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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE DAVID IPP AO QC

PUBLIC HEARING

OPERATION JAREK

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON WEDNESDAY, 12 OCTOBER, 2011

AT 10.10 AM

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THE COMMISSIONER: Mr Campbell.

MR CAMPBELL: Commissioner, today we'll start a journey, still in the metropolitan area at Burwood. Then we'll take a sojourn in the scenic Riverina area of New South Wales at Narrandera. We'll return to the city via Bathurst, stop briefly at Botany and finish up this evening at the city of Broken Hill. I, I call - - -

10 THE COMMISSIONER: I am sure it will not be as uplifting as you make it sound, Mr Campbell.

MR CAMPBELL: Well, perhaps not, Commissioner, perhaps not. I call my first witness for today and that's Ronita Tompsett. Come forward please, Ms Tompsett.

MR VOROS: Good morning, Commissioner. My name is Voros, V - - -

THE COMMISSIONER: I beg your pardon?

20 MR VOROS: My name is Voros, V-O-R-O-S. I am a solicitor.

THE COMMISSIONER: Mr Voros.

MR VOROS: I appear for Ms Tompsett who is present.

MR CAMPBELL: Do you seek to seek leave, sir?

THE COMMISSIONER: You have to seek leave, Mr Voros.

30 MR VOROS: I do seek leave, I beg your pardon. I do seek leave, Commissioner.

THE COMMISSIONER: Yes, please sit down. Now, Mr Voros, do you want me to make a section 38 order?

MR VOROS: I do.

40 THE COMMISSIONER: Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by Ms Tompsett and all documents produced by her during the course of her evidence at this public inquiry are to be regarded as having been given or produced on objection and accordingly there is no need for her 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 MS TOMPSETT AND ALL**

DOCUMENTS PRODUCED BY HER DURING THE COURSE OF HER EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND ACCORDINGLY THERE IS NO NEED FOR HER TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT PRODUCED.

10 THE COMMISSIONER: Now, Ms Tompsett, you're obliged to answer all questions asked of you and it is a serious criminal offence either to refuse to answer or to give false answers. Do you understand that?

MS TOMPSETT: Yes, sir.

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

MS TOMPSETT: Under oath is fine.

20 THE COMMISSIONER: Would you swear Ms Tompsett in please.

THE COMMISSIONER: Mr Campbell.

MR CAMPBELL: Commissioner, the material in relation to this part of the evidence is in volume, folder 19.

10 Ms Tompsett, are you Ronita Barbara Tompsett?---Yes, I am.

Were you formerly employed by the Burwood Council?---That is correct.

And when you were last there were you employed as the depot superintendent?---Yes, that's correct.

Did you start with the council - I'm sorry. Did you start with the council back in about 1987?---1985.

20 1985?---September 9th.

Thank you. And at that time and for a period of time you started, you worked with plant and things like that?---It was the parks and gardens department, I did the mowing of the various parks and reserves and then I became a team leader in that area and then when I was injured in 1995 I was transferred into our store.

And, and having been transferred into the store I think that you became the, as I've said, the depot superintendent. Is that right?---That's correct.

30 And when did you get appointed to that position?---It was about 1987, early 1987, our storeman quit suddenly and my boss at the time said you're the new person so - - -

Okay. And you, in, in that job you had the responsibility for purchasing on behalf of the council supplies required by the outdoor staff, is that right? ---That's correct.

40 All right. And at the time you started - I withdraw that. Did you have, in that purchasing role, a delegation of \$10,000 per order?---Yes, as far as I know, yes.

All right. And if you had to order, if you had to exceed the delegation you had to go to a superior in the chain of command to get authorisation? ---That's correct.

All right. And at the time you started in 1985 was there any such thing as a Code of Conduct?---Not that I'm aware of. We were never given any training in it at that point.

All right. But in more recent years before you left the council did you receive training in relation to the councils Code of Conduct?---The only one I actually remember was probably about two years ago, they did a, for new staff and any staff that hadn't done one.

All right?---But I don't remember having been given any training in it previous to that.

10 All right.

THE COMMISSIONER: And did you attend that?---Yes.

MR CAMPBELL: Could I ask you Ms Tompsett, I'll be reading evidence in this case from the council, which will be to the affect that you received the Code of Conduct training on 29 September, 2005. Does that date sound correct?---That's possible. I was sent to various training courses at chambers at different times and they didn't always sort of stay in your head because there was so many of them and, yeah, I possibly could have.

20

All right. And as part of the Code of Conduct training did you receive training in the councils gifts and benefits policy?---Yes, at that time it probably would have been in there, yes.

All right. And you were aware were you not that it was part of that policy that you were not, I'll withdraw that. All council staff were not to receive gifts and benefits of value from people they dealt with in the course of their work. That's correct isn't it?---Yes.

30 And if it was for some reason impossible to refuse a gift on a particular occasion it had to be declared?---Yes.

And it was up to the council to or certainly the general managers office anyway, to decide whether you could keep the gift. Is that, is that so?---I believe so, yes.

And it had to be recorded in a register maintained for that purpose?---Yes.

40 All right. Although you had that purchasing role were you at any time given any procurement training?---Not that I remember.

All right?---I was basically thrown in the deep end.

Okay. Okay. Now you understand don't you, Ms Tompsett, that so far as Burwood Council is concerned, the, the Commissioner is inquiring into allegations that you have received a number of gifts and benefits from different suppliers?---Yes.

And in particular we contend from the material that we'll be putting before the Commissioner that you received a series of gift vouchers from a company called Momar Australia over the period 18 January, 2007 until 13 January, 2011?---Yes.

And do you understand that we contend that from material we've examined that the total amount of those gift vouchers over that period of time is \$3, 350?---Yes. I wasn't aware of how much it totalled to until I was told earlier this year.

10

All right. I think to be, to be completely fair to you, Ms Tompsett, when you were asked about these matters by the Commission's investigators back in February of this year, you were completely frank with the investigators in admitting the matters you were asked about?---Yes.

In addition to the, to the matters from Momar Australia, do you understand that we also contend that you received from a company called R&R Tape, two Drizabone style coats?---I don't remember receiving those. I haven't used R&R Tape for about four or five years.

20

No?---I honestly don't remember receiving those from them.

Can I ask you this, may I ask you this question, is it the, are you saying that you just have no recollection one way or another or you're saying that you're sure you didn't get them?---I just have no recollection of receiving them. I remember using the company, only because I heard it named last week in the News, but I haven't used them for a number of years.

30

All right. You've been in this position for a long time or you had been in this position for a long time?---15 years.

Yes?---Yeah.

Okay. And you however do remember do you not that R&R Tape at one stage organised for you a holiday at Batemans Bay?---No.

No?---I never accepted, I've never been offered a holiday at Batemans Bay or accepted one from them.

40

All right. Well, I'll come back to that in a moment. Commissioner, could the - - -?---I've never actually even been to Batemans Bay, Mr Commissioner.

Oh, right. Do you know where it is?---Down the south coast somewhere but I've never been there.

All right. Well, I'll ask you about that in a moment because I want to get you to identify certain things for me. Commissioner, could Ms Tompsett be shown folder 19?---I have it here.

Oh, good, thank you. Would you open - the first tab in the folder is, is tab 107 and you'll see that this is a, this is a - it consists of a number of pages Ms Tompsett?---Yes.

10 Numbered 1 to 7 but it's actually a spreadsheet as it's called and it has a - you'll see from page 2 onwards it had a series of dates entered in a straight line. Do you, do you see that?---Yes.

Now, what, what we say is that the material we've examined from Momar Australia shows that they forwarded to you one of those gift vouchers on each of the dates recorded. Do you understand that?---I dispute a couple of the dates but I would presume that that would be correct if they've kept a spreadsheet of it, yes.

20 No, no, they haven't kept it, we've prepared it from their records?---Oh, okay.

Do you understand?---Yeah.

But if you just listen to what I wanted to ask you is that what we say about it is that each date, each entry represents one voucher?---Yes.

And were the vouchers typically \$50?---Yes.

30 Were they always \$50?---Yes. Oh, depending on how much I order through the company.

Yes?---Some may, if you ordered \$1,000 worth of goods it was \$50, if you ordered \$2,000 worth of goods it was \$100 but the vouchers came in \$50 - -

THE COMMISSIONER: Amounts?---Amounts, yeah.

40 MR CAMPBELL: Well, could I just - looking at that, if you just look at that page 2 that you might have open at the moment?---Yeah.

The, the third and second-last entries are, are both the one date, do you see that? 11 March, 2008?---Yes.

Now what we say about those entries is that yes, on that, on that date, 11 March, 2008, you were sent two vouchers, each of \$50?---Yes.

Okay. And you'll, you'll, you'll see that - and if you look through the spreadsheet you'll see that there are a number of entries of multiple dates?

---Yes.

For instance, on page - the first two entries on page - the first three entries on page 3 are the same date, do you see that?---Yes.

16 June, 2008 and, and just to make it clear we, we, we contend that on that date you were sent three \$50 vouchers totally \$150?---That's possible, I can't remember. Most of them are usually just the two vouchers at a time. I don't honestly remember getting three in one go.

10

From a, from your point of view the - you, you, you as I've said have fully and frankly admitted receiving these vouchers and it's - you did not retain any record of, of when they were received or how much was received at any one time?---No, they were just Coles supermarket shopping vouchers and that's what I used them for, to buy groceries.

20

Oh, right. Now, look - I'll withdraw that look, Commissioner. How did it first start that you started to get these vouchers?---The representative at the time, a gentleman called Paul Goldin, told me that they were a loyalty reward. Naively I guess perhaps I believed him to begin with and then I realised later on down the track that I should have been declaring them but I didn't, I've got not excuses for why I didn't, I just didn't.

