree, don't you, that you were asking Mr Howard to lie to the officers about those matters, were you not?---Well, that was totally up to him.

40 THE COMMISSIONER: But you were telling him to do that?---No, he's a grown man, he knows what to say.

But were you telling him to do that?---No, I, I suggested, I said, "Look, if you want me to take the fall for you I'll take the fall for you." Simple as that.

MR CAMPBELL: Well, did you suggest to him that he could lie to the officers - - -?---No, I didn't.

- - - and you would take the fall?---No, I said I'll take the fall but I did not tell him, he was a grown man, he could make up his own decision and whatever but there's no way in the world that I forced him to say anything.

THE COMMISSIONER: I think we should move on, Mr Campbell.

MR CAMPBELL: Yes, Commissioner, I put the question. I've got no further questions for this witness.

10 THE COMMISSIONER: Yes. Ms Trill.

MS TRAILL: Thank you, Commissioner. Commissioner, may Mr Lapham have Exhibit 35 and also be shown, I think it's folder 9, 46, page 293. I think he's already been shown those documents.

THE COMMISSIONER: Just identify the pages again please, Ms Trill.

MS TRAILL: The page I have, I've only got it on a disc so I'm hoping it's the same one, folder 9, folio 46, page 293.

20

THE COMMISSIONER: I think that is folder 9 but, yes, that's folder 9. And the other one?

MS TRAILL: Exhibit 35 which is an affidavit of Stuart Littleford annexing some emails.

THE COMMISSIONER: Yes.

MS TRAILL: Now, Mr Lapham, you understand that I act for Jackie Verdeyen so I'm going to ask you some questions in relation to your dealings with her and some orders that you've placed. Now, if I can ask you to look at this document schedule point 8, page 293, you've got that in front of you?---Yes.

30

Now, is it correct that when you commenced at Ballina Shire Council Chemsearch already supplied goods to the Council?---Yes, correct.

And the person that you're understanding that was the contact for Chemsearch was Gary Meredith and then a Noel Barton?---Yes.

40

Right. And then you can see there was a Roger Anderson, if you can just look at - - -?---Yeah.

That's correct. And then you came into the picture in 2009?---Yeah.

Now in 2009, and if you can just have regard to that document, page 293, on the 23rd of the 2nd, 2009 you placed an order with Jacqui Verdeyen?---Yes.

And at no stage did she ever speak to you at all about any promotional goods did she?---No.

And at no stage did you ever receive any?---No.

And again on the 20th of the 5th, 2009, can you see under that it says Michael Howard?---Yes.

10 You agree with me that either, Michael Howard worked under you didn't he?---Yeah, and, yeah.

And it may have been that you placed an order but it delivered to his department where he was?---Yeah.

THE COMMISSIONER: And how do you know that?---Well I don't know, I'm just - - -

20 I must tell you that these leading questions that you keep asking don't carry much weight with me, Ms Trill?

MS TRAILL: Commissioner, I apologise if (not transcribable)

THE COMMISSIONER: You don't have to apologise at all. I'm just telling you that for your benefit.

30 MS TRAILL: Well I can get the document up, it was, it was on a delivery document which was shown to either this witness or another witness, and I will find it for the Commissioner. It said order by Glen Lapham delivery Michael Howard. And it is one of the documents which has been tendered. I will find that, thank you, Commissioner.

THE COMMISSIONER: All right. Asking Mr Lapham questions about what Mr Howard received is not very helpful.

MS TRAILL: But what I'm suggesting is, is it you that could have placed the order?---Yeah.

40 And that is in May 2009 and at no stage then did you have a conversation with Jacqui Verdeyen about promotional items did you?

MR NAYLOR: Well where's the email, Commissioner?

MS TRAILL: I'll get to that.

MR NAYLOR: Okay. Thank you.

MS TRAILL: Now I can – now I will ask you to look at Exhibit 35, page 6. It's a separate document, it's not in that - - -?---Oh, righto.

So if you can look at that document and go to page 6. Can you see that?
---Yes.

And that's an email from Jacqui Verdeyen of 17 March, 2010?---Yes. Yep.

And can you see it starts, Good morning, Sunshine?---Yep.

10 And that's how she'd speak to you and other people as well isn't it?---Yep.
It was just her mode of, you know, making contact?---Yep.

Right. And now that's in March, 2010. Now if I can take you, well just before I get to that, keep that open, March, 2010, just keep that open. And if I can ask you to go back to the document at page 293 in front of you?---On, in - - -

It was in folder - - -?---291.

20 You might have closed it. Folder 9, folio 46, 293. Can you see that? We were just working down the page there?---Yep.

And so in 2009 in October, 7 October, again you placed an order with Chemsearch?---Yes.

And the seller was Jacqueline Verdeyen?---Yes.

30 And at no stage then did she discuss with you about any promotional items did she?---Correct.
And you never received - - -

THE COMMISSIONER: I beg your pardon I can't hear your answer?
---Correct.

MS TRAILL: And you never received any promotional items did you?
---No. Correct.

40 And again if you look under that, 2 November, 2009 you placed another order for chemicals and at no stage then did she speak to you about any promotional items, correct?---Yes.

And you never received any promotional items, right?---Yes.

And then if you look at 17 November, 2009, again, another order was placed and again she never spoke to you about any promotional items?
---Yes.

And again you never received any. Then on 23rd of the 9th, 2010 there's – this is, we're coming to – no, if I can now – the next item is 23rd of the 9th, 2010. So that was almost a year later, correct?---Yes.

But now I can take you to 17 March, 2010 email, all right. So there's an email to you, so what she would do is she would, if you needed a product you would either ring her or email her, is that correct?---Yes.

10 And then she would say, "I'll come and see you and speak about what are your needs."?---Yes.

And if you can see at the bottom of that email it says, "PS, I have a promotion running that you might like."?---Yes.

The situation is you didn't need any product in March 2010 so you didn't order anything did you?---Yes.

20 And you had no regard to any promotional products at all because you didn't even know about them then did you?---No.

So then the next time you need a product was in September 2010, all right. And then if I can take you to – so on that particular occasion September 2010 there was, in effect, one order but two different deliveries.

THE COMMISSIONER: Are you giving evidence or are you asking questions?

MS TRAILL: Is that correct?---Yes.

30 Looking at that document?

THE COMMISSIONER: Which document?

MS TRAILL: Page 293, folder 9, folio 46. You agree with that? There is one order on that date but two different deliveries?---Yes.

Now, - - -

40 THE COMMISSIONER: Sorry, are you talking about 23 September?

MS TRAILL: 2010.

THE COMMISSIONER: There are two orders on that day, one's got 8708, the other's 8709.

