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PUBLIC
HEARING

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INDEPENDENT COMMISSION AGAINST CORRUPTION

THERESA HAMILTON ASSISTANT COMMISSIONER

PUBLIC HEARING

OPERATION JARAH

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON TUESDAY, 27 JANUARY 2015

AT 2.05PM

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. Yes, Mr Gartelmann.

MR GARTELMANN: Commissioner, I call Denis Twomey.

ASSISTANT COMMISSIONER: Just take a seat there, Mr Twomey.

MR SUTTON: Commissioner, before this witness is sworn in
10 Ms Davenport has correctly pointed out I only asked about Mr Cresnar
remaining during Mr - - -

ASSISTANT COMMISSIONER: I'm sorry?

MR SUTTON: Ms Davenport has correctly pointed out to me that I only
mentioned Mr Cresnar remaining while Mr Bastow was in the witness box
and I ask if the Commission has any objection to him remaining while
Mr Twomey is here?

ASSISTANT COMMISSIONER: Ah, no, that's fine.
20

MR SUTTON: Thank you.

ASSISTANT COMMISSIONER: You are Denis Twomey?

MR TWOMEY: Yes.

ASSISTANT COMMISSIONER: Yes.

MR O'BRIEN: If I may have your leave, Assistant Commissioner, my
30 name is William O'Brien, I seek you leave to appear for Mr Twomey.

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

MR O'BRIEN: Thank you. I'd just raise the section 38, thank you.

ASSISTANT COMMISSIONER: Yes. Your client understands the effect
of such an order?

40 MR O'BRIEN: Ah, he has been subject to that order in the past and I would
ask that he be given - - -

ASSISTANT COMMISSIONER: I might just give him the brief version.

MR O'BRIEN: Thank you, Assistant Commissioner.

ASSISTANT COMMISSIONER: I'm about to make an order the effect of
which is that none of the evidence you give here could be used against you

in future proceedings, for example, criminal, civil or disciplinary proceedings. However, it does not prevent your evidence being used if it is found you've breached the Act by giving false or misleading evidence. Do you understand the effect of that?

MR TWOMEY: I do.

10 ASSISTANT COMMISSIONER: 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 him during the course of his 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 HIM DURING THE COURSE OF HIS 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: Mr O'Brien will you take an oath on the Bible or make an affirmation?

MR O'BRIEN: I'd rather not, your Honour.

ASSISTANT COMMISSIONER: Oh, I'm sorry. I'm sorry. Mr Twomey.

MR TWOMEY: The Bible, yeah.

ASSISTANT COMMISSIONER: Will you take an oath on the Bible - - -

40 MR TWOMEY: Yes.

ASSISTANT COMMISSIONER: - - - or make an affirmation?

MR TWOMEY: No, Bible, yeah.

ASSISTANT COMMISSIONER: Thank you. Yes, Mr Gartelmann.

MR GARTELMANN: Is your full name Denis Twomey?---Yes.

Twomey is spelt T-w-o-m-e-y?---Yes.

10 Mr Twomey, are you a director and shareholder of a company called Murray Civil Works Pty Limited?---Yes.

And you are one of two directors and shareholders?---Yes.

The other being Mr Valentine Murray?---Yes.

It's the case isn't it that you became a director and shareholder of Murray Civil Works in 2011?---I think so, yes.

20 Shortly before Murray Civil Works tendered to get on the panel for Ausgrid work?---Yes.

After Murray Civil tendered for the Ausgrid panel it's business grew quickly didn't it?---Mmm, yes.

By that I mean the turnover of the business increased substantially, correct? ---Correct, yes.

30 Well, before Murray Civil was on the Ausgrid panel its turnover per annum was in the vicinity of a couple of million dollars wasn't it?---I'm not sure what.

Would you agree that that sounds about right?---It would be I'd say, yes.

But after Murray Civil got on the Ausgrid panel its turnover per annum increased into the, well, in excess of \$10 million a year. Would you agree with that?---Yes, roughly, yeah.

40 So for 2012/2013 for example Murray Civil was turning over more than \$10 million wasn't it?---I'd say, I'd say yes.

Now do you know Phillip Cresnar?---Yes.

It's the case isn't it that you and Mr Cresnar are friends?---Yes.

You've been friends for, what, about eight years now?---Roughly, yeah.

I'm sorry, I didn't catch your answer?---Roughly, yeah, yeah.

All right. Well, you were friends with Mr Cresnar well before you joined Mr Murray and became a director and shareholder of Murray Civil Works?
---Yes.

Did Mr Cresnar have any involvement in your decision to join Mr Murray?
---No.

10 Did he suggest to you that you contact Mr Murray?---No.

Did Mr Cresnar have any involvement in Murray Civil Works preparation of its tender submission for Ausgrid work?---No.

Did he provide you with any information that might assist?---No.

Are you sure about that?---Yes.

20 Once Murray Civil Works was admitted to the panels for Ausgrid work it commenced carrying out work in what's known as the North Region within Ausgrid circles?---I think so, yes.

Well, you understand the North Region refers to that part of the Sydney metropolitan area between the harbour and the Hawkesbury?---Yes.

And is that where you were doing much of your Ausgrid work?---Yes.

And you understood that Mr Cresnar was a project planner - - -?---Yes.

30 - - - for Ausgrid, you understood that?---Yeah, yeah, yeah.

You understood that he had responsibility for making recommendations about which contractors got which contracts within that region?---I suppose, yes.

Mr Cresnar was the Ausgrid officer with whom you had the most dealings after you were admitted to the Ausgrid panel wasn't he?---Ah, yes, it would be yes.

40 So you understood that Mr Cresnar had the power as a project planner in the North Region to make recommendations to his superiors regarding which contractors would get jobs. Correct?---Maybe, yeah. Correct.

So you understood that Mr Cresnar could influence what work Murray Civil got from Ausgrid. Correct?---Yeah, I suppose, yes.

Now Murray Civil Works has employed from time to time a project manager. Correct?---Yes.

And it's the responsibility of the project manager to attend that stage of the contracting process known as the walkthrough. Correct?---Yes.

The project manager goes out on site. Correct?---Yeah.

Has a look at the site and determines what quantities of work items will be required for calculating a contractor offer. Correct?---Yeah, yeah.

10 But if the project manager is not available to attend the walkthrough you go yourself sometimes don't you?---Yeah, I would, yeah.

And Mr Cresnar if he was the Ausgrid officer having responsibility for that particular project he'd go out on site too. Correct?---Do the walk is it?

Yes?---Yeah.

So from time to time it's the case that you and Mr Cresnar would be there together doing the walkthrough. Correct?---Yeah.

20 And you understood, didn't you, that the point of the walkthrough was that you could jointly determine what quantities of work would be required so that you could submit your contractor offer?---Um, repeat that. How do you mean? I don't understand.

You understood that the point of the walkthrough was that you could jointly determine what quantities of particular work items would be required so that you could complete your contractor offer. Correct?---Yes. It was like from A to B and that was it.

30 Yes. You'd measure out distances and you'd use those to calculate the contractor offer on the basis of the quantities involved and the schedule of rates?---Well, I – my engineer would like.

All right. But when you're going out on a walkthrough with Mr Cresnar yourself - - -?---Yeah.

40 - - - the two of you are there responsible – I'll withdraw that. When you're going out on a walkthrough with Mr Cresnar yourself, the two of you are determining what quantities will be involved in that job. Right?---I don't - - -

Well, you're making the measurements on site?---Yes, yes.

It's only the two of you present. Right?---Yeah, yeah.

And then you or your project manager - - -?---There'll be usually, there'll be usually another fellow there as well from Ausgrid, a designer.

Usually on or occasion?---Oh, when I was there I'd say there was but honest a designer to design the job.

But isn't it the case that a designer attends pretty rarely?---Nearly all the time but honest.

All right. There were occasions however where there was not a designer present. Right?---Right, yes.

10 And on those occasions when you were present with Mr Cresnar the two of you would measure out the quantities required to do the job?---Yes.

All right. Nobody else supervising it. Right?---(No Audible Reply)

Nobody else there?---Yeah.

Now, the quantities involved are used to calculate the contractor offer having regard to the information in your schedule of rates. Right?---I think so, yes.

20

All right. So the quantities matter ultimately in determining the value of the contract. Correct?---Of the job.

Yes?---Yes.

So when Mr Cresnar was the Ausgrid officer doing the walkthrough calculating the quantities, you understood that he had the capacity to influence the value of the job for the contractor. Right?---Um, yeah, well, the, the, the job would be say from A to B, that was on the drawings, and we'd walk A to B and that- - -

30

Yes?---And that would be it.

But during the walkthrough you'd notice whether or not there were things that the design team hadn't taken into account. Right?---(No Audible Reply)

Is that right?---What would that be, like?

40 There may be obstacles that the design team were not aware about. Correct? Trees and rocks and boulders and- - -?---Oh, yes, yes, yes, yes.

Yes. And so you and the Ausgrid officer would then measure out the distances involved and that information would be used to calculate the contractor offer. Correct?---Yeah, yeah.

Right. So you understood didn't you that the Ausgrid officer who attends the walkthrough has the capacity to influence what quantities are approved and therefore the value of the job. Correct?---Yes, yeah.

Now, did Mr Cresnar ever give you information regarding other contractors' prices or offers?---No.

Never?---No.

10 Now, can I assume that you have been shown transcripts of the telephone conversations that have been played in evidence in this inquiry to date?
---I have glanced them, yes.

All right. You'd be aware that there was a telephone conversation played to Mr Cresnar where he tells you words to the effect that Murray Civil are always under Dunmain. Do you recall that?---I think I do, yeah.

Now, in that conversation Mr Cresnar's telling you that your, that is Murray Civil Works contractor offers are cheaper than those of Dunmain. Correct?
20 ---I, I, being honest, I can't, I, I, I can't really remember that.

Okay?---But it is- - -

We'll show it to you then. I don't think the conversation needs to be played but we'll show you the transcript of it. Page 474, please?---Yeah, I, I did see that but I- - -

Right. I don't think that's necessary. So you did say that. I'm sorry, you're agreeing that that conversation occurred?---I think so, yes.
30

All right. And in that conversation Mr Cresnar is telling you that your prices are just underneath those of Dunmain. Right?---Mmm.

So you'd agree wouldn't you that Mr Cresnar's giving you information regarding Murray Civil Works pricing relative to Dunmain's pricing. Correct?---Correct, but I didn't take no notice of him.

You didn't take any notice of him?---No.

40 Surely that would have been of great significance to you as a director and shareholder of Murray Civil Works?---Well, it would be I suppose, yes.

Well, isn't it the case that during this period of time all of your work was Ausgrid work?---Yes.

You would have been very keen to know whether or not your prices were competitive relative to those of Dunmain. Correct?---Yes.

You knew that Mr Cresnar shouldn't be giving you that kind of information, didn't you?---True.

Yes. Because it's confidential, isn't it. Correct?---Mmm.

It's information that is confidential to Ausgrid. Correct?---Yes.

So why did you think that Mr Cresnar was giving you that information?
---I honestly don't know.

10

Well, surely you understood that Mr Cresnar was giving you a tip, that you were pitching your contractor offers at the right level?---I suppose.

You understood that he was helping you in one way or another?---Mmm, suppose, yes.

And I would suggest that Mr Cresnar wasn't doing that just because you were friends, was he?---Don't know.

20

Well, it's the case isn't that Mr Cresnar was giving you help of that kind because he wanted you to pay for his purchases, right?---Mmm.

You agree with that?---Oh, how do you mean purchases?

Well, Mr Cresnar from time to time purchased things for example in relation to renovating his house for example?---Yes.

You knew that?---Yes.

30

And it's the case isn't it that Murray Civil Works – I withdraw that. It's the case isn't it that you from time to time paid for purchases of that kind, right?
---Yes.

So when Mr Cresnar was giving you help of the kind we've just discussed, information regarding other contractors' prices, he was doing that because he wanted you to make those purchases for him, correct?---Mmm, can you say that again please?

40

When Mr Cresnar was giving you information of the kind we've just discussed - - -?---Yes.

- - - it was because he wanted you to pay for things for him, right?---From my other company, yes.

Well, just put aside for the moment the question of which company?
---Okay.

Mr Cresnar was giving you help of that kind because he wanted you to pay for things for him, right?---I don't think so (not transcribable)

Well, look, he's giving you this information that he shouldn't be giving you, you've agreed with that?---Yes, I do, yes.

And you've agreed with me that it is information that was to help you in relation to Murray Civil Works contracts for Ausgrid work, right?---Right.

10 So Mr Cresnar was giving you that information to help you with Murray Civil Works contracts for Ausgrid work in exchange for you buying things for him, right?---Um, I don't know to be honest.

You don't know. Surely you'd know, Mr Twomey?---Um, um, I never bought stuff for, as far as my other company about the work he done for me.

All right. But we'll get to your other company in just a moment, right?---Right.

20 You would recall from the evidence in this inquiry last week that there was a telephone conversation played to Mr Cresnar where he tells you that Dunmain was cheaper but he fudged the figures, do you remember that conversation?---I barely remember it, yes, I do, yes.

Once again that's confidential information of Ausgrid, correct?---I suppose, yes.

30 You knew that Mr Cresnar as an Ausgrid officer should not be telling you information regarding Dunmain being cheaper than Murray Civil Works?
---Yes.

You knew that, didn't you? And Mr Cresnar in that telephone conversation was telling you that notwithstanding that Dunmain was cheaper he, that is Mr Cresnar, fudged the figures, that's what he was telling you wasn't he?
---I don't know what he was on about to be honest with youse.