Now, how long had you been dealing with Mr Goldin for before he had this conversation with you about the loyalty reward?---Oh, I honestly can't remember, I'd had a number of reps before him.

30

Yeah?---Two or three reps from the same company before him and I honestly can't remember how long he'd been coming in before, before he'd mention them but it could have been a couple months after he'd started with us, I don't know. I don't remember it being the first time I met him so I'm not really sure.

Did he send them to your home address?---Yes, he did.

How did he get that?---He asked me for it.

40

Why, did he say why he wanted your home address?---He didn't want them going through council so he offered to send them to home.

Did he say why he didn't want them to go through council?---No, and I also - by the time I realised that I didn't want them to go through council 'cause council had a habit of opening even mail addressed personally to people, council was open - all mail would go to our council chambers, it would be opened and then sent on. Even if it was marked private and confidential it would be opened and then sent on.

I want to ask you this, Ms Tompsett, was it your, was it your position that you didn't want council to see - - -?---That's correct.

- - - that you were receiving these?---That's correct.

THE COMMISSIONER: And perhaps the reason why you, when you realised that it was wrong that you didn't disclose it is because you realised you'd get into trouble?---Yes, possibly, yeah, I think mostly that, yeah.

10 MR CAMPBELL: You see, when, when he first spoke about this loyalty programme did you have any idea that it would continue for as long as it did?---No.

Did you have any idea that it would involve as much money as it did?---No. When Mr Grainger first mentioned it to me in February he asked how long it had been going on and I actually only thought it was about two years, I didn't realise it had been four.

20 And could I ask you this question, you, you were obviously a long-standing loyal, honest, valued employee of the council, why did you agree to this?
---I was working 12 hour days, wasn't getting paid overtime and it put food on my table. That's the honest answer. It put, put food on the table.

How, how much was your salary as the depot superintendent?---I was taking home after tax about \$1,600 a fortnight but my father and I were living in Department of Housing Accommodation paying full market rent and I had two credit cards and a loan to pay off so it put food on the table on the off-pay week 'cause we were on fortnightly pay.

30 So this was a - like, like ordinary, other ordinary members of our community, the cost of living is high in Sydney?---Yes.

And these, as I've put it to other people, I'll put it to you, these vouchers came in handy - - -?---Very.

- - - for many household expenses?---Yes. As I said, they put food on the table. I only ever used them at Coles and they put food on my table.

40 Now, I think that a loyalty programme, and what, what did you understand he meant by a loyalty programme?---He said it's because we were long-standing customers and that we continually bought from them.

And did you understand - was it your understanding that, that part of the loyalty was, was encouraging further business?---Probably, yeah.

I mean, you see, one of the reasons why he - I'll withdraw that. Did you understand that one of the reasons why he wanted to send it to your home

was so it would be a secret between you and him that he was providing these vouchers to you?---In hindsight, yes.

Well, from the outset you didn't want it known at work that you were getting these vouchers, did you?---No.

No. So you certainly wanted to keep it secret, Ms Tompsett, is that fair?
---The first few I think went to work but then they started going home so yes, yes, I did want to keep it quiet.

10

Well, those ones that went to work, that you think went to work, were they opened in the way you've described earlier in your evidence?---He addressed them directly to our depot instead of to the PO Box so they came straight to me those ones.

All right. But after a while you felt more comfortable with them going home, is that correct?---Yeah.

For the reasons you've told me about?---Yes.

20

THE COMMISSIONER: Sorry, Mr Campbell.

MR CAMPBELL: Yes, sorry, Commissioner.

THE COMMISSIONER: Did you collect the vouchers with any particular, with particular orders?---No, they would come usually within two days of the order arriving at our depot.

So the - - -?---Then the voucher would arrive at my home.

30

So the answer's really yes, you'd get the voucher after you'd ordered?
---Yes, after the goods had been delivered.

And did the number of vouchers depend on the amount of the order?
---That's correct.

So you knew that the more you ordered the more vouchers you'd get?
---That's correct.

40

MR CAMPBELL: And how did the ordering process work? Mr, Mr Goldin was a - it's Paul Goldin isn't it we're speaking of?---That's correct.

Mr, Mr Goldin was a, was a, was a travelling sales rep - - -?---Yes.

- - - and he'd come and visit you at your place of work?---Yes.

And he'd get, he'd get free access to you at your depot?---Yes, he was - we had a parking space for reps outside my office and he would just come in and see me.

All right. And was the, was the parking spot marked as designated for sales reps?---Rep parking, yeah. That's how it was marked.

10 And that was something that council put in place?---We put it in place because we'd had - one of our, a rep a couple of years before had actually parked in that space when it wasn't marked and one of our cars had hit it, one of our - well, a council vehicle, a little machine had hit it and the guy, the other rep threatened to sue. That's when council decided that we needed to have a dedicated parking spot so people knew to avoid that spot.

All right. But council put it in place?---Yeah.

To facilitate the reps coming - - -?---Yes.

20 - - - and parking?---Yes, it was right outside the door, it made it closer for them if it was raining or if we had deliveries arrive, they could park there as well.

So they could leave with the car undamaged?---Yes.

30 All right. But when, when Mr Goldin came to see you, I mean, would he have a look around the store to see what products you had from Momar Australia?---Sometimes he'd say to me do you need anything and quite often I wasn't sure what was still out there and what wasn't so we'd go out and he'd walk out with me and have a look.

And would he suggest to you, oh you're down on that particular product you'll need this much this month?---No, I usually made those decisions - - -

All right?--- - - - as to what, it came in set amounts, so I'd usually say, yeah, well I need to get five 25's of that because I knew the minimum was 125 litres, but it'd come in five litre, sorry, 25 litres, but it'd come in five litre containers, rather than the big heavy one.

40 All right?---And I usually decided what we ordered. He might suggest, oh we have a new product if you want to try it, but usually we stuck with the range of the same things that we'd been ordering because the guys liked them. They were using the products that I was ordering.

The - would he sometimes point out to you that you were low on one of his products?---Sometimes, yeah, yes.

Yes. All right. You've mentioned that, that the guys liked using the products. You're talking about the overall staff?---Yes.

So you're saying that they're good products?---Yes.

You're saying that the, the service was reliable?---Yes.

But you'd appreciate wouldn't you that this kind of loyalty programme might affect competition amongst suppliers who want to supply their goods of a similar type to the council?---Yes.

10 And it might affect overall the competitiveness of the price that council might be able to obtain these goods for. Would you accept that?---Yes.

The – in any event – all right. You said to the Commissioner, Ms Tompsett, that right from the start you knew this was wrong?---Yes.

And right from the start you knew it was wrong morally to do it?---Yes.

As well as being against councils rules?---Yes.

20 And could I ask you this question, would you accept that, that an objective observer looking at the facts as you have explained them to us today, you know could calmly come to the decision that it was a corrupt transaction? ---Yes.

Now when Mr – do you remember what was one of the last things you said to Mr Grainger when he spoke to you back in February?---No, I don't.

Do you remember saying to him firstly that you knew in your heart it was wrong?---Yes.

30 And do you remember saying to him something to this affect, "I've probably just done my job"?---Yes.

And indeed what did you do after the interview with Mr Grainger?---I spoke with our general manager and I resigned. I apologised to him for what I'd done and I resigned.

On the very same day?---Yes.

40 And that very same day was 10 February, 2011?---That's correct.

Did the general manager ask you for your resignation?---No. He, well I think the inference was if I didn't resign I would have been terminated.

So it was one or the other?---Yeah. But he accepted my resignation and they paid me two weeks in lieu of notice, so - - -

Was that all?---Oh, plus all my benefit, everything I was entitled, my long service leave and my annual leave.

If your employment had been terminated would that have affected those other matters? Did he explain that to you or anything like that?---No. I think if I'm terminated I'm still entitled to my long service leave and my annual leave. I would believe so.

10 Did he, I'll withdraw that, Commissioner. It's not relevant. Are you going to find another job?---Yes, I started a new job nine weeks ago.

All right. Does it pay the same money as the council did?---No, I've lost about \$20,000 a year.

All right. It must make it even harder to make ends meet?---Yes, it does.

I have no further questions, Commissioner.

20 THE COMMISSIONER: Yes, any questions for Ms Tompsett?

MR VOROS: No thank you, Commissioner.

THE COMMISSIONER: Thank you, Ms Tompsett. Thank you for your evidence. You may be excused?---Thank you, Commissioner.

THE WITNESS EXCUSED

[10:34am]

30 MR VOROS: May I be excused, sir?

THE COMMISSIONER: Yes, certainly.

MR VOROS: Thank you.

MR CAMPBELL: Commissioner, there's a very large statement behind tab 109 from the general manager of Burwood Council, but perhaps at some convenient time we might look at all of these statements as a, as a group.

40 THE COMMISSIONER: Yes.

MR CAMPBELL: They follow a very familiar pattern. That's all the evidence relating to Burwood Council, Commissioner. I now wish to go on to Narrandera Council.

THE COMMISSIONER: Yes.

MR CAMPBELL: Yes, my first witness on this part of the inquiry is, sorry Commissioner, Benjamin Aaron Duggan. And I call Benjamin Aaron Duggan. Come forward please, Mr Duggan and stand in the witness box. He's represented, Commissioner, by Ms McGlinchey.

THE COMMISSIONER: Yes, please sit down, Mr Duggan.

MR DUGGAN: Thank you.

10 MS McGLINCHEY: (not transcribable)

MR CAMPBELL: No.

THE COMMISSIONER: You're not represented.

MR CAMPBELL: Oh, wrong, wrong, my mistake Commissioner.

THE COMMISSIONER: Yes.

20 MR CAMPBELL: I'm too eager to - - -

THE COMMISSIONER: You're not legally represented Mr Duggan?

MR DUGGAN: No, no.

THE COMMISSIONER: Have you been in the Commission before?

MR DUGGAN: No, I haven't.

