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PUBLIC INQUIRY

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INDEPENDENT COMMISSION AGAINST CORRUPTION

THERESA HAMILTON ASSISTANT COMMISSIONER

PUBLIC INQUIRY

OPERATION DRAKE

Reference: Operation E11/1802

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON MONDAY 8 OCTOBER 2012

AT 10.05AM

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.

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

THE ASSISTANT COMMISSIONER: This is a public inquiry being conducted by the Independent Commission Against Corruption. The general scope and purpose of the public inquiry will be outlined in the opening address of counsel assisting. Ms Kate Williams has been appointed as counsel assisting and I would now ask her to deliver her opening address.

MS K WILLIAMS: Thank you, Commissioner.

10

The Independent Commission Against Corruption is conducting this public inquiry for the purpose of its investigation of allegations that Karaha Pene Te-Hira, an activities officer at the Metropolitan Special Programs Centre, or "MSPC" at Long Bay Correctional Complex, employed by Corrective Services New South Wales, trafficked mobile phones and accessories, sports shoes, steroids and other contraband into MSPC in return for corrupt payments.

20

Corrective Services New South Wales is responsible for the administration of the correctional centre system in New South Wales under the Crimes (Administration of Sentences) Act 1999. It operates the majority of correctional facilities in New South Wales, including the Long Bay Correctional Complex.

30

MSPC is a facility within the Long Bay Correctional Complex. MSPC includes an activities centre, where Mr Te-Hira has worked as an activities officer since approximately May 2010, although he is currently suspended from duty. As a correctional officer, Mr Te-Hira is a public official within the meaning of the Independent Commission Against Corruption Act 1988.

Inmates at Long Bay Correctional Complex, including MSPC, are prohibited from possessing contraband items, including drugs and steroids, mobile phones, SIM cards and phone chargers, and sports shoes.

40

As the Commission noted in its July 2010 report on its investigation into the smuggling of contraband into the John Morony Correctional Complex, inmates affected by drugs and steroids pose a danger to corrections staff and to other inmates.

Telephone calls by inmates are closely controlled under part 2.7 of the Crimes (Administration of Sentences)

Regulation 2008. It is an offence under section 27DA of the Summary Offences Act 1988 for an inmate to have in their possession a mobile phone, SIM card or mobile phone charger without reasonable excuse, proof of which lies on the inmate.

10 As the Commission noted in its July 2010 report, contraband mobile phones may enable inmates to plan crimes from inside gaol and to contact or threaten witnesses and victims.

20 Standard sports shoes are issued to all inmates at Long Bay Correctional Complex. MSPC operates a buy-up scheme that allows inmates to use their own funds to purchase various personal items, including sports shoes, from approved suppliers. Sports shoes other than the standard-issue shoes or shoes purchased through the buy-up scheme may be used by inmates as a status symbol, a symbol of affiliation with a certain gang, or as currency to pay for protection from other inmates or to purchase other contraband items within the gaol.

It is an offence under section 27E of the Summary Offences Act for any person, including a correctional officer, to bring anything into a correctional facility or deliver anything to an inmate or to attempt to do so without lawful authority.

30 Evidence to be adduced during the course of this public inquiry is expected to show that Mr Te-Hira has brought contraband items into MSPC and delivered them to inmates on at least five occasions during 2012. The items included steroids, mobile phones, SIM cards and chargers, and sports shoes.

40 The deliveries that will be the subject of evidence during this inquiry are alleged to have been made to two inmates - Omar Zahed, who is on remand charged with manufacture and supply of commercial quantities of a prohibited drug; and another inmate who is on remand, charged with offences including armed robbery.

An application shall be made under section 112 of the Independent Commission Against Corruption Act for a direction prohibiting the publication of the name of the second inmate during the currency of his criminal trial, which is now in progress, so as to ensure that his right to

a fair trial is not prejudiced.

It is convenient to refer to him in this opening address as "Prisoner X".

10 Mr Te-Hira was able to interact with Omar Zahed and with Prisoner X frequently, and with little or no supervision, in the course of his duties as an activities officer. It is alleged that contraband items delivered to Omar Zahed on at least two occasions were provided to Mr Te-Hira by Omar Zahed's sister, Asmahen Zahed, and delivered by Mr Te-Hira in return for cash payments and other benefits.

20 It is alleged that Mr Te-Hira obtained contraband items for delivery to Prisoner X from Prisoner X's sister and/or from George Kamoschos, an associate or friend of Prisoner X. It is alleged that Mr Te-Hira delivered those items in return for cash payments. This inquiry will hear evidence as to whether Prisoner X's mother was involved in arranging the payments to Mr Te-Hira.

Nine and a half thousand dollars in cash was found in Mr Te-Hira's car when it was searched pursuant to a search warrant on 16 August 2012. It is expected that Mr Te-Hira will concede that \$6,000 of that sum represents payments for delivery of contraband to inmates.

30 It is an offence under section 249B of the Crimes Act 1900 for an agent to corruptly receive any benefit from another person as an inducement or reward for showing favour to any person in relation to the affairs of the agent's principal. It is also an offence under section 249B for any person to corruptly give a benefit to an agent as an inducement or reward for such favour.

40 Conduct aiding, abetting, counselling, procuring, soliciting or inciting an offence under section 249B is itself an offence under section 249F of the Crimes Act.

The Commission will hear evidence concerning the allegations that have been outlined with a view to determining whether Mr Te-Hira engaged in corrupt conduct within the meaning of the Independent Commission Against Corruption Act by making the alleged deliveries and accepting the alleged payments and/or other benefits.