MS TRAILL: Well, I stand corrected, Commissioner. There are two orders on that date, one in your name and one in Michael Howard's name. But is it
- - -

THE COMMISSIONER: Mr Lapham, the impression I'm getting is that you're just saying yes to whatever Ms Trill asks you?---I'm, I'm listening.

MS TRILL: I'm just reading from a document, Commissioner.

THE COMMISSIONER: I know you are.

10 MS TRILL: Now, in relation to those two orders is it the case that after you placed an order on 23 September, 2010 Jackie Verdeyen told you there was a promotion?---No.

You don't recall?---No.

And did you receive a TV/DVD combo?---Yes, I did.

And - - -?---Not the next - - -

20 Pardon?---Not the next day.

Not the next day, no?---No.

And that was delivered to your place of work, is that correct?---Yes.

Now - and that was after you'd placed the order?---Yes.

30 And it's not the case that she said anything or words to the effect to you that if you place an order I will give you a TV or anything like that, is it?---(not transcribable)

And you certainly didn't ask - - -?---No.

- - - for anything because you'd never received anything before that, had you?---(NO AUDIBLE REPLY)

Now, if I can then take you to the next items where your name appears, if you look on 19 October, 2010 there seems to be three orders placed, two in your name and one in Michael Howard's. Is that correct?---Yes.

40 Now, in relation to that, if we can now go back to these emails and if I could take you to - well, perhaps the most relevant one is page 26. First of all, if I can take you to page 17, you can see there's an email from Jacqui Verdeyen to you on 14 October and it starts off, "Good morning, Glen. Further to our conversation yesterday." Now, did that relate to the items that you wished to purchase?---Yeah.

And she then set them out underneath?---Yes.

Right. And then if you go over to, I think it is - then if you go over to page 26 you - that's on 14 October also, your email. Don't look at the top part, look at your email, Glen Lapham?---Yes.

And it sets out the items that you wish to purchase and then in bold is the, is the costing. Do you see that?---Yes.

10 And is it the case that there's - and correct me I'm wrong, an email missing where Jacqui set out to you what the cost was in relation to all the items you wished to place and that's why they're in bold in your email?---Yeah, if, if I recall that, yeah.

THE COMMISSIONER: I beg your pardon?---If I recall it.

If you recall what?---The pricing set out, that's why I asked for the pricing set out.

I'm not sure what you're saying Mr Lapham.

20 MS TRAILL: Well, perhaps if I could clarify it. You sent her an email setting out the items that you wished to purchase, correct?---Yes.

And wanting to know what the - can you price the below items, thanks, and, and set them out and then she sent you an email with the prices?---Yes.

And they were the goods that you wanted and you wanted to know what the prices were?---Yeah.

30 And is that also because you had a limit of \$10,000 that you could order?
---Yes.

And as far as you know was she aware of your \$10,000 limit?---No.

She wasn't. Okay?---Only if she knew by previous people but I never said anything to her.

And then did you ask her to split them into three because they came in above your \$10,000 limit?---(NO AUDIBLE REPLY)

40 If you look at the first one it would, it would total 11,644 and then the next one would total 14,780?---Yeah.

And was that why you asked to have them split?---(NO AUDIBLE REPLY)

And is it only - - -

MR CAMPBELL: He has to answer first.

MS TRAILL: You have to say yes or no or - - -?---Yeah, yes.

And then after that she informed you that there was the promotions, she informed you in the email that there were promotions relating to those amounts. Is that correct?---Yes.

And you agree with me that at no stage did she ever say to you I will give you a TV or two TV's and an iPhone if you make this purchase?---Yeah, that's correct.

10

THE COMMISSIONER: Ms Traill, that's quite inconsistent with the email, what you're putting.

MS TRAILL: Well - - -

THE COMMISSIONER: You just have to look at page 26.

MS TRAILL: With all due respect, your Honour, what I'm suggesting to him is that the email is just letting him know of the promotion that he would be eligible for because of those amounts.

20

THE COMMISSIONER: No, it doesn't. It doesn't say that. And that's why the question is misleading. The email says, the first order would cover the phone and the second would be split into two orders to cover two televisions, iPhone, 11,500 plus, TV \$7,000 plus.

MS TRAILL: Well your Honour, what he said is he's already asked that they be split.

30 THE COMMISSIONER: I thought you put that to him and he grunted.

MS TRAILL: Well - - -

THE COMMISSIONER: That's what I said about leading questions.

MS TRAILL: Well what I'm suggesting to you, well at any stage did you say to her that you wanted to get those items and you would place an order to get those items?---No.

40 THE COMMISSIONER: So whose idea was it, Mr Lapham, that the first order would cover the phone and the second would be split into two orders to cover two TV's? Whose idea was that, yours or Ms Verdeyen's?---Well it wasn't mine, but - - -

So who else could it have been?---(NO AUDIBLE REPLY)

Who else could it have been to have that idea?---Well Jacqui.

MS TRAILL: Well what I'm suggesting to you is you had already told her the goods - - -?---Yeah.

- - - you needed?---For sure. That's correct.

And you were going to purchase them in any event weren't you?---Yes.

Right. And that is in your usual course of business you were purchasing those items?---Well at that, yeah - - -

10

At that time?---At that time, yeah.

And I see from your document that you forwarded today in relation to split orders and at the time did that relate to that order?---Yeah, I think, yeah.

And is it the case that you never ordered more goods than you thought you needed at that time?---That's correct. Because if I would have purchased the same amount of chemicals that I had to, it would have been triple.

20

Right.

THE COMMISSIONER: It would have been?---Triple.

Triple. What would have been triple?---The cost. Because what I disposed of to have replaced would have been triple.

I don't understand that?---Well this order, because it was, you know, such, such a large order, the stuff that I had to dispose of, which I got rid of at the local, at the Lismore tip, right, if I would have had to replace all those, those goods it would have been triple.

30

And therefore?---I'm just saying that, I'm just saying that I, that I, I ordered that, just the bare minimum stock.

MS TRAILL: All right.

THE COMMISSIONER: So why split the orders?---Because at that time going on that, they give you a job and everybody knew that I was, I was cleaning up the chemicals.

40

Are you, are you seriously saying that you split the orders, that the splitting of the orders had nothing to do with the fact that the first order would cover the phone and the second and third would qualify you each for a television set?---(NO AUDIBLE REPLY)

What's your answer?---Well no.

No, they were made, so the email that Ms Verdeyen sent you at page 26 had no bearing on the decision to split the orders in the way that they were split

even though the orders were split as she suggested?---Yes, because that's what I, that's what I ordered.

All right. Yes, Ms Trill.

MS TRAILL: All right. Now, if I can take you to – there's a final order on page 293 on 22nd of the 12th, 2010?---Yes.