30 THE COMMISSIONER: No. Now I need to explain something to you Mr Duggan. As a witness appearing before the Commission you are required to answer all questions that you are asked and to produce all documents that you are asked to produce. And you must do this even though your answer or the documents may incriminate you. But if you object to answering any question or producing any document your answer or the document cannot be used against you in any civil or criminal or disciplinary proceedings. So you're protected to that extent. The protection does not prevent you from being prosecuted for giving false or misleading evidence. But so if you tell the truth and you make these objections, the evidence can't be used against
40 you outside this hearing room. You understand that?

MR DUGGAN: Yes.

THE COMMISSIONER: Now the most convenient way for you to obtain this protection is for me to make an order that all the evidence you give is given under objection so you don't have to make objection each time you answer a question. Would you like me to make such a declaration?

MR DUGGAN: Yes, please.

THE COMMISSIONER: Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by Mr Duggan 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

PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY MR DUGGAN 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.

20

THE COMMISSIONER: Now Mr Duggan, you are obliged to answer all questions you are asked and it is a serious criminal offence either to refuse to answer or to give false evidence, to give false answers. Do you understand that?

MR DUGGAN: Yes.

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

MR DUGGAN: I'm happy to do it under oath.

THE COMMISSIONER: Yes, would you swear Mr Duggan, please.

MR CAMPBELL: I should say, Commissioner, perhaps I should have said this a moment ago, that Mr Duggan's here simply to give some evidence of some primary facts relevant to another part of the inquiry.

THE COMMISSIONER: Yes. Very well.

10 MR CAMPBELL: Mr Duggan, are you Benjamin Aaron Duggan?---Yes.

And are you currently the franchisee of the Harvey Norman Computer Store at Griffith?---Yes. There's one store which is computers and electrical, I'm one of them, yes.

All right. Well I think that you're, there's a company called Griffcom Pty Limited?---Previously, that was finished up in February.

Yes?---And it was changed to Griffith AVIT Superstore.

20

All right?---But yes, I was franchisee of Griffcom.

And, and part of it, is it part of its business or all of its business to run the computer section of the Harvey Norman store?---All of its business.

Okay. And, and you've been the franchisee since 1 February, 2010?
---Correct.

30 Did you work at store before you took over the franchise?---No. I worked with Harvey Norman, but not at that store.

All right. Okay. And you, in accordance with a request made by the Commissions officers, you carried out a business search of the records maintained at the Harvey Norman store at Griffith. Is that correct?---Yeah, I had our administration team product some documents, yes.

All right. And the documents related to a transaction which occurred on 12 December, 2007?---Yes.

40 All right. Commissioner, could the, could Mr Duggan be shown his, could he be shown folder 28, where the evidence is about this matter. And his statement is at tab 157. If you just open the folder, please sir and go to the grey tab, which is numbered 1-5-7. And you'll find there a two page statement with one annexure. Do you see that statement?---I do, yes.

And is, is that your signature appearing on each of the two pages beside the typed word "signature"?---That is most definitely.

And do you tell the Commissioner that the contents of that statement are true and correct?---Yes.

THE COMMISSIONER: Mr Duggan, I just want to make sure you've got the two, full two-page statement in front of you have you?---I do, yes, page 31 and 32.

Yes, thank you.

10 MR CAMPBELL: Thank you for that, Commissioner. Looking, looking at - can I draw your attention please to paragraphs 6, paragraph 6 to start with. Do you see that?---Yes.

And were you, were you, were you asked to cause a search to be made in relation to Harvey Normal gift cards bearing those numbers?---Yes.

And could you turn to page 33, did, did the search produce that tax invoice that's shown at page 33?---Yes.

20 And that - for, for the benefit of - I mean I just draw attention to it, Commissioner, it, it basically shows the purchase of a iPod Nano eight gigabytes, is that right?---Yes.

Green in colour?---Apparently so, yeah.

Okay. Do you know what an iPod Nano is?---I know what it is, how to use it, I've never owned one so - - -

30 Well, what is it? Perhaps you can tell us that?---It's a portable music player.

Is that something which people of your generation are familiar with as being an MP3 player?---It is an MP3 player, yes, one of.

THE COMMISSIONER: It's a small iPod is it?---It is, yeah.

All right.

40 MR CAMPBELL: And, and the - if we look at the foot of the page you were asked to - we can see the, the redemption of those voucher numbers appearing there, is that right?---That's correct, yes.

And we can show that part of the price for that product was, was paid for by reference to those five \$50 vouchers?---Part of, yes.

THE COMMISSIONER: Cash was \$40, the rest was the vouchers. Is that right?---Yes.

MR CAMPBELL: Now - and there'll be no issue about this now, Commissioner, I'm told but - from Ms McGlinchey, there was a, there was a, there's an address shown at the top and the bottom of the invoice?---Yes, there is.

Don't, don't read it out because there's a suppression order in respect of people's addresses but is that - did that, did that address appear within the business records of Harvey Norman Computers?---Yes, as per the invoice.

10 And is that information which is, is obtained by the salespersons at the, at the, at the point and time of sale?---It would, yes, that's the information obtained, yes.

And it's entered into the computer system?---Correct, unless there's already been a transaction process done to that customer number or phone number by the customer in which case it would already be information there.

20 All right. So, so, so by, by - I see. If, if, if, if the person was a return customer and his or her address was in the system then it wouldn't need to be provided again?---Correct.

Is that what you're telling me?---Yes.

But that address was, that address is the address of the, of the person who completed the transaction?---Presumably that, yes.

That's the way the system works?---Yeah, we put in the information provided.

30 Yes, thank you. Now, does the system retain the purchaser's name? ---Generally, yes.

When you print out this duplicate invoice as you've done for us does it reproduce the customer's name?---If the customer's name is in the system, yes.

All right. We haven't got the customer's name here on this particular invoice - - -?---Yeah.

40 - - - but would you please turn the, turn back to tab 56 - have you got that? ---I have, yes.

And this, you'll see that it's, it's a, it's what is referred to here as a section 22 notice to produce information. Do you see that?---Yes.

And it's directed to the proprietor of Griffcom Pty Limited trading as Harvey Norman Computers Griffith. Now, are you that person?---I am.

All right. And if we turn over to page 28 it asked you to produce copies of all records relating to, including but not limited to, invoices issued and customer details for the redemption of Harvey Norman gift cards identified below and, and we see the same numbers of the gift cards that were in your statement and on that invoice. Is that correct?---Yes.

10 If you turn to page 29 there's a handwritten note. Now, is, is that a handwritten note that, that you caused to be prepared for the purpose of answering the Commission's demand for information?---Are you asking if that's a handwritten note that I've written?

No, I'm not?---Or that's been provided to me.

I'm asking is that, is that one you - is that a handwritten note you provided to the Commission, that's what I'm asking. It doesn't have to be your handwriting?---It's not that I've provided personally, no.

20 Well, did you cause someone to provide this to the Commission?---Possibly, yes. Yeah, I'm unaware of its entirety that what was provided to the Commission.

All right. But you got the notice?---Yeah.

And you, did you delegate it to one of your staff to provide the information? ---One of my administration team, yes.

Do you remember who, who it was in your administration team you gave the job to?---Yes.

30 Who was that?---Our administration manager, the store's administration manager.

Would you please provide the person's name?---Kylie Goring.

And she's your, she's your administration manager, you must have seen her handwriting on occasions?---Yes.

40 Can you identify her handwriting for us?---It, it looks very similar to hers, yes.

All right. And, and that is, that is information - I withdraw that. You, you were the person with the responsibility for providing the information as the proprietor?---I was.

So are you satisfied that that is information she obtained from the business records of your company?---Yes.

Now - - -

THE COMMISSIONER: What does that mean? When it says invoice name is James Williams?---That the only, the only occasion whereby the, the information won't come up on the actual invoice where it will be in our system will be under the customer details. There's two sections that it'll actually hold a name. One is access via a business name and the other one is via the transaction name. If there's - say for example on, on the, the invoice that was provided there's no customer name, it may well be just under the business name. Why that would happen I don't know but it can
10 actually happen. So if you look into the customer details under that phone number it may have the customer's name but it may not necessarily transact onto the invoice.

So are you saying that according to your records James Williams is the customer who redeemed the vouchers which are shown on the invoice which you've been asked about this morning?---I, I would have to make 100 per cent sure but I would say that that - - -

You've been asked to do that, why did you come here not being sure?
20 --- (NO AUDIBLE REPLY)

I don't understand?---Okay.

Well, you might have to go back and come back again.

MR CAMPBELL: Commissioner, I have other evidence about this and it may not be necessary for that but, but you understand the importance of this, Mr Williams?---Duggan, yes.

30 Thank you, Mr Duggan, please forgive me?---I definitely understand the importance of it.

Well, when, when, when you asked your staff, when you delegated this task that was your obligation at law to your staff did you, did you stress the importance of getting it right?---I did, yes.

And well, sitting in the witness box today, can you think of any, any - well, can you think of any reason why your administrative manager wouldn't have provided the information from the, from the records?---No. To, she's
40 very accurate in the details that she does. To my, yeah, absolutely. If that's something that I've asked her to provide it would - - -

THE COMMISSIONER: All right. We'll deal with this quickly so that we know what to do next. Ms McGlinchey, do you mind coming to the bar table so that the discussion can be transcribed. Thank you. Is it disputed that Mr Williams' name is on the relevant invoice or not on the invoice but Mr Williams was the relevant customer who redeemed the invoice?

MS McGLINCHEY: Commissioner, if I could just briefly explain his position. His recollection is the same as what it was when he put his response to the section 22 notice in that he does not have an actual recollection of doing it but he was able to produce to me this morning a document for another item which was purchased at the shop on the same day. So his position is today I anticipate that we would be happy to concede it's more than likely that he redeemed, or that he was at least at the shop and possibly redeemed.