If the allegations are made out, it will be open to the Commission to determine that Mr Te-Hira engaged in conduct that was corrupt, in that it involved official misconduct, a breach of public trust and/or a partial or dishonest exercise of his official functions, and could constitute reasonable grounds for dismissal and also involve a criminal offence under section 249B of the Crimes Act and section 27E of the Summary Offences Act.

10 This public inquiry will also be conducted with a view to determining whether or not any of the other persons mentioned engaged in corrupt conduct within the meaning of the Independent Commission Against Corruption Act by engaging in conduct that could adversely affect Mr Te-Hira's honest or impartial exercise of his official functions as a correctional officer and that could involve a criminal offence under section 249B or section 249F of the Crimes Act.

20 This public inquiry is being held as part of the Commission's seventh investigation into corrections staff trafficking contraband into gaols. In its July 2010 report, the Commission stated:

The repeated nature of the conduct is cause for concern and demonstrates that Corrective Services New South Wales requires new and different measures to help ensure that it does not happen again.

30 There are three key measures to prevent staff trafficking contraband: security measures to detect contraband, measures to deter corrections officers who are considering trafficking and closer management of staff whose ongoing behaviour suggests a high risk that they will engage in corrupt conduct.

40 The Commission made 14 corruption prevention recommendations in its July 2010 report. This public inquiry will examine the extent to which those recommendations have been implemented effectively.

The evidence is expected to show that the majority of those recommendations have been implemented or partly implemented, albeit that this has been done in a manner

other than that envisaged in the July 2010 report in some cases.

10 From a corruption prevention perspective, this inquiry will also examine whether the screening procedures for contraband provide an optimal deterrent against correctional officers and staff trafficking contraband into MSPC. The evidence is expected to show that current screening procedures and security interventions are ineffective because they are not sufficiently randomised, unanticipated or conducted rigorously enough to give rise to a real concern by officers that they may be detected.

Although very small and non-metal contraband may be concealed on the person and legislative restrictions limit the extent to which correctional officers can be searched, a perceived likelihood of detection is an active deterrent.

20 Finally, this inquiry will examine whether Corrective Services New South Wales has in place effective arrangements to manage the risk of inappropriate association between correctional officers and inmates. The evidence is expected to show that the arrangements to manage the risk of inappropriate conduct occurring, as opposed to managing the conduct after it has occurred, are not effective.

May it please the Commission.

30 THE ASSISTANT COMMISSIONER: Thank you for that, Ms Williams. We will now take a short adjournment, after which I will call for applications for leave to appear. Thank you.

SHORT ADJOURNMENT

40 THE ASSISTANT COMMISSIONER: I think before I take applications for leave, Ms Williams, I should make the suppression order you mooted in your opening address.

MS WILLIAMS: Yes, Commissioner. As I foreshadowed, I seek a direction under section 112 that evidence of the names and addresses of the inmate XXXXXXXXXXXX, who is also known as XXXXXXXXX, his sister, Prisoner's sister, and his mother, Prisoner's mother, shall not be published, under section 112 of the Independent Commission Against Corruption Act.

I submit that the direction is necessary and desirable in the public interest to ensure that evidence about Prisoner X that may be adduced during this public inquiry will not become known to the jury in his criminal trial that is currently in progress.

10 THE ASSISTANT COMMISSIONER: Yes. Just to be clear, the effect of the order that I am going to make is intended to prevent publication of the names you have mentioned outside the process in this hearing room, but during the course of this inquiry those names will be used, so that anybody questioning witnesses can use the names of the XXXXXX.

This order is intended to prevent publication more generally and, in particular, any publication in the media.

20 I hereby direct that the name or any identifying information in relation to Prisoner X, Prisoner's sister and Prisoner's mother shall not be published in any published report concerning this matter in the media. XXXXXX should be referred to as "Prisoner X". XXXXXXXX should be referred to as "Prisoner X's sister". XXXXXXXX should be referred to as "Prisoner X's mother".

30 I HEREBY DIRECT THAT THE NAME OR ANY IDENTIFYING INFORMATION IN RELATION TO XXXXXXXXX, XXXXXX AND XXXXXXXXX SHALL NOT BE PUBLISHED IN ANY PUBLISHED REPORT CONCERNING THIS MATTER IN THE MEDIA. XXXXXXXX SHOULD BE REFERRED TO AS "PRISONER X". XXXXXXXX SHOULD BE REFERRED TO AS "PRISONER X'S SISTER". XXXXXXXXX SHOULD BE REFERRED TO AS "PRISONER X'S MOTHER".

THE ASSISTANT COMMISSIONER: Thank you. Now, are there any applications for leave to appear?

40 MR I BOURKE: Yes, Commissioner. I seek leave to appear for Corrective Services New South Wales. I am instructed by the Crown Solicitor's Office.

THE ASSISTANT COMMISSIONER: Yes, Mr Bourke, you are given leave to appear.

MR R McILWAIN: I seek your authority to appear on behalf of Mr Karaha Pene Te-Hira.

THE ASSISTANT COMMISSIONER: Thank you, yes, you are given leave, Mr McIlwaine.

MR S CHAMAS: I am seeking leave to appear on behalf of Mr Kamoschos.

THE ASSISTANT COMMISSIONER: Yes, you are given leave to appear.

10

MR C H WATSON: Commissioner, I seek leave to appear for Prisoner X's mother.

THE ASSISTANT COMMISSIONER: Yes, Mr Watson, you are given leave to appear.

Yes, Ms Williams.