40 Then what did you think he was on about at the time that he said it?---He just, he was just, well he said he fudged the figures but I didn't take much notice of it and that was it.

Well, look, what he's telling you is this, "Dunmain were actually slightly cheaper than you but I fudged the figures," that's what he says to you, right?
---Right.

So it's pretty clear isn't it?---Yes.

Mr Cresnar's telling you that he fudged the figures so that you, Murray Civil, got the job instead of Dunmain, right?--- Yes.

Even though Dunmain was cheaper, right?---(No Audible Reply)

Correct?---Yes.

And you knew that Mr Cresnar should not be doing that, surely?---I suppose.

10 Yes. Because not only is he telling you confidential Ausgrid information about who's cheaper amongst contractors he's also telling you he's fudged the figures to make sure you still get the contract, correct?---Correct.

And you knew he should not be doing that, right?---Yes.

Now it's the case isn't it, Mr Twomey, that you understood Mr Cresnar was doing that for you because you bought him things from to time, correct? ---Yes.

20 Now what things have you bought for Mr Cresnar – well, let me put it this way. You've bought things for Mr Cresnar because you understood Mr Cresnar was doing things to help Murray Civil Works get Ausgrid jobs. Right?---No, not Murray Civil.

But you just agreed as I understand your evidence that – you understood that Mr Cresnar was telling you he fudged the figures so you'd get the job even though Dunmain was cheaper because you'd buy him things from time to time. Right?---Yes.

30 All right. So what things have you bought for Mr Cresnar with that understanding?---With Murray Civil?

I'm not at the moment asking you about where the funds come from? ---Okay, yeah.

Do you understand that?---Yes.

40 What things have you bought for Mr Cresnar because Mr Cresnar has done things to help Murray Civil get the jobs?---I bought him nothing for helping to get the jobs.

Look, it's the case, isn't it, that during 2012 and 2013 you bought multiple things for Mr Cresnar?---I did.

And it's the case, isn't it, that during all of that time Mr Cresnar was a full-time Ausgrid employee to your understanding?---Yes.

And it's the case, isn't it, that Murray Civil Works during that period of time was doing a large amount of contract work for Ausgrid?---Yes.

Most – in fact all of its work was Ausgrid. Right?---Yes.

And the turnover was in the order of \$10 million or more per annum.
Correct?---I think so, yes.

And you've agreed Mr Cresnar was as far as you were aware giving you help to ensure that Murray Civil Works got jobs even if they weren't the cheapest. Right?---Ah, yes, I suppose, yeah.

10

And you've agreed that you've bought things for Mr Cresnar because he gave you that help. Right?---Right.

So once again, what things have you bought for Mr Cresnar because he has given you that kind of help?---Um, um, what - - -

What things have you bought for Mr Cresnar because he has given you that kind of help?---Um, there was a marble bath um, um, toilets. That's it I think.

20

All right. So let's just deal with that then. Now you paid for a marble bath and it's two toilets wasn't it?---I think so, yes.

And they were imported from China?---I think so, yes.

In about late 2012. Right?---I think so.

And I appreciate that you won't remember the precise value but would you agree that that – the total amount that you paid in relation to that was in the vicinity of \$7,800?---I'm not sure but honest.

30

All right. Does it sound roughly right?---Yeah.

All right. And you made that payment on – I'll withdraw that. You paid for those items on Mr Cresnar's behalf. Correct?---Yes.

And you did so because of the help Mr Cresnar had given you that we've just discussed. Right?---Well, it's, it's – that was for my other company as I said that I paid for them, that I paid for them um, them items.

40

But we've just gone through how Mr Cresnar gives you help to make sure Murray Civil Works gets Ausgrid jobs. Right?---Yes.

And you've agreed that you've made purchases - - -?---Yes.

- - - bought things - - -?---Yeah.

- - - for Mr Cresnar because of that help. Right?---It's not that help, no.

Well, as I understood your evidence earlier you were accepting you'd made payments or bought things for Mr Cresnar because he'd given you, that is Murray Civil Works, help. Right?---Yeah.

That's correct, isn't it?---Yes.

All right. So the marble bath and toilets you paid for because Mr Cresnar gave you help with Murray Civil Works- - -?---Yeah.

10

- - -getting Ausgrid jobs, right?---It's not, you're not giving me a chance, it's for my other company, TGB Civil. That's what I paid the marble bath for and the two toilets, but you're referring to Murray Civil which it's not.

It's got nothing to do with Murray Civil?---No. I paid, I paid for my credit card.

All right. When you say "my credit card," which credit card are you referring to?---Oh, it would be Murray Civil's credit card, Denis Twomey.

20

All right. So what's it got to do with your other company?---Sorry?

What has it got to do with your other company then?---Because I just wanted to build my other company up.

But you're paying with your Murray Civil Works credit card, right?
---Yes.

Now, you've got a business partner- - -?---Yes.

30

- - -Mr Murray. Correct?---Yes.

The two of you are the directors and shareholders of the company. Right?
---Yes.

The funds you spend on a credit card are presumably for Murray Civil Works business purposes. Correct?---Yeah, but we split it at the end of the year. He buys stuff on his own credit card.

40

Right. But are you saying that you had – I'll withdraw that. Did you have another credit card?---Who?

You. Did you have a credit card other than your Murray Civil Works credit card?---I had, yes.

All right. And was that a personal credit card or a business credit card?
---Business.

And was that the business of TGB?---Yes.

All right. So you're saying that you bought these items then for Mr Cresnar because of work that he did or help that you gave, he gave you in respect to TGB. Is that right?---Yes.

So presumably then you used your TGB card to pay for those purchases?
---I don't think there was money in TGB's card to pay for it.

10 Because the reality is that TGB wasn't doing much work at that time, was it?---No.

It had a very low turnover compared to that of Murray Civil Works, didn't it?---Exactly.

Tens of thousands of dollars, not millions and millions of dollars?---Mmm.

Correct?---Correct.

20 Look, isn't it the case, Mr Twomey, that the payments and purchases you made on Mr, for Mr Cresnar's benefit were made because you believed he was helping Murray Civil Works get contracts worth an extraordinary amount to you?---Not really, no.

And are you going to say that all the purchases you've made for Mr Cresnar, they were made for TGB purposes. Is that right?---They were, yes.

I see. Notwithstanding that TGB has got a very very low turnover?
---I was trying to build it.

30 You're trying to build it, I understand. But here is Murray Civil Works doing very successfully at the time, right?---Mmm, yes.

Its turnover is perhaps 100 times that of TGB?---Mmm.

Right?---Yeah.

40 It's a nonsense, Mr Twomey, that you were buying these things for Mr Cresnar's benefit because of work that he did for TGB, I would suggest?
---No.

All right. Well, let's go back to the marble bath and toilets then?---Yes.

Could I have page 673 brought up. I want to show you a document. Do you see there before you on the screen a copy of an email?---(No Audible Reply)

Do you see that?---(No Audible Reply)

Do you see that?---Yeah, yeah.

It's an email in relation to the importation of the bath and toilets, isn't it?
---Is it? Yes, I suppose, yeah.

All right. Well, as long as you accept that. I just want to draw your attention to the addressee of the email. Do you see beside the word, "To" it says, denis@murraycivil.com.au?----Yes.

10 That's you, isn't it?---Yes.

That's your email address?---Yes.

All right. So correspondence regarding the importation is being sent to you at Murray Civil. Right?---(No Audible Reply)

Correct?---Yeah, yeah.

20 I'll ask you to look at two pages over, 675. Do you see before you on the screen now another document relating to that importation?---Yeah.

And can I draw your attention to the box with the word "consignee"?---Where is that now?

That – you see there's a cursor moving around, a little hand?---Oh, yeah, yeah, yeah, yeah.

30 And under the heading Consignee it says "Murray Civil"?---What's that mean?

Murray Civil, that's the name of your company?---What, what's that, what is - - -

Consignee essentially means the person to whom it's getting delivered?
---Oh okay, okay.

Do you understand that?---Yes, yes.

40 Now it was getting delivered to Murray Civil?---Yes.

Correct?---Yes.

So the importation document suggests that this purchased was made for the purpose of Murray Civil's business - - -?---Yes.

- - - doesn't it?---Yes, yes.

That document can be taken down.

It doesn't suggest that it's got anything to do with TGB does it?---Well - - -

MR O'BRIEN: If I can object to this, this is a little misleading. It must surely come down to the payment, I mean, addresses are used to facilitate the delivery or import of items. I think Counsel Assisting has jumped a gap there saying that because it's assigned to a certain person that they must be the owners or purchasers of that property. I think there's a defect in that logic.

10

ASSISTANT COMMISSIONER: Well, I'm sorry, I don't agree at all. All that's being put is that an email went to Murray Civil and the consignee was put as Murray Civil, I think he's perfectly entitled to put that. At this stage there's been no mention of TGB anywhere and I don't think there is when it comes to payment either but – yes, Mr Gartelmann.

MR GARTELMANN: You would agree with me that in the importation documentation there is no reference to TGB?---No.

20 The only reference is to Murray Civil Works, correct?---Yes.

Now you paid for those items and importation duties by way of Western Union money transfers didn't you?---Yes.

Where did you obtain the money to make the transfers?---I must have taken it out of the bank.

Which bank?---Oh, probably Commonwealth Bank I'd say.

30 Is that the bank that you use for Murray Civil Works' accounts?---It would be, yes.

So are you saying that you took the money out of the Murray Civil Works' accounts?---Honest I can't remember, remember, but I must be.

Now as I understood your evidence earlier in answer to a question that I put to you, you agreed that you bought these, this bath and toilets because of the, the help that Mr Cresnar was giving you in relation to Murray Civil Works, is that right?---No, it's, it's for, it was for TGB, I was taking it out of
40 Murray Civil to pay TGB, that's what I was doing.

Did you tell your business partner?---No, I didn't.

Why not?---Because we split at the, at the end of the year, he does, he, he buys stuff on his credit card, I don't know what he buys but we split it at the end of the year.

Why didn't you take the money out of your personal account or TGB's account?---I don't think it would be in it.

I'm sorry?---I don't think it would be in it.

I didn't quite catch your - - -?---I don't think the money was in.

I see. That's because TGB was doing very little business at that time?
---Yes, yes, but I wanted to build it.

10

All right. Now I'm going to ask you about another transaction you conducted for Mr Cresnar's benefit, do you understand that?---Yes.

You're aware aren't you that Mr Cresnar purchased a number of bathroom fittings and fixtures from a business called Bathware Online?---Yes.

Did you pay for those?---I'm not sure, I think so.

20

Well, if you did do you say it's because he helped you with TGB?---Yes.

But you can't remember whether you did or did not pay for it, is that right?
---I think I, I think I did.

So you did, you think you did pay for it?---Yes.

Yes. Well, look, I'm going to suggest to you that there two payments, one in a little excess of \$8,000 and the other a little in excess of \$1,000, do you understand that?---Yes.

30

So a little over \$9,000 in total, do you understand that?---Yes.

Now you paid for those purchases with your PayPal account, correct?
---Yes.

And the PayPal account was funded by Murray Civil Works' credit card account wasn't it?---Yes.

So those purchases were made with funds from Murray Civil. Right?---Yes.

40

That wasn't for anything to do with TGB was it?---I'd say it was.

You'd say it was. You sound like you're guessing, Mr Twomey?---No.

Well, do you have a recollection of Mr Cresnar doing any particular job for you?---He used to get me saw cutting and used to be tendering work for me.

He was getting you saw equipment did you say?---Saw cutting.

He was getting you saw cutting work?---Yes.

And what was the other thing that you said he did?---Tendering work for me.

Tendering work for you?---Yes.

When you say tendering work for you what do you mean?---He just – tender work for TGB for um, for any work that’s under the tender link.

10

Okay. But what kind of assistance is Mr Cresnar giving you in relation to tender work, what does he do to help?---He does, he does all the tender.

So he compiles your tenders?---Yes.

So bearing in mind I’m talking about the period 2012/2013. Right?---Yes.

When Mr Cresnar was a full-time Ausgrid employee. Correct?---Yes.

20 Mr Cresnar wasn’t doing all of your tender preparation at that time was he?
---Well, I thought he was.

You thought he was?---Yes.

Well, are you suggesting you might be mistaken?---No, no, no.

30 All right. So go back to – going back to the purchases Mr Cresnar made on your behalf at Bathware Online. I’m sorry, let me rephrase that. Going back to the purchases you made on Mr Cresnar’s behalf at Bathware Online, what TGB work did Mr Cresnar do such as to cause you to make those payments on his behalf?---Well, he told me he was flat out doing tenders and he wanted to come to work for TGB so I just went with it.

He wanted to come to work for TGB?---Yes.

Notwithstanding that it’s got very little turnover at the time. Right?---Yes, but I wanted to build it.

40 Yeah, sure, but at the time, 2012/2013 it’s got very low turnover hasn’t it?
---It would do, yes.

Yes. And you wanted to build it but it hadn’t been built yet. Right?---(No Audible Reply)

So why is it that Mr Cresnar wants to come and work with TGB at that time?---I don’t know.

It’s not true is it?---It is. That’s what he said to me.

Look, isn't the reality of the situation, Mr Twomey, that you were making purchases for Mr Cresnar because of the work that he was doing for you in relation to Murray Civil Works and not TGB?---No.

Did you use your PayPal account for anything yourself, did you buy anything yourself on your PayPal account?---We used to buy um, jugs.

