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PUBLIC
HEARING

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INDEPENDENT COMMISSION AGAINST CORRUPTION

THERESA HAMILTON ASSISTANT COMMISSIONER

PUBLIC HEARING

OPERATION JARAH

Reference: Operation E13/0494

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON WEDNESDAY, 21 JANUARY 2015

AT 10.06AM

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

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

ASSISTANT COMMISSIONER: Thank you, please be seated. Mr Sutton.

MR SUTTON: Sutton, thank you, Commissioner. Before we commence with witnesses there's just one issue I'd like – well, a couple of issues. One thing I'd like to examine, at page 180 of the transcript of Mr Burke's yesterday at line 26 there seems to be an answer that's been credited to me which on reading the document it seems more logical it's actually Mr Burke, nothing dramatic turns on it. Your Honour – sorry, Commissioner, you ask a question, "I'm sorry, are you putting," sorry, it commences above, "Do you understand that what's being put are removed from the vehicle" and then it says "Mr Sutton: Yeah". To me I don't know if the transcript can be checked but it looks like it's more logical it's Mr Burke.

ASSISTANT COMMISSIONER: Well, I think what I actually said was is what's being put that Mr Cresnar removed the cheques from the vehicle and you - - -

MR SUTTON: That's the question before.

ASSISTANT COMMISSIONER: - - - responded, "Yes".

MR SUTTON: That's the question before.

ASSISTANT COMMISSIONER: Oh, was that the one before?

MR SUTTON: Yes.

ASSISTANT COMMISSIONER: So - - -

MR SUTTON: As I say nothing greatly turns on it - - -

ASSISTANT COMMISSIONER: No.

MR SUTTON: - - - but it just seemed to me it's more logical that Mr Burke - - -

ASSISTANT COMMISSIONER: Well, we'll have a look at that and correct the transcript if it's important.

MR SUTTON: Thank you. There is one other thing that I've alerted Mr Marney to. Mr Bastow made comment about reapplying to the panel. I am presuming, I have no information, that the Commission would have sought from Ausgrid any applications that Mr Bastow made to Ausgrid to return to the panel at or about when he was first removed from it or when his Standing Order Deed expired and subsequent to that. I am requesting that the Commission provide me with any copies of applications made by Mr Bastow or Bastow Civil Constructions or however those two legal

entities might be referred to, in relation to their applications to re-join the Ausgrid panel.

ASSISTANT COMMISSIONER: Do you know what year this would have been?

10 MR SUTTON: I'm asking for any that are in the possession so from his first application up until the most recent application before the commencement for this Commission or tender period I should say for the Commission.

ASSISTANT COMMISSIONER: I don't know that it's a particularly relevant issue, I don't know that we would have sought information of that kind. Do you know, Mr Gartelmann, whether we - - -

20 MR GARTELMANN: In short the answer is no, Commissioner. I'm not aware even whether or not we have that information but I can make an inquiry and we can make a determination as to whether it's of sufficient relevance having regard to the scope and purposes of the inquiry and we'll make a decision as to whether or not that material's to be provided.

ASSISTANT COMMISSIONER: Yes, all right. Thank you for that. Is that all, Mr Sutton?

MR SUTTON: Ah, I think it is.

ASSISTANT COMMISSIONER: Yes, all right. Yes, Mr Gartelmann.

30 MR SUTTON: Oh, sorry, there is just one other issue, I just make this point. On reading the transcript I saw that there was a mobile phone number that was present in there. I've spoken to an officer of the Commission who tells me that that is a work number and the decision has been made on that basis to leave that in. I called it this morning because I had no idea whether it was live or not, it was apparently the ex-work number of Mr Cresnar.

ASSISTANT COMMISSIONER: So he's taken it with him?

MR SUTTON: No, no, no. It remained - well - - -

40 ASSISTANT COMMISSIONER: Oh, it remains with Ausgrid, somebody - - -

MR SUTTON: Well, I presume it remains with Ausgrid, it was answered by a female person.

ASSISTANT COMMISSIONER: Right.

MR SUTTON: I didn't know who that person was, I simply made the observation I must have dialled the wrong number to be frank and we hung up. It's just that it's in the transcript. If people choose to phone those numbers, I don't know who they're phoning, I don't know if it's remained with Ausgrid. I make that observation only.

MR GARTELMANN: I might just if it's suitable get Mr Sutton to confirm that that is a number ending with the numerals 8-6-6?

10 MR SUTTON: Yes. Page 151.

MR GARTELMANN: I can confirm that that is a work phone allocated by Ausgrid, so there may be no difficulty with that.

ASSISTANT COMMISSIONER: Yes. All right. Yes.

MR GARTELMANN: There has been one volume of material relevant to corruption prevention issues tendered to date. There is a second volume of material comprising statements in the form of a bundle which I would seek
20 to tender at this stage so that it can be made available to the representatives of Ausgrid.

ASSISTANT COMMISSIONER: So this is a tender bundle of statements, is it?

MR GARTELMANN: That's correct.

ASSISTANT COMMISSIONER: Yes. All right. Well, that will be Exhibit, I don't have my exhibit list but I think it's 15.
30

#EXHIBIT 15 - CORRUPTION PREVENTION STATEMENTS

ASSISTANT COMMISSIONER: Yes, Mr Gartelmann.

MR GARTELMANN: Commissioner, I call Mary Burke.

ASSISTANT COMMISSIONER: Yes. Is Mrs Burke here?
40

MR STORIE: Yes, she is, Commissioner. Would you like me to bring her in or – she's just outside.

ASSISTANT COMMISSIONER: Well, can somebody go and get her?

MR STORIE: Yes.

ASSISTANT COMMISSIONER: Just take a seat, Mrs Burke.

MR STORIE: Commissioner, I appear for Mary Burke. I make the usual application with respect to section 38 of the Act.

ASSISTANT COMMISSIONER: And your client understands the effect of that?

MR STORIE: She does.

10 ASSISTANT COMMISSIONER: Yes. Thank you.

Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by this witness and all documents and things produced by her during the course of her evidence at this public inquiry are to be regarded as having been given or produced on objection. There is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

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

30 ASSISTANT COMMISSIONER: Mrs Burke, you are required to take an oath on the Bible or make an affirmation to tell the truth. Do you have a preference?

MRS BURKE: On the Bible's fine.

ASSISTANT COMMISSIONER: Thank you. Mrs Burke, you seem to have a quiet voice, could you sit closer to the microphone and try to keep your voice up when you're answering?---Yeah.

Thank you. Yes, Mr Gartelmann.

10 MR GARTELMANN: Your full name is Mary Magdalene Burke?
---Yes.

And you're married to Eamon Burke?---Yes.

Your husband is the sole director and shareholder of a company named Cloughcor Pty Limited?---Yes.

20 Although it's recently changed its name to Burke Pipe & Civil. Is that right?---Yes.

And your husband set up that business in about 2006?---Yes.

And thereafter it did work on a subcontractor basis for another company called Diona Pty Limited?---Yes.

You're aware aren't you that since about 2012 or 2013 your husband has employed staff to do admin- - ?---Yes.

30 - - -in his company?---Yes.

But back in 2011 you assisted him with the admin?---Yes.

You had – I withdraw that. Cloughcor did not employ admin staff back in 2011, did it?---No.

Am I right in understanding that you have qualifications in business?---Yes.

What are those qualifications?---Business studies.

40 Sorry, the microphone cut out there for a moment, business studies, was it?
---Yes.

All right. Is that a university degree or a- - ?---Yes.

All right. Back in 2011 did you have any role in the operations of Cloughcor Pty Limited?---Yes.

By that I mean the work that it actually carried out for Diona Pty Limited?

---No.

All right. Your role was restricted to admin duties?---Yes.

You paid the wages of other staff?---Yes.

Did you pay some invoices of Cloughcor Pty Limited?---Yes.

10 So you would have had dealings with other Cloughcor Pty Limited employees. Correct?---Yes.

But you would have had no involvement with Ausgrid officers for whom Diona may have performed work?---No.

Did your admin duties require you to go through statements relating to the bank accounts kept by Cloughcor Pty Limited to reconcile expenses paid out of those accounts?---Um, to a term limit. Um, I filled out certain details and I passed them off to the accountant.

20 Back on 2011 Cloughcor Pty Limited had bank accounts with the Commonwealth Bank didn't it?---Yes.

It had a cheque account. Correct?---Yes.

As well as an on-line saver account?---Yes.

Those accounts were used for business purposes only weren't they?---Yes.

30 By that I mean the purposes of Cloughcor Pty Limited?---Yes.

You had other accounts elsewhere for the personal use of yourself and your husband?---Yes.

Now the bank would send statements relating to Cloughcor Pty Limited's accounts with the Commonwealth to your home. Is that right?---Yes.

You'd receive the statements. Correct?---Yes.

40 And you would go through the statements to make sure that the transactions recorded on the statements were for proper purposes for Cloughcor Pty Limited?---Yes.

You had access to Internet banking for the Cloughcor Pty Limited accounts with the Commonwealth too?---Yes.

You had access to on-line banking yourself personally?---Yes.

By that I mean you had a user name and a password?---Ah hmm.

And so you could transfer funds between the two accounts Cloughcor kept with the Commonwealth Bank?---Yes.

Now when you were going through statements relating to Cloughcor's accounts sent by the bank, I take it there would be expenses of some kinds that you would become familiar with?---Yes.

10 And there would be some expenses that you were not familiar with?---Yes.

And bearing in mind that you had no involvement in the operations of Cloughcor Pty Limited other than for admin purposes, if you weren't familiar with a particular expense you'd ask your husband about that expense?---Yes.

He being the sole director and shareholder of the company?---Yes.