20

MS WILLIAMS: Commissioner, before I call the first witness, I might just indicate, for the benefit of the legal representatives, the witnesses intended to be called today and the order. Mr Te-Hira will be called first, followed by Ms Zahed, Mr Arici, Mr Zahed, and then, time permitting, Mr Kamoschos.

30

Commissioner, might I also commence by tendering a bundle of documents, copies of which have been provided to the legal representatives after the opening address, and copies of which are with you, I believe, Commissioner.

THE ASSISTANT COMMISSIONER: Yes. Is it volume 1?

MS WILLIAMS: In the form in which you have the documents, Commissioner, there is a volume 1 and also volumes 2 and 3.

THE ASSISTANT COMMISSIONER: But they don't necessarily correlate with the bundle of documents?

40

MS WILLIAMS: They don't. The pagination is continuous.

THE ASSISTANT COMMISSIONER: All right. The bundle of documents that has been provided to various interested parties will be exhibit 1.

EXHIBIT #1 BUNDLE OF DOCUMENTS PROVIDED TO VARIOUS PARTIES

MS WILLIAMS: Thank you, Commissioner. I call Karaha Pene

Te-Hira.

THE ASSISTANT COMMISSIONER: Could Mr Te-Hira come forward, please. Mr McIlwaine, is your client seeking a declaration?

MR McILWAIN: He is, Assistant Commissioner, and he will swear on the Bible.

10 THE ASSISTANT COMMISSIONER: Mr Te-Hira, the order I am about to make means that no evidence you give in this public inquiry can be used against you in any future civil, criminal or disciplinary proceedings, and the only exception to that is if it is found you have breached the Act by providing false or misleading evidence or in some other way. Do you understand the effect of the order?

THE WITNESS: Yes, I do.

20 THE 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, and there is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

SECTION 38 ORDER TO APPLY

30 <KARAH PENE TE-HIRA, sworn [10.35am]

<EXAMINATION BY MS WILLIAMS

MS WILLIAMS: Q. Your full name is Karaha Pene Te-Hira; is that correct?

A. Yes, it is.

40 Q. And am I pronouncing that correctly?
A. No.

Q. I'm sorry, could you say your name so that I understand the proper pronunciation?

A. Pene is fine, thank you.

Q. And you are commonly known as Pene; is that correct?

Q. Could you tell the Commission your address, please?

MR McILWAIN: Commissioner, I don't know if that is needed to be placed on the public record. There are persons who are in custody who --

THE ASSISTANT COMMISSIONER: Yes, I think that's correct.

10 MR McILWAIN: I am happy if it could be perhaps written down and tendered as a confidential exhibit.

MS WILLIAMS: I will make inquiries as to whether it is known to the Commission.

THE ASSISTANT COMMISSIONER: I am sure it is known to the Commission.

20 MS WILLIAMS: Q. You have been employed by Corrective Services since about October 1990; is that correct?

A. That's correct.

Q. And your rank is as a class 1 or first class correctional officer; is that correct?

A. That's correct.

Q. You commenced work at the Metropolitan Special Programs Centre, or MSPC, at Long Bay in about January 2006; is that right?

30 A. Approximately.

Q. And you became an activities officer there in about May 2010; is that correct?

A. I can't recall that.

Q. Until you were suspended from duty in August this year, you were working as an activities officer full time at the MSPC?

A. Yes.

40 Q. Could you explain for the Commission, please, your duties as an activities officer?

A. The role of an activities officer is to promote and to interact with offenders, the sports and recreation side of activities.

Q. So as an activities officer, you have a relatively high degree of close interaction with inmates compared to

other correctional officers; is that fair?

A. Yes, you do.

Q. Some inmates are engaged within the activities centre as sweepers; is that right?

A. Yes, they are.

Q. What does a sweeper do?

10 A. He does the day-to-day role of cleaning up, general tidiness of the area, and assists you in keeping the centre in good order.

Q. Your level of interaction with the sweepers - is it fair to say that's even greater than with the ordinary inmate who comes into the activities centre; is that right?

A. Yes, it is.

20 Q. Just focusing for the moment on the period April to July of this year, how many sweepers were working at MSPC activities centre?

A. Can you explain the question again, please?

Q. I'm wanting to know roughly how many sweepers were working at the activities centre during the period April to July 2012?

A. We employ between four and six sweepers.

30 Q. Can you remember the names of those four to six sweepers during the period April to July 2012?

A. I can't. I mean, there was a Zahed, a Fonua, a Theobald, a XXXXX --

MR WATSON: I wonder if the witness could keep his voice up. It's impossible to hear him at the back of the hearing room.

THE ASSISTANT COMMISSIONER: Yes, Mr Te-Hira, could you please try to keep your voice up. Thank you.

40 THE WITNESS: A XXXXX, Ivers. You might be able to help me. I can't remember.

MS WILLIAMS: Q. That's all right. You mentioned Zahed. That's Omar Zahed, is it, that you're referring to?

A. Mr Zahed, yes.

Q. And you mentioned XXXXXXX; is that Prisoner X?

A. Yes.

Q. And I think you mentioned another name, Fonua. Is that Alfred or Alfie Fonua?

A. Mr Fonua, yes.

Q. How do those sweepers come to be selected for the role?

10 A. Because of their interaction with their offenders, with the offenders. They're able to talk with them, plus they have a pretty good work role or work rate about themselves as well.

Q. Is it the activities officers who select the sweepers or is there some other person within the prison who's responsible for that?

20 A. There is a process. They can be recommended, and then they have to go via the intel to see whether they are able to - whether they are best suited for the job.

Q. And the intel is a separate department of the prison from the MSPC; is that right?

A. It's attached to MSPC, but, yes, they have their own little office where we can run their names past to see if they're suitable for a job.