10 And when you refer to jugs, we're referring here to decorative jugs?---Royal Dalton jugs, yes.

Sometimes called Toby Jugs I understand?---Dalton jugs, yes.

All right. So you made purchases on the PayPal account for jugs. Is that right?---Yes.

Anything else?---Um, I can't remember, I can't remember.

20 Would it be the case that any purchases that you made on the PayPal account were for Mr Cresnar's benefit?---There used to be a few jugs I used to give him, yes.

All right. So you bought jugs for Mr Cresnar using the PayPal account. Right?---Yes.

How many jugs have you bought for Mr Cresnar?---I wouldn't have – not much. I don't know. Not much.

30 Give us an estimate, Mr Twomey?---Honest to God I wouldn't have a clue. Um, I don't know.

Might the witness be shown exhibit - - -?---But he used to - - -

Sorry. Yes, go on?---He used to collect jugs before, before, before I – that I ever met him.

All right. But you bought some jugs after you met him - - -?---Yes.

40 - - - for Mr Cresnar?---Yes.

Give us your best estimate of how many jugs you bought for Mr Cresnar? ---I don't know.

Give us your best estimate, Mr Twomey?---Five.

Might the witness be shown Exhibit 22, page 376.

Just in order to quickly be efficient here we might just move on while that's coming up. Oh, I'm sorry, we have it here now. Do you see before you a copy of a photograph?---Mmm.

Now in that photograph we see a number of the jugs or jugs of the kind that you've described?---Mmm.

Did you buy any of those jugs for Mr Cresnar?---I'm not sure to be honest.

10 You're not sure?---No.

All right. That can be taken down.

In what years do you think you bought Mr Cresnar jugs?---Um, I don't, two or three years ago, two, three.

Two or three years ago?---Yeah.

20 So around 2012 perhaps?---Could be, yes.

All right. Now some of these jugs are worth quite a bit of money, is that right?---Yes.

They're, they're purchased for investment purposes amongst other things, is that right?---They go up in value, yes.

Sometimes they're worth thousands of dollars, is that right?---Yes.

30 Did you buy Mr Cresnar any jugs worth thousands of dollars?---Um, I would, I have, yeah, yes.

All right. How many thousands of dollars do you think you may have spent on jugs for Mr Cresnar?---I, I don't know.

Just your best estimate?---I don't know, five grand.

40 All right. And would that be, have been during the period of time that Murray, you have been a director and shareholder of Murray Civil Works? ---Um, it would have, yes.

All right. Now when you've purchased jugs for Mr Cresnar's benefit while you've been a director of Murray Civil Works did you use Murray Civil Works funds to pay for them?---I would have, yes.

Because you used the PayPal account, right?---Yes.

And the PayPal account was funded by the Murray Civil Works credit card account, right?---Yes.

All right. So did you buy those jugs for Mr Cresnar because you understood he was giving you help?---No, I bought, I have a heap of them at home as well, I, I bought jugs for myself as well.

Yes, but I'm asking you about the jugs you bought for Mr Cresnar, do you understand that?---Yes.

10 We're not concerned with the jugs you bought for yourself, do you understand that?---Yes.

I'm asking you specifically about the jugs you bought for Mr Cresnar, okay? ---Okay.

Did you buy those jugs because you perceived that Mr Cresnar was giving you help?---No, I think he, he gave me cash for a few of them.

Did he?---Mmm.

20 Did he tell you where he got the cash?---Didn't, no.

Did he tell you why he was giving you the cash?---No.

Why was it that Mr Cresnar didn't make these purchases himself as you understood it?---I don't know.

It's because you were buying Mr Cresnar items in exchange for him exercising his duties at Ausgrid in favour of Murray Civil Works, right? ---No.

30 What other reason would there be?---Because we're, we're mates.

Because you're mates?---Yeah.

So you buy five-odd thousand dollars' worth of jugs for your mate?---And he gives me cash.

So why is it that he can't go and buy these things himself?---'Cause I wanted the cash.

40 And where did Mr Cresnar get the cash?---I don't know.

Why was it that Mr Cresnar was looking to offload cash?---I don't know.

Are you aware of Mr Cresnar having access to significant sums of cash? ---No.

Now surely you could have just gone and withdrawn cash from your own bank account, right?---I could have, yes.

So why was it that you had this arrangement with Mr Cresnar whereby he gave you the cash and you bought him these decorative jugs?---I don't know, I just – I don't know.

Can I suggest to you, Mr Twomey, that there was no such arrangement?
---There was.

10

Can I suggest that the arrangement was in fact that you bought jugs for Mr Cresnar because Mr Cresnar help Murray Civil Works get Ausgrid jobs or more payment out of those jobs?---No.

Mr Cresnar has been bought other things by you hasn't he?---Um, could have, yes.

Well, just so that question's clear, we've dealt with the marble bath and two toilets, right?---Yes.

20

We've dealt with bathrooms fittings and fixtures from Bathware Online, right?---Right.

And we've dealt with decorative jugs, right?---Yes.

You've bought other things from Mr Cresnar since you've been a Murray Civil Works director and shareholder haven't you?---Like what?

Well, like for example some marble tiles imported from Turkey?---Oh, yeah, yes, yes.

30

All right. So in late 2012 and early 2013 there was an importation of some marble and Travertine tiles. Would you agree with that?---Yes.

And you paid for it. Correct?---Yes.

And it's the case isn't it that some of those tiles were for Mr Cresnar's benefit?---There was, yes.

40 Now, the- - -?---Most of them are mine though.

I beg your pardon?---Most of them were all mine.

Most were yours. Well, look, is it the case that the marble was for him and the Travertine was for you?---Yes.

All right. Can I show you a document, page 659. Now, before you there is what appears to be an invoice?---Yes.

Now, if you look over at the top left-hand corner you'll see it's addressed to you care of TGB Civil. Right?---Yes.

But down, further down the page under the heading "Product Description," do you see there the first three entries relate to marble tiles?---Yes.

And then the last entry relates to marble slabs?---Yes.

10 Are you saying that all of those items were for Mr Cresnar?---Did that come – in what – some of them were mine were there.

All right. But items 1, 2, 3 and 11 relate to marble items. Would you accept that?---Oh, right, yeah, yeah, yeah, yeah, yeah, yeah.

Items 4 through to 10 relate to Travertine items, right?---Yes.

So the marble items relate to, are for Mr Cresnar, right?---Yes.

20 And the Travertine items are for you?---Yes.

All right. So the invoice is in US dollars. Do you see that over on the top right?---(No Audible Reply)

See beside the cursor now?---Oh, yes, yes, yes.

And if we go down to the bottom right we see the grand total of the invoice? ---Yes.

30 A little over \$15,000?---Yes.

All right. Going back up again to the first three entries, \$2,790, \$750 and \$100?---Yes.

And then the last entry, \$486?---Yes.

All of those dollar amounts are US dollars. You would accept that?---Okay, yeah.

40 So all of those items were purchased by you for Mr Cresnar?---Yeah.

All right. That invoice is addressed to you care of TGB. Right?---Yeah.

The invoice that I showed you earlier was addressed to Murray Civil Works. Right?---Right.

Bearing in mind you could use your TGB address for the marble and Travertine import, why isn't it that you used that address for the marble bath and toilets?---I don't know.

Is it because the marble bath and toilets were purchased because of the work that Mr Cresnar had assisted you with for Murray Civil Works purposes?
---No, it wasn't.

10 Why did you buy Mr Cresnar the marble tiles imported from Turkey?---
Because he done the whole lot, he, he organised the whole lot and it saved me thousands.

Right. But you've paid for materials for his benefit worth more than \$US4,000?---Yeah, but if I had to get them here they'd be worth, they'd be, they'd be way, way more money.

But you're rewarding Mr Cresnar more than you would have saved, aren't you?---I don't think so.

20 So are you saying that you only paid for those items because Mr Cresnar organised the import for you?---Yes.

Have you bought anything else for Mr Cresnar?---Um, um, I'm not sure, being honest.

Well, have you bought for example a fireplace?---Oh, I did too, yes.

Manufactured by a firm, Rinnai, R-i-n-n-a-i?---Yeah.

30 And you're aware aren't you that that cost in the vicinity of \$5,700?---Yes.

You paid for that fireplace with your Murray Civil Works credit card account?---Yes.

That purchase was made because Mr Cresnar had given you help with Murray Civil Works business. Right?---No, he didn't, no.

40 So why did you use Murray Civil Works' credit card account to pay for that?---Well, it was my, it was my credit card so - - -

Well, it's not though is it, it's the company's?---Yeah, but I was - yeah, but we, we - as I said we used to split it at the end of the year.

You split it. By that you mean you and Mr Murray?---Yes.

So you sat down with the accountant at the end of the year I take it and went through all of your expense?---Um, I don't think I sat down with no accountant. I just went into the office one day.

So how is it then that you mean that you split it with - - -?---I just – we just -
- -

- - - Mr Murray?---We just said what's, what's mine is mine and whatever
the balance is Val's - - -

All right. And - - -?--- - - - and that was it.

10 But surely there must be some process of going through the account
statements to work out who's is what. Right?---Yes.

Well, look, Murray Civil Works employs an accountant. Correct?---Yes.

Ms Wang. Right?---Yes.

And it's part of her duties is it not to go through the bank account statement
for Murray Civil Works accounts?---At the end of the year, yeah.

20 Well, she goes through them each month doesn't she?---I think so. I don't
know.

Yes?---I do not know.

And isn't it the case that she raises with the directors any expense about
which she's unsure?---She would, yes.

Yes. So these purchases that we've just been asking you about, for example
the Rinnai fireplace, Mr Murray knew nothing about. Is that right?---Oh, I,
30 I don't know. Until the end of the year he would have known about it then.

But before you told him he would have known nothing about it?---I don't
think so, no.

So Ms Wang would have had to ask you about it. Right?---Well, she never
asked me, no.

Well, if she went to Mr Murray and asked him about it - - -?---Well, then
40 he'd know.

He'd know about it?---Then, yeah.

But how would he know who made that purchase and why?---We buy two
credit cards.

We're at cross purposes, Mr Twomey. Ms Wang gets the bank account
statements as they come in each month. Right?---Yes.

She goes through the statements and she looks at the transactions on the account. Right?---Yes.

And then she raises it with the directors if she's unsure about those transactions. Right?---Yes.

So Ms Wang gets the bank account statement. She sees that there's a payment in relation to a firm called G Store where the Rinnai fireplace was purchased. Right?---Yes.

10

If she were to go and ask Mr Murray about that he wouldn't know anything about it would he?---I'd say he would've rang me, yeah.

You'd say he would have rung you?---He would have rang me, yes.

Are you saying you have a memory of that or you're saying that's what would happen in the ordinary course?---Sorry?

20

Are you saying you have a memory of that or are you saying that that's what would happen in the ordinary course?---I would reckon so, yes, that he would ring me up.

All right?---Because I was doing my house up at the same time roughly 2012, whatever.

Why did you buy Mr Cresnar the Rinnai fireplace?---I don't know but honest. I can't remember.

30

Well, look, isn't it the case that you bought it for him because he was giving you help with Murray Civil Works' Ausgrid jobs?---I'm not sure, no.

You're not sure?---No.

It's a possibility is it?---I don't know but honest. I can't remember.

All right?---It's going back. How long ago is that?

That's 2013, October?---Mmm.

40

Less than a year and a half ago?---I don't know but honest. I can't remember, I can't remember.

Is that because you were making many purchases for Mr Cresnar and you've lost track - - ----Um - - -

- - - of all the purchases that you've made for him?---I can't, I can't remember what, honest to God I can't remember.

But you remember that you bought a Rinnai fireplace for him?---Yes, yes, I do remember.

But you can't remember why. That's what you're saying?---No. Yes.

All right. Well, look, you also bought Mr Cresnar a wall unit didn't you?
---Yes.

10 Mr Cresnar had a wall unit designed and manufactured by a firm called Dan Kitchens?---Yes.

And it was paid for with a Murray Civil Works' credit card. Right?---Yes.

There were two payments in relation to that. Right?---Yes.

One in the order of 17,000 and the other a little over 5,000. Do you understand that?---Yes.

20 Why do you say you bought those?---I think he gave me cash for that as well but honest.

Oh, he gave you cash for that. Right. Did he say why he was giving you cash in relation to that?---No.

You'd agree with me that that's a fairly significant sum of cash?---I would reckon so, yes.

Yeah. More than \$20,000 in total?---Yes.

30 Well over \$20,000 in total wasn't it?---It was (not transcribable)

Yeah. And so Mr Cresnar gave you cash for that?---Mmm.

Well, did he say where he got the cash from?---I didn't ask him, I just - I didn't ask him.

40 Sir, is it the case that Mr Cresnar was seeking to offload cash on a regular basis to you?---Not really, no, it's just I wanted the cash to go backing the horses and that's - - -

You wanted the cash to go backing horses?---Yeah.

Oh, so you're a gambler?---Yes.

All right. But are you saying that you wanted to make bets in excess of \$20,000?---Well, I wouldn't make one bet of \$20,000, no.

All right. Why didn't you just go and withdraw the money from your own bank account?---I don't know.

It's a lot more complicated isn't it, for you to get access to cash, to do, to make these payments to Dan Kitchens than it would be to just go to the bank and get your cash out of the bank?---It's true I suppose.

It is, isn't it. Your explanation doesn't make any sense, Mr Twomey?
---Yeah.

10

Does it?---Well, that's, that's, that's what happened.