10 All right. And you see that relates to a Weber barbecue and you've told the Commissioner in evidence that you received that barbecue?---Yes.

And there's an email that relates to that at page 40 of Exhibit 35. All right. If you can see that's on 22 December?---Yes.

And it says, "Hi Glen, as always it was great to catch up with you so I take it from that that you met with her."?---Yes, she come, yes.

20 So you had a face to face meeting. And then she says, "I'm sure we can come up with a mutually satisfying agreement which will benefit both of us."?---Yes.

All right. "One thing I do ask though is if you're leaning towards one of the other products for your venture please give me opportunity to have you lean back towards Chemsearch." Okay?---Yes.

30 Now, what I want to suggest to you is what she was referring to there is that previously you'd spoken to her about a venture that you wanted – I'm just going to put this to you and you can correct me if I'm wrong at the end, that you had invented a machine that had to do with putting cleaning product in and it would automatically had some dosing system for cleaning and that you were going to go and go out on your own, have a venture and it involved using products of Chemsearch Castout, Super Chemzyme for that venture but it never got off the ground, is that correct?---Yes, that's correct because the application I was trying to use it on didn't work.

40 But you wanted to personally buy goods from Chemsearch?---Yes. Yes. When I, when I left the Council but the venture never got off the ground because the hydraulics were too expensive, because it was to go on to a side of a garbage truck or a ute so I could actually go and clean people's bins and so on so, with a jet spray.

And is it the case, at least at 22 December, 2010, you were thinking of leaving the Council then to go off to do your venture?---Yes.

All right. And that had nothing to do with promotional – that part of the email had nothing to do with promotional goods?---It was, I just wanted that product because I thought it would work but at the time I built the hydraulic machinery shown off the side of a ute and hydraulic machinery if the

garbage is up to go out and just clean people's bins personally but it worked out too expensive and I was trying to copy the guy on the Gold Coast who actually does it.

All right. And the two products which I've just mentioned Chemzyme and Castout - - -?---Yes.

- - - are the products that you were thinking would go best in your contraption, whatever it was?---Yes.

10

Okay. So I'm suggesting that's why that is, "Please give me an opportunity to help you lean back towards Chemsearch."?---Yes.

Now, then the second part of the email, had you already spoken to her about placing those items Chemzyme, Castout, Citratech with her?---No.

No. In the bottom of the email. Prior to her sending you that email did you tell her you needed - putting aside your venture - now, I'm suggesting to you that those - the bottom part of that email were they goods that you needed for work?---Yes.

20

And that is in fact the products that you placed in the order of 22nd of the 12th, 2010, is that right?---The orders, yes.

And she knew to put that in the email because you told her that's what you wanted to order?---Yes.

And she was letting you know the price. And I'm suggesting - - -

30

THE COMMISSIONER: So you haven't placed the order yet?---I don't, not too sure.

You couldn't have?---I'm not too sure.

How could you place the order if you didn't know the price - - -?---Yes, that's - - -

- - - until she told you?---Yes, well, by the email, the price is there.

40

Yes, I know, that's the first time you get the price. So you hadn't placed the order yet?---Yes.

MS TRAILL: What I'm suggesting to you is you told her you wanted to place an order for those goods, is that correct?---Yes.

And then she told you there would be a promotion of a baby Weber after that?---Yes.

All right.

THE COMMISSIONER: She told you that when she told you the price. It's pretty obvious isn't it?---Well, - - -

I mean, that's what the email shows doesn't it?---No.

No. "I've worked out this" and she sets out the goods and the price.

10 MS TRAILL: What I'm suggesting to you is there was a conversation the day before about what you wanted to order?---Yes.

And then that's when she told you the day before that if you're going to make that order there is a promotion?---Yes.

And then that, she let you know the price and you placed the order. And what I'm suggesting to you that you didn't place the order to get the baby Weber?---No.

20 And is it the case that she suggested to you that a barbecue could be used for a Christmas barbecue at the department or something, words to that effect? It could be used at your work for a Christmas barbecue?---Yes.

THE COMMISSIONER: A baby barbecue.

MS TRAILL: Well, your Honour, there's - - -

THE COMMISSIONER: That's just a question. A baby barbecue could be used at your work, did she suggest that?---Yes, because it was, it's, well, it's
30 a Weber.

I can see it's a Weber.

MS TRAILL: Now, what I'm suggesting to you about the barbecue is you didn't ask for the barbecue, it's something that she told you she thought you might be able to use?---Yes.

And also with the TVs and Camcorder are also promotions which after you placed the order she told you she thought you could use at work?
40

MR CAMPBELL: Well, I object to that, Commissioner (not transcribable) my learned friend a bit of leeway here but it just flies in the face of the text.

THE COMMISSIONER: Well, I've told Ms Traill that I will attach very little weight to all these leading questions. She has not - she's ignored me.

THE COMMISSIONER: May it please the Commission.

MS TRAILL: Now - - -

THE COMMISSIONER: Ms Trill, you must hurry up. You are taking a long time before asking the questions. We've given you a lot of leeway, we've arranged things to assist you, you haven't actually acknowledged that. Be that as it may I would really like you to hurry up now because we've got a programme.

10 MS TRAILL: Thank you. I just have one last question, Commissioner.

Just in relation to the Ballina Code of Conduct, you never told Jacqui Verdeyen that - or showed her the Code of Conduct, did you, the Ballina Code of Conduct?---No, why would I do that?

I've got no further questions, Commissioner, and thank you very much, Commissioner, for allowing - - -

THE COMMISSIONER: Yes. Are there any other questions?

20 MR CAMPBELL: Yes, just, just three questions, Commissioner.

Mr Lapham?---Yeah.

The way things work in the council if you had to place an order for \$25,000 because you had a need for an order of that size then all you'd do is you'd go to the next person up who has that delegation and you say I need to place this order, can you approve it please. That's right, isn't it?---I, I can fill it out, sign it and then it gets moved up the line.

30 And you only need on order for \$25,000, that's correct, isn't it?---Yeah.

And second question, as those emails of the 14th and the 15th make abundantly clear, you were discussing as you've agreed with me more than once today by email with Ms Verdeyen how to structure orders in order to achieve the promotional items being the iPhone and the two TV's, that is correct, is it not?---No way. Well - - -

40 And the third question - - -?---I needed to place the orders because of the situation going by that what I wrote so - - -

What I'm putting to you is whether you needed the products or not the structure of the orders, ie, the split orders is explained by reference to the anticipation of receiving the promotional items specified, that's correct, isn't it?---What you believe.

And third question, when you look at that email of 22 December, as the Commissioner has pointed out in questions he's asked it's quite clear that Ms Verdeyen is telling you what you have to order and how it might be

achieved so you can get the barbecue, that's correct, isn't it?---(NO AUDIBLE REPLY)

That's correct, isn't it?---Not entirely.