Q. The sweepers - do they have a dedicated area for themselves within the activities centre?

30 A. Yes, they do.

Q. Do I understand this correctly: they come from their cells, work in the activities centre, make use of that dedicated area as they require, and then at the end of the day they go back to their cells; is that right?

A. More or less, yes.

Q. Are these inmates, the sweepers, searched before they go back to their cells, to your knowledge?

40 A. No.

Q. As an activities officer, did you report directly to the activities manager, Mr John Lazos?

A. Yes.

Q. And Mr Lazos, in turn - did he, as you understand it, report to the manager of security, Mr David Cahill?

A. That's correct.

Q. And Mr Cahill, in turn, reported to the general manager of MSPC, Ms Tracey Mannix?

A. That's correct.

Q. I want to ask you some questions about the security point through which you entered MSPC as a correctional officer each morning. That's a point referred to as the gatehouse; is that right?

10 A. That's correct.

Q. Was there a particular kind of bag that you were allowed to take with you through that screening point?

A. Yes, a clear plastic bag.

Q. And other bags are not permitted through that security point; is that right?

A. Not most of the times, that's correct.

20 Q. Sorry, not most of the times?

A. Yes, they usually have - if it's not the bag that's provided to them, it's another plastic bag.

Q. Are there standard-issue clear bags that the MSPC provides to officers; is that right?

A. Yes.

Q. Those are the bags you're supposed to take in?

A. That's correct.

30

Q. Or another clear plastic bag might be permitted?

A. That's correct.

Q. As you enter the screening point, are you screened routinely by a handheld metal detector?

A. Yes.

Q. Does that happen on every occasion on which you pass through or only randomly?

40 A. Randomly.

Q. How often, on average in any given week, would you say you would have been subjected to the handheld metal detector?

A. Maybe four days of the week.

Q. Four days of the week?

A. Maybe four days of the week.

Q. And are you also asked, on occasions, to turn out the contents of your bag or your pockets or both?

A. Not all the time.

Q. How often would you say, on average in any given week, that would happen to you, in your experience?

A. Not often.

10

Q. Would there be some weeks where it didn't occur at all?

A. Maybe. Could possibly.

Q. Did you also experience, from time to time, searches being conducted of correctional officers entering the facility with the use of pad dogs or sniffer dogs?

A. Yes.

20

Q. How often did that occur, approximately, over the last, say, two years that you can recall?

A. I can't recall.

Q. Can you recall it happening at all?

A. Yes, I can.

Q. And when was the last occasion you can recall that happening?

A. I can't recall that.

30

Q. Can you say approximately whether it was months or weeks ago?

A. It's possible that it's happened, but I can't recall.

THE ASSISTANT COMMISSIONER: Q. Are you saying you can't recall that it's ever happened?

A. No, I can recall it's happened, but I can't --

Q. Not this year, necessarily?

40

A. Yes, it's happened this year, that's correct. But when it's happened and how often it happens, I can't recall.

MS WILLIAMS: Q. There are strict rules, aren't there, about what correctional officers can bring into and out of MSPC; you know that there are strict rules about that, don't you?

A. There are rules.

Q. And that is indeed the reason for these security methods that I've been asking you about; you understood that, didn't you?

A. Yes.

Q. In fact, anything that an inmate sources that comes from outside the prison is considered contraband, isn't it?

10 A. Yes.

Q. And drugs, including steroids, are contraband, aren't they?

A. Yes.

Q. Mobile phones, SIM cards and chargers - they're also contraband, aren't they?

A. Yes.

20 Q. And shoes other than standard-issue shoes or ones that prisoners buy through the MSPC buy-up scheme - those are also contraband, aren't they?

A. Can you ask that question again, please?

Q. Let me take it in parts. The prison issues shoes to all prisoners, don't they?

A. They do.

30 Q. And prisoners have the opportunity of purchasing personal items through a scheme that's called the buy-up scheme; is that correct?

A. That's correct.

Q. The items that they can purchase include certain types of shoes; that's right, isn't it?

A. That's correct.

40 Q. And the buy-up scheme involves the prisoner using their own money that they have credited to an account to purchase items from nominated suppliers, who are approved by the prison; that's right, isn't it?

A. That's correct.

Q. So there are certain types of shoes that can be purchased through that scheme from certain suppliers; that's right? Is that correct?

A. That's not correct.

Q. All right. Can prisoners purchase shoes through the buy-up scheme or not at all?

A. They can.

Q. Can you explain to me, then, how that works?

A. They have a form and they apply for the shoes that they would like to purchase.

10 Q. And who decides whether or not they get to purchase those shoes?

A. Themselves.

Q. Are there limitations on the kinds of shoes, the brand, the make, where they can be purchased from, through the buy-up scheme?

A. On the buy-up form that you're suggesting, or that you're saying, has the item or has the brand of shoe that they can purchase.

20

Q. And shoes that have been obtained other than from the prison itself or through the buy-up scheme are contraband; is that correct?

A. Can you repeat that question again, please?

Q. A prisoner who has shoes other than the ones issued by the prison or shoes that they have bought through the buy-up scheme has contraband shoes?

A. Not necessarily.

30

Q. What shoes are considered contraband inside MSPC?

A. Shoes that are brought in by an officer would be then a contraband shoe.

Q. You were conscious of these rules, were you, through particular instructions that had been given to you or training programs?

A. No.

40 Q. How was it that you knew about these rules?

A. Which rules are these?

Q. The rules about trafficking contraband into prison, Mr Te-Hira.

A. There were no rules other than what was on the entry when you come into the gaol that says "contraband" - it's illegal to do that.