10 THE COMMISSIONER: The Commission has to decide whether or not to call another witness on this issue or to ask Mr Duggan to return. I need to know whether you require that or not.

MS McGLINCHEY: I don't require it, Commissioner, it's up to the Commission how he wants to - - -

20 THE COMMISSIONER: No, I understand, but your client is not going to dispute the effect of Mr Duggan's evidence, namely, that according to Harvey Norman's records Mr Williams is the customer who redeemed the invoice about which he has been asked.

MS McGLINCHEY: We're not in a position to dispute it, Commissioner, because we haven't seen those records.

THE COMMISSIONER: Right. Are you going to submit that the Commission is not entitled to find that Mr Williams was meeting the person who redeemed the invoice?

30 MS McGLINCHEY: No, we won't be making that submission.

THE COMMISSIONER: All right. Thank you.

MR CAMPBELL: Thank you. I should say there has been an unfortunate mis-transposition here in that Mr Williams' name is Jason not James – same initial, different given name but this is a handwritten note?---Right.

This is a handwritten note – you have to say yes, and I'm asking a question?---Okay.

40 It's a handwritten note from one of your staff. I don't think it will be necessary but if it was necessary for us to have you double-check these details and forward something to us in writing or a document to us would you be able to do that?---Yes.

All right. Now, you've been sitting in the witness box, you've heard what my friend Ms McGlinchey said about something. Could you look at this document which her client has provided to us. And there's a copy for the Commission.

THE COMMISSIONER: I beg your pardon?---Do you mind if I just make a quick statement? I do – sorry, I do remember when I requested the original documentation that when I was looking for those details whilst on the phone to – I don't remember the gentleman's name who asked it from the ICAC.

10 THE COMMISSIONER: Mr Grainger?---Mr Grainger. That that was the case. I do remember that now that you've mentioned it that the names were different.

MR CAMPBELL: Did you double-check?---At the time, yes. So I do remember that the names were different at that point in time.

All right. But when - - -

THE COMMISSIONER: What do you mean the names were different, I don't - - -?---So that, there was a - so I knew that there was a - - -

20 I beg your pardon?---I knew that there was a customer detail set up for a Mr Williams and when he gave me the phone number I put that phone number in, customer details came up and then he said to me it's a J Williams, and I remember the original, the given name to be a different name.

You remember – where was – are you saying that the name in the computer records was a different name to that which Mr Grainger asked you about? ---The given name, yes.

30 Yes.

MR CAMPBELL: When Mr Grainger telephoned you after he had received this information were you at your desk or at a computer terminal?---I, yes.

At a computer terminal?---I was – when he phoned me, no, but I was, I did have access to the computer terminal.

40 And while he was on the phone pointing out that the name James was different from the name he believed to be correct did you check the information while he was on the phone?---I checked the customer details, I didn't go through invoices I just checked the customer details and I mentioned that to him.

All right.

THE COMMISSIONER: On the computer?---On the computer.

MR CAMPBELL: And can you remember now sitting in the witness box whether you agreed that he was right that there had been an error in transposition?---No, I definitely didn't say that.

You don't know?---No, I didn't agree that he was right. I told him the information that I had at hand and - - -

And your computer records say the name was James?---Correct.

10 Thank you. That's what we need to know. Thank you?---Yes.

I have no further questions for Mr Duggan.

THE COMMISSIONER: According to your computer records the person who redeemed the invoice was James Williams?---From memory, yes. So those details that are on page 29 - - -

Are correct?---Yes. In memory, yes.

20 Yes. Ms McGlinchey, do you have any questions?

MR CAMPBELL: I do have another question, Commissioner, I haven't done this. That original document you've been shown - - -?---Yes.

- - - can you identify that as an invoice issued by Harvey Norman Computers at Griffith?---No, not by Harvey Norman Computers at Griffith, by Harvey Norman Electrical which is in the same building, yes.

30 Okay. Right. And you see it bears the date 12 January, 2007?---12 December?

12 December – numbers are not my forte. 12 December, 2007?---Yes.

All right. I tender that invoice, Commissioner.

THE COMMISSIONER: Yes. Tax invoice 139746 from Harvey Norman Electrics is Exhibit 42.

40 MR CAMPBELL: Commissioner, after you sight the original could we release the original and just use the copy because apparently the item is still under warranty. After all this time, it must be a very good warranty.

THE COMMISSIONER: Yes. So we will call Exhibit 42 as a copy of invoice 139746 from Harvey Norman.

#EXHIBIT 42 - COPY OF INVOICE 139749 FROM HARVEY NORMAN

THE COMMISSIONER: Mr Duggan, this invoice 139746 which is now Exhibit 42 that shows that on 12 December, 2007 the transaction occurred at 10.45, is that right?---That's correct.

And the invoice at page 30 shows that the invoice occurred at 10.52, seven minutes later, or six minutes later really. And the address on both invoices is the same, the address of the customer?---That's correct.

10

So are you able to say or not able to say whether the customer who purchased the goods on the invoice which is Exhibit 42 is the same customer who purchased the goods on the invoice which is at page 30? ---I'm definitely able to say that the information provided to us was the same for both customers.

So it's the same customer? That's according to what you were told?---The information that would've been provided to the salesperson, all that we ask for is a phone number. So if - - -

20

All right. Well, can I put it this way. The information provided to Harvey Norman which resulted in the completion of the invoice at Exhibit 42 is the same information that was provided to Harvey Norman which has resulted in the completion of the invoice at page 30?---Correct.

Yes. All right.

MR CAMPBELL: Just to make this crystal clear. You said that the starting point for the information is the customer phone number, is that right?

30

---That's correct.

And, indeed, you don't call it for these purposes the customer phone number you call it the customer number, is that right?---Correct.

And we can see that the customer number is the same on both invoices issued about six minutes apart?---Correct.

And so if I can take up the Commissioner's line for this question. From the point of view of Harvey Norman the same customer purchased these same goods because - - -?---Yes.

40

Because the same customer gave the same identification information? ---Yes.

THE COMMISSIONER: Yes, thank you. Ms McGlinchey, you have no questions?

MR CAMPBELL: Just one last thing, Commissioner. I am instructed that we would like Mr Duggan to double-check the computer information and to provide us with a note or a letter confirming what's in the computer as to all the personal details of the customer bearing that number?---Sure, not a problem.

THE COMMISSIONER: Can you do that by email to Ms Lee before the end of this week?---Yes, absolutely.

10 MR CAMPBELL: Thank you, Commissioner.

THE COMMISSIONER: Yes, thank you. Ms McGlinchey?

MS McGLINCHEY: No questions.

THE COMMISSIONER: No. You may be excused Mr Duggan?---Thank you.

20 **THE WITNESS EXCUSED**

[11:00am]

MR CAMPBELL: Commissioner, just before I call my next witness, I won't be a moment, it is Ms McGlinchey's client. I just want to draw the Commissioner's attention to the information which is behind tab 155 of folder 28. And you will see Commissioner, that it's a statement from Kerry Anne Dalton, who's an administration manager within the Harvey Norman Group, I will call it. The name of the company is at paragraph 3 of the statement on page 14. And attached to her statement are a number of
30 invoices and other records relating to the purchase by Hilindi Pty Limited trading as R&R Tape and Safety of bulk Harvey Norman gift vouchers. And we can see that these purchases, Commissioner, according to the invoice dates are between 18 October, 2007 and Tuesday, 4 December, 2007. Now may I be permitted to say this, that of the five gift vouchers that were identified on page 33 of the brief, 30 of the brief, thank you,
40 Commissioner, we can trace four of them to that series of invoices, but we can't trace the fifth to them. However, the, the invoice of 20 November, 2007 has the second gift voucher in the list at page 30 and the third, fourth and fifth are on the invoice of the 4 December, 2007.

40

THE COMMISSIONER: Right. Thank you.

MR CAMPBELL: And I call Jason Williams.

THE COMMISSIONER: Now Ms McGlinchey, do you wish me to make the usual order?

MS McGLINCHEY: Yes, thank you, Commissioner.

THE COMMISSIONER: Please be seated Mr Williams. Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by Mr Williams 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 **PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY MR WILLIAMS 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.**

20

THE COMMISSIONER: Mr Williams, 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. Do you understand that?

MR WILLIAMS: Yes.

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

30 MR WILLIAMS: Under oath, please.

THE COMMISSIONER: Will you swear Mr Williams in, please.

MR CAMPBELL: I beg your pardon, Commissioner. Mr Williams, would you please state your full name?---Jason Paul Williams.

And can I ask you to keep your voice up a little because I'm hard of hearing?---Sorry. Jason Paul Williams.

10 Thank you. And are you a resident of Narrandera in the state of New South Wales?---Yes, sir.

And do you know a person who works for Narrandera Shire Council by the given name of Matthew Kelly?---Yes, sir.

And do you know Matthew Kelly because of your common service as retained fire fighters with New South Wales Fire and Rescue?---Yes, sir.

20 And Commissioner, I draw your attention to the material behind tab 58 in volume 28. Are you and Mr, 1-5-8. I said 158.

THE COMMISSIONER: Yes.

MR CAMPBELL: 1-5-8. Yes, thank you. And page36, perhaps if it could be shown to the witness. Tab 1-5-8 please Mr Williams, it's page 36. This is information provided to the Commission by, by Fire and Rescue New South Wales Corporate Head Office and we see that there's information on that page as to the members of Station 400 Narrandera. Do you see that? ---Yep.

30 If you turn it around and landscape – have you got that or not yet?---Sorry, yes.

36. And the fourth name is Mr Kelly's name. Is that correct?---Yes.

And your name is the last name?---Yes.

All right. Now apart from serving together have you and Mr Kelly become friends?---Yes.