Excuse me, Commissioner.

ASSISTANT COMMISSIONER: I don't know, I'm confused now. I don't think Mr Cresnar says he gave you any money. He says this was a, a gift?
---Sorry.

20

He doesn't say he gave you money, Mr Cresnar, for this wall unit so could you be mistaken about that?---No, I don't think so, no.

Well, you think he'd remember if he'd given you \$20,000 in cash wouldn't you?---Mmm.

Mmm. He doesn't.

30

MR GARTELMANN: Commissioner, I need to seek a lifting of the suppression order in relation to a compulsory examination conducted with this witness on 14 April last year, pages 173 to 174.

ASSISTANT COMMISSIONER: Yes, I lift the suppression order in respect of those pages.

**LIFTING OF THE SUPPRESSION ORDER IN RELATION TO A
COMPULSORY EXAMINATION CONDUCTED WITH THIS
WITNESS ON 14 APRIL LAST YEAR, PAGES 173 TO 174**

40

MR GARTELMANN: Mr Twomey, you recall that you were required to attend a compulsory examination at the Independent Commission Against Corruption in April last year?---Yes.

And you know that you were asked some questions then about payment for the wall unit?---Yes.

I want to suggest to you that in the course of that compulsory examination you said that the payment was for Mr Cresnar getting you a contract for RMS, do you remember giving that evidence?---The RTA, yeah, yeah, yes.

Right. Well, you've said RTA, RTA is the - - -?---Yeah.

- - - the RMS used to be known as, right?---Yes.

10 Okay. What I'm suggesting to you is that in your compulsory examination in April of last year you were asked about the wall unit and you told the Commission that the payment was in exchange for Mr Cresnar giving you the RMS contract?---Was that for the wall unit? Ah, yeah.

Was that true?---Um, I, I can't, I can't think back that far, it must be if I said that that time um - - -

Well, it was quite a significant sum of money wasn't it, Mr Twomey, more than \$20,000?---Yes.

20 Surely you would remember whether or not you gave – I withdraw that. Surely you would remember whether or not you made purchases for Mr Cresnar for the wall unit totalling more than \$20,000 because it was for work that he did for you?---Yes.

Surely you would remember whether or not it was because you needed cash to gamble, right?---Right.

30 We're talking about transactions that occurred less than a year and a half ago, right?---Right.

Transactions that involved a significant sum of money, more than \$20,000, right?---Right.

Surely you would remember why you made those purchases for Mr Cresnar's benefit?---I can't remember to be honest.

40 Look, isn't it the simple truth of the matter, Mr Twomey, that you made those purchases because Mr Cresnar was helping you get Murray Civil Works work or get more payment out of Murray Civil Works contracts with Ausgrid?---No.

And yet you can't remember why it was that he made the purchases for you, you made the purchases for him?---(No Audible Reply)

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

You're lying in your evidence about that, Mr Twomey?---I'm not.

You were lying in your compulsory examination in April of last year when you suggested that the payments were in exchange for Mr Cresnar getting you RMS work, weren't you?---I can't remember last – yesterday, mind a year and a half ago.

All right. But you understand the proposition that I'm putting to you?
---I understand it.

10 You were lying when you gave that explanation in your compulsory examination in April last year. Do you, do you understand that?
---I understand.

And just for the sake of clarity, do you understand that I'm putting to you that you are lying in your evidence in this inquiry about the reasons you made those purchases for Mr Cresnar less than a year and a half ago?
---I'm telling you what – can you repeat that again, please?

20 I'm putting to you that you are lying in your evidence in this inquiry about the reason, reasons that you made those purchases for Mr Cresnar less than a year and a half ago?---I'm not lying.

You know full well that those purchases were made with Murray Civil Works credit card?---They were, yes.

You can remember that much, can't you?---You just said it two second ago.

All right. But you knew that already, didn't you?---Yes.

30 You gave Mr Cresnar Murray Civil Works credit card details so that those transactions could be conducted?---Yes.

You told Mr Cresnar that the credit card was a business account, right?
---I can't remember if I did or not, I'm not, I'm- - -

Well, I'm going to inform you that this inquiry has heard evidence that Mr Cresnar telephoned Dan Kitchens and told a representative that the credit card used for the transaction was a business account?---Okay.

40 How would Mr Cresnar have known that, to your knowledge?---I'm not sure, being honest.

Well, it could only be because you told him, right?---More than likely, yes.

Mr Cresnar knew it was a business account belonging to Murray Civil Works surely?

MR O'BRIEN: Well, I object to that. Again that's something my friend is asking this client as to the mind of Mr Cresnar, Mr Cresnar's belief. I don't think this witness can answer that.

ASSISTANT COMMISSIONER: Well, we don't know. The witness may well know, he may have told him. That's what he's being asked in effect. Do you know anything about- -?---About what?

10 What Mr Cresnar thought was being used to pay for this wall unit?
---I'm not sure (not transcribable)

Well, you've just heard he knew it was a business account?---Right.

Would he have known it was a Murray Civil business account?
---I don't know, I don't know.

But it's possible you told him that?---I could have, I'm not sure.

20 MR GARTELMANN: Now, Mr Twomey, Mr Cresnar had some
difficulties getting the credit card transactions processed initially, didn't
he?---When?

The credit card transactions relating to the Dan Kitchens purchase?---I don't
know.

All right. Well, look, I'm going to inform you that in this inquiry there has
been evidence suggesting that Mr Cresnar experienced some problem with
your credit card. Do you understand that?---Yes.

30 And that Mr Cresnar had to provide further details to Dan Kitchens in
relation to the credit card to be used for the transaction. Do you understand
that?---Like what?

Perhaps a different number, a different credit card?---Yeah.

Well, do you know anything about that?---No.

40 In this inquiry there has been some evidence of a telephone conversation
between yourself and Mr Cresnar following those transactions in which you
said words to the effect, I look after you all the time. You're aware of that?
---Yeah, yeah, I don't know.

Well, you're aware of it now?---You, yes.

I'm going to suggest to you that you said that in a telephone conversation
with Mr Cresnar at around the time he was attempting to make these
transactions with a Murray Civil Works credit card. Do you understand
that?---Yes.

Why would you have been saying to Mr Cresnar "I look after you all the time."?---I don't know to be honest.

It's the reality of the situation isn't it that you did look after Mr Cresnar all the time?---Mmm.

You made many purchases on his behalf, right, correct?---Yes.

10 And you made purchases for him using Murray Civil Works' accounts, correct?---Yes.

At around the same time Mr Cresnar bought a Bernina sewing machine?
---Yes.

And you're aware that the amount of that purchase was approximately \$1,800?---Was it? Yes, I don't know.

20 And once again that transaction was conducted using a Murray Civil Works credit card account?---Yes.

So in late 2013 Mr Cresnar is making a number of purchases using Murray Civil Works' credit card account, correct?---Correct.

Did you just hand over the details, that is the number, for your Murray Civil Works' credit card account to Mr Cresnar to do with as, as he pleased?---I can't remember but I must have, I must have.

30 All right. And the reason for that was because you understood that Mr Cresnar was helping you, that is Murray Civil Works, get Ausgrid work?
---He wasn't helping us get Ausgrid work because we were on the Ausgrid panel.

Sure, but you get contracts once you're on the panel, right, correct?
---Correct, yes.

And you've, you've agreed with me that you understood that a project planner might influence what contractors got what contracts, right?---Right.

40 You've understood, you understood that a project planner such as Mr Cresnar could influence the work that a contractor got, right?---Right.

And you know there's evidence that Mr Cresnar informed you of confidential Ausgrid information regarding Murray Civil Works' pricing relative to that of other contractors such as Dunmain, right?---Yes.

And you know that there is evidence that Mr Cresnar told you at least that notwithstanding that another contractor, Dunmain, was cheaper he fudged the figures to make sure you got the job, right?---Yes.

So you knew Mr Cresnar was doing his job in such a way as to influence the work that Murray Civil got, right?---Right.

10 And I want to suggest to you that the payments that you were making in late 2013 using the Murray Civil Works' credit card account were made because you believed Mr Cresnar was helping Murray Civil Works?---Not, I wanted um, Phil Cresnar to come to work, work for TGB and I kept, I kept buying him stuff to see would he come across.

But Mr Cresnar never came to work for TGB at least on a full-time basis until such time as he was resigned, he resigned from Ausgrid after a notice of intention to terminate was served upon him, right?---He used to do (not transcribable) during the day.

20 I beg your pardon?---He used to do tenders for me during the day.

He was doing tenders for you?---Well, actually he told me there.

Right. Did you have any arrangement with Mr Cresnar about how much he would be paid for doing these tenders for you?---No, not really, no.

Is that because he didn't really do any such work?---He told me he did.

ASSISTANT COMMISSIONER: He told you he did?---Yes.

30 Well, wouldn't you know if he was doing it?---You, I can't even turn on a computer, it's all emails.

So he may not have been doing anything?---Well, he did because I got RTA work, started getting work.

What was that?---Sorry?

What was that?---Cutting um, cutting trenches with, with, on the roads.

40 TGB?---Yes.

MR GARTELMANN: You're referring to one particular job that you got in 2013 is that right?---We got a few jobs off the RMS.

Oh, right, but when you say we are you referring there to you and Mr Cresnar or TGB?---Mr Cresnar got them for me.

All right. Are you talking about – well, can I ask you this. Did you get one or more than one job in 2013?---Got more than one job, yeah.

I'm sorry. One or more than one job from the RMS?

MR O'BRIEN: I object to the – it's clear that we're talking at cross-purposes. The witness refers to the RMS under its old name and it might be just less confusing if it's kept to the RTA for the witness's sake.

10 ASSISTANT COMMISSIONER: Yes. Do you understand that, you're being asked did you get one or more job from the RTA?---I got more than one job, yes.

MR GARTELMANN: Did Mr Cresnar assist you in 2013 with one or more than one job for the RTA or RMS?---More than one.

How much was it worth?---I'm not sure but honest.

20 How many jobs did he assist you with?---For winning like, how do you mean?

How many jobs did he assist you with whether you won it or not in the year 2013 in relation to the RTA or RMS?---I don't understand the question.

How many jobs that you sought from the RTA or RMS in 2013 did Mr Cresnar assist you with?---I think there were about three jobs off the RMS.

30 ASSISTANT COMMISSIONER: Well, you must have some idea what they were worth?---Oh - - -

MR O'BRIEN: He hasn't been asked that with the greatest respect, Assistant Commissioner.

ASSISTANT COMMISSIONER: I beg your pardon?

MR O'BRIEN: He hasn't been asked in this question.

40 ASSISTANT COMMISSIONER: He has been asked previously?---There was one job anyway I know. I done it in one day and I got 30,000 for it. That was - - -

So one was worth 30,000 you think?---For a one-day job, yes.

Any idea of the value of the others?---I'm not really sure but honest.

More or less than that do you think?---I'd say it would be less but honest.

So they were pretty small jobs?---Yes, but I just wanted to get in with the RTA because if you get in with the RTA they keep you busy all the time so that's why I was pushing to get in with the RTA.

MR GARTELMANN: Now, Mr Twomey, you've said that you did not know precisely what Mr Cresnar did in relation to these jobs in part because you couldn't use a computer yourself. Is that right?---Exactly, yeah.

10 But you made these purchases for Mr Cresnar on your PayPal account for the jugs. Right?---Yes.

So you had to use the computer for that didn't you?---No, sorry, I didn't, I didn't use the computer.

Who did?---I think it was Phil used it.

Mr Cresnar did?---Yes.

20 So did you give Mr Cresnar your PayPal account access details?---Yes.

ASSISTANT COMMISSIONER: So you would never have used the PayPal account for yourself?---No, no. He'd do it all the time or most of the time, yes.

Well, if you can't use a computer you wouldn't have been able to use the PayPal account for yourself?---No.

30 So it was all for him was it?---No. I used to tell him to get me whatever I wanted.

MR GARTELMANN: Why did you set up a PayPal account at all?---He said it would be easier.

He said?---Yes.

Oh?---Get these jugs.

Mr Cresnar advised you to set up the PayPal account?---Yes.

40 Funded by the Murray Civil Works' credit card account?---Yes.

So bearing in mind you couldn't use the computer I take it it was Mr Cresnar who entered the credit card details in for the PayPal account?---It would have been, yes.

So Mr Cresnar would have known according to your understanding that it was the Murray Civil Works' credit card account being used to fund the PayPal account?---It would have been I suppose. I don't know.

And then Mr Cresnar went ahead and made purchases using that PayPal account for his own benefit?---And me.

And also for himself. Right?---Yes.

Well, the \$5,000-odd worth of jugs. Correct?---Yes. I think he, he asked – he gave me jugs. That was it, he gave me jugs for something else. I don't know what it was. His own jugs.

10

As I understand your evidence earlier today, Mr Cresnar purchased the – I'll withdraw that. As I understand your evidence earlier today, the jugs were purchased because Mr Cresnar wanted – because of a need to hand over some cash?---Mmm.

Is that right?---That's right I think, yes.

So why was there a need then to set up a PayPal account for Mr Cresnar to make purchases funded by the Murray Civil Works' credit card account?

20

---I'm not really sure but honest.

Well, isn't the simple truth of the matter, Mr Twomey, that the purpose of it was so that Mr Cresnar could make purchases using Murray Civil Works funds in exchange for Mr Cresnar assisting Murray Civil Works in relation to Ausgrid contracts?---It wouldn't be like that, no.