Q. So as an activities officer, your awareness of these rules was based on that notice that you see when you come into gaol; is that correct?

A. That's correct.

Q. Were you given any other training or education about these rules?

10 A. There's no training or education provided.

Q. Were you given a code of conduct or an operating procedure document that explained these rules?

A. Yes, we are given a code of conduct.

Q. And does that code of conduct explain these rules?

A. It would.

20 Q. I think you agreed with me earlier that you knew about these rules whilst you were employed as an activities officer; there was no doubt in your mind about them, was there?

A. That's correct.

Q. And although you knew about the rules, you did, in fact, take contraband into MSPC, didn't you?

A. Yes.

30 Q. The items that you took in included food; is that correct?

A. Yes.

Q. Clothing for prisoners?

A. Yes.

Q. Shoes?

A. Yes.

40 Q. Mail?

A. Yes.

Q. Mobile phones with chargers and SIM cards?

A. Possibly.

Q. Well, mobile phones - do you have any doubt about that?

A. No.

Q. Chargers?

A. No.

Q. By saying "no", you mean you have no doubt that you took them in?

A. That's correct.

Q. And you took SIM cards in also; is that correct?

A. Yes.

10

Q. Steroids?

A. Yes.

Q. And a plunger for steroid injection?

A. Yes.

Q. For which inmates did you take those items into gaol?

A. For Mr Zahed and Prisoner X.

20

Q. And what kinds of items was it that you took in for Mr Zahed?

A. Shoes, food and steroids.

Q. Did you also take in for Mr Zahed a plunger for injecting steroids?

A. Possibly.

Q. Do you have some doubt about that?

A. No. I just can't remember.

30

Q. You can't remember whether or not you took in a plunger for Mr Zahed?

A. Whether it was for Mr Zahed I can't remember, but, yes, there was plungers there.

Q. You took plungers in, but you can't remember for which inmate; is that right?

A. Yes.

40

Q. And for Prisoner X, which items did you take in?

A. I took in food items, protein powder and possibly a phone.

Q. You say "possibly" because you can remember taking a phone in but can't remember which inmate it was for?

A. That's correct.

Q. Did that phone include a phone charger and a SIM card?

A. Possibly, yes.

Q. You can't recall?

A. No.

Q. Do you remember taking in a phone on one occasion or more than one occasion?

A. More than one occasion, I think.

10

Q. So there were several occasions resulting in you taking in several phones; is that right?

A. Possibly.

Q. Over what period of time, approximately, did you take these items into MSPC for Mr Zahed and Prisoner X?

A. Maybe --

20

MR WATSON: Commissioner, he hasn't actually yet said that he took it in for Prisoner X. He said that it was possible, but he couldn't remember whether it was Prisoner X. To then put to him, "On how many occasions did you take them in for Prisoner X" is to presuppose an answer he hasn't given.

THE ASSISTANT COMMISSIONER: He said at the beginning of this part of his testimony that the prisoners for whom he took items in were Prisoner X and Mr Zahed.

30

MR WATSON: It is now being put to him on how many occasions did he take phones to Prisoner X specifically.

THE ASSISTANT COMMISSIONER: No, I don't think it was put to him, Ms Williams.

MS WILLIAMS: My learned friend has misunderstood the question.

40

Q. All of the items that you have mentioned, Mr Te-Hira - over what period of time did you traffic those items into MSPC for Prisoner X and Mr Zahed?

A. Possibly six months.

Q. Over the previous six months; is that right? Does that mean that your conduct in trafficking these items into MSPC started six months ago?

A. Possibly.

Q. Well, prior to trafficking these items that you've mentioned in for Mr Zahed and Prisoner X, had you ever trafficked a contraband item into MSPC for any other inmate?

A. Can you rephrase the question, please?

10 Q. You've said that you have trafficked the items that you've mentioned into MSPC for Prisoner X and Mr Zahed over the last six months. My question is: had you trafficked any items for inmates into MSPC before that six-month period?

A. My question, how I'm understanding what you're asking, is have I trafficked to these two offenders? And it's been with those two offenders that I've been dealing with.

Q. Have you ever trafficked items into MSPC for other offenders, that is, offenders other than Prisoner X and Mr Zahed?

20 A. Possibly. I just can't think of it at the moment.

Q. Can you remember the first occasion on which you trafficked an item into MSPC?

THE ASSISTANT COMMISSIONER: I'm sorry, you'll have to take the child outside.

30 MS WILLIAMS: Q. Is your evidence that you can't remember, as you sit here in the witness box today, for how long you've been trafficking items for inmates into MSPC? Is that the effect of your evidence?

A. Yes.

Q. Have you been trafficking items into MSPC for inmates for the whole of the time that you've been an activities officer, or did it start at some point after you were employed as an activities officer?

40 A. It started at some point after I was an activities officer.

Q. Can you remember how long after you were appointed as an activities officer it started?

A. No.

Q. Would it have been a couple of weeks or more like six months or a year; are you able to even give a rough approximation of time?

A. No.

Q. You received benefits for bringing the items that you've mentioned into prison for Prisoner X and Mr Zahed, didn't you?

A. I don't understand the question.

10 Q. Well, in return for bringing the items that you've referred to into prison for Mr Zahed and for Prisoner X, you received benefits?

A. Can you explain to me the benefits?

Q. Let me give you some examples. Did you receive cash payments on occasions for trafficking items into prison for Mr Zahed and Prisoner X?