20 And your husband would then tell you what the expense was for. Correct? ---Yes.

And at the end of each accounting period or perhaps at the end of the financial year you'd go through all of the statements relating to Cloughcor's accounts and you'd write them up with a handwritten note in relation to each transaction describing what it was for?---Yes.

30 All right. And then that information, that is the bank statements with your handwritten notes on them would be sent on to the accountant who prepared Cloughcor Pty Limited's annual returns for tax purposes and the like? ---Yes.

Some of the transactions you would see on the statements when they came in related to cheques paid out of the cheque account?---Yes.

And generally speaking the transactions as recorded on the statement would simply have the cheque number- -?---Yes.

- - -and the amount. Correct?---Yes.

40 You wouldn't know anything about where that cheque had gone or what that payment was for from looking at the statement, would you?---No.

So you'd have to ask your husband about it?---Yes.

Your husband was the sole signatory to the cheque account- -?---Yes.

- - -Cloughcor kept with the Commonwealth Bank?---Yes.

Only your husband was writing cheques- -?---Yes.

- - -on the Cloughcor Pty Limited cheque account?---Yes.

So only your husband would know where the cheques – I withdraw that.
Only your husband would know what the cheques were used to pay for?
---Yes.

10 I want to ask you to look at a copy of one of these statements that we've just
been talking about. Do you see before you a copy of a page of a statement
from the Commonwealth Bank?---Yes.

And you'd accept that that relates to the account of Cloughcor Pty Limited?
---Yes.

Now, I want to draw your attention to the next page, about three-quarters of
the way down the page you'll see where the cursor is now beside a date
entry, 27 May?---Yes.

20 And beside that you'll see the numerals 0-0-0-1-1-9?---Yes.

And you understand that that is a cheque number?---Yes.

And over to the right on the same line in the debit column you'll see the
figures \$60,024?---Yes.

And you understand that that reflects that a cheque in the sum of \$60,024
was used to pay for something causing Cloughcor's account to be debited
by that sum of money?---Sorry, can you repeat that again?

30 You understand that that reflects that a cheque in the sum of \$60,024 was
used to pay for something causing Cloughcor Pty Limited's account to be
debited by that sum of money?---Yes.

Does that appear to you to be a relatively large sum of money for a cheque
- - -?---Yes.

- - -to be drawn on the Cloughcor Pty Limited account? It is, isn't it?
---Yes.

40 So no doubt when you saw as you were going through the statements to
reconcile expenses, you saw that amount- - -?---Yes.

- - -it would have made you wonder what it was used to pay for?---Yes.

Is that right? And did you ask your husband about it?---Yes.

What did he say?---Um, I can't remember back then but he did say that um,
it was obviously for materials or something and he'd get back to me.

If you have a look over on the next column on the right on the same line in the balance column, do you see that it records that the figures \$41,173.14 and beside that the letters dr?---Yeah.

That reflects doesn't it that that cheque caused the Cloughcor Pty Limited account to be overdrawn by more than \$40,000?---Yes.

10 And that was a fairly significant sum of money for the account to be overdrawn by, isn't it?---Yes.

And that would have caused some alarm to you when you saw that the account was overdrawn to that extent?---Ah, no.

Why not?---Because we didn't have an overdraft with the Commonwealth Bank and obviously Eamon had used it 'cause we were working while he was growing his business and buying materials, the job was running, the cost.

20 ASSISTANT COMMISSIONER: I'm sorry, did you say you did have an overdraft?---No, we had no overdraft.

Right?---No overdraft.

So that it would have alarmed you that the account was overdrawn?
---Yeah, but it was because he bought obviously something or used- - -

30 How would you have found out that the account was overdrawn?---On the bank statement.

No, but it was, it was put right a few days later and the statement didn't come till the end of the month?---Oh, internet banking.

So you, you go on every day, do you, to check the balance?---Not every day but - - -

Is that how you think you would have found out about this, being overdrawn?---The - yes, being overdrawn.

40 Well, is it possible that your husband's told you that he provided a large cheque and that you'd have to transfer money?---No.

He didn't at the time?---No.

Thank you, Mr Gartelmann.

MR GARTELMANN: So I take it then you were in the habit of going online, checking the account balance every day or two, is that right?---Yes.

Because if we have a look at the next entry down from the one I've just been showing you, the first entry for the date 30 May, do you see beside that the words "NetBank TFR" which stands for transfer?---Yes.

And then just beneath those words "Online saver"?---Yes.

So that reflects doesn't it that someone made a transfer from the online saver account to your cheque account?---Yes.

10

And if we look over on the right-hand side in the credit column we see the figure \$60,000?---Yes.

And that reflects doesn't it that you've made a transfer, well, I'm sorry, someone has made a transfer - - -?---Yes.

- - - from the online saver account to the cheque account three days after that cheque was paid out of the account?---Yes.

20

All right. And am I right in understanding that transfers on the Cloughcor Pty Limited accounts or between the accounts would be conducted primarily by yourself?---Yes.

Your husband didn't do online banking?---No.

And no one else had access for the purposes of online banking?---No.

So it would have been you that made that transfer?---Yes.

30

The transfer occurred three days after the cheque was paid out?---Yes.

So you must have become aware that the account was overdrawn by more than \$40,000?---Yes.

And you quickly took some steps to rectify that didn't you?---Yes.

40

So you must have been a little bit alarmed that the account was overdrawn by that sum of money?---I was, that's what I had said previously, that Eamon has obviously bought materials or something for the business because there was lots going out (not transcribable) business.

All right. I'm going to ask you look at another document now, page 1398. You see before you a copy of another bank account statement?---Yes.

And you'd accept that that relates to the Cloughcor Pty Limited account?---Yes.

Can I draw your attention to the top entry on the list of transactions, you can see the cursor is beside the date 27 May, 2011 (not transcribable)?---Yes.

And just beside that you'll see under the heading Transaction Description the cheque number we talked about a moment ago?---Yes.

And then over to the right in the debit column we see that figure \$60,024, correct?---Yes.

10 And then to the right of that there is some handwriting and it says "Materials", do you see that?---Yes, yes.

Now firstly, that's your handwriting isn't it?---Yes.

You would have had no knowledge about what that cheque was used to pay for apart from what your husband told you?---That's correct.

Your husband must have told you that cheque was used to pay for materials?---That's correct.

20

All right. Did it strike you at the time as being a rather large amount of money to, for Cloughcor Pty Limited to pay out for the purposes of materials?---I don't remember back then but not really, no.

Weren't the payments for materials typically in the order of hundreds of dollars, not tens of thousands of dollars?---For materials?

Yes?---It would hundreds of thousands.

30 Hundreds of thousands?---Or tens of thousands, sorry.

Right. All right. Well, I want to ask you about another transaction now. Can I ask you to have a look at this document, page 1394. Do you see before you another copy of a page of a statement for the Cloughcor Pty Limited account?---Yes.

And about halfway down that page where the cursor is now do you see the date entry 20 April, 2011?---Yes.

40 And beside that a cheque number 000111?---Yes.

And then over to the right in the debit column the figure \$5,810?---Yes.

And beside that in handwriting the words "haulage hire"?---Yes.

Again that's your handwriting?---Yes.

You would have had no knowledge about what that cheque was used to pay for apart from what your husband told you?---That's correct.

Your husband must have told you that that cheque was used to pay for haulage hire?---That's correct.

Did it strike you that that sum of money was large relative to other payments of Cloughcor Pty Limited for haulage hire?---No.

10 Weren't they typically in the order of hundreds of dollars rather than thousands of dollars?---It all depends.

But I'm asking you about generally?---How much would haulage hire be?

Yes?---It could be thousands.

All right. I'm going to ask you to look at another copy of a page of a statement. Page 1400. You have before you a copy of another page of a statement of Cloughcor Pty Limited?---Yes.

20

Its account I should say. And I want to draw your attention to the second in the list of transactions there. Beside the cursor now you'll see the date entry 2 May – I'm sorry, 20 June, 2011?---Yes.

And beside that the figures 000123?---Yes.

The cheque number. And beside – over to the right of that we see in the debit column the figure \$21,093. Do you see that?---Yes.

30 And then beside that to the right the word "materials"?---Yes.

That's your handwriting?---Yes.

You would have had no knowledge of what that cheque was used to pay for apart from what your husband told you?---That's correct.

Your husband must have told you that that cheque was used to pay for materials?---Yes.

40 Can I just draw your attention to another entry about three-quarters of the way down the page there?---Yes.

The cursor now – just one line above please. Sorry, two lines down now. That's it. Do you see the date entry there 20 June, 2011?---Yes.

And beside that a NetBank transfer or the words "NetBank tfr" meaning transfer?---Yes.

And over to the right of that we see a figure of \$2,145?---Yes.

And beside that you've written, I take it it's your handwriting, "haulage hire"?---Yes.

Were haulage hire payments for Cloughcor Pty Limited typically done by way of NetBank transfer?---No. They could've been done NetBank transfer or cheques but mainly cheques.

10 Did you use the one firm to hire haulage services?---No, there was quite a few.

All right. Please excuse me, Commissioner. Mrs Burke, when you went through the statements of Cloughcor's accounts to check these expenses - - - ?---Yes.

- - - and you wrote them up in the way that we've just seen - - -?---Yes.

- - - you provided that information to your accountant?---Yes.

20

Or to Cloughcor Pty Limited's accountant?---Yes.

Now you would have also had to have provided to your accountant invoices or receipts in relation to Cloughcor Pty Limited's expenses for tax purposes. Correct?---Yes.

30 So when you went through the statements and you checked these expenses resulting in funds going out of the Cloughcor Pty Limited accounts, you would have reconciled those expenses with invoices and receipts, wouldn't you?---Yes.

So for each of the transactions that I've just asked you about- - -?---Yes.