You must answer, sir?---Yeah, I said not entirely.

10 I see. And, and there was no need to have a Weber Q for the Christmas barbecue because you told us on Friday that you'd arranged with the council to provide a big barbecue that was suitable for use by all the staff for whom you were responsible when a barbecue was appropriate, that's correct, isn't it?---Because the barbecue that we bought feeds like whatever but it's not a Weber.

No, no. Is the answer to my question yes?---No, no, no, it's not because - - -

20 All right. Thank you, sir. I have no further questions, Commissioner, but I'd ask that Mr Lapham - he can go home but that he be not excused because we haven't seen this document entitled "Split orders" before today and we - it's just possible, I'm not saying it will happen, that we might like him to come back to answer some further questions about some of this.

THE COMMISSIONER: Mr Lapham, you are not excused from the summons but you may go home and the Commission officers may contact you and request that you return?---Not a problem because I'd like, I'd like you to actually look into that Ballina (not transcribable). Can I - - -

You, you may leave now, Mr Lapham.

30 MR CAMPBELL: Commissioner, I don't propose to tender the document relating to his resignation. Could that be returned to him?---And the reason why not?

THE COMMISSIONER: Because the evidence about it has been led, Mr Campbell explained, led the evidence that is in summary form what's in there. We have enough documents admitted. The evidence - you agreed with him that those are the reasons why you resigned and we have that evidence?---I take it you've got a copy (not transcribable)

40 We have that evidence you may now leave the witness box, Mr Lapham.

MR CAMPBELL: Thank you, Mr Lapham?---Thank you very much.

THE WITNESS WITHDREW

[2.55pm]

MS TRAILL: Commissioner, may I also be excused?

THE COMMISSIONER: Yes.

MS TRAILL: And thank you very much for your indulgence earlier today.

MR CAMPBELL: Commissioner, I request a small indulgence. We, we wish to change the order a little so we can take Mr Ingerwersen now.

THE COMMISSIONER: Yes.

10 MR CAMPBELL: Can I call Scott Ingerwersen.

MR NAYLOR: Commissioner, I appear for Mr Ingerwersen.

THE COMMISSIONER: Yes, Mr Naylor. Do you want me to make a section 38 order?

MR NAYLOR: If the Commission pleases, thank you, yes.

20 THE COMMISSIONER: Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by Mr Ingerwersen 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 him to make objection in respect of any particular answer given or document produced.

30 **PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY MR INGERWERSEN 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 HIM TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT PRODUCED**

THE COMMISSIONER: Now, Mr Ingerwersen, you're obliged to answer all questions asked of you and it's a serious criminal offence either to refuse to answer or to give false answers. I'm sure you understand that.

40 MR INGERWERSEN: Yes.

THE COMMISSIONER: Do you wish to give you evidence under oath or do you wish to affirm the truth of your evidence?

MR INGERWERSEN: Under oath, please.

THE COMMISSIONER: Will you swear Mr Ingerwersen in please.

MR CAMPBELL: Thank you, Commissioner.

Mr Ingerwersen, could you please state your full name?---Scott Christopher Ingerwersen.

10 Thank you. And were you employed by the Waverley Council between 26 March, 1986 and 19 April, 2011?---Yes, I was.

Can you tell me why you're no longer employed there?---I resigned after all the ICAC stuff, that was one of the reasons why I left.

Before your resignation did you, did you have a meeting with your employers about your employment?---Yeah, when I first got the call from Mr Grainger then I went straight to my manager and head of personnel and yeah, went straight to them.

20 And were you asked to resign?---Well, yeah, that was one of the alternatives, yeah.

I see. There, there may have been two were there?---Yeah, two put to you, oh, three, three.

Three, all right. We can perhaps leave it to draw an inference what the others may have been?---Yeah.

30 All right. So now you, Commissioner, the information about this aspect is in folder 18 and I'll be asking Mr Ingerwersen some questions about the material behind tabs 104 and 105. Now, Mr Ingerwersen, you've been given a copy of that. If you go straight to tab 105 for me, please, and you'll see that at pages 29 through to 31 there is a statement signed by you?---Yes, that's correct.

And is that a statement you provided at the request of the Commission pursuant to the provisions of section 21 of the Independent Commission Against Corruption Act?---Yes, it was.

40 And did you - are the contents of it true?---Yes.

Thank you. Now, I'll take back to - before asking you some more questions I'll take you back to tab 104 and I think you've been present, been present in the hearing room today?---Yes, I have.

And you've heard me ask a number of witnesses questions about the spreadsheets that I'm about to show you, do you understand?---Yes.

Okay. Now you understand don't you that the Commission says that you received a number of vouchers to shop at Coles Myer from Momar Australia Pty Limited?---Yes.

And you admit that allegation do you not, sir?---Yes.

And did you keep any record of, of the vouchers you received at all?---No. I only had records of when orders were done. I kept the folder of all the orders.

10

All right. And I'll ask you about the process in a moment, but can I just ask you in relation to this, you haven't seen this document before?---No.

No. But you'll see how it's set out as I've explained already to other people, is that each entry, each single entry relates to a single voucher sent by Momar to, and it's someone in your position. Do you understand that? J---Yes.

20

Behind tab 104 was sent to you and in those cases where there was more than one entry bearing the same date that means, according to what we say, that the evidence shows that you received an equal number of vouchers on that day. Do you understand that? That's how the system works, this document works?---So equal amount of vouchers.

THE COMMISSIONER: No, no.

MR CAMPBELL: No, no. Well each, each entry, each single entry - - -? ---Is a voucher.

30

- - - is a voucher?---Right. Yep.

If, as you will find, if there are, if there was an entry of twice of one date, then we say the Momar evidence says two vouchers were sent on or about that date?---Correct.

Do you understand that?---Yes.

And there were occasions when you received more than one voucher? ---Yes.

40

All right. It's our case before the Commission, Mr Ingerwersen, that, that the entries we've got here behind tab 104 total \$2,100 over a period of getting on for four years from 9 February, 2007 to 16 December, 2010. Do you understand that's what I'm saying?---Yes, but I wouldn't have thought it was that much. And I didn't think it started, I thought it started in 2008, not before then.

All right. All right. Can I just put, understand what you're saying, you question the period and you question the total amount. Is that so?---Yes

You'd agree with me wouldn't you that as you didn't keep any record of the receipt of these vouchers, it's very difficult for you to produce any evidence to contradict this material?---Yes.

Is that correct?---Yes.

10 You're surprised to hear it's \$2,100, but you accept that it was a significant sum of money over a long period of time?---Yes.

Is that so?---Yes.

All right. What I want to ask you about is, is, your job was, your last job there was the parks operations supervisor. Is that so?---Correct.