A. Possibly.

Q. Is that another one you can't remember, Mr Te-Hira?

20 A. That's correct.

Q. You can't remember, as you sit here, whether or not you ever received a cash payment for trafficking an item into prison?

A. I have received a cash payment.

Q. I'm not asking you about the specifics. I'm asking you a general question about things that you received in return for the trafficking. Do you understand?

30 A. Thank you, because I didn't understand the question. If you'd said it was a general question, I could have answered it. Thank you.

Q. This is another general question. Did you ever receive benefits other than cash, such as goods or shoes provided to you, in return for trafficking items into MSPC for either Prisoner X or Mr Zahed?

A. Yes.

40 Q. Now, you knew, at the time you were taking these items in and receiving the payments and benefits, that it was wrong to do that, didn't you?

A. At the closed hearing, I did mention that.

Q. And you knew that it was dishonest of you to be taking those items in and receiving those benefits and payments, didn't you?

A. Once again, at the closed hearing, I did mention that.

Q. At the time that you were taking these items into prison, from your point of view - and again, this is a general question - was there a high risk to you that the items would be found on you when you were passing through the screening processes?

A. Possibly.

10 Q. But that was a risk you were prepared to take?
A. Possibly.

Q. Mr Te-Hira, I'm going to ask you some questions about telephones. Could we have on the screen, please, page 27 of exhibit 1? Do you have that photograph on the screen, Mr Te-Hira? That's a Motorola RAZR phone that I want to suggest was found in the back of your car during a search on 16 August 2012. Do you recognise the phone?

A. Yes, I do.

20 Q. Do you recognise it as yours?
A. Yes.

Q. You used that phone with the phone number 0415990213; is that correct?

A. I don't know the number.

Q. You don't remember the number now or you never knew it at the time?

30 A. I never knew the number.

Q. So you don't deny using the phone with that number?

A. That's correct.

Q. Did you have the number written down somewhere and you've lost it, or how were you able to operate the phone without knowing what the phone number was?

A. When people ring me, then they tell me the number.

40 Q. What about when you send messages from or make calls from the phone?

A. Yes, that's the way they find out the number.

Q. I'm now going to play some footage of your car being searched on 16 August.

(Video played)

MS WILLIAMS: Could we have page 20 of exhibit 1 on the screen, please?

Q. Mr Te-Hira, while that page is being brought up, do you recognise that footage as a search carried out on your vehicle, a black Ford Explorer, at Long Bay on 16 August?

A. Yes.

10 Q. Page 20, which is on the screen now - do you recognise that as the Nokia phone with the black back that was referred to in that footage we've just seen?

A. Yes.

Q. And that's your phone, isn't it, that was found in your car on that occasion?

A. Yes, it was.

Q. And that's a phone that you use together with the phone number 0406789233; is that correct?

20 A. I don't know the number.

Q. Is it the case that you can't remember the number again, or you have never known it?

A. I can't remember the number.

Q. The explanation that you gave to the Commission officers at the time of the search that it was your brother's phone is not correct, is it?

30 A. That's not correct.

Q. Could we now have page 21 of exhibit 1 on the screen, please? Mr Te-Hira, do you recognise that photograph at page 21 as the other Nokia phone that was found in the front console of your car during the search on 16 August?

A. Yes, I do.

Q. That's also your phone, isn't it?

A. That's correct.

40 Q. It's a phone that you use together with the number 0420525062; is that correct?

A. Possibly.

Q. Again, you don't know the number?

A. That's correct.

Q. Each of these three phones - the Motorola and the two

Nokias - were used by you, weren't they, to contact relatives and associates of inmates for the purpose of arranging the delivery of goods to be trafficked into MSPC by you; is that correct?

A. That's incorrect.

Q. I'm sorry?

A. That's incorrect.

10 Q. What was the purpose for which you used the phones, starting with the Motorola?

A. The Motorola was just my general everyday phone.

Q. But you don't know the phone number?

A. Only occasionally I use it, so I didn't really need to use it. It was there as a spare phone.

20 Q. Do you say that you did not use that phone to contact relatives and associates of inmates to arrange the delivery of goods to be trafficked by you into MSPC?

A. Possibly.

Q. I don't understand your answer.

A. I don't understand your question.

30 Q. Well, is it your evidence that you did not use the Motorola phone to contact relatives and associates of inmates for the purpose of arranging for them to give you goods that you would then traffic into MSPC for those inmates?

A. If they contacted me, then I'd contact them back.

Q. So the Motorola was used for contact between you and relatives and friends of inmates for that purpose; is that correct?

A. Not all the time, no.

Q. But on occasions it was; is that correct?

40 A. On occasions.

Q. You have an iPhone, don't you, that's your everyday phone?

A. I do.

Q. So the Motorola was not your everyday phone, was it?

A. It was in the beginning.

Q. During the period April to July 2012, your Motorola phone was not your everyday phone, was it?

A. That's incorrect.

Q. How long have you had the iPhone for?

A. For as long as the contract is.

Q. Can you remember when you got the iPhone, Mr Te-Hira?

10 A. I think the contracts on those are 24 months, so going back maybe 24 months.

Q. You're at the end of your contract now, are you, on the iPhone?

A. Close to.

Q. The Nokia with the black back that was found in your car, the one that's photographed at page 20 of exhibit 1 - that was also used on occasions, wasn't it, for contact between you and friends and relatives of inmates to arrange the delivery of goods that you would then traffic into MSPC?

20

A. Possibly.

Q. You just can't remember?

A. That's correct.

Q. You can't remember ever giving anybody the number associated with that phone 0406789233 and indicating that they could contact you on that number for that purpose?