- - -and there's three of them- - -?---Yes.

- - -you would have attempted to locate an invoice or receipt relating to that expense, wouldn't you?---Um, if there were cheques and I didn't know what they were for and my husband told me what to write- - -

40 Yes?--- - -I would have passed them on to the accountant and advised him to follow it up with Eamon.

Wouldn't you have asked your husband for the invoices or receipts for these expenses?---Ah, no.

But we're talking here about sums of money that are quite significant, tens of thousands of dollars. You understand that?---Yes.

And you'd know that your accountant would require invoices and receipts for tax purposes for expenses of that order, wouldn't you?---Yes.

And you were the only person doing the admin for Cloughcor Pty Limited back in 2011, weren't you?---Yes.

Your husband was busy carrying out the day-to-day operations of the business?---Yes.

- 10 So wasn't it really your role to attempt to locate invoices and receipts for these expenses?---But if there was something I didn't know what it was it wasn't my responsibility, it would be Eamon's.

But surely you would have attempted to chase up your husband for invoices or receipts for these transactions?---I did my best and whatever I had and whatever he could provide me I provided to the accountant and advised him that if there was any further dealings that he needed, he needed to contact Eamon directly.

- 20 Did you go to meetings with the accountant?---No.

Where did you keep invoices and receipts for Cloughcor Pty Limited's business, were they kept at home or were they kept in the office?---They were kept in our home.

And that's because you were doing the admin for the business, right?---Yes.

- 30 So generally speaking you would have had possession of the invoices and receipts for Cloughcor's expenses?---Yes.

But I take it there were some occasions where your husband didn't provide you with an invoice or receipt for his expenses?---That's correct.

And I take it that your husband did not provide you with an invoice or receipt in relation to each of the three transactions we've just been though? ---That's correct.

- 40 But they would have been the exception to the rule, wouldn't they, those transactions?---I'm sorry, can you repeat that again?

Well, wasn't it the case that generally your husband did provide you with invoices and receipts for the expenses of Cloughcor Pty Limited?---Where he could have and what he had.

But for most of them?---Most of them.

The overwhelming majority of them surely?---Yes.

Because you were the person doing the admin?---Yes.

So where it was that your husband did not – I withdraw that. In relation to transactions where your husband did not provide you with an invoice or receipt, that must have been an uncommon event?---Oh, not providing me with receipts, no, it actually was a very common thing. Eamon was very careless when it came to paperwork.

10 ASSISTANT COMMISSIONER: But for amounts like this, like \$60,000, did you ask him was there an invoice?---I asked, all I asked was what was it for. I had to- - -

What, you didn't even ask whether there was an invoice or a receipt?
---I can't remember back then.

But you were responsible for the accounts?---I did my best, as I said, I did what I could do.

20 Mmm. Just think back. Did you ask Eamon is there an invoice or receipt for this \$60,000?---I can't remember. If I did question him it was what I writ on the back statement for the accountant.

Yes, but you'd know you writing "Materials" on a bank statement wasn't going to be very good for the Tax Office, they'd want more than that wouldn't they?---That's beyond my means. I did what I could do and I left it in the hands of the accountant.

30 So you think you may not have even asked him whether there was an invoice or not?---No, I can't even remember back that far.

Yes, Mr Gartelmann.

MR GARTELMANN: If you provided the invoices to the accountant and then your accountant had to chase up those invoices that you hadn't provided surely that would have meant that your husband would have had to go in for many meetings with your accountant wouldn't he?---Yes.

40 And you have no knowledge of your husband coming and asking you for invoices or receipts in relation to these transactions?---No.

Is it possible that your husband told you don't worry about the invoices or receipts for these particular transactions?---I, as I said when I seen the bank statements, when I did it for the BAS and I asked what was all the, whatever transactions for cheques I asked him what they were for, he told me and then I passed them to the accountant.

So you were the person passing the invoices to the accountant, is that right?
---Yes.

So you were the point of contact for Cloughcor Pty Limited and the accountant?---Eamon was the first point of contact.

Well, he's the shareholder and director of the company, correct?---Yes.

But you're the person doing the admin for the company?--- Yes.

10 And you provided the invoices and receipts that you kept at home to the accountant yourself?---Yes.

So the accountant surely would have asked you then about missing invoices and receipts?---And if he did I advised him to contact Eamon.

Do you have a recollection of your accountant saying well, where's the invoice or receipt for these transactions?---No.

\$60,000 here, \$20,000 there?---No.

20 Is it possible, Mrs Burke, that your husband told you there would be no invoices or receipts for these particular transactions?---No.

Now I'm going to ask you a question about something that occurred last year but before I do that, Commissioner, I would seek a lifting of the suppression order in relation to simply the fact of attendance at a compulsory examination here last year.

ASSISTANT COMMISSIONER: Yes. Yes. I release you from that suppression order.

30

**I RELEASE YOU FROM THAT SUPPRESSION ORDER IN
RELATION TO THE ATTENDANCE OF THE COMPULSORY
EXAMINATION**

MR GARTELMANN: Mrs Burke, you were summonsed to attend the Independent Commission Against Corruption for a compulsory examination last year weren't you?---Yes.

40

And you came in here, although it was another building - - -?---Yeah.

- - - on 19 February last year?---Yes.

And you were then asked some questions?---Yes.

Now you received a summons to attend the Independent Commission Against Corruption some time before you came in - - -?---Yes.

- - - didn't you?---Yes.

And you no doubt told your husband that you'd received that summons?
---Well, he was there when I received it.

10 All right. Did you talk to your husband about what you might be asked when you came into the Independent Commission Against Corruption?---I didn't go into detail about it because I was advised not to, when I came here not to discuss what we'd talked about.

I'm asking you about what happened before you came in here, after you received the summons but before you came in here, do you understand that?
---Yes.

Did you talk to your husband about what questions you might be asked when you were to come in?---I can't remember.

20 Surely you would have been quite alarmed when you received the summons?---Oh, yes, I was.

And surely you would have been curious to know what it was about.
Correct?---Yes.

So you must have asked your husband what it was that you were likely to be asked about when you came in. Correct?---Yes.

30 You knew your husband had been in for a compulsory examination about three weeks prior?---Yes.

And so you knew your husband would know something about what kind of questions you might be asked about. Correct?---Yes.

So surely you would have asked your husband about what kind of questions he was asked when he came in. Correct?---Yes.

40 And surely he told you?---He didn't go into detail because he doesn't remember. He says it was an inquiry and that they have summonsed you to come along.

You understood from the summons itself that it related to an investigation in to Mr Cresnar?---That's correct.

Did you ask your husband about what it was in respect of dealings with Mr Cresnar that he was asked about?---No.

Had you ever had any dealings with Mr Cresnar yourself?---No.

Did your husband tell you he was going to meet Mr Cresnar a couple of days before you were to come in here?---No.

Are you sure about that?---Yes.

When did you first hear that?---You just told me.

You've never been aware that your husband went to see Mr Cresnar - - -?
---No.

10

- - - shortly before your compulsory examination on 19 February until I just told you?---That's correct.

Is that the truth?---Yes.

Excuse me, Commissioner. Mrs Burke, you know your husband was examined here in this inquiry yesterday?---Yes.

20

You live together still I take it?---Yes, we're married.

Yes?---Yes.

Your husband would have told you yesterday what he was asked about here today?---He didn't go into detail about it.

I'm sorry, that question was confusing?---Sorry.

30

Your husband would have told you yesterday about what he was asked about here wouldn't he?---Yes.

All right. So surely it's the case isn't it that your husband would have told you that he went to see Mr Cresnar two days prior to you coming in here for a compulsory examination on 19 February last year?---No.

Did your husband want to – I'll withdraw that. Did your husband tell you what you might say when you were asked questions here in your compulsory examination on 19 February last year?---No.

40

Your husband would have told you that he was asked questions about cheques - - -?---Yes.

- - - drawn on the Cloughcor Pty Limited account?---Yes.

Did your husband not tell you or suggest to you what you might say about those cheques?---No.

You understood you were going to be asked about cheques?---Yes.

You understood that you were the person who had effectively sole responsibility for the admin of Cloughcor Pty Limited in the relevant period?---Yes.

You would've been anxious about what you were going to be asked about. Correct?---Yes.

10 Surely your husband – I'll withdraw that. Surely you would have asked your husband about what you might say about these cheques?---No.

Your husband would have told you about the particular cheques concerned wouldn't he?---No.

He would have told you about what the sums of money involved were? ---No.

20 Are you telling the truth, Mrs Burke?---Yes.

About your conversations with your husband about that?---Yes.

And you say your husband never told you that he went to see Mr Cresnar two days before you were to come in here for a compulsory examination? ---That's correct.

That's not the truth, is it, Mrs Burke?---It is the truth.

30 Excuse me, Commissioner. Yes, that's the examination in relation to this witness.

ASSISTANT COMMISSIONER: Mrs Burke, did your husband ever mention Mr Cresnar to you?---No.

You'd never heard of him at all?---Never heard of him ever.

Thank you. Does anyone wish to cross-examine this witness? Mr Sutton.

40 MR SUTTON: Thank you, Commissioner, very briefly. Mrs Burke, my name is Sutton, S-u-t-t-o-n, and I'm here representing the interests of Mr Cresnar. Do you understand that?---Yes.

I'm not going to take you through everything you've just been through again but there are just a couple of points I need to go through with you. Are you aware of what the registered address is of Cloughcor Pty Limited as it was back then?---Yes.

And what was that registered address?---

And that's the same address as your home address?---Yes.

So when you were asked questions today by Counsel Assisting about whether you would keep particular documents, receipts or invoices or any material relating to the company- - -?---Yes.

- - -at the office or at home, when you said at home, in fact to be clear that's one and the same location, is it not?---Yes.