Is there any reason Mr Cresnar would have access to Murray Civil Works online banking?---He, he might have, yeah.

30

Why?---Because I think – I'm not really sure um, I think um, we give him the bank account details to see because I was losing money and I didn't know where it was going.

But you knew that Mr Cresnar was making purchases at the very least with your PayPal account that were funded by Murray Civil Works?---Yes.

So didn't you think when there was money disappearing out of the account that it's probably going to Mr Cresnar?---No, no, no.

40

Why not?---It just wasn't. It wasn't disappearing but we weren't making money.

All right. And so what did you do as a result of that concern?---Just to see there was any dodgy transactions from somewhere else because I didn't know.

All right. But you have an accountant, right?---Yes.

Employed by Murray Civil Works?---Yes.

Did your accountant raise with you any dodgy transactions such as you've described?---No.

So why do you think that there were dodgy transactions being conducted on the account?---Because there was no money in the account so I just wanted to make sure – I, I, I didn't really trust (not transcribable) so that's, my woman couldn't do it because we've four kids.

10

I'm sorry, I didn't catch that last bit?---The only one I could trust was Phil 'cause my um, my woman couldn't do it because she was too busy.

So when you say your woman, are you referring to your accountant or your wife?---My wife.

That's Siobhan Henry, right?---Yes, yes.

So why couldn't she do it I'm sorry?---Too busy with kids, she's four kids.

20

But Mr Cresnar's a very busy man, isn't he?---I wouldn't reckon so.

Well, he was a full-time Ausgrid employee at the time, right?---Yes.

He's also, on your account, doing secondary employment for TGB, right? ---Mmm.

He's a very very busy man, isn't he?---(No Audible Reply)

30 Right?---Right.

So why couldn't you have your wife look at the Murray Civil Works accounts to look for dodgy transactions?---She was too busy.

Now, these dodgy transactions that you're referring to, that's- -?---I'm not saying there were dodgy transactions but I wanted to make sure.

And how were you going to make sure?---Sorry?

40 How did you attempt to make sure?---I don't understand.

Well, what did you do to try and make sure that there were no dodgy transactions on the account?---I asked Phil to look through everything.

To look through everything. By that do you mean the Murray Civil Works business account?---Yes.

Now, Murray Civil Works had three bank accounts at the time, didn't it?

---Yes.

It had a general business account, right?---I think so, yes.

A cheque account, correct?---I'm not sure, being honest. I'm not sure.

Did you give Mr Cresnar access to all of the accounts?---I um, I don't know, I don't know.

10 Now, Mr Cresnar had no financial interest in Murray Civil Works, did he?
---How do you mean?

Was he an investor?---No.

Was he a shareholder?---No.

Did he receive any payments from Murray Civil Works- - -?---No.

20 - - -other than the ones we've described in evidence today?---Yes.

So how is it that Mr Cresnar is going to know what transactions are suspect or otherwise when he looks through Murray Civil Works bank accounts?
---I wrote down everything that I thought that should be, be paid out.

You wrote down everything that you thought should be paid out?
---Well, all, all the boys' wages, wrote down all their names and all the suppliers.

30 All the suppliers, was it?---Yes.

All right. So you wrote all that information down?---Yes.

So you can write well enough to write that kind of information down?
---Well, it's easy because you're looking at the suppliers every day of the week.

Yes. So if that's the case, if you can write that information, you can read that information, right?---I don't understand, I- - -

40 Well, look, if you were able to write those things down for Mr Cresnar's benefit, you would have been able to read that kind of information on the bank account statements surely?---But I can't even turn on a computer to get into the computer.

But you had hard copy statements sent to you at Murray Civil Works through the post, correct?---I never went to our office.

But you would agree with me that there were hard copy statements sent to Murray Civil Works in the post?---That's true, yes.

So you could have sat down and looked through those credit card account statements or bank account statements in hard copy couldn't you?---I could have had, yes.

And the very same information that you provided to Mr Cresnar you could read for yourself on those statements?---I could have had, yes.

10

So it just doesn't make sense – I would suggest – Mr Twomey that you would provide Mr Cresnar with access to Murray Civil Works bank accounts for that purpose?---But that was the purpose.

You could just have easily, as easily, looked at the information yourself?---I could have had, yes, yes.

And Mr Cresnar wouldn't know anything about Murray Civil Works business expenses other than what you tell him, right?---Right.

20

So he couldn't do anything that you couldn't do yourself, right?---How do you mean?

He could not determine whether any transactions conducted on the accounts were suspicious, could he?---I don't know.

Because all he has to go off is what you tell him, right?---Right.

30

So there's nothing he can help you with - - ?---But if there was anything different, if anything different to what I told him.

And even if there was something different only you would know whether or not it was a proper business expense or not right?---Right.

So it just makes no sense at all Mr Twomey that you would get Mr Cresnar to do this for you?

MR O'BRIEN: Well that doesn't follow – it's just an improper proposition. No doubt it's just incomplete, it's improper in that situation.

40

ASSISTANT COMMISSIONER: I'm sorry, I don't really understand that objection.

MR O'BRIEN: I object on the basis that the question is unfair. What is the evidence to date is that this witness is giving the Phillip Cresnar the details and the payments that should be there with a view to him looking at the accounts and raising any payments – other payments no doubt that would be once those payments were – if there were such payments – raised than they

would be brought back to this witness and there would be some discussion follow. So the proposition that my friend puts is - - -

ASSISTANT COMMISSIONER: Well, what's being put is that this witness could have done exactly that same thing himself and therefore it doesn't make any sense to ask Mr Cresnar to do it.

MR O'BRIEN: Well, it's gone a little further than that, that's basically the tenure certainly.

10

ASSISTANT COMMISSIONER: Well, that was the last proposition put to the witness that you're objecting to, that it doesn't make sense to have - - -

MR O'BRIEN: No, I don't think it was.

ASSISTANT COMMISSIONER: - - - engaged Mr Cresnar to do this when he could have done it – well that's as I understood what Mr Gartelmann was putting to him. Anyway, look I'm sure the witness is quite capable of answering that.

20

MR O'BRIEN: I'm not too sure of it.

MR GARTELMANN: You understand what I'm putting to you Mr Twomey – that your explanation for giving Mr Cresnar access to Murray Civil Works accounts makes no sense, do you understand that?---It does, with me it does.

30

All right. I want to inform you that in the course of this enquiry there has been evidence of a conversation between Mr Cresnar and Adisty Said, do you understand that?---Who?

Adisty Said?---Adisty.

Adisty?---Yes.

Now she's an employee of Murray Civil Works isn't she?---Yes.

40

Now you understand what I'm putting to you that there has been conversations between Mr Cresnar and Ms Said played in evidence in this enquiry, do you understand that?---Yes.

In the course of one such conversation Mr Cresnar tells Ms Said to submit Murray Civil Works claims to Ausgrid for payment because horse has a dint in his credit card, do you understand that?---Mmm.

Now horse is Mr Cresnar's nick name for you, isn't it?---Yes.

And the reference to there being a dint d-i-n-t in the credit card is a reference to the account level?---Sorry?

The reference to there being a dint in the credit card is a reference to the accounts level, the level of the account?---Must be, yes.

10 Do you have any knowledge of why it would be that Mr Cresnar is telling Ms Said to submit the claims for Murray Civil Works payments from Ausgrid because you had a dint in your credit card?---How long ago was this, I can't remember?

November 2013, Mr Twomey?---Ah, I don't know, I can't really remember.

Well, look, just to give you some understanding of the context in which this conversation occurs it's at about the time or shortly after Mr Cresnar is making payments to Dan Kitchens for the wall unit?---Right.

Buying a Bernina sewing machine, right?---Right.

20 And those transactions being conducted using the Murray Civil Works' credit card account, right?---Right.

Now I'll ask you again, do you have any knowledge of why it would be that Mr Cresnar is then telling Ms Said to submit Murray Civil Works claims for payments from Ausgrid because you have a dint in your credit card?---I don't, no.

30 I want to suggest to you, Mr Twomey, that the only reason that that would be occurring is because Murray Civil Works needed payment from Ausgrid in order to top up the credit card because Mr Cresnar had been making purchases on that account?---Okay.

Do you agree with that?---Not, no, not, I don't know.

Mr Cresnar in the course of that telephone conversation goes on to clarify for Ms Said that the dint in the credit card is approximately \$27,000?---And what was that for, like the - - -

40 Do you understand what I'm saying? Mr Cresnar tells Ms Said that the dint in the credit card is approximately \$27,000?---Right.

Mr Cresnar's referring in that conversation I would suggest to the Murray Civil Works credit card account level?---Okay.

Why would it be that Mr Cresnar is telling Ms Said about the Murray Civil Works credit card account level?---I don't know.

Could it be that you do know, Mr Twomey, but you do not want to answer?

---I don't know but if I knew I would answer.

Look, Mr Twomey, you know full well that Mr Cresnar was using the Murray Civil Works' credit card to make purchases for his own benefit, right?---Yes.

And you knew that Mr Cresnar knew that it was the Murray Civil Works' credit card account that he was using for those purchases, correct?---Oh, I, I don't know, I'm not sure. I don't know.

10

That's the only reason I would suggest that Mr Cresnar would be telling Ms Said to hurry up and get the Murray Civil Works' claims for payment from Ausgrid in because of the dint in the credit card?---Right.

It follows doesn't it?---Yes.

Yes. All right. But you can't explain that I take it?---Sorry?

You can't explain that I take it?---No.

20

All right. Murray Civil Works maintained an account with Bunnings didn't it?---Yes.

Mr Cresnar in 2012/2013 was carrying out renovations on his home at Alexandria wasn't he?---I think, I think so, I'm not sure, yes.

Well, you know Mr Cresnar was carrying out renovations on his Alexandria home at one time?---Yes.

30

And Mr Cresnar needed to make multiple purchases from hardware stores for the purposes of those renovations, correct?---Yes.

He bought such things as power tools, right?---(No Audible Reply)

Correct, you know that?---I think so, yes, I don't know.

Well, look, you know because Mr Cresnar used the Murray Civil Works' trade card account with Bunnings to make purchases of that kind, correct?---Okay.

40

Well, you say okay as if it's the first time you've, you've heard of it?---I know, yeah, you're correct.

All right. It's the case isn't it that the Murray Civil Works' trade card account was being used on a regular basis in 2013 and into 2014 by Mr Cresnar?---Yes, Mr Cresnar had it but he used to get stuff for me as well for my, for my house.

All right. Is it the case though that Mr Cresnar kept possession of your Murray Civil Works' trade card?---It would be, yes.

And is it the case that he kept possession of it because Mr Cresnar was making regular purchases with it?---It would be, yes, yeah.

You'd be aware I assume that in evidence in this inquiry last week there was some video footage played of an occasion, being 31 January last year, when you and Mr Cresnar attended Bunnings together?---Yes.

10

And you know that that footage depicts Mr Cresnar pulling the Murray Civil Works' trade card out from his wallet. Correct?

---Correct, yes.

And then after paying for a transaction putting the card back in his wallet. Right?---Yes.

So you were with Mr Cresnar at the time of that transaction weren't you?

---Yes.

20

So Mr Cresnar was paying for items on that occasion for both himself and yourself. Is that right?---Sorry, can you say that once more please.

On that occasion, the occasion that is the subject of the video footage, Mr Cresnar was paying for items for both yourself and himself?---Yeah. That was the only time I could go with him that time.

Right. Look, there was a telephone conversation played in evidence to Mr Cresnar in which you discuss a trip to Bunnings. You know that?---Yeah, I

30

– yeah.

And in that conversation Mr Cresnar – I'll withdraw that. In that conversation you discuss needing to make purchases yourself at Bunnings. Correct?---Correct. Right, yeah.

And you make arrangements to attend Bunnings together. Right?---Did we. I don't know that, yeah.

All right. But in any event, during that conversation you say to – I'm sorry, I'll withdraw that. During that conversation Mr Cresnar says to you – in effect he promises this will be the last time?---He what?

40

He promises it will be the last time. Are you aware of that conversation? ---No.

All right. Well, look, was it the case that Mr Cresnar used your Murray Civil Works' trade card more than you would have liked?---Could have been, yes.

And was it the case that you took issue with Mr Cresnar's expenditure on your Bunnings trade card account?---Just say that once more.

Is it the case that you took issue - - -?---What do you mean?

Did you raise an objection with Mr Cresnar about the extent of his expenditure on Murray Civil Works' trade card with – on the Bunnings account?---I'm not, I'm not sure, not sure.

10

Did you, did you object to it, did you say in effect Mr Cresnar go easy?---I could have.

Because Mr Cresnar had the card in his wallet. Right?---Mmm.

He kept it in his possession. Right?---Yes.

And you had to ring him up if you needed to go and buy things for Bunnings for your own benefit. Right?---Yeah. Because he'd be finished early. He would finish at 3 o'clock in the day which I wouldn't.

20

Right. But he kept the trade card in his possession. Correct?---Yes.

And so if you needed to use it you had to ring him up to make arrangements for any purchases for yourself?---That's true, yeah.

All right. Now of course all of those purchases for Bunnings were funded by Murray Civil Works. Correct?---Yeah.

30 That is, the purchases that Mr Cresnar made with the Murray Civil Works' Bunnings trade card. Correct?---Mmm.

Those purchases were funded by Murray Civil Works. Correct?---Yeah.

All right. The reason that you allowed Mr Cresnar to make those purchases was because you understood that Mr Cresnar was assisting Murray Civil Works in relation to its Ausgrid work. Correct?---No, it wasn't that, no.