40 And for how long have you known each other?---Roughly ten years.

All right. Is Mr Kelly known by any other name?---Yes.

And what's the other name he's known by?---Ted.

Ted. It's kind of a nickname. Is that right?---Yes.

All right. And in any event if I, if I could take you to, back to tab 159 and page 38, there is a statement appearing there, a single page. Is that your signature appearing at the foot of that statement?---Yes.

Now today you produced to the Commission an invoice that you obtained for goods you bought at Harvey Norman at Griffith on 12 December, 2007? ---Yes.

10 At the time you made your statement had you referred to that invoice?---No. I found it about 10 o'clock last night.

All right. And has that invoice assisted you in refreshing your memory about the details?---Well it tells me I was in Harvey Norman that day.

All right?---I can't dispute that, yeah.

20 I think in fairness to you, the second part of paragraph 4 of your statement you were prepared to concede that it appeared that you had attended at Harvey Norman on 12 December, 2007. Is that right?---Yes.

And that's consistent with what you said in the first part of paragraph 4 because you told us that yes, as at 12 December, 2007 your records indicated that you were temporarily stationed at Griffith?---Yes.

And were you travelling to and from Griffith on the weekends or between shifts?---No, no. It's a, it's just a retain block, they were short a fireman, so we're about 90 ks from Griffith, so we'd just travel over in the morning and come back in the afternoon, that sort of thing.

30 All right. That's nothing in the country?---That's right.

The – when you say you're retained fire fighters, does that mean that you're reservists as it were?---Because the population around is around 5, 000 it's not big enough to have permanent fire fighters, so we all work other jobs, carry pagers and if our phone goes off we report to the station if there's a fire. That's how it operates.

40 All right. All right. Okay. I think I understand that. All right. So there must be cases where you're not on call but on duty at the station. Is that correct?---Not in Narrandera. We have two drills a month, that's the only time.

Yes. What about Griffith?---They, they have a station officer who's there permanently.

Yes?---And they have also just retained fire fighters. But if their availability during the day, like if they haven't got enough to man a truck during the

day, they'll call in people from outside. And then when we are stationed there we stay there.

And that's what happened December 2007?---Yep. Yeah.

All right. Now has anyone ever given you any Harvey Norman gift vouchers?---Not that I can recall.

10 All right. What sort of, what's your day job?---I have a lawn mowing business.

All right. So you're, you're a supplier of services?---Yes.

And you've never had anyone you do business with give you Harvey Norman gift vouchers?---No.

No. Have you ever given them out?---No.

20 No. Now the - - -

THE COMMISSIONER: I take it you've never bought them?---Sorry, sir?

You've never bought them? You've never bought Harvey Norman gift vouchers?---No. Not that I can recall, no.

MR CAMPBELL: Well, given that we now know certainly you were in Harvey Norman and you bought, it was a present for your wife I think was it?---Yes.

30 Yes. And six minutes later you were apparently with a customer who handed over some vouchers to acquire an iPod Nano, green in colour, can you tell us now do you have a recollection of how you came to do that second transaction?---No, I racked my brain and I do not recall using gift vouchers (not transcribable).

Do you remember getting the Nano?---No.

40 I appreciate, sir, that you were asked to recall these details getting on for 11 years after – I withdraw that. Into 2011 getting on for four years after the event. Is it the sort of thing that – I withdraw that. I suppose that friends often do favours for each other, is that correct?---Yes.

And the fact that you did a favour for a friend in terms of – the fact that you may have done a favour for a friend in terms of picking something up for him when you were in Griffith is not something that would necessarily stick in your mind especially when you had another reason to be there?---That's correct.

All right. But is there any - you understand – I withdraw that. Have you had any conversation with Mr Kelly about this matter since you were asked to provide information?---No.

Has he given you any information about this matter in the last 12 months?
---No.

10 THE COMMISSIONER: Mr Williams, if you've never bought Harvey Norman gift vouchers and not ever acquired them personally for yourself which I understand to be your evidence, is that right?---Not that I can recall, that's right.

And the evidence shows that you were at Harvey Norman and redeemed I think four or five gift vouchers?---Yes.

And the logical conclusion to which one is driven is that somebody gave them to you?---That's right. I'm not disputing that, I'm just saying I just can't - - -

20 I understand that?---Yes.

You accept that someone must've given you those gift vouchers?---Yes.

And you must've redeemed them for somebody?---If I've done this, yes, that's, I'd say someone's given them to me, yes.

And you've redeemed them?---Yes.

30 And you must've redeemed them for someone at that person's request?
---Yes.

Do you use an iPod Nano?---No. My children have iPods but not a green one, no.

So you must've done this for somebody else?---Yes.

Do you know who it was?---Only, I only know it's Matthew Kelly after speaking with Paul Grainger. I had no recollection of this until he - - -

40 Well, who else could it have been?---Well, no one.

I mean, is there anyone else that you can think of who could've asked you to go and redeem gift vouchers for him at this Harvey Norman store?---No.

MR CAMPBELL: Thank you, Commissioner. Would you look at – you've got the folder there and there's a couple of more questions for you, Mr Williams. Tab 156, page 30?---Yes.

Yes. Now, have you ever seen – I withdraw that. At the time you made your statement had you seen that document?---I think I have seen it before I made the statement, I don't think it was after, I think it was before, yes.

All right?---I have seen it, yes.

And there's no doubt that the address on it is your address is there?---No, that's correct.

10 Yes. And there's no James Williams living there is there?---No.

No. Okay. Are you the only J Williams living there?---No.

Who else has got the initial J?---My daughter.

She'd have a girls name I suppose, not James?---No, that's correct.

And no one else?---No.

20 All right. And if you look at what's said to be the customer number, and there will be a suppression order in relation to this, sir, so don't worry about it, that's a number you recognise, is it not?---Customer number.

It's to the right of your address?---Yes, that's my phone number, yes.

And it's the same phone number as is on the other invoice you've produced to other Commission today, is that correct?---Yes.

30 Yes. And the other, I mean, you seem like the sort of person who might be careful with your invoices and receipts and things for warranty purposes, is that correct?---We keep them but whether we can find them is a different story, hence me searching me last night.

40 And when you made the search last night for the deliberate purpose of identifying – I withdraw that. You were looking for any invoices you might've had in your possession from Harvey Norman Griffith weren't you?---I was looking for that specific invoice, after talking to Karen the other day I said I've been there because I've bought a video camera and she suggested that maybe if I could find that statement and it was on the same date that it might help and that's why I did it.

All right. Well, when you – and when you said Karen you meant your legal representative Ms McGlinchey?---Yes.

That's all right, just for the record. Now, when you were doing this thorough search to find the invoice you didn't come across the invoice which is on page 30 did you?---No. No, that's the only invoice I've come across, yes.

The one you brought today that's been tendered this morning?---Yes.

Right. As you told the Commissioner you don't have an iPod Nano, green in colour, at home?---No.

None of your kids have one?---No.

10 No. And is it the case – I withdraw that. In answer to the questions that the Commissioner asked you you've said that you believe that you may have done this for Mr Williams, you can think of no other person – Mr Kelly, thank you - you can think of no other person, and would you have given him his invoice as well as the product?---I would presume so.

That's a fair assumption to make isn't it?---Yes.

20 And if you put the word assumption to one side that's a belief that you have formed because of what you now know about this matter even if you can't say it's an actual specific recollection?---That's correct.

I have no further questions, Commissioner.

THE COMMISSIONER: Yes, thank you. Ms McGlinchey, do you have any questions?

MS McGLINCHEY: No, thank you, Commissioner.

THE COMMISSIONER: Yes, thank you.

30 MR CAMPBELL: I do have a question, Commissioner. I don't, no, thank you, Commissioner, I don't for the moment.

THE COMMISSIONER: You don't?

MR CAMPBELL: No, I don't.

THE COMMISSIONER: Mr Williams, you may be excused.

40 **THE WITNESS EXCUSED** **[11.17 am]**

MR CAMPBELL: Would that be a convenient time for the morning adjournment?

THE COMMISSIONER: Yes. Adjourn until 11.30.

MR CAMPBELL: Thank you, Commissioner.

SHORT ADJOURNMENT

[11.17 am]

THE COMMISSIONER: Mr Campbell.

MR CAMPBELL: Thank you, Commissioner, I call Matthew Alan Kelly.

10 THE COMMISSIONER: Yes, Mr Kelly, have a seat please.

MR PATTERSON: Yes I - thank you, Commissioner, I again seek leave to appear for Mr Kelly.

THE COMMISSIONER: Yes, you have leave.

MR PATTERSON: Thank you, Commissioner.

20 THE COMMISSIONER: And do you want me to make a section 38 order?

MR PATTERSON: Yes, I do, Commissioner.

THE COMMISSIONER: Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by Mr Kelly 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 KELLY 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.

40

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

MR KELLY: Yes.

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

MR KELLY: Under oath.

THE COMMISSIONER: Yes, would you swear Mr Kelly in, please.

THE COMMISSIONER: Mr Campbell.

MR CAMPBELL: Thank you, Commissioner. Mr Kelly, are you Matthew Alan Kelly?---Yes.

10 And are you an employee of the Narrandera Shire Council?---I was until last Friday.

What happened last Friday?---I put my resignation in with the general manager.

Was that in anticipation of coming here today?---No.

Were you asked for it?---What, to resign?

20 Yes?---No.

You voluntarily resigned?---Yes.

Why did you voluntarily resign?---I just thought in my best interests, this had a little bit to do with it, but I just wanted to chase another career path. Get out of the purchasing side of things.

30 All right. Mr Kelly, you've come along to give evidence because you know that the Commission is inquiring into the receipt of gifts and benefits by persons employed in the public sector in purchasing roles. You know that don't you?---Yes.

And you were employed in such a role by the Narrandera Shire Council. That's correct?---Yes.