10 Okay. If the witness can be shown, please, the tender bundle for Cloughcor Pty Limited, particularly page 591. So you have before you there on the screen, just so we're all completely on the same page, an extract. You can see it says, "Cloughcor Pty Limited" at the top of the page with a company number. It then says, "ASIC," A-S-I-C, Australian Securities Investments Commission, "Current and historical extract." Do you see those words? ---Yes.

20 Okay. That appears, sorry to jump around the page, if you go back to the very top you see SAI Global and then to the right of that there are three lines. If you accept from me it appears to have been printed out on 14 June, 2013, and indeed if you then go down the page, current company address, [REDACTED]. Correct?---Yes.

Does that address appear on Cloughcor Pty Limited letterhead and any other documents that are issued by Cloughcor Pty Limited?---Um, what do you mean, like example?

30 Well, I don't know, but I'll try to suggest some documents to you. Work orders, invoices?---Yes.

Things of that nature?---Yes.

So that address is reasonably available to anyone who deals with your business?---Back then.

Yes?---Yes.

40 Yes, because if we accept, and just for the record to be correct, today the business is known as Burke Pipe & Civil. Is that correct?---Yes.

So I'm only concentrating on that address- - -?---Yes.

- - -at around the time of the various transactions in 2011. Okay. And so just so we're clear, the home address and the business address was the same address back in 2011 relevant to the three transactions that you've been taken to this morning?---Yes.

Thank you. It was suggested to you by Counsel Assisting fairly early on in the cross-examination that your husband was the only one who wrote out the cheques?---That's correct.

Do you recall that question?---Yes.

Okay. And there has been some evidence, and I mean no disrespect to your husband or yourself when I say this, but there has been some evidence that your husband has difficulty with reading and writing?---That's correct.

10

Okay. Is it your experience that he is the only person who will write the words of the payee and the figures and sign the cheque and the date or does he sometimes leave those areas blank and sign a blank cheque?---Signs a blank cheque and has, 'cause he can't, he's got dyslexia so it's difficult to actually write the date.

Okay. Are there cases though, and I just mean generally - - -?---Yes.

- - - when he may well write the whole of the cheque himself?---No.

20

Never?---Never.

Thank you. So when it was put to you earlier on, and I paraphrase the exact question because I can't write as quickly as people can speak, the question that was put to you was something along these lines, Therefore only your husband would know what the cheques were paid for, sorry, I withdraw that, I'll go to the question before. You accepted it was only your husband that was writing cheques?---That's correct.

30

Now is it a better understand that it's only your husband who can sign the cheques?---That's correct.

Okay. So the following suggestion was that therefore only your husband would know what the cheques were paid for. Now do you accept this proposition, that's working on the assumption or presumption that he actually wrote the names and the payees and the amounts on the cheques or if I put it another way, if there were a blank cheque that was signed by him and it was taken by somebody else there's no reason why he might know what was written on it, would you accept that?---Yes.

40

ASSISTANT COMMISSIONER: Well, I don't accept that. I don't think that's a fair proposition to put because it's one thing to say he didn't physically write the cheques himself, it's quite another to just say that he didn't know what they were or what they were for.

MR SUTTON: Your Honour will, sorry, Madam Commissioner will recall yesterday the propositions that I put to Mr Burke in relation to the location of the cheques and where they were obtained.

ASSISTANT COMMISSIONER: Well, I don't think Mr Burke ever accepted that cheques had gone missing or that people other than himself were authorising cheques. I just think it's quite a different proposition to say that he had to get somebody else to physically write on the cheque. The only example he gave of blank cheques being used was for the tipping charges which couldn't be quantified till the end of the month.

MR SUTTON: Excuse me. The - - -

10

ASSISTANT COMMISSIONER: In any case, I think the important thing is this witness's knowledge or understanding of what was going on with the cheques.

MR SUTTON: Mmm.

ASSISTANT COMMISSIONER: What do you know about your husband signing blank cheques and for what purposes?---As in signing, Eamon carried a chequebook for his expenses and he would have signed his name for materials, tipping (not transcribable) stuff like that.

20

Well, what do you know about any occasion when your husband may have signed blank cheques?---Nothing, no, no.

You don't know anything about that?---No.

Yes.

MR SUTTON: Excuse me for one second, Commissioner. For the purposes of the record I don't resile from the questions that I've put. Perhaps it will become clearer in the fullness of the completion of this (not transcribable)

30

ASSISTANT COMMISSIONER: Well, I just think it's clear that this witness, although she may agree with the propositions you put, has just conceded she really doesn't know anything about whatever blank cheques her husband may have signed or for what purpose.

MR SUTTON: But surely, Madam Commissioner, that is a sword that flows in both – sorry, is a double-edged sword.

40

ASSISTANT COMMISSIONER: Yes.

MR SUTTON: The Commission appears to be willing to accept the assertions of Counsel Assisting that only certain people, being her husband, had knowledge of what happened with the cheques.

ASSISTANT COMMISSIONER: Well, that seems to have been the way they operated, when there was a cheque that she didn't know what was it was it was her husband who would give her the information so as far as this witness is concerned the only person who could give her information about the cheques was her husband.

MR SUTTON: But the proposition goes hand in hand and the suggestion that he was the only one who had written the cheques, the proposition that I put is other people have written cheques.

10

ASSISTANT COMMISSIONER: And I allowed you to put that proposition because that is correct on the evidence I think it has to be accepted other people often do write the cheques or always wrote the cheques.

MR SUTTON: And the proposition that Counsel Assisting put was therefore it was only he who could know what the cheques were for.

20

ASSISTANT COMMISSIONER: Well, see that may be true. As far as this witness is concerned it was only her husband who knew or could tell her what the cheques were for. She had no idea and I just think it doesn't automatically flow because he does not himself write out the cheque that he does not know what the cheque's being used for.

MR SUTTON: It doesn't automatically flow, no, I accept that.

ASSISTANT COMMISSIONER: Mmm.

30

MR SUTTON: And – but that's why I say the rest of the evidence needs to come out and I need to put that proposition.

ASSISTANT COMMISSIONER: Yes. But I just think you're not going to get anything more useful from this witness. There are other ways to make the point you want to make.

MR SUTTON: I accept that.

ASSISTANT COMMISSIONER: She knows nothing about when or on what occasion - - -

40

MR SUTTON: I say this - - -

ASSISTANT COMMISSIONER: - - - blank cheques were used.

MR SUTTON: I say this one final time and not meaning to be disrespectful but the same can be said for the assertions of Counsels Assisting.

ASSISTANT COMMISSIONER: I don't entirely understand that but why don't we move on.

MR SUTTON: Certainly. In relation to Internet banking, Mrs Burke, at one point you said that you checked the accounts every day, at one point you said not every day. Was it a case of when you got to it you would check the accounts?---When I got to it. I have two young children that I had to look after as well so - - -

10 Certainly. And just to be fair to you though, the statement, that is the bank statement that you were shown, I'm not sure it needs to be put on the screen but in case the Commission wants to put it there it's page 563. The transaction for the \$60,000 went through on the 27th which is a Friday and you remedied the situation on the 30th which was a Monday. Does that accord with any recollection if you do have any recollection of doing that or you just don't remember?---I don't remember.

That's fine. Thank you, Commissioner.

20 ASSISTANT COMMISSIONER: Thank you, Mr Sutton. Yes. Anybody else? No. May this witness be excused?

MR GARTELMANN: Yes, Commissioner.

ASSISTANT COMMISSIONER: Yes, Mrs Burke, you are now excused?
---Thank you.

Thank you.

30 **THE WITNESS EXCUSED**

[11.02 am]

ASSISTANT COMMISSIONER: Yes.

MR GARTELMANN: Commissioner, I recall Eamon Burke.

ASSISTANT COMMISSIONER: Have a seat, Mr Burke. The oath you have previously taken and the section 38 declaration continue to apply to your evidence today. Do you understand?---That's fine.

Thank you. Yes, Mr Gartelmann.

10 MR GARTELMANN: Just for the sake of the record, your full name is Eamon Burke?---Yes.

Mr Burke, when you were called to give evidence yesterday I asked you some questions regarding the value of the work that Cloughcor Pty Limited did for Diona Pty Limited during the period 2011 through to 2013. Do you remember those questions?---Yes.

And you were unsure if the amounts that I was putting to you at the time were accurate. Do you recall that?---Yes.

20

All right. I want to have a document shown to you. It will not appear on screen. Now I appreciate, Mr Burke, that you have some difficulties with reading so I'll have to ask you to make some assumptions about this document but firstly, you can see it's a table?---Yes.

I want you to understand that that table reflects - - -

MR STORIE: Is there, is there a copy of the document?

30 MR GARTELMANN: Yes, I'm sure we can have a copy available.

ASSISTANT COMMISSIONER: Yes. Can Mr Storey be given a copy please.

MR GARTELMANN: Yes.

MR SUTTON: I'm not sure if it's crucial to my client but if I could be – if I could site that.

40 MR GARTELMANN: I doubt that it has any bearing on Mr Sutton's interests, but it's a matter for him.

MR SUTTON: I might just look over my friend's shoulder. Thank you.

MR GARTELMANN: Might I continue?

ASSISTANT COMMISSIONER: Yes.

MR GARTELMANN: Mr Burke, I want you to understand that that table sets out information regarding Cloughcor Pty Limited's payments from Diona Pty Limited between 2011 through to 2014 and that that information is derived from Cloughcor Pty Limited's bank statements. Do you understand that?---So it's um, it's the payment schedules from Diona to Cloughcor?

It's a schedule of payments from Diona Pty Limited to Cloughcor Pty Limited. Do you understand that?---Okay, yeah.