40 So why did you do it?---Um, why did I do it. I don't really know but honest.

Well, look, that's the only sensible explanation I'd suggest to you?---Yes.

You can't provide any other explanation?---Not really, no.

All right. Murray Civil Works has a fleet of vehicles for business purposes. Correct?---Can you say that once more.

Murray Civil Works maintains a fleet of vehicles for business purposes. Correct?---Yes, they do.

It includes at least two company cars?---Um, there'd be more I'd say. Yeah, two I suppose, two or three, yeah.

All right. Well, cutting to the chase, Murray Civil Works gave David Naughton, the project manager, a company car didn't it?---Yes.

10 All right. And it's the case, isn't it, that you made arrangements for David Naughton's Murray Civil Works' company car to be available for Mr Cresnar's use over the summer holidays?---Last summer is it?

Well, I'm going to put to you that it occurred on two occasions. Do you understand that?---Mmm.

In the summer of 2012 to 2013, right?---Yeah.

And the summer of 2013/2014?---Right.

20

Would you agree with me that you made arrangements for Mr Cresnar to have available to him David Naughton's Murray Civil Works company car for his own private use?---That would be true, yeah.

On both of those, over both of those summer breaks?---I can't remember but I'd say it must be true, yes.

30 All right. And the reason that you made the Murray Civil Works company car available to Mr Cresnar over those summer breaks was because you believed Mr Cresnar was helping you in relation to Murray Civil Works jobs with Ausgrid. Right?---Right.

You agree with that?---Yeah.

Murray Civil Works maintains an account with a chain of service stations for fuel for its company vehicles. Correct?---Yes.

Each of the company vehicles has what's known as a fuel card?---Yes.

40 And each fuel card has the registration number relating to the company vehicle stamped on it, right?---(No Audible Reply)

Correct?---Yeah, there is, yeah.

And you made arrangements – I'll withdraw that. You and Mr Cresnar discussed a Murray Civil Works fuel card being made available for Mr Cresnar's use on an ongoing basis, didn't you?---In the car, like, is it?

I'm sorry, I didn't catch that?---Is that when I gave him the car?

No. I'm talking about use of a fuel card on an ongoing basis?---Of, no, that was he wanted a fuel card from TGB.

For TGB?---Yeah. It was, wasn't it, yeah.

I'm sorry, I didn't catch that?---It was, yeah.

10 All right. But in any event, you made arrangements for Mr Cresnar to have access to a fuel card?---I think I did, yeah, when he had the car, yes.

You tried to get the – I withdraw that. The fuel card needs to be in the – I withdraw that. The fuel card needs to have the registration number of the vehicle put on it, doesn't it?---It does, yeah.

I want to suggest to you that you had a number of conversations with Mr Cresnar relating to what registration number could be put on the fuel card for Mr Cresnar to use?---Mmm.

20

Would you agree with that?---I, yeah.

And in one conversation Mr Cresnar asked you to use your registration number on the fuel card, right?---Did he, yeah.

Yeah. And ultimately you agreed to share your own fuel card with Mr Twomey, with Mr Cresnar, correct?---Yes.

30

And the fuel card that you made that arrangement about was the Murray Civil Works fuel card, wasn't it?---The fuel card from, from Murray Civil?

Yes?---It could have been, yes.

The reason that you made an arrangement with Mr Cresnar for him to use a Murray Civil Works fuel card was because you believed that Mr Cresnar was assisting you in relation to Murray Civil Works contracts with Ausgrid? ---No.

40

Why did you do it then?---I didn't give him, I didn't give him no um, card.

No, but you made an arrangement with him?---Oh, I wouldn't give him, no, I didn't give him no card. I mean did I make arrangement? If I did, I did, but I never gave him a card.

Didn't you agree to provide your card to Mr Cresnar for him to use? ---Not all the time.

No, but did you make an arrangement to do so?---To, to, to take my, my card?

Yes?---I could have, I could have, yes.

Yes. And that was your Murray Civil Works fuel card I'm talking about?
---Oh, right, sorry.

Yes. You agree with that?---Yes.

10

All right. Did you make that arrangement with Mr Cresnar because you believed Mr Cresnar was assisting Murray Civil Works in relation to its contracts with Ausgrid?---No.

So why did you do it?---I don't know, being honest, but (not transcribable) Murray Civil in there because, no I wasn't, no.

I'm sorry?---It wasn't, no.

20

I didn't quite catch your answer?---No, it wasn't.

My question was, why did you do it?---I didn't do it.

Why did you make an arrangement with Mr Cresnar - - -?---Oh, I don't know, I don't know.

You've got no explanation?---No.

30

Bearing in mind that it was a Murray Civil Works fuel card you made the arrangement about.---Yes.

Can you think of any reason why you might have provided that to Mr Cresnar?---I don't know.

Look, the answer is obvious, I would suggest to you Mr Twomey, it is because you believe Mr Cresnar was assisting Murray Civil Works in relation to its contracts with Ausgrid?---I'm not being smart but you're kicking back to Murray Civil all the time.

40

Yes.---With the Ausgrid contract you just get job after job after job.

Yes, but you understood that Mr Cresnar was a contract – I'll withdraw that. As a project planner for Ausgrid had the power to make recommendations about which contractors would be awarded contracts, correct?---Correct, yeah, yeah.

All right. I'm going to move on now to ask you about Murray Civil Works subcontractors, do you understand that?---Sorry.

I'm going to move on now to ask you about Murray Civil Works subcontractors.---Yes.

Firstly, MDM Formworks.---Yes.

MDM Formworks was a subcontractor to Murray Civil Works in the year 2013 and 2014, correct?--- (not transcribable)

10 MDM Formworks directors and shareholders are a Mr McGann and Mr Madden, right?---Yes.

All the subcontracting work that MDM Formworks did for Murray Civil was Ausgrid work, correct?---Yes, yes.

And all of the Ausgrid work that MDM Formworks did for Murray Civil was within the North Region, correct?---I think so yes.

20 Where Mr Cresnar was the project planner, correct?---I think so yes.

Did you know Mr Madden and Mr McGann before they set up MDM Formworks?---I seen them around I know them but I don't think I know them that well like.

Did you socialise with them at all before they set up MDM Formworks?---I don't think I did, I'm not sure, no, I don't think I did.

30 All right. I want to ask you in particular about a job that MDM Formworks did for Murray Civil in connection with an Ausgrid contract at Lindfield, do you understand that?---I do, yep.

You're aware, aren't you, that Murray – I withdraw that. That MDM Formworks did a job for Murray Civil at Lindfield involving reinstatement work.---I know that there was all reinstatement in Lindfield but what part of Lindfield I'm not sure, I can't remember.

40 Well, there was a job Murray Civil allocated to MDM Formworks in late 2013 that carried through and was completed the following year about March or April, do you recall that job?---I think I do, I'm not sure yeah.

All right. Well, it was a job that was worth more than \$100,000 ultimately, does that assist your recollection?---I think so, yes.

All right. You'd be aware, I am sure, that in this enquiry last week there was evidence of telephone conversations between Mr Madden and Mr Cresnar and between Mr McGann and Mr Cresnar relating to the Lindfield job.---Yes.

And you would be aware that there was evidence in this enquiry last week comprising video footage taken from a bank at Lindfield showing a sum of \$2,500 being withdrawn and put in an envelope.---Yes.

And you would be aware that there was video footage showing Mr Cresnar being given an envelope a very short time later outside the Greengate Hotel on the Pacific Highway at Lindfield, right?---Yeah, yeah, I heard about it yeah.

10 What do you want to tell us about your knowledge of that, of those events?--
-I don't know.

Surely you do, Mr Twomey?---I, I don't.

Yes, you do, Mr Twomey?---Um, what do I know? I don't know, but I can't remember, I don't know, I don't know.

Yes, you do, Mr Twomey?---I don't.

20 Look, in evidence last week there was a telephone conversation between yourself and Mr Cresnar played in evidence where you discuss your recollections of the agreement you had with Mr Madden and Mr Gann (as said) regarding payment in relation to that job?---Who had?

Have you been shown by your legal representative a copy of the transcript of a conversation between yourself and Mr Cresnar on 22 December, 2013 in which you refer to, in which there is a reference to an arrangement with Mr Madden?---No, but what was that?

30 All right. Well, we might bring that up on screen then. It's page 416. Now do you see before you on the screen a copy of a transcript of a telephone conversation?---Yeah.

And you can accept that that conversation occurred on 22 December, 2013?
---The 22nd is it?

22 December, 2013?---Yeah, yeah, yeah, yeah, yeah, yeah.

40 Now towards the bottom of the page do you see Mr Cresnar saying "Unlike that fucking John Madden ringing me up."?---Right.

And then over to the next page, 417, you respond, "Yeah," and then Mr Cresnar goes on to say, "That was definitely five on that one 'cause I remember we wanted 20 and then they were like oh, no, we'll give you 10." Do you see that?---Yeah, yeah.

And then you respond, "Yeah, because I said to them just five each. He says, he says, fuck, he says, and then I said look," do you see that?---Yeah, yeah.

Now that conversation between yourself and Mr Cresnar related to your recollections of an arrangement between yourselves and Mr Madden, right? ---And there's something confusing there because I had, I had um, I had, I used to do all their saw cutting and he used to give me cash and I had a machine hired to him.

10

You're suggesting this relates to saw cutting work?---For cash, yes.

So that wouldn't have had anything to do with Mr Cresnar would it?---No, I don't think so, no.

All right. So that can't be explanation for this conversation can it?---I don't know.

20 No. Because you're talking to Mr Cresnar about your respective recollections of this arrangement with Mr Madden, right?---(No Audible Reply)

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

Yes, you can, Mr Twomey, you remember it full well I'd suggest?---I can't remember that one, not.

30 Mr Twomey, you are giving false evidence in this inquiry when you deny not having any recollection of that conversation?---Well, obviously it is black and white, it's black and white but honest to god I can't remember.

You're correct with respect, Mr Twomey, it is black and white isn't it?---It is black and white, yeah.

It is in black and white, we see you and Mr Cresnar talking about your recollections of an agreement between yourselves and Mr Madden, right? ---Right.

40 And Mr Cresnar's saying, "I remember we wanted 20 and then we were like, oh no, we'll give you 10, right."?---Mmm.

What you're talking about there is an original arrangement for \$20,000 and then an ultimate arrangement for \$10,000, right?---(No Audible Reply)

Correct?---I can't remember it though.

Yes, you can, Mr Twomey?---Honest to god I cannot remember that.

Mr Twomey, you then say to Mr Cresnar, “Yeah, because I said to them just five each.” Right?---(No Audible Reply)

You see your words there?---Yeah, yeah, yeah.

What you’re referring to there, Mr Twomey, is \$5,000 each?---Are you sure of that?

Yes?---I can’t remember that phone call.

10

Yes, you can, Mr Twomey. You’re giving false - - -

MR O’BRIEN: I’ve let this go long enough but I think it’s totally improper that Counsel Assisting should attack this man and badger this man suggesting that he can remember when he’s given clear evidence that he can’t. Now I’d ask him to desist in the impolite way. If he has something to put to him well, by all means put it but there is no need for this badgering, bullying, improper approach by Counsel Assisting. I’d ask him to desist and I’d ask your support in telling him to desist.

20

ASSISTANT COMMISSIONER: It’s called cross-examination, Mr O’Brien. He’s perfectly entitled to put to the witness that he does remember this and in fact, in fairness he should put it to the witness if at the end of the day he is going to submit to that effect. This was not that long ago. I think the witness must have some memory of what they were talking about in this conversation?---Honest I cannot remember.

Yes, Mr Gartelmann.

30

MR GARTELMANN: Mr Twomey, I want to suggest to you that in the course of that conversation you went on to discuss further with Mr Cresnar your recollections of the arrangement that you had with Mr Madden. Do you agree with that?---Can you say that again please.

Perhaps I’ll withdraw that. Can the witness be shown page 418 please. You have before you the next page of the transcript of that conversation. Do you understand that?---Yeah. Go ahead, yeah.

40

And you can see there at about halfway down the page beside your name, you see where the cursor is now?---Yeah.

You say “And I, I knew very well it was five”. Do you see that reference? ---Yes, yes.

What you’re referring to there, Mr Twomey, is knowing very well it was \$5,000. Correct?---I cannot remember that.

And then Mr Cresnar goes on to say “I remember saying fucking, at the start fucking 20 you know and then there were, then fucking then they, we settled for 10 mate” and you say “Yeah”. Right?---Right.

So I want to suggest to you, Mr Twomey, you discussed at length with Mr Cresnar your recollections of your agreement with Mr Madden in relation to a payment. Do you agree with that?---I’m not sure that but honest.

10 All right. But you’ve got no other explanation for that conversation?---I don’t, no.

And you understand this inquiry has heard evidence that the day before there was a meeting between Mr Cresnar and Mr Madden and Mr McGann. Right?---When?

20 You understand that this inquiry has heard evidence that the day before there was a meeting – I’ll withdraw that. I’ll correct the date. Oh, yes, I’ve got the date incorrect. I want to suggest to you, Mr Twomey, that in this inquiry there has been evidence that on 20 January, 2014 there was a meeting between Mr Cresnar and Mr Madden and Mr McGann. Correct? ---Correct. I don’t know. Is it?

And shortly before that meeting a sum of \$2,500 is withdrawn from MDM Formworks’ account at a bank at Lindfield?---Right.

Put into an envelope. Do you understand that?---Mmm.