You were the storeman there. Is that so?---Yes.

And one of the company's that supplied the council was a company called R&R Tape. Is that correct?---Yes. Yes.

40 And you understand don't you that it's my contention that you were the recipient of gift vouchers from R&R Tape for placing orders with them? ---That's correct.

And you understand don't you that I contend that you received gift vouchers totalling \$600 over a period between 5 December, 2006 and 8 October, 2008. That's so isn't it?---Yes.

Commissioner, the brief is volume 28 and the schedule appearing behind tab 153 is erroneous in as much as it contains a degree of duplication. Might I hand up a corrected schedule - - -

THE COMMISSIONER: Yes.

MR CAMPBELL: - - - with the amounts on it.

THE COMMISSIONER: That is 1-5-3?

10

MR CAMPBELL: 1-5-3.

THE COMMISSIONER: Yes. So I should replace - - -

MR CAMPBELL: Yes please, Commissioner.

THE COMMISSIONER: - - - page?

MR CAMPBELL: Page 1.

20

THE COMMISSIONER: 1. Yes.

MR CAMPBELL: Mr Patterson and Mr Kelly have seen a copy of the amended schedule. Now can we, I'll withdraw that. Mr Kelly, can I ask you, you were aware were you not that it was not permissible for employees of the council to receive gifts from suppliers?---I understand that. (not transcribable) when I first started with council back in 2002, I think it was, I started as a labourer and I think part of the induction was, it had something to do with gifts and benefits.

30

All right. And can I ask you this question, you've – when you were first asked about whether you'd received any gifts and benefits from R&R Tape you were not entirely full and frank about it were you?---I thought I was. There was, I spoke to Gary Patterson.

Mr Patterson?---Yep, not too long ago and said I come across an invoice from Harvey Norman, which I didn't disclose when being investigated by Mr Grainger, which sort of slipped my mind. And it wasn't until probably a month or so ago that I come across the invoice and the iPod. And I just didn't have the heart to ring up and tell Mr Grainger that I did receive \$250 worth of the Harvey Norman vouchers.

40

You'd accept from me wouldn't you that it might have been better for you if you could have found that heart. Do you agree with that?---I certainly do.

Now do you have with you today the iPod Nano, eight gigabytes, green in colour?---I certainly do.

And do you have the invoice for its purchase?---Yes.

Do you produce those items to the Commission?---Yes.

Could I have access to them, Commissioner?

THE COMMISSIONER: Yes.

10 MR CAMPBELL: And, well I tender the original of the invoice which appears at page 30 of volume 28. It's tab 156.

THE COMMISSIONER: The original of the invoice, copy of which appears at page 30 of volume 28 under 1-5-6 is Exhibit 42.

MR CAMPBELL: Could I Commissioner, have - - -

THE COMMISSIONER: I'm told that there's a problem with the sound, Mr Campbell. We'll have to start when - - -

20 MR CAMPBELL: I see. If it please the Commission.

THE COMMISSIONER: We'll adjourn for five minutes while the technicians are on it.

SHORT ADJOURNMENT

[11.46am]

30 THE COMMISSIONER: Mr Campbell, I think I - what I need to do is just to deal with exhibit which I have forgotten what it was I'm afraid.

MR CAMPBELL: It was the invoice, Commissioner, and I think, I think we, we were going to duplicate the number 42 but it's 43.

THE COMMISSIONER: Yes. And this invoice is?

MR CAMPBELL: That's the invoice for the iPod, Commissioner, that's the one - - -

40 THE COMMISSIONER: The original invoice?

MR CAMPBELL: Yes, the original invoice for the iPod.

THE COMMISSIONER: So Exhibit 43 is the original invoice for the green iPod produced by Mr Kelly.

#EXHIBIT 43 - ORIGINAL INVOICE FOR IPOD PRODUCED BY MR KELLY

MR CAMPBELL: Yes, Commissioner.

THE COMMISSIONER: Yes, thank you.

10 MR CAMPBELL: Now, Mr Kelly, I have the iPod in front of me, I'm holding it in my hand. That's, that's a product that you caused Mr Williams to obtain for you?---That's correct.

And, and when you got it you used it, that's correct?---Yeah, I took it to work and downloaded some songs on it and used it at work for a while until there was an email come out and said anyone with iPods or anything at work downloading music is to cease immediately and I've just - that was probably two years ago and I've just, just took it home.

20 Well, we know it was bought in a, in a, in 2007 and if two years ago they banned iPods at work then you used it for - that's 2009, so you used it for about two years. Is that right?---At work.

At work?---Yeah, I used it at work, yeah.

For about two years is my question?---Correct, yes.

You could hardly forget you had it I suggest to you. Do you agree with that?---That's correct.

30 THE COMMISSIONER: And did you use it at home?---No.

Never?---Oh, probably a couple of times and then I just sat it away because my partner, she, she got her own and that was about it.

MR CAMPBELL: I tender the iPod, Commissioner.

THE COMMISSIONER: Yes. The iPod produced by Mr Kelly is Exhibit 44.

40

#EXHIBIT 44 - IPOD NANO PRODUCED BY MR KELLY

MR CAMPBELL: And even if we were to accept at face value that you haven't used it in the last two years you knew you had it, didn't you?---I knew, yeah, I knew I had it but I - - -

Could I have access to Exhibit 31C, Commissioner.

THE COMMISSIONER: Yes.

MR CAMPBELL: There may have been some ambiguity in a question I asked you earlier, Mr Kelly, you accept that you received each of the vouchers which now appear at tab 153 page 1 totalling \$600. Is that correct?---Yes, I think so. I, I think it sounds pretty right. As I said, I didn't keep a, a diary entry or anything of what I kept but that sounds pretty much correct.

10

I'm going to ask that you be shown at which I've opened an exhibit in these proceedings which is Exhibit 31C. Now, you can it from me, Mr Kelly, that that is a record kept by the company R&R Tape of vouchers that they've sent out to people like you. Do you understand?---Yes.

And if you look at the very last entry on that page at which that is open you will see won't you that they say that they sent out two lots of vouchers to you in November and December of 2007, do you see that?---Yes, I do.

20 Totalling \$250, do you see that?---Yes.

You'll see that \$100 went out on 21 November 2007, you see that?---Yes.

And you'll see that \$150 went out on 5 December 2007, you see that?
---Yes.

Yes. And you received both those batches of vouchers, is that correct?---I received \$250, yes, of vouchers but I can't recall receiving them all, I thought they might've turned up all in one go.

30

Well, according to that record they probably turned up pretty close together, that seem right?---Yes, I thought they were sent by mail to my address, I thought the five of them turned up in one hit.

You've got no doubt that you had the five of them by 12 December, 2007 because you gave them to Mr Williams, that's correct isn't it?---Yes.

40 And, Commissioner, I need to put out that there is an error even now on the new schedule which is page 1 of volume 28 and it's an error of transposition, it says that the \$150 batch was sent out on 15 December, it should say 5 December.

THE COMMISSIONER: So there were sent out on 5 December?

MR CAMPBELL: No, Commissioner, \$100 was sent on 21 November - - -

THE COMMISSIONER: Yes. What page must I be looking at?

MR CAMPBELL: Page 1.

THE COMMISSIONER: Page 1, but there are no amounts on page 1.

MR CAMPBELL: The fourth paragraph, Commissioner.

THE COMMISSIONER: I'm looking at tab 53, is that right?

MR CAMPBELL: Tab 153, volume 28.

10

THE COMMISSIONER: Yes.

MR CAMPBELL: Yes. And the fourth column is incentive amount, incentive company.

THE COMMISSIONER: Yes.

20

MR CAMPBELL: And those amounts, Commissioner, I'm looking at them now, there is an error, an error in the date, it should be 5 December which is the second last entry.

THE COMMISSIONER: That's 15 December should be 5 December?

MR CAMPBELL: Yes, Commissioner.

THE COMMISSIONER: Now I have it.

30

MR CAMPBELL: And with 250 which we've written in for the amount of that batch should be 150, at least according to Exhibit 31C.

THE COMMISSIONER: Yes. So that makes a total of \$500?

MR CAMPBELL: Yes, it makes a total of 500 not 600.

THE COMMISSIONER: Yes.

40

MR CAMPBELL: But it means that Mr – and that identifies the \$250 that Mr Kelly admits he had in his possession as at 12 December, 2007 and just before then.

THE COMMISSIONER: Yes.

MR CAMPBELL: Now, could that be returned to the court please, sir. Now, you've already mentioned this, Mr Kelly, but these vouchers were sent to your home address?---That's correct.

Whose suggestion was that?---It was on behalf of R&R Tape. When I had the first – when I had the investigation with Mr Grainger it was said that I

had dealings with Martin and I think I dealt with him a couple of times, I can't remember, but I remembered I had dealings with Doug, that come back to memory probably a couple of months later.

Does the name Doug Quinn mean anything to you?---That's correct.

Is that the name you're looking for?---Yes. Yes.

10 All right. Well, was he the first man who spoke to you about these vouchers?---Yes.

And that was over the phone?---That's correct. The first, the first time I recall is when I first got into the store, when I first took over from the previous storeman we were buying some white disposal tie-back pants apparently, that was - - -

You used them for an old patcher that was messy. Is that right?---Instead of getting tar all over the boys trousers, we used the - - -

20 Mr Kelly, I now this is an anxious moment for you but I really need you to, to redirect you to my question which was what did Mr Quinn say to you when he first mentioned the vouchers to you?---The first time he said I've got a, the first time I dealt with him he asked whether I received a Drizabone coat, which I, which I didn't. And he said, with this purchase to make sure you get some vouchers, I'll send them to your home address. And I provided him with my home address. That's how he received it.

All right. So you, you've answered two questions there. You say you never received a Drizabone coat from them?---That's correct.

30 Never at any time?---No.

Whatever their records say?---Yes.