30

A. That's correct.

Q. It's possible that you did, but you just don't recall; is that right?

A. I don't recall.

Q. You don't deny that you did?

A. That was possible.

Q. And the other Nokia, being the one pictured at page 21 of exhibit 1 - that was also used for communications for the same purpose on occasions, wasn't it?

40

A. Yes.

Q. I want to suggest to you that one of the reasons why you used these different phones and different numbers in connection with trafficking goods into MSPC was to reduce the likelihood of an entire chain of calls and text

messages being intercepted by authorities and discovering your conduct; is that correct?

A. Possibly.

Q. Mr Te-Hira, you must know the reason why you used so many phones and telephone numbers. Is the reason I have suggested to you one of those reasons?

A. Can you ask the question again, please?

10 Q. What I'm suggesting to you is that one of the reasons you used so many phones and telephone numbers for the purpose of communicating with friends and relatives of inmates to arrange the trafficking of goods into MSPC was to reduce the likelihood of an entire chain of messages or calls being intercepted by authorities and your conduct being discovered?

A. Yes.

20 Q. I want to ask you some questions now about Mr Omar Zahed, an inmate at MSPC. In about early June 2012, Mr Zahed asked you to contact his sister, Ms Asmahen, or Azzie, Zahed; is that correct?

A. Possibly.

Q. Mr Te-Hira, you answer "possibly" very often. Do I understand that answer correctly to mean, "That may have happened, I don't deny it, but I can't remember"?

A. That's correct.

30 Q. Could we have page 1 of the SMS bundle, please, on the screen? I am going to show you a print-out of an intercepted text message, Mr Te-Hira. Have you had a chance to read the text of that message?

A. I have.

Q. Do you see there with the date at the top that it has been sent on 5 June 2012?

A. Yes.

40 Q. At 18 minutes past 8 in the morning, and it's from the number 0415990213, which I suggest to you is the number for your Motorola phone, to the number 0420718812, which I'm going to ask you to assume for the moment is the number for Ms Zahed. You sent that text message to Ms Zahed, didn't you?

A. Was that from the Motorola, did you say?

Q. Yes.

A. Possibly.

Q. Can you remember what led you to make contact with Ms Zahed in this way?

A. I can't.

10 Q. I want to suggest to you it happened this way, and you tell me if you recall or deny any of this: Mr Zahed asked you to contact Ms Zahed so that she could deliver some items for you that you would then take to him in prison?

A. Possibly.

Q. You've admitted taking items into prison for Mr Zahed. How did that come about? What made you start doing that?

A. I think I got too close to them, to the offenders, and just went from there.

20 Q. But you didn't just decide to take things into prison for Mr Zahed, did you? He must have asked you to do it; is that right?

A. Possibly.

Q. Well, those are the only two possibilities, aren't they?

A. That's correct.

Q. Either you decided on your own initiative, or he asked you?

30 A. That's correct.

Q. And which of those two was it?

A. I think I was approached by him.

Q. Can you recall roughly when that happened?

A. No, I can't.

Q. Can you recall how he asked you to bring the items in?

40 A. No, I can't.

Q. What were the arrangements as to where you were to get the items from?

A. I guess I was just to pick up from somebody, from whoever I was to get it from was the person that I was picking it up from. That's the arrangements.

Q. I want to suggest to you the arrangements were that

you were to collect the items from his sister, who's known as Azzie, Ms Azzie Zahed?

A. Possibly.

Q. What were the arrangements as to what you were to be paid or how you were to be rewarded for doing this?

A. The arrangements were made as either a gift - a gift or a payment.

10 Q. And were there specific arrangements as to the amount of the gift or the payment, or was that up to Mr Zahed to decide on each occasion?

A. Maybe, yes, something like that.

Q. Sorry, something like what?

A. Like you suggested.

20 Q. I suggested two possibilities, and I'm not sure which one you're acknowledging as possible. Did you have specific arrangements with Mr Zahed as to how much you required in the form of payment in cash or in kind?

A. There was no specific arrangement.

Q. Did you specify, on each occasion you were asked to bring something in, what you would require, or did Mr Zahed decide what you would receive?

A. I never specified anything, and Mr Zahed, if that's the case, never spoke much of what was to be coming - if it was to come in, what was to come in.

30

Q. I think you've agreed with me that it was possible that Ms Zahed was the person from whom you were to collect the goods; is that correct?

A. Possibly.

Q. And I want to suggest to you that either Mr Zahed gave you her mobile phone number or you looked it up from his permitted contact list; is that right?

A. No.

40

Q. I'm sorry?

A. That's not right.

Q. How did you obtain a telephone number for Ms Zahed to send her this message on 5 June?

A. You suggested that I looked up his prohibited phone list; is that correct?

Q. No, his permitted phone list.

A. That's what you suggested I did?

Q. I suggest that's one possibility. Do you agree?

A. That's no to that.

Q. Sorry, that's a no?

A. That's correct, that's no to that.

10

Q. So in that case, Mr Zahed gave you Ms Zahed's phone number, did he?

A. He may have given me a number, that's correct.

Q. Well, if you didn't look up his permitted contact list, that's the only way you could have obtained her number, isn't it?

A. That's correct.

20

Q. Right. Could we have page 31 of exhibit 1 on the screen, please. Mr Te-Hira, this is an examination report from the examination of the Nokia phone with the black back, which I showed you earlier at page 20 of exhibit 1. You will see that, starting on page 32, which will be brought up on the screen now, there is a contact list. If we can scroll down through pages 33 and to the top of page 34, please, do you see there the contact "Zahed Omar Sis Azzie "and the phone number beneath?