10

You can see that most of the document is printed in black but there are some figures in red. Do you see that?---Yeah, one, one figure, yeah.

That first figure there is three million, eight hundred and fifteen – I withdraw that, \$3,815,791.87. Do you see that?---Yes, on red, yeah.

And you'll see that that figure follows a list of other figures relating to invoices from Diona, or for work to Diona Pty Limited for the year 2011. Okay?---Yes.

20

So what I'm suggesting to you is that that figure that I've just read out reflects to the total of the payments from Diona Pty Limited that Cloughcor received in the year 2011?---Yes.

Would you accept that? If I can ask you to turn over to the following page you'll see another figure in red. That figure is \$2,807,258.07. Do you see that?---Yes.

30

And you'd agree that that follows a list of figures relating to invoices for work with Diona Pty Limited in the year 2012?---Yes.

So I want to suggest to you that that figure reflects the total value of payments from Diona Pty Limited to Cloughcor Pty Limited for that year. Do you understand that?---Yes.

And you accept that?---Yes.

And then lastly there's a figure in red a little further down the same page, \$2,534,854.64. Do you see that figure?---Yes.

40

And that follows a list of figures relating to payments from Diona Pty Limited to Cloughcor Pty Limited for the year 2013. You'd accept that? ---Yes.

And so what I'm suggesting to you is that that figure reflects the total value of payments from Diona Pty Limited to Cloughcor Pty Limited for that year. Would you accept that?---Yes.

All right. I'll tender that document.

ASSISTANT COMMISSIONER: Yes, that will be Exhibit 16.

10 Mr Burke, why did you say that you would not have received more than \$1 million in any year from Diona? You seem to have been wildly inaccurate in your estimate?---Ah, well, it's probably because of you run that many machines and trucks and subcontractors and things, by the time – that sounded a lot of money there, but by the time you pay all your bills and wages there's not a lot out of it.

Well, yes, but you must have known- -?---That's where I come from there.

- - -we were talking about turnover, not profit?---Yeah, well, again, that's why I questioned that.

All right. Yes. Well, the analysis of the Cloughcor payments from Diona will be Exhibit 16.

20

#EXHIBIT 16 - ANALYSIS OF CLOUGHCOR PAYMENTS FROM DIONA PTY LTD

ASSISTANT COMMISSIONER: Yes, Mr Gartelmann, is that all you have for this witness?

30 MR GARTELMANN: There's one further matter that I would seek to examine the witness further about. Mr Burke, you were asked some questions yesterday about your meeting with Mr Cresnar out at Parklea on 17 February last year, remember that?---Yes.

And you were played a recording of a telephone conversation between yourself and Mr Cresnar shortly before the meeting took place, you remember that?---Yes.

40 In that meeting Mr – sorry, in that recording Mr Cresnar is heard to say to you, Is it urgent or words to that effect and you say words to the effect of, Urgent enough. Do you remember that passage?---Yes.

And you accepted yesterday that the reason you wanted to meet up with Mr Cresnar was to ask him about the investigation you understood was underway in relation to Mr Cresnar?---That's correct.

You'd attended for an examination – I withdraw that. It may be necessary to seek a lifting of the suppression order in relation to the attendance of Mr Burke on 31 January last year, simply the fact of the attendance.

ASSISTANT COMMISSIONER: Yes, I lift the suppression order in that regard.

SUPPRESSION ORDER LIFTED IN RELATION TO ATTENDANCE OF THE COMPULSORY EXAMINATION

10 MR GARTELMANN: Mr Burke, you attended the Independent Commission Against Corruption for a compulsory examination on 31 January last year, would you accept that?---Yes.

And you're aware aren't you that your wife attended an examination on 19 February last year?---Yes.

And you understand that it was two days before your wife's attendance at the Independent Commission Against Corruption that you met up with Mr Cresnar at Parklea?---I do now, yeah, yes.

20 So bearing in mind that it was only two days before your wife was to come into the Independent Commission Against Corruption for her examination was that the reason that you said it was urgent enough to meet up with Mr Cresnar?---As I say I was probably very worried about my family and, yeah.

Yeah. Well specifically when you say about your family you mean your wife don't you?---My wife, yes.

30 You were worried about the fact that your wife had to come in for examination on 19 February?---Yeah, as I was saying it was, yeah.

And that's the only reason there was any urgency for you to meet up with Mr Cresnar on 17 February isn't it?---Yes.

So you were concerned to find out more about what Mr Cresnar was being investigated about so that your wife would know what to say when she was asked questions on 19 February weren't you?---No.

40 So what was -- how were you going to alleviate your concern for your wife by going to meet up with Mr Cresnar on 17 February?---I honestly didn't know, I like couldn't tell you, just I was just concerned with me family, I just didn't know what - - -

But why the concern for your, for your wife?---Oh, just because I think that's all that we have here is one another and our family.

But you weren't concerned that your wife was going to be physically harmed or anything of that nature were you?---No, I don't believe, no, I can't say.

Really were you were concerned that your wife might somehow be implicated in whatever it was that Mr Cresnar was being investigated for weren't you?---Yeah. I just wasn't sure what was going to be honest with you, I was very confused.

But I'm asking you about why it was you were concerned for your wife. Do you understand that?---Yes.

10 What was the concern you had for your wife as at 17 February when you met up with Mr Cresnar?---Concern that me as probably a husband is, making sure me family is okay and not getting involved in things that, I didn't know what - - -

You were worried about her getting involved in things, is that right?---I didn't know what was going on.

20 Look, isn't it the case, Mr Burke, that you were worried about her being implicated in - - -?---Can you explain what that implicated means please.

That there may be some suggestion that your wife had some involvement in any conduct that Mr Cresnar was being investigated for?---No.

Well, what – why else would you be worried about your wife?---It's probably a natural thing for a husband to be concerned.

30 ASSISTANT COMMISSIONER: But what did you think Mr Cresnar could tell you?---I didn't know what anybody could tell me, ma'am, to be honest with you.

But what did you want him to tell you, what did you think you could get from him during that meeting?---I honestly don't know, ma'am. I don't know.

MR GARTELMANN: Mr Burke, you came in for questioning on 31 January. Correct?---Yes.

40 You were asked questions about cheques drawn on the Cloughcor Pty Limited account that you at least by then knew were for the benefit of Mr Cresnar. Right?---I then knew, yes.

You know your wife is going in two days later on 19 February to be asked questions as well. Right?---That's correct.

And so with some urgency you arrange a meeting with Mr Cresnar to talk about it. Right?---Yes.

Surely, Mr Burke, the point of it was you wanted to ask Mr Cresnar about what to say about the cheques?---No. My concern was with my family and making sure that - - -

Yes, you wanted in particular to tell your wife what to say about the cheques?---No.

Why were you concerned about your family then?---There's probably, yeah, a lot of things go through your just and ah, yeah, the tressed - - -

10

Was one of the things that went - - -?--- - - - very stressed.

I'm sorry. Finish your answer?---That's it, sorry. That's it.

Was one of the things that went through your mind that there may be some suggestion that your wife was somehow involved with these cheques used to pay for things for Mr Cresnar's benefit?---No.

20

And was one of your concerns in meeting up with Mr Cresnar on 17 February to find out what to say or to have your wife say about those cheques?---No.

So you've got no explanation then for why it was you were concerned about your family and had to meet Mr Cresnar as a matter of urgency on 17 February?---As I say I thought I might have felt better by meeting with him.

Felt better?---Yeah.

30

How would it make you feel better?---At ease by - I didn't know what was going on.

At ease in the sense that you might not - there might not be a suggestion that you or your wife might be involved in these transactions with Mr Cresnar?---Yes. I wasn't sure what was going on. I was confused.

40

Look, Mr Burke, once again you're not telling the truth about the conversations you had with Mr Cresnar at that meeting out at Parklea on 17 February last year are you?---As I say I was pretty well confused. I didn't know what was going on.

You're not telling the truth about your knowledge of the conversations between yourself and Mr Cresnar at that meeting at Parklea on 17 February last year are you?---Yes, I am.

I have nothing further. Thank you, Commissioner.

ASSISTANT COMMISSIONER: Thank you. Yes, Mr - - -

MR STORIE: Your Honour, just, just a couple of - - -

MR SUTTON: Perhaps - - -

ASSISTANT COMMISSIONER: I think Mr Sutton wants to go first, Mr Storie.

MR STORIE: Oh, sorry, Your Honour.

10 MR SUTTON: Yes. I think it's – Your Honour, I – thank you, Mr Storie. Sorry. Madam Commissioner, just in relation to the issues that were raised yesterday I've managed to gain some further instruction overnight.

ASSISTANT COMMISSIONER: Yes.

MR SUTTON: Mr Burke, there were two cheques that were mentioned yesterday. Excuse me one moment. The first one appears at 1528, page 1528. It relates to Architectural Décor and you now have that in front of you, just so we're clear?---Yeah.

20

You gave certain answers yesterday which may well apply to this cheque as well but that was in relation to three transactions on the Commonwealth Bank cheques. Do you remember those questions?---Yes.

Okay. I need to suggest to you, sir, that this cheque was a blank cheque that was left in or near the HAC book of your vehicle on the relevant date?---Say that again, sorry.

30 Okay. You recall we were speaking yesterday about the HAC book - - -? ---Yes.

- - - the Hazardous Access book for want of a better term?---Yes.

And it's a book that you keep – when I say you, and perhaps I should be clear. When I say you, I'm talking Cloughcor Pty Limited at the moment so you or – physically you or your employees will have the HAC book in a vehicle at the site as you say close to first aid equipment and things of that nature. Is that correct as a proposition?---Yes.