You – but you gave him your home address, he said to make sure you could get them. Is that right?---Yes.

Well part of the reason why was to keep it secret wasn't it?---Yes.

40 Because I mean you knew, because you'd received training that the council had a gift and benefits policy didn't you?---Yes.

And you knew that, that staff involved in purchasing roles under that policy were not entitled to accept any form of gift, token or non-token. That's so isn't it?---I'm not sure about that one. I just, I just remember reading the first, the first one I done back in 2002, was, it had something to do with anything over \$50 had to be put in a gifts register or, or told supervisor/manager.

Well if you had, if you felt, if you truly thought you could take \$50 why didn't you just tell him to send it to work and you'd put it in the register? Why didn't you tell him that?---In saying that now I should have, I wouldn't have been in this situation.

Well undoubtedly that's correct isn't it?---That's right.

10 Now – and you knew that by directing them to your home, whether or not you were going along with Mr Quinn, you were breaching the policy. You knew that didn't you?---That's correct.

And you knew you were doing the wrong thing to boot. That's correct isn't it?---Yes.

20 You thought by them going to your home no one at council need find out. Is that correct?---That's right. I sort of kept them without council knowing, but we had a picnic, an annual picnic day and I know that we used, I cashed a couple of the vouchers in for the picnic day for alcohol, a couple of the Liquorland vouchers. And I didn't tell, I told the organisers that we received a donation, I didn't tell them anything about a card, but I said we've received some alcohol for the picnic day.

That must have been one or other of the, of the Liquorland vouchers that the records indicate you received. Is that right?---That's correct.

30 Well you see when you saw Mr Grainger, who you remember well, on 21 October, 2010, you certainly knew you'd got that iPod we've seen. Correct?---I couldn't recall on that day because I knew, I didn't know I had (not transcribable) on that day, but I couldn't remember that I received just back along the track probably two months ago, that's when I was going through some paperwork in the house and that's when I come across the invoice and that jogged me memory to say that I received the, that I had the iPod in my possession and that when I said that I didn't have the heart to ring Mr Grainger it was because I thought that if I phoned up that I'd be, everyone would be thinking I'll be changing my evidence, so - - -

Well you are changing your evidence aren't you?---No.

40 You're changing your evidence from what you told Mr Grainger on 21 October, 2010 aren't you?---All I'm saying that when he asked me about the - - -

No, no, answer my question. You are changing your evidence aren't you? ---I am now, yes.

Now, you see, you've already agreed with me not so long ago this afternoon that you knew you had the iPod at all times. Are you expecting the

Commissioner to believe that on a single day, 21 October, 2011, you had a lapse of recollection about that?---Yes.

Well, you, you had the interview with Mr Grainger on that day in the presence of a, of your superiors at work, did you not?---Yes.

You had it in the presence of the construction coordinator who's your direct superior, is that correct?---No, he's the union delegate.

10 He's the union delegate, I see?---Yes.

And you had it in the, in the, in the, in the presence of the general manager? ---That's correct.

That's correct. And, and you, you agreed to those persons being present when Mr Grainger interviewed you, didn't you?---Yes.

20 And I suppose that the union delegate was there to give you support, is that right?---Yes.

And the general manager was there to find out what was going on?---That's correct, yes.

Could it possibly be, Mr Kelly, that you wanted to downplay your part in this in the presence of the union delegate and the general manager because you didn't want them to find out at work about these things?---No.

30 I see. But you're telling me that that, that wouldn't explain this sudden loss of recollection you had on that particular day. Is that right?---It was because I haven't used the iPod for so long.

Oh, Mr Kelly, you don't really expect us to accept that you're being sincere when you say that do you?---(NO AUDIBLE REPLY)

Do you?---I hope youse do but by the sound of it youse don't.

40 Well, it's a bit hard to - well, it's a bit hard, isn't it, to, to accept from you, given that you knew this was wrong, given that you'd done it to keep the matter secret from those at work, that you didn't have a convenient loss of recollection Mr Grainger directly asked you about the Harvey Norman vouchers. You'd accept that's a reasonable position, wouldn't you?---Yes.

And he did ask you directly about the Harvey Norman vouchers didn't he? ---Yes.

And you lied to him about them didn't you?---No, I said I couldn't recall receiving the vouchers at that time.

That was a lie, wasn't it?---No.

It's a bit hard to accept, isn't it, that a man wouldn't recall receiving vouchers totalling \$250 which he used towards the cost of a consumer item, you'd accept that from me, wouldn't you?---Yes.

And that's because the truth is that you didn't want to 'fess up to it at that time not only to ICAC but to your boss, that's right, isn't it?---Yes.

10 Okay. Well, why didn't you tell me that, Mr Kelly, when I asked you the first time, hey?---(NO AUDIBLE REPLY)

Well, you have to answer that? It would have, would have been better?---It would have been a lot easier, yes.

All right. I have no further questions, Commissioner.

MR PATTERSON: I have no questions.

20 THE COMMISSIONER: Yes. Thank you, Mr Kelly. You may be excused.

THE WITNESS EXCUSED

[12.28pm]

MR CAMPBELL: We're moving to Bathurst now, Commissioner, and my next witness is Mr Graham Gibbons.

30 MR NAYLOR: Commissioner, I appear for Mr Gibbons.

THE COMMISSIONER: Yes, Mr Naylor.

MR NAYLOR: He'll take the declaration if the Commission pleases.

40 THE COMMISSIONER: Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by Mr Gibbons 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 GIBBONS 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: Mr Gibbons, you're obliged to answer all questions asked of you and it is a serious criminal offence either to refuse to answer or to give false answers. You understand that?

10

MR GIBBONS: Yes.

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

MR GIBBONS: Affirm the truth.

<GRAHAM GIBBONS, affirmed

[12.29pm]

THE COMMISSIONER: Yes, Mr Campbell.

MR CAMPBELL: Thank you, Commissioner. The evidence in relation to this segment is in folder 22, Commissioner.

THE COMMISSIONER: Thank you.

10

MR CAMPBELL: Mr Gibbons, are you Graham Gibbons?---Yes.

And are you an employee of the Bathurst Regional Council?---I am.

And have you been employed by that Council since 21 November, 1977?---I have.

Now, in what position are you employed?---Classified as a Sewer Technician.

20

And in the course of that job do you have the need for products that come out of the store at Bathurst?---Yes.

And amongst the products that you use do you have products which are supplied to the Council by Momar Australia?---That's correct.

All right. And you understand, sir, don't you that you are here giving evidence today in the matter in relation to a contention that you have received gift vouchers from Momar Australia?---Yes.

30

And you understand, don't you, through your lawyers that we contend that the total amount you've received is \$1,650? Do you understand that's what we say?---Yes.

And we say that you've received those amounts over the period 12 April, 2007 to 25 November, 2010?---I believe that's correct.

Yes. Now, firstly, do you accept that's the period during which you received the vouchers?---Yes.

40

Do you question the total amount that we assert?---There's, I believe there's an issue that I was given five vouchers at one time and I never received five at any one time, it was only ever four.

All right. You received as many as four, you have no recollection of getting five, is that correct?---That's correct.

And when you say no recollection you mean you don't believe you ever received quite that many, is that - - -?---I received in lots of four but I've never received a lot of five at one time.

Okay. Mr Gibbons, you didn't make a note of when they came?---No, I didn't.

And you didn't keep a record of the total amount?---No, I didn't.

10 You'd accept from me, wouldn't you, it makes it very hard for someone in your position to contradict what the records suggest about the amount paid?
---Yes, it does, yes.

THE COMMISSIONER: But does the amount sound more or less correct give or take \$100 or so?---Yes. I believe it's correct but in the year 2007 I did share with my work colleague at that time.

You shared?---Yes.

20 Meaning?---We went halves in the vouchers but he has, he died almost three years ago.

I see.

MR CAMPBELL: You've mentioned that person's name in the statement you gave pursuant to section 21 of the ICAC legislation, is that correct?
---Yes.

30 That statement, Commissioner, is behind tab 121 and it's page 11 of the folder. Now, you were not a person who had any delegation to order goods in your own right on behalf of the Council were you?---No.

And for you to order goods you had to contact your supervisor who had the relevant authority, is that correct?---That's correct.

40 How did you come into contact with salespeople from Momar Australian then?---I believe just by memory that he attended the stores to deal with them regarding purchasing other products and just by memory I think they contacted me because of the chemicals that we used at our pump stations.

When you say they contacted you was that the store or the sales - - -?---The store, the store, sorry, yes.

Do you know who the salesman was?---Jody Parker.

And at any time did you meet him?---Yes, over the years I met him several times, he would check in with us to see how things, if the product was working and if we needed any more.

Well, when you say he'd check in with you would he visit you at your place of work?---Yes.

And that would be out in the field, is that correct?---Whether it be at the depot or at a pump station or somewhere, yes.

All right. And when he was coming how would he contact you to let you know he was coming?---He'd ring our work phone.

10

Well let's suppose you were at the pump station, would he ring the pump station or would he ring the depot?---Oh no, he, the pump stations haven't got a phone. He would ring the mobile phone in our work truck.

I see. All right. So he had that number?---Yes.

And he could approach you direct?---Yes.

20

And he'd talk to you about all the products that were running low and that sort of thing. Is that correct?---Yes, that's correct.

All right. Now he, you told us that you shared them with Mr Merris, I'll withdraw that, Commissioner, with your co-worker until he died in 2009. Is that correct?---I think that's a late, I think he died early, early '09, I think it was.

Okay. But you were the one who received them. Is that correct?---Yes, they were sent to me.

30

And was this just a, was this, was this your idea of a fair thing giving some of them to your colleague or did you have an arrangement about it?---No, it was, I believed a fair thing between us.

All right. But, but when he passed away you kept them yourself. Is that right?---Yes.