20 And during the time that you were working for the council you became aware that there was a Code of Conduct for council employees?---Yes.

Including a policy in relation to the receipt of gifts and benefits. Is that correct?---Correct.

As part of your position as a council operation supervisor, you had a delegation of \$20,000. Is that so?---Correct.

So you were authorised by the council to bind it for contracts for the supply of goods up to \$20,000, as you say in paragraph 4 of your statement?--- Yes.

30 All right. Now, and you also knew didn't you that there was no, I'll withdraw that. You knew that the council maintained pursuant to its policy a register for the recording of gifts and benefits received by employees from outside people?---Yes.

And you've said have you not, and you admit that you didn't record the receipt of any of these vouchers in the gifts or benefits register. Is that so? ---Not, no, not these, no. But I had previously.

40 Yes, I've asked you about the vouchers?---Yeah, no, no the vouchers, no.

Okay. The, now was the Momar Australia salesman with whom you dealt a Mr Paul Goldin?---Yes.

Now how did it come about the first time that he gave you one of these vouchers?---My recollection was it was Christmas and he said, it's a little Christmas present for, it was a 20 buck voucher.

And he handed it to you?---Yeah.

And for how long had you been dealing with him at the time he did that?
---From the records I could find, probably at least two or three years.

All right. And were you surprised when he did so?---Well I thought it was just a little Christmas gift 'cause you know, I'd, you know, got a bit of a relationship with him, you know, using their products and that sort of, that sort of thing.

10 Did he have free access to your place at work? Did he call in and see you?
---Well I, 'cause I was out in the park, so he would come and visit me in, in a park.

What he'd call you on your mobile or something?---Yeah, yeah. He'd call and say do you need any gear or you know, do you want me to come and see you and we'd organise a date, you know, a week later or whatever and -
- -

20 Yes?---Yeah.

Now you would say that you were happy with how the Momar products performed. Is that correct?---Yeah, yeah, mostly, like we changed, over the years we changed products 'cause they weren't as good as other products we, we used.

Yes?---But you know, we always tried to find the best product to do the job for the guys.

30 Yes. Okay. Now I suppose, you say it was Christmas time, it was \$20, it was a gift voucher, you thought that was in lieu of a bottle of scotch or a case of beer. Is that the sort of thing?---Yeah.

Yes. Okay. But did it go on from there?---Yeah, yeah, after that it stayed at \$20 for a fair while and then it sort of uped to \$50 after that.

Yes. And sometimes you'd get three of them (not transcribable)?---The last, the last one, the last one I handed back to council.

40 Yes?---And the one before that, that was the first one I'd ever got that was, I think it was 150.

Okay. I'll ask you about that one, but - - ?---Yeah.

THE COMMISSIONER: Sorry, Mr Campbell.

MR CAMPBELL: I beg your pardon, Commission.

THE COMMISSIONER: Was it 150 as one voucher or - - -?---No, it was three \$50 vouchers, yeah.

MR CAMPBELL: And I'll ask you at end when I get to it?---Yep.

We'll get to the end quickly. Now, okay, so the first time you've explained. What are the circumstances of the second one? Did it come in the post? Did he hand it to you again? How did it work?---Yeah, it came in the mail.

10 Where to, your home?---Yeah.

And had this been a situation, you heard someone else talk about this today - - -?---Yeah.

- - - where over, over the time you dealt with him, you'd built up a rapport and a relationship. Is that right?---Yes, yes.

But did he ask you straight out for your address at one time?---Well over the years we talked about where we lived and, you know, family and all that
20 sort of stuff. And then, yeah, he narrowed down where I lived and then, you know, the first time he asked my address.

And did he tell you – when he got to that stage of asking your address did he say why he wanted it?---He said he was just going to put a little thank you in the mail for us.

Oh, right. And the thank you turned up?---Yeah.

What was it?---A gift voucher.
30

For how much?---Oh, it would have been \$20, the first, the first few, yeah.

All right. And I take that, well you got the gift voucher, you kept it and you used it for your ordinary household expenses?---Yes.

Is that right?---Yes.

Now just to one side any policy at the moment. Do you agree with me that this, that handing a voucher over that you can use in a large retail groups
40 shops is like handing over cash?---At the time I didn't realise, yeah, I was a bit naive and you know, because we'd always been told definitely no cash, and yeah, I didn't, I was just stupid.

Well I understand and your explanation for this, it was that you made a stupid mistake?---Yes.

As you've said in your statement?---Yes.

Thank you very much. But, well let's look back on it. Looking back on it now it was just like receiving the cash wasn't it?---In hindsight yes.

Because if he'd given you a \$20 note you would have used it for the same purpose ie, buying things for home?---Yes.

10 Yes. And as, as more of the vouchers arrived at home, did you ever talk to him about, about them again?---Not that I can recall. I was getting more and more uncomfortable accepting them, but it was hard to, to say no to him. You know, he's very persuasive and, you know, that's what salesmen do.

THE COMMISSIONER: But that suggests to me that you were talking to him?---No, it was in my own mind. I was trying to wrestle with what, you know, what to do. The right thing, you know.

20 MR CAMPBELL: But you didn't remonstrate with him at any time to say, Paul, you've got to stop this. I'm not comfortable with it?---I can't remember. Yeah.

All right, sir. Did he ever talk to you about it? Did he say, oh did you get the little gift or anything like that or did you get the voucher?---Well I never really spoke to him between when I did orders. So - - -

Did he ever refer to it as a loyalty program?---No, no, I heard that today and, no, it was just, he always said it was just a little thank you for, for, you know, doing the order.

30 You've told us you were feeling uncomfortable with the process, you understand, don't you, you appreciate, don't you, that giving you those little gifts it was an attempt to influence you in the performance of your duties? ---Yes, yes. I do now definitely.

And I need to put this to you. You would accept, wouldn't you, sir, that that type of transaction is a corrupt transaction for a public official to engage in?---Yes, it could be seen that way, yes.

40 It's a hard, hard word I know but if you looked at it calmly and rationally and objectively it could look that way to the impartial mind couldn't it? ---Yes. To me it was just, I was ordering the stuff anyway, it was a thank you, yes, I was naïve and stupid.

All right. Now, you've already told me and you've said in your statement that you liked the product and the supplier was reliable, but do you appreciate that by a supplier building up a relationship with a man like you who has to buy these things for a public sector employee it's subverting the

normal commercial process by which products are acquired in the public sector?---Yes.

Do you accept that?---Yes.

Because the natural tendency of building a relationship in that way is that it closes your mind to the alternatives that might be offered by competitors, that's so isn't it?---Yes, I tried not to, I, I used other products as well and we had products in our own store but, yes.