40 Okay. This cheque I'm suggesting to you was a further blank cheque in that there was no payee or amount written on it but your name was signed and it was left in or near a HAC book on one of your worksites. Do you have any knowledge of that?---Yes, as I say, it would have been, probably be in the same vehicle, yeah, in that vehicle, in the surroundings of the vehicle, yes.

Okay.

ASSISTANT COMMISSIONER: Sorry, are you saying you remember this, this being a blank cheque- - -?---No, sorry, no, I don't.

- - -left in a vehicle?---No, not that exact cheque, no, ma'am, just the cheque book.

You, yeah, all right.

10 MR SUTTON: You're accepting as a general possibility that that cheque could have been left in one of your vehicles for purposes later in the day for some other purpose?---As I say, that's where the cheque book is kept, in that vehicle, yes.

Yeah. Okay?---Well, one of the vehicles, whatever vehicles ah, that we, we be needing at the time.

But is it correct to say that you have no knowledge of the payee or the amount?---No.

20 If I can just take you to the other cheque. The second cheque appears on page 1484 and that relates to the sum of \$2,495 at Sydney Tools. Now, sir, is it possible that you have sent one of your employees to buy some equipment from Sydney Tools and used this cheque?---That could be possible, yes.

Thank you. And just one last topic, sir. You, or at the relevant time your home address was [REDACTED]. Is that right?
---Yes.

30 It was suggested to you yesterday that the registered office of your business was some other address, or sorry, was that address as well. Is that correct?
---Yes, yes.

And so the true position is that [REDACTED] was your home address and your registered officer address. Is that right?---I think so, yes.

Is there any doubt about that, sir?---There probably is 'cause I don't know much about the paperwork ah, that end of things.

40 Okay?---I couldn't honestly tell you.

If you accept from me that there's a document from the Australian Securities Investments Commission that shows [REDACTED] as being the work address, registered address, would that satisfy you?---Yes.

ASSISTANT COMMISSIONER: It's a matter of historical records, Mr Sutton.

MR SUTTON: It is.

ASSISTANT COMMISSIONER: I don't think we need to get the witness to agree to it.

MR SUTTON: Very good.

ASSISTANT COMMISSIONER: He doesn't seem to know much about it.

10

MR SUTTON: Certainly. Sir, it was put to you in a fairly firm fashion yesterday, and I won't read it out, but it appears between pages 150 and 153 on the transcript, that it would have been difficult for Mr Cresnar to find your home address, but the reality, sir, is that that address appears on your company paperwork, does it not?---I don't know.

Okay. That's fine?---I don't know.

Thank you, Commissioner.

20

ASSISTANT COMMISSIONER: Yes, Mr Sutton. Mr Storie.

MR STORIE: Oh, yes, just, just some, a few short questions on the document that was shown, shown to my client. This is the first time – this document that was shown to you by Counsel Assisting, this is the first time you've seen this document?---Um, the figures from Diona to, yes, it is.

And, and the answer and the responses you gave with respect to the accuracy of those figures is based on you accepting that the figures are correct. Is that right?---No, I don't know if they're correct or not.

30

That's right. So you're unsure because - - -?---I don't know much - - -

You don't know?---I don't know nothing of these figures.

Yes. And this is the first time you've seen this document?---Yes.

And so these figures could be correct or incorrect?---That's – yes.

40

Yes. Thank you, that's all.

ASSISTANT COMMISSIONER: Thank you. Mr Gartelmann?

MR GARTELMANN: Yes, thank you, Commissioner.

Mr Burke, you've been asked some questions about whether the registered address was for the purposes of Cloughcor Pty Limited, do you recall those questions?---Yes.

You kept a yard for the purposes of Cloughcor Pty Limited didn't you?---
Yes.

And that was at Kings Park wasn't it?---Yes.

Did you have an office?---We've made an office there, yes, since we started
to rent that building.

10 When was that?---I'm not sure of the date of it, I'm not, I wouldn't be sure.

Could you give us a rough approximation?---About a year and a half.

Right. Before that did you have an office?---No, it was from home.

From home?---Yes.

All right. So the admin side of the business was done from home, is that
right?---Yes.

20 But the operations side of the business was done from the yard?---No, it was
done from site to site.

All right?---We moved from - - -

But you kept all of your equipment, tools, materials and the like at the yard?
---No, they moved from, we kept our equipment in containers and vans and
things.

30 Well, what did you use for the yard for?---As I say then we used the yard
then whenever we expanded ah, for fixing earth machines.

For fixing things?---Yes.

All right?---Services and fixing.

40 But what did you do with your equipment and materials and tools when you
were between jobs?---We were never, we were always pretty busy ah, only
if we had to park a machine somewhere ah, I would ask some of my friends
somewhere like that would have had a yard could I park it there for holiday
time or things like that.

So back in 2011 did you have a yard?---No.

I see. All right. Now you've been asked some questions about your, where
you kept your chequebook, do you recall those questions a short time ago?
---Yes.

Am I right in understanding your evidence that you kept a chequebook in your work vehicle?---Yes.

ASSISTANT COMMISSIONER: But could – as I understand it that could be various vehicles?---Yes, ma'am.

It wasn't always in the same vehicle?---No, I could have two, two or three different vehicles, that's - - -

10 So did you mainly keep it in the vehicle that was working on the site that you were working at?---That's right. I drove, I worked on the site myself.

Yes?---I, I did that, I was one of the persons that works on the site so - - -

Right?--- - - - I'd drive that vehicle to the site.

20 So was the chequebook always in the vehicle you drove to the site or the vehicle you were using?---Yeah, more or less, whatever, yeah, yeah, yeah, it was kept within my, it was probably what you would call, it was my office you might say, just working from, from there.

MR GARTELMANN: And am I right in understanding your evidence that you would on those occasions when you needed to sign a blank cheque for tipping fees that you would keep that cheque in your car or the car that you were using at that time?---I would have kept me chequebook in the car, yeah, it was a chequebook.

30 Any, any cheque that you signed for tipping fees you would keep in the car as well?---Yes, all cheques stayed within that, yes.

Right. But bearing in mind that you've got a signed blank cheque you wouldn't give access to the car to just anyone would you?---Oh, well, as I say the car was pretty, the vehicle was pretty, it was in, within our work area the whole times, it wasn't, it wasn't going and locked up, it had to stay within our work zone.

All right. So in other words you'd keep an eye on it?---It was always in sight, yeah, it was always within our working sight range, you know.

40 All right. Yes. I have nothing further, thank you, Commissioner.

ASSISTANT COMMISSIONER: Thank you. So may Mr Burke be excused? Oh - - -

MR SUTTON: Commissioner, I apologise, may I ask one further question?

ASSISTANT COMMISSIONER: Yes, Mr Sutton.

MR SUTTON: Thank you.

Sir, can I just ask you this, you – well, first of all did you have a number of crews who could be at different sites?---Probably about one larger crew and sometimes they could have been split, split in two different streets or things like that but we would have been classed as two crews in, yeah.

10 Okay. Was it ever a case where one crew could be in one suburb and one crew could be in another suburb?---Not so much, probably more street, one could be in one street and another in another street but like - - -

So is that trenching from one location to the other and meeting in the middle, is that the kind of example you're trying to give?---No, you could have a section on one street and a section on another.

Okay then?---So ah – but I never, yeah, so much from different suburbs, no.

All right. Thank you. Thank you, Commissioner.

20 ASSISTANT COMMISSIONER: Thank you. Yes, well you're now excused, Mr Burke and we will adjourn for 15 minutes.

THE WITNESS EXCUSED **[11.31am]**

SHORT ADJOURNMENT **[11.31am]**

30 ASSISTANT COMMISSIONER: Thank you, please be seated. Yes, Mr Gartelmann.

MR GARTELMANN: Give me please a moment, Commissioner, there's been a development.

ASSISTANT COMMISSIONER: Yes.

40 MR STORIE: The Court – Commissioner, I don't have the luxury of being able to stay the remainder, my instructions don't extend that far, so I've just asked to be formally excused.

ASSISTANT COMMISSIONER: Yes, Mr Storie, you are excused.

MR STORIE: Thank you.

MR GARTELMANN: Yes. Commissioner, before calling the next witness there may be a matter that we should attend to, and that is that it's become known to the Commission that witnesses who were proposed to be called

tomorrow, or at least one of those witnesses, will not be available to give evidence having not returned it appears on a flight from Ireland. As a consequence of that we would propose to call Mr Cresnar to give evidence tomorrow. I just put that on the record in this point in time.

ASSISTANT COMMISSIONER: Yes, thank you for that, Mr Gartelmann.

10 MR SUTTON: Commissioner, Mr Gartelmann advised me of the situation just a moment ago outside court and I thank him for that courtesy. I am not in a position at this point to make any real submissions, but I make this observation perhaps for development at a later stage, that it is at least convention that the target of these inquiries is the last witness, I would suggest, at least in the inquiries I've been involved in. I would suggest that there would be a degree of unfairness to Mr Cresnar if he is called before the witnesses are finalised and I would object to that, that – sorry, I withdraw that, I don't have those instructions to put it that high – I would foreshadow there is likely to be an objection and I just put that to the Commission in fairness, having been given the courtesy of the advance notice by the Counsel Assisting.

20

ASSISTANT COMMISSIONER: Yes, I note that foreshadowed objection but I would advise you, Mr Sutton, to proceed on the basis that your client well may be called tomorrow and probably will be, so you should do whatever preparation you can for that eventuality. Unfortunately this situation has arisen through circumstances beyond our control but we don't want to lose the time, we still have some hope of finishing at the end of this week. So you should proceed on the basis that Mr Cresnar will be called tomorrow but obviously I'm happy to hear any further submissions you may wish to make on that topic.

30

MR SUTTON: Certainly. Thank you. And I understand that whilst Mr Twomey missed a flight did I understand, and I'm not saying it was said this way, but did I understand Counsel Assisting to say that Mr Twomey is currently en route back?