THE COMMISSIONER: Were they sent to you to your home?---Yes, they were.

40

MR CAMPBELL: And could we take it that you gave Mr Parker your home address for that purpose?---No. He lives in Bathurst as well. And he said to me one time, he said, was this my home address. He must have seen my work truck parked out the front of my residence.

I see. So he checked it with you?---Yes.

Did he tell you why he was asking that question?---I believe he said something like, oh I'll just send you a little thank you.

All right. And was that when the first one came?---Yes.

Well when you got the first one did you contact him and ask him what this was all about?---Not initially after that but next time that he caught up with us and I did say to him, you don't need to do this.

10 And what did he say when you said that?---I believe he said something like, oh, it's okay, it's just a small thank you for being a loyal customer. That type of thing.

Well – but why did you say to him, you don't need to do this?---Probably because it could be construed as an incentive or something like that.

It certainly looks like that doesn't it?---Yes, it does.

20 And a small thank you wouldn't translate into the \$200 lots that you remember receiving either would it?---Yeah, it was a pretty good thank you, I suppose.

Yes. Can we take it sir that you, that you used these gift vouchers in the ordinary course of your domestic life to buy things for home?---Yeah, just groceries and things like that. That's all.

And now you, you were aware weren't you, I'll withdraw that Commissioner. Although you were a long standing employee at the council, at some time during your performance of your work you became aware that council had a Code of Conduct. Is that correct?---Yes, that's correct.

30 And you appreciated, sir, didn't you that the Code of Conduct dealt with matters such as personal benefits and gifts?---Yes, that's correct.

All right. I mean indeed one of the ways in which you learnt about that was when council adopted its Code of Conduct in about 2006, it, it drew it to everyone's attention by providing information about it in the staff newsletter. That's right isn't it?---Yes, occasionally there would be a, a small note in the newsletter about that subject.

40 All right. And one of the, one of the small notes in the newsletter would be specifically about the gifts and benefits policy. That's so isn't it?---Yes.

Would you look at, would you look at this document, and I've opened it at a certain page. And just ask you whether you identify that as a newsletter you received and whether you read it?---(NO AUDIBLE REPLY)

Do you see where it says there on the first column just down from the top "Gifts policy"?---Yes.

Now did you, do you recall receiving that newsletter?---I can't recall receiving this exact one but I have seen them occasionally attached to our payslips?

All right. And when you've got them have you read them from time to time?---Oh, I've glanced at them, I wouldn't say I've read them fully.

All right. I, I tender that document, Commissioner.

10 THE COMMISSIONER: Yes. Exhibit 45 is BRC News of 31 August, 2006.

#EXHIBIT 45 - COPY OF BRC NEWS DATED 31 AUGUST 2006

MR CAMPBELL: Thank you. Sir, you understand don't that the gift, the gift, the gift and benefits policy, I'm sorry, provides amongst other things that no member of staff may accept an offer of money regardless of the amount. That's so, isn't it?---Yeah, I believe so, yes.

And, and without making things - I'll withdraw that. A gift voucher's just like money isn't it?---Yeah, in hindsight, yes, it is.

I understand that it's all come to light now and you can see, you can see this but had you stopped at the time and thought about a voucher that you could use in Coles or shops related to Coles you would have realised it was just like having a \$50 note, wouldn't you?---Yeah, effectively, yes.

30 And, and you knew the policy said that, that you must not - in general you must not accept gifts and benefits that had more than a nominal or token value, you understand that, don't you?---Yes.

And that, and that gifts, gifts were to be refused unless they could not reasonably be refused, that's so, isn't it?---Yes, I believe so.

And you, you could have, you, you could have said to Mr Parker, Mr Parker I, it's just not right for me to receive these things, I'm giving them back to you or stop sending them. You could have said that?---Yeah, I could have and should have.

All right. Now, would you look at this document, it's another newsletter. It's got a highlight on it which it wouldn't have had when you received it so I'll give you another copy?---Thanks.

There's no highlight on that one. That's again one of the type of newsletters you received sometimes with, with your pay packet, is that right?---(NO AUDIBLE REPLY)

And at the bottom of that page it says "Important notice, council has accepted the gifts policy." Do you see that in the box, first column, second page?---Oh, yeah, I see that, yeah.

All right. And then the gift policy is attached, do you see that?---Yes.

And the points I've asked you about are at the top of the second page, do you see that?---Is that the points for the policy is it?

10

Yes. Now, when this came out – I'm sorry, do you see there's bullet points at the top of the page?---Yes.

Second page of the policy. And they're the things I was asking you about, do you know that or not?---Yes, I am aware of it now.

All right. Now, when you got this newsletter did you read the policy that had been adopted?---I can't remember whether I read it fully or just partially.

20

All right. I tender the newsletter of 12 October, 2006, Commissioner.

THE COMMISSIONER: BRC News of 12 October, 2006 is Exhibit 46.

#EXHIBIT 46 - COPY OF BRC NEWS DATED 12 OCTOBER 2006

MR CAMPBELL: And it's true to say, isn't it, for what's it worth that you've never recorded any of these vouchers on the Gifts and Benefits Register?---No, I didn't.

30

All right. Tell me, sir, why did you do this, why did you take these vouchers?---Being a bit silly I suppose. That's basically it.

THE COMMISSIONER: Did you need the money?---Not really, no. I suppose it was just a little extra.

40

MR CAMPBELL: I suppose a little bit extra is always handy?---Yes, yes.

How do you feel about it now?---Obviously it was the wrong thing to do and I should've said no straightaway instead of saying you don't have to do this.

THE COMMISSIONER: Did you find it difficult to say no?---Oh, no I could have said no, but I was, as I say I was silly and didn't say that.

MR CAMPBELL: What sort of personality type did Mr Parker have? Do you know what I mean?---He's a friendly person. Very much a salesman. He's not a overly forceful person. I believe if I had of said no, he would have stopped.

When you said a little thank you do you think that was said to reassure you that it was okay?---Possibly, yes.

10 Now has anything happened at work in relation to these matters?---I haven't been interviewed y et.

All right. Do you have, have you been told you will be?---Not yet, but I probably expect it.

Your expectation is that they'll take it up with you some time soon?---Yes.

20 I have no further questions, Commissioner. Pardon me. You said in your statement that he offered you a pressure cleaner. Did you get the pressure cleaner?---It did arrive, but a couple of days after he said that there was a special, I suppose you'd call, say the word, on the pressure cleaner. I felt better of it and I rang him and said, no, I don't want the pressure cleaner. But it still did arrive and then I took it work to use at work.

Did it arrive at your home?---Yes.

And you were able to say to him no for that one?---Yeah.

30 It seems like not the same as cash?---Yeah, I know, it's the same sort of thing, but different, but I did say no at that time.

But it didn't make any difference to his behaviour?---Yeah, I don't know whether, whether he had ordered it and it'd been sent or what, I don't know what happened.

THE COMMISSIONER: But he still kept sending you vouchers?---Yes.

MR CAMPBELL: When did you receive the last voucher from him? Has that ceased now or not?---Yes, it has ceased.

40 The last date we have is 25 November, 2010, so about 11 months ago? ---Yeah, I think it was about that time.

Nothing further, Commissioner.

MR CAMPBELL: Yes, thank you. Are there questions Mr Clay?

MR CLAY: Yes, a couple. Mr Gibbons, I'm here for the council, your, your employer?---Yeah.

So just to put things in context, the pressure cleaner was therefore the last gift that came from Mr Parker to you. Is that right?---Yes.

All right. Thank you. And just by way of clarification, the BRC News, that's a newsletter that comes with your payslip. Is that right?---Yeah, there's usually every week there's a, mostly a one sheet newsletter with just general information to keep everyone updated on minor little things that's happening.

10

All right. Apart from what the ones that Mr Campbell has shown you today, do you recall that from time to time in the newsletter there would also be mention of the gifts policy?---There's various different things that they mention on it, on them at times, yes.

Including the gifts policy so far as you recall?---As far as I recall, yes.

Right. Thank you, Commissioner.

20 THE COMMISSIONER: Thank you, Mr Clay. My Naylor?

MR NAYLOR: May I just indicate this, Commissioner, Mr Gibbons has provided me with a number of invoices which assisted him the preparation of his statement of information. They're not otherwise already in evidence. They're available to the Commission if needs be.

THE COMMISSIONER: Well just show them to Mr Campbell.

30 MR CAMPBELL: I have no objection to my learned friend using them, Commissioner. We've got information from the council with the Momar invoices. I think my learned friend has told me that there are, that he's got some that perhaps may not be in the list that we've got.

MR NAYLOR: It's really for the sake of completeness, Commissioner. There are a number of invoices already in evidence and these are additional.

THE COMMISSIONER: Then Mr Naylor, I don't want to keep Mr Gibbons here unnecessarily.

40 MR NAYLOR: No.

THE COMMISSIONER: I take it you have no objection should Mr Campbell at a later point in time wish to tender any of those invoices?

MR NAYLOR: Of course, Commissioner.

THE COMMISSIONER: No. Thank you.

MR NAYLOR: I have no questions.

THE COMMISSIONER: No questions. Thank you, Mr Gibbons, you're excused?---Thank you.

THE WITNESS EXCUSED

[12:49pm]

10 MR CAMPBELL: Commissioner, we're making quicker progress than I anticipated last evening. One more witness to go and then Mr Harman's matter, which we dealt with on the papers.

THE COMMISSIONER: Yes.

MR CAMPBELL: I wondered whether you'd take an early break.

THE COMMISSIONER: Yes, certainly.

20 MR CAMPBELL: Thank you, sir.

THE COMMISSIONER: So do we adjourn till 2.00pm?

MR CAMPBELL: Till 2.00, Commissioner.

THE COMMISSIONER: Yes.

LUNCHEON ADJOURNMENT

[12.50pm]

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