10

It's a tendency isn't it?---Yes, yes. Yes, because it's an easy way to get products and stuff that you know works.

Yes. And if you think the man's a good bloke - - -?---Yes.

- - - it makes it easier to deal with him?---Yes.

All right. Now, if I could take you back to 104 and if you go to page 23. In fact you have to go to page 22. You see the last entry on page 22, if you hold the page in the landscape format, is for 30 August, 2010?---Yes.

20

And if you go over the page you'll see that there are two other entries bearing that date?---Yes.

Now, it's our contention that on or about that date you received three cards for him?---Yes. Yes.

And you'd accept that?---I've said that in my statement as well.

30 Yes?---Yes.

You accept it. And then on 16 December, 2010 we say that's the last time he sent something to you, you received three again, is that correct?---Yes. Yes.

Okay. And so you say that you did something with those three, is that correct?---Yes, I think it was those three that I handed in to Council.

Now, who did you hand them in to?---The, I think it was the Head of Personnel.

40

And who was that person? Do you remember? If you don't remember the name just - - -?---I can't remember his name.

That's all right. Okay. And what did you say to the Head of Personnel when you handed them in?---Well, I think they were the ones from when I first got the call from Mr Grainger.

I see?---So I still had them in my possession and I handed them straight in then.

So all came up at once, is that correct?---Yes.

All right. Okay. You've told us what happened to your employment thereafter?---Yes.

10 Yes. And how do you feel about all of this now?---Well, I've learnt a lot, you know, yes, I did a stupid thing, I want to move on, I've reassessed what I want to do with my future and, you know.

It must've had an effect on your family life?---Yes, definitely.

Without giving away any deep secrets but it must've caused a strain in your home?---Yes, definitely.

As well as at work?---Yes, yes.

20 Do you feel you've paid a big price?---Yes, huge. Yes, because I'd been at Council 24 years.

And had the intention of, I suppose, staying there?---Yes, I wanted to stay there until I retired but then when all this came up I reassessed what I want to do and it's not supervise anymore.

No, no. Are you still working in the same field?---Yes, still gardening, yes.

30 Yes, that's what I mean?---Yes, that's my trade.

Yes. All right. Now, you knew what the policies were at the time all this happened?---Yes, yes. I hadn't read it for a while and the policy, I think, changed within the last couple of years as well.

They're always developing?---Yes.

40 But you knew that, the first one might've been a Christmas gift but the second one and thereon you knew it had to be handed in and reported? ---Yes, yes, especially the, I didn't realise until later the cumulative stuff as well, so, yes, definitely.

Yes. And the similarity to cash?---Yes, yes.

All right. Did you have a copy of the Code of Conduct?---Yes, we would've had one in the office, yes.

But was it easily accessible for a man like you to get into and refresh one's memory about its contents?---Yes, if we had the time, yes. Yes, there's that many policies that you've got to try and keep up with.

What about in relation to official reminders, were there seminars from time to time?---I don't think I'd done a Code of Conduct training for probably at least five years because they changed all the induction process so all the new starters went and did the whole lot in one hit but for retraining they didn't do that much.

10

Will you just give me one second please, sir.

THE COMMISSIONER: While Mr Campbell is looking there, Mr Ingerwersen, there's something that I just wanted to ask you about. You did say I think it was Mr Goldin was a very persuasive man?---Yes, yes.

And you said that in the context of Mr Campbell asking you about why you didn't ask him to stop. And when I asked you whether you'd spoken to him or words to that effect you said no. What I would like to know is whether
20 you felt that there was any pressure on you to accept these gifts whether it was through persuasion or anything else?---Yes. I think to an extent it probably was because we sort of - - -

(not transcribable)?---Well, he was a sales rep and I was, you know, doing my job but we'd sort of worked up a little bit of a personal friendship as well, I thought it was, but in hindsight it wasn't.

Right. I see. Would you think that there was some kind of psychological effect that he had on you through his sales technique? Psychological in the
30 sense of he having the effect that you would accept these vouchers and not say anything about them?---Yes, possibly. I think it was because, you know, the stuff worked, I was ordering it anyway, this was just a little thank you for, for doing the order.

That's different to what I'm asking you?---Yes.

That's entirely innocent isn't it in a sense, that is to say, you're at liberty to accept any or not, no pressure was put on you, put it in that way?---Yes.

40 So I'm really asking you to explain, if you can, what it was that led you to this, one of the results is disastrous conduct?---I really don't know, I've been trying to muddle over why and I, I don't know, I don't know.

You can't explain it?---No, just naïve and a bit gullible and, yes, paid for it.

Were you quite happy when this was happening, were you quite pleased that your income was being augmented?---I don't think it was even that because

it was only \$20 or \$50, that's, you know, it was, yes, I don't know. I really don't know.

It was money for nothing. Money for jam?---Yes.

All right.

10 MR CAMPBELL: Thank you. Just one final question. I didn't know it was to be two or three, sir. But simply this, the Commissioner asked the questions about, you know, the psychological aspects of the relationship and you already told us he was a persuasive person, you felt that he had built up a friendship relationship?---Yes, yes.

I mean, was there - sometimes with friends it's, it's, it's hard - you don't want to - I'll withdraw that. Sometimes with friends you don't want to offend them?---Yeah, yeah. Yeah, I think that was a big thing.

20 You'd appreciate if that was a big thing that, that's a kind of psychological aspect of a relationship?---Yeah, yeah.

I have nothing further, Commissioner.

THE COMMISSIONER: Yes, thank you. Mr Naylor?

MR NAYLOR: No questions.

THE COMMISSIONER: No, thank you, Mr Ingerwersen, you're excused? ---Thank you.

30

THE WITNESS WITHDREW

[3.20pm]

MR CAMPBELL: Commissioner, I, I call - sorry, yes, thank you. Mr Peter Naidoo.

THE COMMISSIONER: Mr Naylor.

40 MR NAYLOR: Commissioner, yes, I appear for Mr Naidoo and he would like also to take the benefit of the declaration.

THE COMMISSIONER: Yes. Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by Mr Naidoo 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 him to make objection in respect of any particular answer given or document produced.

PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY MR NAIDOO 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 HIM TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT PRODUCED.

10

THE COMMISSIONER: Mr Naidoo, you're obliged to answer all questions asked of you and it's a serious criminal offence either to refuse to answer or to give false answers and I'm sure you understand that. Do you wish to give your evidence under oath or do you simply wish to affirm the truth of your evidence?

MR NAIDOO: Affirming.

MR CAMPBELL: Thank you, Commissioner.

Mr Naidoo, are you Peter Naidoo?---Yeah.

And were you formerly employed by the Waverley Council?---Yeah.