30 And then an envelope is handed to Mr Cresnar outside the Greengate Hotel at Lindfield.

MR SUTTON: With respect, there is a crucial part of the sequence that has not been put. That is that one person enters the bank and receives something and a very different person hands something to Mr Cresnar. To simply suggest to this witness that it is all part of one and the same sequence is unfair and misleading.

40 ASSISTANT COMMISSIONER: Well, I don’t know that that is crucial but it is factually accurate, but I really don’t know what you’re going to get from this witness about that issue, Mr Gartelmann.

MR GARTELMANN: Yes, yes. All right.

Well, look, Mr Twomey, for completeness sake what I want to put to you is this. You and Mr Cresnar had an arrangement with Mr Madden and Mr McGann in relation to the Lindfield job whereby you were to be paid, that is you and Mr Cresnar were to be paid by Mr Madden and Mr McGann. Would you accept that?---I cannot remember that, being honest.

Well, look, if something of that nature was agreed you would remember it, surely?---I should do, yes.

I want to suggest to you that you had an original arrangement – I withdraw that. I want to suggest to you that you had an understanding, that is you and Mr Cresnar had an understanding that the arrangement was that you'd be paid \$10,000 total or \$5,000 each. Would you agree with that?---I don't agree with it 'cause I can't remember it.

10 And I want to suggest to you that you were in fact paid two and a half thousand dollars each rather than \$5,000 each. Would you agree with that? ---When?

In January of 2014?---No, I can't, honest to God, I cannot- - -

Well, look, did Mr Madden or Mr McGann pay you any cash?---That, not that I can call, recall it, no.

20 Is that something you think you might remember?---You would, yeah, remember it. I cannot, I can't, I can't even remember that conversation.

ASSISTANT COMMISSIONER: Sorry. So I take it in terms of what you were discussing in the telephone conversation about five or 10 or 20, you, you can't help us at all what any of that means?---I cannot help you.

MR GARTELMANN: All right. I want to ask you about another subcontracting job now. Do you understand that?---Yes.

30 Murray Civil Works returned a- - -

ASSISTANT COMMISSIONER: I'm sorry, Mr Gartelmann.

MR GARTELMANN: I'm sorry.

ASSISTANT COMMISSIONER: Just before you go on.

MR GARTELMANN: Yes.

40 ASSISTANT COMMISSIONER: I think we should resolve the issue about whether we're going to continue- - -

MR GARTELMANN: Yes.

ASSISTANT COMMISSIONER: - - -and if so for how long. Perhaps I could just try to get an indication from others. Mr Sutton, do you expect to cross-examine this witness or examine the witness.

MR SUTTON: Very very short on what I've heard so far, but a few minutes.

ASSISTANT COMMISSIONER: And Mr O'Brien, do you think you will want to re-examine?

MR O'BRIEN: I can't see any merit in it, no.

10 ASSISTANT COMMISSIONER: So, Mr Gartelmann, how much longer do you think you will be?

MR GARTELMANN: I would think perhaps 20 minutes at the outside.

ASSISTANT COMMISSIONER: Well, I see merit in sitting on but I'd be happy to hear if anybody objects.

MR O'BRIEN: No objection from me.

20 MR SUTTON: No objection.

ASSISTANT COMMISSIONER: All right. Well, we'll carry on.

MR GARTELMANN: All right. Now, Mr Twomey, I want to ask you now about another subcontractor. Do you understand that?---Mmm.

Murray Civil Works retained a subcontractor by the name of MSA Civil?
---Mmm.

30 At least on one occasion. Is that right?---I think so, yes.

And was that in relation to a restoration job at Mosman?---I think it was, yes.

Did MSA carry out the restoration job at Mosman?---Yes, I think yes.

And did Murray Civil Works issue an invoice to Ausgrid in relation to that restoration job?---They must have has, yes.

40 All right. Now in this enquiry last week there was evidence relating to communications between Mr Cresnar and a [REDACTED] do you understand that?---Yes.

And the evidence related to communications between Mr Cresnar and Mr [REDACTED] regarding his quote for the Mosman job, do you understand that?---Yes.

In the course of a SMS message [REDACTED] indicated to Mr Cresnar a quote in the vicinity of \$263,000. Do you understand that?---I do yes.

And there was a telephone conversation played to Mr Cresnar relating to discussions between yourself and Mr Cresnar regarding [REDACTED] quote, do you understand that?---Right, what did it say.

I take it you have not been shown the transcript of that telephone conversation?---I'm not long back from Ireland.

10 Yes. Perhaps we should show you the first page of that, page 261. Do you see before you on the screen a copy of a transcript.---Yeah, yeah, yeah.

You would accept that that relates to a conversation between yourself and Mr Cresnar- -?---Yep.

- - - on 27 November 2013?---Yeah.

Now about a third of the way down the page do you see Mr Cresnar's name just there beside the cursor?---Yeah, yeah.

20 And Mr Cresnar says, do you know how much Habibie's price is, and you say how much, and then he says, 265, do you see that?---Yes.

Now Habibie was your name for [REDACTED], correct?---Say that again.

Habibie was your name for [REDACTED] Okay, okay, okay, okay, okay.

Would you agree with that?---Yeah, yeah, yeah, yeah.

30 The 265 that Mr Cresnar refers to is a reference to \$265,000, correct?---Correct yeah.

And this is in relation to the Mosman job isn't it?---Mosman, yeah.

All right. Now if you could look over the page, page 262 down towards the bottom of the page beside your name there, do you see, it says, the cost price will surely be more than that, will it. Now I want you to understand that it was accepted in evidence last week that that's mis-transcribed, it should be the Council's price.---Mmm.

40 Then over the following page 263 you and Mr Cresnar discuss how much you think the Council might charge for that job, do you see that?---Off the top is it?

Yes.---Yeah, yeah, yeah.

And then at about half way down the page beside the cursor, now do you see you say, yeah, when will the Council get back to you.---Yeah.

And then a little bit later down at the bottom of the page Mr Cresnar tells you when the Council is expected to get back to him. Do you understand that?---Ah hmm.

Now that conversation relates to you and Mr Cresnar discussing [REDACTED] quote relative to what you think the Council might charge for the same job, right?---Right.

You agree with that?---Yes.

10

Subsequently, you received an invoice from – I withdraw that. Subsequently you received an invoice or quote from MSA Civil, would you agree with that?---I did?

Yes. Do you agree with that?---I don't think I did. Did I?

Exhibit 25. I think we only have that in hard copy, Commissioner?---No, that's okay.

20 Sorry?---Can I just – do we, can I see it?

Yes, it's just coming to you?---Oh, yeah, no worries. Thank you.

MR O'BRIEN: Might I see it before he does so that we know what we're talking about.

ASSISTANT COMMISSIONER: I'm not sure if we have another copy, do you?

30 THE WITNESS: Yeah, yeah.

MR O'BRIEN: Ms Davenport is assisting with hers, thank you.

MR GARTELMANN: Now do you accept that Exhibit 5 relates to correspondence forwarded to Ausgrid annexing a contractor offer and a quote from MSA Civil?---Yeah.

And that relates to the Mosman restoration job, correct?---Okay, yeah.

40 Now I'm going to ask you particularly about the quote?---Right.

The MSA Civil quote, do you see that?---Yeah.

And do you see there on the first page of that quote it is marked to your attention?---(No Audible Reply)

About a third of the way down the page it says "Attention, Denis Twomey", do you see that?---Oh, yes, yeah.

So that quotation from MSA Civil was submitted to you, is that correct?
---Must have been, yeah.

I'm going to ask you now about the last page of that quotation, page 3.

MR O'BRIEN: Well, look, I object to that. I think we should get to the nitty-gritty and it should be asked in clear terms did he see it. Yes, it's addressed to him, it's submitted to him but did he see it?

10

MR GARTELMANN: I'll get to that.

THE WITNESS: Oh, it says there (not transcribable) was it emailed, it was?

MR GARTELMANN: Can I ask you to look at the third page?---What page?

20

The last page?---Oh, the last page, sorry, yeah.

Do you see about halfway down the page on the right-hand side it says total excluding GST \$313,000?---Yeah, yeah, yeah, yeah.

And including GST - - -?---Yeah.

- - - \$344,300?---Yeah.

30

Now did you receive that, that quotation from MSA?---I don't think I did like.

Its addressed to you though, you'd accept that?---I know that, yeah, but it was, it was emailed to admin or something did they?

I beg your pardon?---Oh, unless he handed it to me but I don't think he did hand it, that to me.

Well, it's marked to your attention but it's also - - -?---I know that, yeah, I know that, yeah.

40

It's also addressed to the Murray Civil post office box address, do you see that?---Yeah, yeah, must be, yeah. They must have got it at the office.

Now you would have been aware when you got it - - -?---I didn't even look at that like, I didn't even see that.

Are you sure about that Mr Twomey?---No, honest to god like I didn't even see that because it's what, he wouldn't have, they wouldn't have emailed it to me.

Look, I want to suggest to you, Mr Twomey, that you forwarded or had forwarded that quotation together with your contractor offer to Ausgrid?
---Me?

Yes?---I, I told you I can't use a computer.

Right. But I want to suggest to you that you would have been aware that MSA Civil had issued you with a quote for the Mosman job at a value of
10 \$313,000 excluding GST?---That he would have gave to me?

That you would have been aware that MSA Civil had issued you with a quote for the Mosman job for \$313,000 excluding GST?---Yeah, I suppose, yeah.

And you knew from the telephone conversation you had with Mr Cresnar that Mr Jomaa had indicated an offer to do that job of \$265,000 didn't you?
---Yes.

20 And you knew that there was a difference of about \$50,000?---I didn't know there was a difference.

Would you accept that the quote for \$313,000 excluding GST was submitted to Ausgrid together with a contractor offer on behalf of Murray Civil?---I don't know where he got that figure from.

From page 3 of the MSA Civil quote?---Yeah, but I don't know where he got that figure from.

30 Is it the case that [REDACTED] was told he could inflate the quote for the Mosman job?---I don't know.

Is it the case that he was told he could inflate it provided he paid you and Mr Cresnar money?---No, I – no, I don't think so, no, no.

All right. That document might be returned. Now I'm going to ask you some questions regarding a meeting between yourself and Mr Cresnar in February of last year. Do you understand that?---Yeah.

40 Now you would be aware, wouldn't you, that there was evidence in this inquiry last week of telephone conversations between yourself and Mr Cresnar where Mr Cresnar says that he was going to meet someone he had not seen in a long time and guessed it could be a big problem?---I didn't see him. Go ahead any rate. Go on.

Well, there was some evidence of conversations between yourself and Mr Cresnar where you asked who he was going to see and he said words to the effect that he guessed that it could be very bad?---Yeah.

The following day, that is 18 February last year you arranged to meet Mr Cresnar didn't you?---Where?

At your home on the Central Coast?---Right.

Would you agree with that?---I could have, yes. Could have, yeah.

10 Well, look, I'm going to suggest to you that there was an arrangement between you and Mr Cresnar whereby you would meet and you told Mr Cresnar that you had boxes for him. Does that ring a bell?---That I had boxes for him?

Yes?---(No Audible Reply)

Well, look, Mr Twomey, we can get at it this way?---Yeah, yeah. No, no, I'm not – I just – boxes. I don't understand.

20 Was there an occasion when Mr Cresnar brought a number of boxes up to your home in the Central Coast?---Up to my house?

Yes?---He brought – or he brought um – I remember it now. He brought a box of beer and he brought um, a power washer I think.

All right?---And he bought um, presents for my kids.

Now the power washer that he brought up was something purchased on the Bunnings grade card - - -?---Right.

30 - - - by Mr Cresnar. Would you accept that?---I think so, yes.

And Mr Cresnar brought those items to you – to your premises on the Central Coast the day after you had these telephone conversations with him in which you were saying – in which he was saying to you that he was going to meet someone he hadn't seen in a long time, it could be a big problem and he guessed it could be very bad?---Right.

Do you understand that?---Right.

40 Look, I want to suggest to you that what was going on there Mr Twomey was that Mr Cresnar was bringing to your home on the Central Coast items he'd purchased with Murray Civil Works funds.---No.

And that you knew that to be the case?---Unless the power washer was it?

Yes, amongst other things.---Like what?

Well, I'm suggesting to you that there were a number of items transported to your home on the Central Coast including the power washer, do you understand that?---Yeah, yeah, yeah, yeah.

And I'm suggesting to you that that took place after these telephone conversations the night before in which Mr Cresnar told you that he was going to see someone about a big problem and it could be very bad.---Right.

Do you understand that?---Yes.

10

What I'm suggesting to you Mr Twomey is that Mr Cresnar was bringing to your home on the Central Coast items he had purchased with Murray Civil Works funds, do you understand that?---Yes.

Do you agree with that?---Oh, yeah, yes.

And he was doing so, wasn't he, to your knowledge, because he was attempting to hid anything that might show that he had used Murray Civil Works funds to make purchases for his own benefit?---To him 'em?

20

Yes.---I, no I don't, I wouldn't reckon so.

Now the last matter I deal with Mr Twomey is that as we've already discussed, you came here for a compulsory examination in April of last year.---Yes.

You received a summons to attend for that compulsory examination beforehand, right.---Right.

30

And you were aware once you received the summons that The Independent Commission against Corruption was conducting an investigation in relation to Mr Cresnar, correct?---Correct.

And you understood that that investigation related to Mr Cresnar's works as an Ausgrid officer, correct?---Say that again.

You understood that that investigation related to Mr Cresnar's work as an Ausgrid officer, right?---Right.