MR GARTELMANN: No, that's not correct. We understand, Commissioner, that Mr Twomey proposes to take the next flight which means that he's not en route as we understand it at this stage.

40 ASSISTANT COMMISSIONER: Now as I understand it, the earliest that Mr Twomey will be back in this country is Friday so there's no prospect at all of Mr Twomey appearing tomorrow and in those circumstances I believe we will use the time to do Mr Cresnar and any other witnesses who are available at that time.

MR SUTTON: Thank you, Commissioner.

ASSISTANT COMMISSIONER: Thank you. Yes, Mr Gartelmann.

MR GARTELMANN: Commissioner, I call Mrs Wang.

ASSISTANT COMMISSIONER: Yes, just take a seat up there, Mrs Wang.

MRS WANG: Thanks.

MR PICKERING: Commissioner, my name is Pickering. I seek leave to appear.

10

ASSISTANT COMMISSIONER: Pickering?

MR PICKERING: Pickering, yes.

ASSISTANT COMMISSIONER: Yes, you're given leave to appear, Mr Pickering.

MR PICKERING: Thank you. Ms Wang would seek a declaration as well.

20

ASSISTANT COMMISSIONER: And she understands the effect of the section 38?

MR PICKERING: She does, yes.

ASSISTANT COMMISSIONER: Thank you for that.

Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by this witness and all documents and things produced by her during the course of her evidence at this public inquiry are to be regarded as having been given or produced on objection. There is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

30

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

40

ASSISTANT COMMISSIONER: Ms Wang, you're required to take an oath on the Bible or make an affirmation to tell the truth. Do you have a preference?

MS WANG: Um, I'll make an affirmation.

ASSISTANT COMMISSIONER: Thank you.

ASSISTANT COMMISSIONER: Thank you. Please be seated. Yes, Mr Gartelmann.

MR GARTELMANN: Is your full name Jennifer Wang?---Yes.

By occupation are you an accountant?---Yes.

10

Are you employed with a company called Murray Civil Works Pty Limited?---Yes.

You're still employed by that firm?---Yes.

You were first employed there in 2007?---Yeah.

At that time was the sole director and shareholder of the company a Mr Valentine Murray?---Yes.

20

But at a later time were there two directors and shareholders of the company?---Yeah.

Mr Murray and a Mr Denis Twomey?---Yeah.

After Mr Twomey became a director and shareholder of Murray Civil Works Pty Limited did it tender for work on an Ausgrid panel?---Um, sorry ah, I didn't really catch you.

30 Before Mr Twomey was a director and shareholder of - - -?---Yeah.

- - - Murray Civil Works did Murray Civil Works do work for Ausgrid? ---No.

It was only after Mr Twomey became a director and shareholder - - -?--- Yeah, it was only after.

- - - that Murray Civil Works started to do Ausgrid work?---Yeah.

40 Do you recall Murray Civil Works putting together a tender to get Ausgrid work?---Um, yes, that was ah, two or three years ago.

All right. But you have a memory that about three years ago Murray Civil Works tendered for Ausgrid work?---Yeah.

And Murray Civil Works was a successful tenderer for Ausgrid work? ---Yeah.

And is it the case that after Murray Civil Works tendered for Ausgrid work it became a much bigger business?---Yeah.

The volume of its work increased greatly?---Yeah.

After Murray Civil Works Pty Limited tendered for Ausgrid work it began to work almost exclusively for Ausgrid didn't it?---Um, yes, closely. Um, um, yeah, Murray Civil's main work from Ausgrid.

10 Yes. Wasn't it the case that almost, almost all of its work was from Ausgrid?---Um, almost.

Now your position at Ausgrid was as an accountant, is that right, I'm sorry, your position at Murray Civil Works Pty Limited was as an accountant? ---Yes.

Were you responsible for doing most of the accounting duties for Murray Civil Works Pty Limited?---Yes.

20 And have you remained responsible for doing most of those duties?---Um, Murray Civil does have an outside accountant.

I see?---Yeah.

But are you the only in-house accountant?---Yes, I am.

30 Since Mr Twomey became a director there have been three bank accounts held by Murray Civil Works, would you agree with that?---Sorry um, um, there were, there is only one saving account and another one, Murray Civil doesn't really use, use it often and there, yeah, there is another credit card account, yeah, a total of three, yes.

All right?---Mmm.

There's a, there was a credit card account, is there a cheque account? ---No, they're totally different, separate account.

40 All right. But is there a cheque account?---Yeah, there is a cheque account, yeah.

And there is a credit card account, correct?---Yeah.

And is there a general operating account?---Yeah.

All right?---Cheque account is general operating account.

All right. I see. I want to ask you about the credit card account. Do you understand that?---Ah hmm.

Is there just one credit card account operated by Murray Civil Works?
---Yeah.

But is it the case that both of the directors of the company have cards, credit cards?---Yes.

But the two directors' cards are linked to the one account, is that right?
---Yeah, that's right.

10

So you get statements in relation to just the one account. Is that right?
---Yeah, that's right.

Is it your responsibility as the in-house accountant to go through statements for the credit card account and check the transactions?---Yeah.

Does Mr Murray pick up the mail and bring it into the office - - -?---Yes.

- - - typically?---Yeah.

20

And does he hand you the statements for the credit card account?---Yes.

Or in fact for all of the accounts?---Yeah, for all the accounts, yeah.

And then is it typically the case that you would go through the statements relating to the credit card account and look at the transactions on that account and reconcile them with expenses made for Murray, payments made by Murray Civil Works?---Yeah.

30 You would become familiar with payments made on the credit card account that occur repeatedly wouldn't you?---Yeah.

So some types of payments you would know that they are regular payments for Murray Civil Works Pty Limited, correct?---Yeah, I would recognise, yeah.

Yes. But were there sometimes transactions on the credit card that you weren't sure about?---There was, yeah.

40 So sometimes you'd be going through the statements for Murray Civil Works Pty Limited and you'd see some transactions recorded there that you had no knowledge about?---Yeah, there was times, yeah.

I'm sorry, I just couldn't quite hear you?---Yeah, there was times, yeah.

All right. You just need to try and keep your voice up if you will, just because we all need to hear?---Sorry.

Thank you. Now, when you weren't sure about a transaction that you found on the credit card account statement, what would you do to find out about it?---Um, yeah, if there, there was um, transactions I, I'm not familiar with and um, I would make inquiry to the directors.

All right. So you'd ask Mr Murray or Mr Twomey- - -?---Um- - -

- - -or both about the transaction?---Um, well, I, I would first ask Mr Murray, yeah.

10

Is that because Mr Murray was more often in the office and Mr Twomey was more out on the road?---Yeah, that, that was the reason.

All right?---Yeah.

From time to time when you asked Mr Murray about transactions on the credit card account statement, would he say that they related to a personal expense?---Um, yeah, yeah.

20

And if a transaction – I withdraw that. If Mr Murray told you that a transaction was for a personal expense, what would you do in relation to your accounting for that particular transaction?---Um, I would just post as a director's expense.

A director's expense?---Yeah.

For accounting purposes does that mean that it's recorded as a loan to the director from the company?---Yes.

30

All right. Do you use a code from time to time called director loan- - -? ---Yeah.

- - -for expenses of that kind?---Ah hmm.

Did you ask Mr Twomey though from time to time about other expenses on the credit card account statements?---Um, I can't remember. Most of the time I asked Mr Murray.

Right?---Um, I can't remember.

40

All right. I want to ask you about some particular transactions on the Murray Civil Works- - -?---Ah hmm.

- - -Pty Limited credit card account. Do you understand that?---Yeah.

Firstly can I show you page 692. Can you see on the screen in front of you, Ms Wang- - -?---Yeah, yeah, yes.

-- a copy of a credit card account statement?---Ah hmm. Yeah.

And you're familiar with that account so you can say that that is the Murray Civil Works Pty Limited credit card account?---Yes.

Although it's addressed to Mr Valentine Murray?---Ah hmm.

I want to ask you about the next page, 693, please. Do you see the second entry in the list of transactions on that page?---Yeah.

10

Firstly there's the date on the left-hand side, 11 November?---Yeah, ah hmm.

And you can see from the very top right-hand corner of the document that it is the statement for the period 9 November, 2013 to 10 December, 2013? ---Ah hmm, yeah.

So I'm asking you about this transaction on 11 November, 2013. Do you understand that?---Yeah.

20

Do you see in the column headed Transaction Details these words, "Dan Kitchens Australia Seven Hills Aus," meaning Australia?---Ah hmm, yeah.

And over on the right-hand column under the heading Amount, the figure \$17,100?---Ah hmm. Yeah.

Now, you have learnt about that transaction previously, haven't you? ---Yes.

30 What I want to ask you is this, did you ask Mr Murray or Mr Twomey about that transaction when you were going through the credit card account statements checking expenses?---Yes, I did.

Who did you ask?---Um, I can't remember um, I did ask but I can't remember who did I ask. Ah, um, as I said before for, for these credit card transactions if I, I'm, if I am unclear most likely I'll ask Mr Val Murray.

40 Right. When I asked you before whether or not you had asked Mr Twomey about transactions you couldn't remember asking him at all, is that what I'm -- how I understand your evidence?---Yeah. Um, yeah, I couldn't remember.

Okay. So you can't remember asking Mr Twomey ever about a transaction on credit card account statements?---Oh, no, I can't remember.

All right. But you asked one of the directors about this particular transaction on 11 November, 2013?---Yes, I did.

And I assume you asked them what that transaction related to?---Um, I was told that that, that was a director's expense.

A director's expense?---Yeah.