10 Were you employed by them between 4 August, 1993 and 8 April, 2001, 2011 I'm sorry?---2011.

And well, you've been in court while Mr Ingerwersen gave his evidence? ---Yeah.

Why aren't you working there any more?---We were asked to resign basically.

20 And it was kind of the - what, the, the only palatable option?---Basically, yeah.

And was it, was, was that over this matter this I'm about to ask you about in relation to gifts and benefits received from Momar Australia, yes?---Yeah.

Commissioner, the material in relation to Mr Naidoo is at, likewise at volume 18 and it's tabs 102 and 103. I'll ask Mr Naidoo to turn up tab 103, it's now being given to you, sir, and would you go to page 13 behind tab 103. Now, I think there's a duplication of page 1 there, Mr Naidoo, which is 13 and 14 but is the document from 13 to 18 a statement prepared by you
30 in answer to information sought from you by the Commission pursuant to section 21 of the Independent Commission Against Corruption Act 1988? ---Yes.

Now, that's a handwritten document. Is, is that your handwriting?---It is, yeah.

All right. And did you prepare that with the help of your solicitor, Mr McIlwaine?---Ah - - -

40 Or did you do it all on your own and just give it to Mr McIlwaine?---I think I gave it to Mr McIlwaine.

Okay. Do, do you say that the, that the information contained in the, in the statement is, is true and correct?---Yeah.

Now, I'll go through some of the details with you, sir, but, but you were as it says in the, in the document a maintenance supervisor?---Correct.

And, and you had a delegation from the council to bind it in relation to certain purchases up to a total amount of \$20,000. Is that so?---Correct, yeah.

Those, that \$20,000 delegation was for non-stock items?---Yeah.

As it, as it's called?---Yeah.

10 And otherwise you were, you were entitled to, to spend \$5,000 with an established supplier to the council?---Ah hmm.

Is that correct?---Yeah.

Thank you. And Momar Australia were such an established supplier, is that right?---Yeah, correct.

All right. The, you were aware that the, you've just told us you were aware that the council had a gifts and benefits register?---Ah hmm.

20 You have to say yes?---Yes.

Thank you. You can say no if you're - if I'm wrong but otherwise yes? ---Yeah.

The - and, and you had received training in relation to the, the council's Code of Conduct, is that correct?---Yeah, yeah.

Including its policy in relation to the receipt of gifts and benefits?---Yeah.

30 Yes?---Yeah.

There is evidence before the Commission that you last received such treatment, such treatment, I'm sorry, you last received such training on 3 September, 2008?---Yeah.

Does that sound right?---That's about right, yeah.

Pardon?---That's correct.

40 Okay. Now, can I take you back to - just for the moment, for - to tab 102 where we've set out a summary in relation to the evidence from Momar's business records in relation to you, do you understand?---Yeah.

You've heard me explain this to a number of witnesses today?---Correct.

And you'll recall that, that each date represents the dispatch of a gift voucher to you by Momar, do you understand that?---Yeah.

Where the same date appears more than once it's our contention that the evidence shows that more - that an equivalent number of vouchers were dispatched to you on that date. Do you follow me?---Yeah, yeah.

For instance, if you go to page 2 behind tab 102 you will see that, that 23 October, 2007 appears four times?---Yeah.

And over the page there's a fifth entry in relation to it, do you see that?
---Yeah.

10

And we are, it's our contention that five vouchers were dispatched to you on that one date, do you follow me?---Yeah.

And there were such occasions where you received multiple vouchers?
---Multiple, I can never remember five.

All right?---Receiving of five vouchers.

20 Can, can, can I ask you this question as I've asked everybody. You certainly, you certainly said you received multiple vouchers?---I did, yeah.

Yeah. And you certainly - and do you tell the Commissioner that you didn't actually keep a full record of the vouchers you received?---No, no, no.

So it's very hard for you to, to contradict what we say about the dates - - -?
---For sure.

- - - and about the amounts, is that correct?---Yeah.

30 On our calculations, Mr Naidoo, the, the vouchers sent to you by Momar Australia total \$3,650. Now, does that sum of money sound correct?---It doesn't to me.

You don't think it was that much?---No, I don't think it was that much as well.

Again, you didn't keep a record?---No, I didn't.

40 THE COMMISSIONER: What do you think?---As I said to my solicitors I don't even think it was half this amount 'cause I've never, I never ever received a five voucher from Momar, from Paul.

So what do you say - how much do you say you - how many do you say you received over this period? How many vouchers?---I'd be guessing?

Yes?---About 20.

MR CAMPBELL: All of \$50?---Yeah.

Well, that wouldn't be half of this amount, would it?---Mmm.

You have to say whether you agree with me or not?---Yeah.

That would be - - -

THE COMMISSIONER: Less than a third.

10 MR CAMPBELL: Less than a third, Commissioner, yes.

It could well be that your recollection's out about that, couldn't it, Mr Naidoo?---You, you know why because I know for a fact that I never ever received a five voucher from Momar.

Oh, well, that knocks off - - -?---That's, that's, that's one thing I know.

THE COMMISSIONER: And how - what's the most that you received on one day?---Three.

20

MR CAMPBELL: 150?---150.

THE COMMISSIONER: And how often did you receive three?
---Commissioner, it's hard to recall.

MR CAMPBELL: I need to - well, you've explained why you think this figure's wrong?---Mmm.

30 But you can't produce any evidence - - -?---No, I can't.

- - - to substantiate your version of this, can you?---Yeah, no, I can't.

All right. In any event, perhaps if, if I move on. I've asked - you've heard me ask everyone these questions. Do you accept, sir, at least today that a gift voucher is just like cash?---Yeah.

And, and indeed were these gift vouchers sent to your house?---The last few of them only, the last three to four months only.

40 Up until that time was Mr, was it Mr Goldin as well?---Yeah, all Paul, all on site.

All on site. He'd hand them to you?---Yeah.

And well I'll ask this, please bear with me, that's just like him taking \$50 out of his wallet and giving it to you isn't it?---Basically.

But do you accept that the, that the period of time over which this, these gifts were given to you was, was from about 20 February, 2007 to 15 October, 2010?---I can't recall the date at all.

All right. All right. Okay. The – now the, what, I think you've said in your statement, sir, that at page 18, Commissioner, of tab 103, that you took these because you regarded the salesman as a friend. Is that so?---I did.

10 And, and you regarded it as a personal gift from him?---Yeah, 'cause talking to him it was like he had got the bonus himself and he would pass it on to me.

Did he actually say that to you or said anything like that on occasions?---I know I heard it some time, I don't know when. I don't know at which point.

What he'd make you feel like - - -?---It came as a bonus because with all his sale and he has given me a bit of it.

20 He said because you've been such a good customer of mine, Peter, I've done well out of this, let me give you this. Was that the type of thing? ---Yeah, but not in those sort of words.