40

That's correct, isn't it?---Correct.

You were told at the time that you received the summons that you were not to inform anyone about it, is that correct?---Correct yes.

You knew that you would be committing an offence if you were to do so, correct?---Correct.

The weekend before you attended your compulsory examination in April last year you met with Mr Cresnar didn't you?---I could have yes, I want, I could have had.

Well look, didn't you go down to meet Mr Cresnar at a pub the weekend before you attended the compulsory examination?---I could have had.

All right. I need to seek a lifting of the suppression order in relation to the compulsory examination in April of last year at pages 168 to 170.

10

ASSISTANT COMMISSIONER: Yes, I lift the suppression order in relation to pages 169 to 170.

**LIFTING OF THE SUPPRESSION ORDER IN RELATION TO THE
COMPULSORY EXAMINATION IN APRIL OF LAST YEAR AT
PAGES 168 TO 170**

20 MR GARTELMANN: Mr Twomey, when you attended The Independent Commission against Corruption for your compulsory examination in April of last year you were asked when you last saw Mr Cresnar, weren't you?---I think so, yes.

And you admitted in the course of that examination that you met Mr Cresnar the preceding weekend.---Right.

Would you accept that?---I think so there, I'm not sure, I can't remember.

30 You think so, is that right?---Right, yes.

And in the course of that meeting with Mr Cresnar the weekend before your compulsory examination in April last year you talked to him about the fact that you had been summoned to attend the compulsory examination, didn't you?---Are you sure on that?

Well, I want to suggest to you that you admitted that in your compulsory examination last year.---I could have had.

40 You couldn't have forgotten that fact, could you?---Sorry?

You could not have forgotten about that could you?---I don't know.

You were asked this question, "What did you talk about?" And you answered, "About why I'm brought in here." Do you recall giving that evidence?---I don't, but if there's black and white there's black and white.

Do you accept you gave that evidence?---Yes, if there's black and white.

So you knew in telling Mr Cresnar that you were to be brought in here, that is the Independent Commission Against Corruption, you were committing an offence?---I didn't at the time being honest, but now I do.

Well, you were told at the time you were given your summons- - -?
---Right.

10 - - -to attend the compulsory examination that you weren't to talk to anybody about it. Correct?---Okay, okay.

Yes?---Yeah, yes.

You've already agreed with that?---Yes.

And you have already agreed that you knew that you would be committing an offence if you did talk to anybody about it. Correct?---Correct.

20 And yet you talked to the very person you understood to be the subject of the investigation. Correct?---Correct.

The weekend before you came in to your compulsory examination. Correct?---Correct.

And you must have known, Mr Twomey, that you were committing an offence in doing so. Correct?---I didn't, being honest.

You didn't?---No.

30 So you knew you weren't to talk to anybody about it and you knew that you would be committing an offence if you did so. Right?---Right.

You meet Mr Cresnar at the pub before you come in for your compulsory examination. Correct?---Correct.

You tell him, you ask him about why it is you're being brought in here, that is the Independent Commission Against Corruption?---Yes.

40 It follow doesn't it that you knew you were committing an offence in talking to him about that. You would agree with that?---I suppose, yes, I would.

All right. At your meeting with Mr Cresnar at the pub before your compulsory examination, did you discuss with him what you would both say about purchases you had made on his behalf?---I can't, honest to God, I can't remember that.

It's the case isn't it that you talked to him about what explanation you might give in relation to the purchase of the wall unit?---(No Audible Reply)

Is that right?---I can't remember, lad.

I would need to seek a lifting of the suppression order in relation to that compulsory examination for one further page, Commissioner, two further pages, page 183 to 184.

10 ASSISTANT COMMISSIONER: Yes, I lift the order in respect of those pages.

LIFTING OF THE SUPPRESSION ORDER IN RELATION TO THAT COMPULSORY EXAMINATION FOR ONE FURTHER PAGE COMMISSIONER TWO FURTHER PAGES PAGE 183 TO 184

20 MR GARTELMANN: You were asked in the course of your compulsory examination in April of last year, Mr Twomey, whether you talked to Mr Cresnar about the cabinet and you said, "I suppose I did, yeah, amongst other things." Do you recall saying that?---I can't, but as I said, if it's on, if it's there I can't- - -

All right. Would you accept then that you did talk to Mr Cresnar about the wall unit and payment for that?---I'm not sure.

30 It's the case isn't it, Mr Twomey, that you talked to Mr Cresnar about what explanations you would provide regarding purchases you made for Mr Cresnar when you were questioned about those matters in your compulsory examination?---Honest to God, I can't remember.

All right?---But if you said it's there in black and white, I must have said it.

All right. Yes, that's the examination, Commissioner.

ASSISTANT COMMISSIONER: Yes. Mr Sutton?

40 MR SUTTON: Thank you, Commissioner.

Mr Twomey, my name is Sutton and I'm here to represent the interests of Mr Cresnar. Do you understand that?---Yes.

I'll be very quick I hope. In relation to the Bunnings trade card that we've heard about, is it correct to say that Mr Cresnar reimbursed you with cash? ---Sometimes, yes.

The majority of times?---Most of the times, yes.

MR SUTTON: You've told us that you were going to provide for, sorry, Mr Cresnar, with a TGB fuel card, that was an intention at one stage?---Yes.

And there was to be a, a card given to him if he was to work for you, is that correct?---Yes.

Evidence has been given that since he's left Ausgrid in fact he's been employed by TGB, is that correct?---Yes.

10

And in the course of his employment at TGB you have given or made available to him at least the use of a Jeep motor vehicle, is that right?---At the moment, yes.

Okay. Whilst, whilst Mr Cresnar was or before he was actually working for TGB on a formal basis was he travelling around to go to jobs to provide quotes for TGB when he was still at Ausgrid?---Sometimes, yes.

20

Would it be correct to say in relation to the wall unit that was one thing among others that you bought for him to entice him to TGB?---I think it was, I can't remember but it was something like that. I can't really remember.

All right. In relation to the setting up of the PayPal credit account you were not actually with Mr Cresnar when he did that were you?---Yes.

You were with him?---When he set it up?

30

Yeah?---I think I was, yes, I think I was.

Okay. Did you read the numbers on the card out to him or provide the card to him?---I can't remember.

All right. Well, I suggest to you, sir, you just read the numbers out from the card?---I think so.

You remember being shown some documents today, page 675 I think it was, and it was a Abba Logistics invoice?---Yeah.

40

And it had a, an address on there for the consignee, do you remember discussing that with Mr Gartelmann?---Yeah, yeah.

And if you have a look at the document that's been put up in front of you, thank you, down at the consignee it says "Murray Civil" and then there's an address there, can you read that?---Yeah.

I won't put that on the record. That address, is that address known to you? ---That was, I used to live there before.

So what was your home address at the time?---Yeah.

Okay. So even though it says Murray Civil is the consignee in fact it was going to your home, not a premises known to or party to Murray Civil Works, is that right?---That's my address.

Okay?---Was my address.

10 Was your address. Thank you. That can be taken down. If you could put up please 659. In relation to the invoice for the marble and travertine it was put to you that item numbers 1, 2 and 3 were for Mr Cresnar, which is agreed, but it's also been put to you today that item 11, the marble slabs, were for Mr Cresnar as well. I suggest to you, sir, that's not right?---Oh, it's not actually, no. No.

They were in fact for a third party altogether, is that correct?---That's, that's true actually, I forgot about that.

20 Okay. Thank you. You were asked some questions about the provision of a Murray Civil Works motor car to Mr Cresnar in 2012/13 summer break and also the 2013, sorry 2013/14 summer break period?---Mmm.

Do you recall those questions?---Yeah, I do, yeah.

All right. I want to put to you, sir, that the 2012/13 period in fact the car that you gave or allowed Mr Cresnar to use was in fact your own car and the 2013/14 period was probably Mr Naughton's car, what do you say to that? ---That's, that's true too. I forgot about that.

30 I might have this wrong and Counsel Assisting might object so just give a second before you provide an answer in case there's an objection. You were asked some questions about MDM Formworks. Do you recall that?---Yes.

And my note of the question is that any or all work that they did for you for Ausgrid was always when Mr Cresnar was the project planner. Do you recall that?---I - - -

40 MR GARTELMANN: I don't know that that was specifically put.

THE WITNESS: I think so, yes.

MR SUTTON: Well, as I say, I might have this wrong?---Oh, sorry, sorry.

MR GARTELMANN: I don't believe that that proposition was put.

MR SUTTON: Well, I'll rephrase it. Was there a point in time when you were dealing with MDM Formworks where they commenced work that was done when there was a project planner or a contract inspector or whatever terminology is appropriate that was other than Mr Cresnar?---I'm not sure but honest.

If I talk to you about – if I mention a job in Dee Why does that assist you?
---Oh, yes.

10 It was put to you that MSA Civil did a reinstatement or a restoration job in Mosman. Do you recall that?---Yes.

Is it correct to say that in fact they were removed from that job?---They were.

They didn't complete it?---No.

Why was that?---Oh, just too much um, I think it was too much complaints.

20 Was that complaints in relation to the standard of work?---I think so. I'm not sure. It was something though.

And while we're on that subject of MSA, in relation to their quote, that was exhibit 25 that was put in front of you. So I'm talking about the quote which forms the last three pages of the document. Do you recall ever seeing that document yourself before?---I don't.

You were asked some questions about some items being brought to your house by Mr Cresnar in his car. Do you remember that?---Mmm.

30 And you said there was some beer?---Mmm.

There was a power washer?---Mmm.

And there were some presents for your kids?---Yes, I think so, yes.

Okay. Now the power washer, did you ask Mr Cresnar to buy that?---Yes.

40 Did he buy – I'll withdraw that. So you asked him to buy it and then he was bringing up and delivering it to you in effect?---I think so, yes.

Okay. Other than the beer – I'll withdraw that. Other than the power washer was there anything else that was bought with the Murray trade work – sorry, Murray Civil Work's Bunnings trade card that he brought to you on that day?---I don't think so. I'm not sure.

On other occasions when he bought stuff at your request, paint or otherwise - - -?---Yes, for the house.

- - - did he bring that to you as well?---Yes.

But sometimes you would come and collect it. Is that right?---Yes.

And sometimes you would go with him to Bunnings to buy things?---Yes.

For instance, a brush cutter?---Yes.

10

Just in relation to the jugs?---Yes.

Could you be mistaken and not have bought him any jugs?---I don't know. I could have been. I'm not sure.

Okay. Thank you. Thank you, Commissioner.

ASSISTANT COMMISSIONER: Thank you, Mr Sutton. Mr O'Brien.

20

MR O'BRIEN: Yes. Thank you, Assistant Commissioner. There is three matters. Have you in the last ten days flown to Ireland and back?---Yes.

Why did you, when did you fly out?---Ah, ah, when did I fly out um, Tuesday, Tuesday morning.

Of the- -?---Last week, last week.

Last week?---Yeah.

30

And why did you fly?---Because my father passed away.

Did he pass away before you left?---No, I was just there three hours before he passed.

And did you stay for the funeral?---Yes.

And when did you fly back?---Um, I got back into Sydney, I think it was um, ah, Sunday, Sunday morning, Sunday I think.

40

Right. While you were in Ireland did you consult a medical practitioner about your health?---I did.

Both your mental health and your physical health?---Yes.

And were you suffering that time from the emotional loss of your father? ---Yes.

And did that medical practitioner prescribe some drugs for you?--- Yes.

What were they?---Oh, just sleeping tablets, I couldn't sleep.

Have you been taking those?---Yes.

Have you caught up with your sleep from the- -?---Not really, no.

And have you been drinking alcohol since Sunday?---Oh, yes.

10

Have you been drinking today?---What?

Have you been drinking today?---Had a few.

A few what?---Heineken.

Anything else?---One or two shots.

Of?---Oh, like the vodka and Coke.

20

Thank you.

ASSISTANT COMMISSIONER: Thank you, Mr O'Brien.

Nothing else, Mr Gartelmann?

MR GARTELMANN: Just one matter, Commissioner.

30 Mr Twomey, you have not been so intoxicated that you have had difficulty understanding the evidence, the questions here today, have you?---No, no, I should be all right, yeah, no, I'm grand.

I'm sorry?---Good, all good.

All good?---Yes.

You've understood the questions that have been put to you?---Yes, yes.

All right.

40

MR O'BRIEN: Just on that point, has your memory been affected by your loss of sleep, the taking of drugs, sleeping tablets and the consumption of alcohol?---A small bit, yeah, just a small bit.

Yeah. Thank you.

ASSISTANT COMMISSIONER: Yes, thank you. Well, that concludes your evidence. You are now excused. You may leave the witness box. Thank you.

THE WITNESS: I can go?

ASSISTANT COMMISSIONER: Yes, you may go.

10

THE WITNESS EXCUSED

[4.42pm]

ASSISTANT COMMISSIONER: Mr Gartelmann, we'll deal with submissions in writing.

MR GARTELMANN: Yes.

20 ASSISTANT COMMISSIONER: The normal period allowed for Counsel Assisting is two weeks. Is that going to be sufficient?

MR GARTELMANN: Yes, Commissioner.

ASSISTANT COMMISSIONER: All right. Well, that will mean Counsel Assisting will circulate his submissions to parties by 10 February and submissions in response will be due on 24 February.

That concludes this public inquiry and we will now adjourn.

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AT 4.43pm THE MATTER WAS ADJOURNED ACCORDINGLY

[4.43pm]