You would have known as the accountant for Murray Civil Works Pty Limited that it had not bought a kitchen for its business purposes?---Yeah, that, that was, that wasn't for the kitchen in the office definitely.

10 All right. Do you have a recollection of asking about a transaction on a credit, on the credit card account statement and being told to put that transaction in the books as half and half each for the directors?---Yeah, I was told that.

Yes. Was that in relation to this particular transaction?---Um, I'm not sure, I couldn't remember this.

20 All right. But you have a memory of asking one or other of the directors about one credit card account statement transaction and being told that you should write that up as being expenses for the directors, the two directors half each?---Yes.

Was that late last year, I'm sorry, late in 2013?---Um, um, yeah, I can't remember, I should, I should, I can't remember.

Would it be consistent with your memory that that conversation occurred a little bit over a year ago?---Yeah, could be 2013, yeah.

30 Could be sorry?---Um, I'm not sure, I couldn't remember 'cause, you know, it was two years ago, I - - -

All right. Can I draw your attention now to the same page but a little bit further down?---Ah hmm.

Do you see beside the date 23 November, the next line down, you'll see, can you see the little cursor beside that date?---Ah hmm. Yeah.

40 And then in the transaction details column it again say "Dan Kitchens Australia, Seven Hills AUS"?---Yeah.

And then over in the right-hand column in the amount the figures "\$5,296"?---Yes.

You would have asked the directors or one of the directors about that transaction too?---Yes, I, I asked with the, the, the second transaction on the top together.

Yes, because you got the statement at the one time - - -?---Yeah.

- - - with both, both the transactions on it?---That's right.

Right. So there were two transactions on the credit card reflecting purchases from Dan Kitchens Australia?---Ah hmm. Mmm.

Does that assist you with your recollection about what you were told about those transactions?---Um, um, I'm not too sure but um, but I did ask about these two transactions and I was told that they were all directors' expense.

10

Are you able to say whether you think it was these expenses to Dan Kitchens that you were told to write up as half each for each of the directors?---Um, I couldn't remember.

Right. I'm going to ask you to look at the following page, 694. Do you see on that page an entry, the first of the entries for 27 November, do you see - - -?---Yeah.

- - -where the cursor is now?---Yeah.

20

And can you see in the heading, in the column headed Transaction Details the word, the words, "Craft Depot Pennant Hills Aus?"---Yeah, ah hmm.

And over in the right-hand column the figures \$1,799. Do you see that? ---Yeah.

When you saw that transaction reflected on the credit card account statement you would have picked up that that was an unusual type of purchase for Murray Civil Works Pty Limited to be making?---Yeah, ah
hmm.

30

And so no doubt you would have asked the directors or one of the directors about that transaction?---Yes. I think this transaction was at the same period as another two transactions so, so I already asked, you know, all the transactions I wasn't clear together.

Yes?---Yeah.

What were you told about this particular transaction?---That it was the same directors' expense.

40

Directors' expense?---Yes.

And having been reminded that this transaction related to something purchased from Craft Depot, does that assist you in recalling which director it was that you spoke to?---Um, hmm, I was asked to put that as a directors' expense, yeah, that's what I was told.

Yeah. My question was whether or not, knowing that the transaction related to something purchased at Craft Depot, knowing that now, whether that helps you remember which director you talked to about it?---Um, I'm not sure.

All right.

ASSISTANT COMMISSIONER: Were you friendly with Mr Murray?
---(No Audible Reply)

10

Did you have like a friendly relationship or was it very much employer/employee?---No, I'm, I'm just employee.

Yeah?---Yeah.

20

So if you spoke to Mr Murray for example about these expenses, would he be likely to just say, look, that's directors' expenses or did he ever say to you, oh, yes, I got a kitchen, or something, did he ever give you more details or did he just say put that down to directors' expenses?---No, no, he, he, he didn't give me details, just say put that as directors' expense.

Yeah. Okay?---Mmm.

MR GARTELMANN: Ms Wang, do you recall going through the credit card account statements on another occasion a month before and picking up a payment to a firm called G Store?---G Store? No.

You don't?---No.

30

Just in case it assists your memory it was for the sum of \$5,699.25. Do you have any recollection about finding that transaction in the credit card account statements?---I, I can't remember because - - -

All right. And lastly, earlier that year, 2013, did you come across two transactions to Bathware Online in the credit card account statements?
---I can't remember.

40

You can't remember. Do you remember coming across any transactions on the credit card account statements relating to PayPal purchases?---PayPal.
Um, I remember there, there was a PayPal, yeah.

All right. Did you ask the directors about those transactions?---I got the same answer.

That they were directors' expenses?---Yeah.

Can you remember whose PayPal account it was?---No, because from the transaction you cannot tell whose PayPal. It just say PayPal.

All right?---Yeah.

So can you remember who you spoke to about the PayPal transactions?
---PayPal. Um, no, I can't remember.

All right. I want to ask you now about an account that Murray Civil Works Pty Limited had with Bunnings, the hardware store?---Yeah.

10 Do you understand that?---Um, that was cancelled ah, um, later last year.

Yeah. Why was that?---Um, because we, we don't, we don't have much purchase from Bunnings from later - - -

You don't have much purchases from Bunnings?---Yeah. So that, that account was cancelled.

I see?---Mmm.

20 Who arranged for that to be cancelled?---Ah, I don't know. I just think see no more statement from them and (not transcribable) no more on that account. I don't know who, who cancel that. I don't know.

Well, what I'm wondering is whether you were told by one of the directors to cancel the account?---No, it wasn't me.

I see. In any event, the account was cancelled I think you said late last year?---Um, late last – I think before Christmas.

30 Last year that is, 2014?---Yeah.

All right. Had the account been inactive for a long time before it was cancelled?---Um, no. No. They are, they are, they are um, ah, no, it wasn't inactive, no, it wasn't inactive, no.

What I mean by that is had it not been used for a long time to make purchases from Bunnings?---No. Um, I remember I heard that the reason that that account was cancelled because um, ah, one reason we don't use much and another reason um, ah, um, we, we cannot track that account.

40

All right?---Yeah.

But in your answer there you mentioned that one of the reasons it was cancelled was because it wasn't used much. Is that right?---Yeah, that, yeah, that's what I heard.

All right. Now before the account was cancelled were you responsible for paying the Bunnings account for Murray Civil Works?---Yes, I was.

Would you get statements from Bunnings?---Yes.

Did those statements tell you what transactions had been conducted on the account?---Um, um, I remember the statement only show there's no details on the statement just show um, what the card number being used and how much.

10 All right. So did you make any inquiries about what transactions were conducted on the Bunnings account?---Um, no 'cause as I said there, there was no details.

But did you ask the directors about the transactions or did you just pay the account?---Mmm, I just paid it.

All right. The account with Bunnings is what's known as a trade card account wasn't it?---Um, it's, it, it was um, a power, I don't remember the name, yeah, it's a trade account, yes.

20 But it enables you to get a discount?---Um, yes.

How many cards were there linked to the account?---Um, before it was cancelled oh, over 10 or, or 15 or 20, I can't remember.

15 or 20?---Yeah.

All right. Did each of the directors have a - - -?---Yeah.

30 - - - Bunnings trade card account?---They did.

I'm sorry, card?---Card, yeah.

Yes. All right. Now Murray Civil Works Pty Limited had a number of vehicles for the business?---Yeah.

And some of those vehicles were cars?---Yeah.

40 Did each of the directors have a company car?---Um, yeah um, I'm not sure which car that Mr Denis Twomey driving um, but I, I know that Mr Murray driving the, the company car.

Did some other employees have company cars?---Yes.

The project manager at Murray Civil Works at least for some years was a man named David Naughton?---Yeah.

Did he have a company car?---Yes.

For each company car was there a fuel card?---Ah, fuel card. Um, fuel card um, most of the fuel card were, were cancelled, this is, ah, before Christmas last year.

All right. So before Christmas there were fuel cards - - -?---Yeah.

- - - for the company cars?---Yeah.

10 Was there one fuel card for each company car?---Yes.

And each fuel card had the registration details for that car on it?---Oh, um, I think so 'cause I never have a fuel card or a company car, I'm not so sure.

But were you responsible for paying the account for the fuel cards?---Yes.

Did you ever do any reconciliations to cross-check the use of the cars and the fuel purchase for those cards?---No.

20 You just paid the account when it came in?---Yeah.

All right. Now, lastly, Ms Wang, you've been an employee of Murray Civil Works Pty Limited since 2007. Correct?---Yes.

You have not been an employee of TGB & Sons Pty Limited, have you? ---No.

You haven't done any work for TGB & Sons Pty Limited since you've been employed at Murray Civil Works Pty Limited?---Never did.

30 All right. Thank you. Excuse me, Commissioner.

That's the examination of this witness, Commissioner.

ASSISTANT COMMISSIONER: Yes. Does anyone wish to cross-examine Ms Wang? No. All right.

That concludes your examination here today, Ms Wang. You are now excused?---Thank you.

40 Thank you.

THE WITNESS EXCUSED

[12.34pm]

MR GARTELMANN: I anticipate a potential delay before the next witness is called, there's been yet another development, Commissioner, but I won't say anything about that on the record at this stage. Please excuse me.

MR CARROLL: Assistant Commissioner, my name's Carroll. There's been an issue in terms of security of Miss Said. My suggestion is that you may wish to get further information before she gives her evidence. I anticipate that there won't be a problem with her giving evidence but perhaps we could take an early lunch and come back at 1.30, but I anticipate that ICAC staff will wish to inform you before she gives her evidence.

- 10 ASSISTANT COMMISSIONER: All right. Well, look, that may take some time so I think we should come back at 2.00 to allow whatever issues there are to be sorted out and we will resume at 2 o'clock.

LUNCHEON ADJOURNMENT

[12.36pm]