Is that what it meant?---Yeah.

And you'd appreciate wouldn't you, I'll withdraw that. Like other people you said that you found the products were good. Is that right?---Yeah.

You found the supplier was reliable. Is that right?---Yeah.

30 But you'd appreciate wouldn't you that people looking at this objectively could say that he was trying to influence you in the exercise of your duties with the Waverley Council?---Ah, yeah.

You didn't feel that way at the time?---No, I didn't, no.

But, but now you're looking back on it and you agree that that's, that's an objective, rational calm assessment of what was going on?---For sure, yeah.

40 Now why did it go on for so long?---Ah, hard to say.

I mean, well you've got the protection of , of the order that the Commissioner pronounced in your favour, did anyone else treat you this way?---Not, not, because with Paul, I mean he's the kind of guy that was always on site. He'd always phone me every month. You know what I mean?

Yes?---He'd always phone your stores to check how much stock you got.

Were you based at a desk or were you - - -?---Oh, on site as well, the same as, the same as Scott.

So he'd give you a call on your mobile phone?---Yeah.

And he'd be able to contact you easily?---Yeah.

10 And he could come and see you direct and talk to you about, about the business?---Mmm.

I mean by that I mean whether you need anything and how much of it you need?---Mmm.

Yes. All right. You've told us about the way he built that friendship, so you would accept that looking back on it right from the first time you met him, and he started to talk to you about Momar's products, that there was a kind of grooming process going on?---I mean at the time you wouldn't think of it like that.

20 Of course?---Yeah.

But looking back on it - - -?---Looking back that's exactly how it feels, yeah.

And I suppose if it looked that way from the start, you'd resisted from the start?---For sure, for sure.

30 Unless he can build a relationship with you, it would be obvious to you what was going on?---Yeah.

Is that correct?---Yeah, correct.

Well in fact looking at what you said in your statement, you never realised the nature of the process at all because of the friendship between you. Is that correct?---That's correct, yeah.

All right. Now - - -?---I mean at the time I thought we were friends.

40 Yes?---Yeah.

THE COMMISSIONER: So why do you say you're not friends now?---No, I mean I haven't seen him for, I haven't heard from him for a while since April.

When you stopped buying he disappeared?---Exactly.

MR CAMPBELL: And never, and after you lost your job never made a single phone call to say how you going, mate?---No, not at all, no.

All right. Now quite apart from losing your job over this, that must have been a major blow?---It is, it is, especially at my age.

How old are you, sir?---56.

56?---Mmm.

10

A young man. But, I'm sorry, I'm not making light of it, but have you found it hard to get work?---It is.

Have you found work?---No, not yet.

And are you a married man?---Yeah.

What does this do at home?---My wife's working so that's a help.

20

Yes, but how did she feel about it when you came home and told her you'd lost your job?---Devastated.

Yes?---Yeah.

To say the least it must have put a strain on your relationship?---To a point, yeah.

I suppose, well I'm not criticising your wife, but did you bring these home and show your wife you'd got them?---Yeah.

30

And did you use them to buy ordinary household goods?---Exactly, yeah.

I've asked a lot of people this, you've heard me ask it, it must have come in handy?---It did, yeah.

Well what would you say to anybody else who was put in your position in this way?---It's hard when you, when you have people like Goldin out there. It's hard when you've got people like Paul out there.

40

Yes, yes?---You know what I mean?

THE COMMISSIONER: Why is it hard?---How do you read them, how do you know which one they are.

MR CAMPBELL: Well I suppose one way of doing it is to a) be, be on your guard of a salesman bearing gifts?---For sure.

And another way might be to adhere strictly to the policy that you were trained in?---Yeah.

Would that be so?---Yeah, for sure.

Is there anything, look I'm not asking, you accept full responsibility for your part in this - - -?---I do.

- - - do you not?---Mmm.

10

That's a yes?---Yes.

But is there anything you think could have been done better to help you resist the temptation when it was offered? I mean done better by the council?---Maybe, maybe not the supervisor doing the orders.

THE COMMISSIONER: I beg your pardon?---Maybe not the supervisor doing the orders.

20

Why do you say that?---Because then you can't get to these things.

But wouldn't you be tempted no matter what job you were doing?---Not if I'm doing the purchasing as well. If I had a purchasing officer where I can get it from, I don't have to do it.

MR CAMPBELL: The purchasing officer might be tempted I think is the Commissioner's point?---Yeah, I know. But I mean it's like one man instead of twenty men that's out there that's doing the same thing.

30

Is it the problem that, that the salesmen can get access to the supervisors out in the field?---Yeah.

And I suppose and splitting, you're suggesting that they should split the purchasing job from the users job.

THE COMMISSIONER: No, the buyers job.

MR CAMPBELL: Do you understand?---No.

40

The purchasing officer, I'll withdraw that. You're the supervisor, you use these products in the field?---Mmm.

Yes?---That's correct.

You're saying well I should have to ask somebody else to get them for me? ---Yeah, a purchasing manager or a purchasing officer. So it's not down to what the supervisor doing all the ordering.

All right. So that's an idea you think should be thought about?---Mmm.

All right. I've no further questions, Commissioner.

THE COMMISSIONER: Mr Naidoo, I just want to ask you about the numbers of these orders that are, I've just been looking at them, I know you say they're too many?---Yeah.

And I'm looking at tab 102?---Yeah.

10

Now I've counted five lots of two orders. Does that sound about right?---
Five - - -

Five lots of two vouchers on a day? In other words there are five, according to this there were five occasions when you received two vouchers on a day over the period?---Right.

Do you agree with that? Does that sound right?---Two vouchers?

20 Yes?---On five occasions?

Yes?---It'd be more than that, more than five occasions, more than two, five occasions.

I see. How many do you think?---Oh, mainly two, not - - -

You say generally you would get two?---One or two.

All right. Now there are three occasions of three?---Yeah.

30

Does that sound right?---Possibly.

There are three occasions of five?---Yeah.

What do you say about that?---As I said I've never ever received the five voucher from Paul.

There's one occasion of six?---No way.

40 There's one occasion of seven?---Never ever received that.

All right?---Never ever received that.

Okay. Thank you. Yes, you may be excused Mr Naidoo?---Thank you.

Sorry Mr Naidoo - - -

MR NAYLOR: No questions.

THE COMMISSIONER: No questions. All right. You may be excused.
And I think Mr Campbell, the Commission adjourns until tomorrow doesn't it?

MR CAMPBELL: May it please the Commissioner.

THE COMMISSIONER: Yes. 10.00am tomorrow.

10

THE WITNESS EXCUSED

[3:40PM]

AT 3.40pm THE MATTER WAS ADJOURNED ACCORDINGLY

[3:40PM]