A. Yes.

30

Q. You put that telephone number for Ms Zahed into your black-backed Nokia telephone, didn't you?

A. Okay.

Q. I'm sorry, your answer?

A. Okay, yes.

Q. So you're agreeing with that?

A. If it's in there, yes.

40

Q. I want to suggest to you that that same number was also in the contact list for your Motorola phone. Can we go to page 57 of exhibit 1, please, and if we can scroll down through this document to page 59, this is the examination report from your Motorola phone. It's the beginning of the contact list on page 59, and I'm going to ask the operator to scroll down, please, to page 68 of that

contact list. Do you see there again the same telephone number under the name "Azzie Zahed" in your contact list?

A. Yes.

Q. You put that name and telephone number in your contact list in the Motorola phone, didn't you?

A. Possibly.

10 Q. I want to suggest to you that those entries were made in your contact lists at about the time that Mr Zahed asked you to get in contact with his sister for the purpose of bringing items into prison for him; do you agree with that?

A. Possibly.

Q. If we can go back, please, to page 1 of the SMS bundle, having seen those contact entries in your phones, does that assist you to recall that you sent this text message to Ms Zahed on 5 June?

20 A. Yes.

Q. You do remember that now?

A. I don't remember it, but it assists me, yes.

Q. I want to suggest to you that after you sent that message, Ms Zahed did, in fact, call you, as you've suggested in the message. Do you remember her calling you?

A. No, I can't recall.

30 Q. And I want to suggest that she called you and you had a conversation in which you arranged to meet on 11 June; do you remember that?

A. I can't remember, but possibly.

Q. If we go to page 2 of the SMS bundle, please, do you recognise page 2 as the transcript of a text message sent from you to Ms Zahed on 5 June at 9.54 in the morning?

A. Seeing it in front of me, yes, possibly.

40 Q. Does that assist you to recall that Ms Zahed had in fact called you shortly before you sent that message?

A. Possibly.

Q. Can we go to page 3, please. Do you recognise that as a message sent by Ms Zahed to you on 11 June at 25 past 6 in the evening?

A. Possibly.

Q. Does seeing that message enable you to recall that you had in fact arranged to meet Ms Zahed on 11 June, before she sent that message?

A. Maybe. Maybe. Possibly. I can't remember that far back.

10 Q. You may not remember specific times and dates, but is it really the case that, as you sit here today - it is only 8 October - you can't remember arranging to meet Ms Zahed on about 11 June this year?

A. I appreciate what you're saying, I really do. I mean, I don't remember what happened at the beginning of the year, more or less remember what was happening yesterday.

Q. So when you answer, "Possibly", you don't deny receiving these messages, as I understand it; that's correct, isn't it?

20 A. As you've said, possibly, maybe, it could have happened.

Q. But when you see the transcript of the message in front of you, do you accept that you did receive this message on page 3, or do you tell the Commissioner that you may have received it or you may not have?

A. I have received - you've just shown me I have received the message, so, yes, I have received the message. Whom it may be from - it may be from her, it may not be from her, but I have received the message.

30 Q. Do you accept that the message you've received is from the telephone number 0420718812? You've no reason to disagree with that, have you?

A. You've got the transcript of me receiving a message, that's correct.

40 Q. Can we go to page 4 of the SMS bundle, please. I appreciate you have little recall, Mr Te-Hira, but I will take you through these so that you have an opportunity to jog your memory and give the evidence as best you are able to remember. Do you understand? Do you see on page 4 a message that I suggest you received from - sorry, that you sent to Ms Zahed on 11 June at 27 minutes past 8 in the evening?

A. Yes.

Q. I want to suggest to you that that was you responding to Ms Zahed that it was no problem she was unable to meet

that day, and the meeting could take place whenever she was ready; do you accept that?

A. Yes.

Q. Then could we go to page 5, please. Do you see on page 5 a message from Ms Zahed to you on 11 June at 32 minutes past 8, asking "What time tomorrow"; is that correct?

A. Yes.

10

Q. Does that assist you to recall that Ms Zahed wanted to rearrange the meeting for "tomorrow", being 12 June 2012?

A. Possibly.

Q. Can we go to page 6, please. Do you see there a message from you to Ms Zahed on 11 June 2012 at 54 minutes past 8 in the evening?

A. Yes.

20

Q. I suggest to you that the purpose of that message was to postpone the meeting to the Friday or Saturday, being 15 or 16 June, rather than 12 June; do you accept that?

A. Yes.

MS WILLIAMS: Commissioner, is that an appropriate time for a short morning adjournment?

THE ASSISTANT COMMISSIONER: Yes. We will have a 15-minute adjournment at this time.

30

SHORT ADJOURNMENT

MS WILLIAMS: Q. Mr Te-Hira, I was asking you, before the break, about some text messages you had been exchanging with Ms Zahed about a meeting that was arranged for 13 June. Do you remember those questions?

A. Yes.

40

Q. I want to suggest to you that ultimately you arranged to meet Ms Zahed at the Summer Hill shopping strip at about 7.30 on 13 June 2012. Do you remember that?

A. Possibly.

THE ASSISTANT COMMISSIONER: Q. Does that mean that you remember meeting her at the Summer Hill shopping centre --

A. Yes.

Q. -- but not necessarily the exact date?

A. That's correct.

MS WILLIAMS: Could we play, please, the film from
13 June?

(Video played)

MS WILLIAMS: Just pause there for a moment, please.

10

Q. Mr Te-Hira, do you recognise the person shown in the
light grey top and dark pants emerging from the
chiropractic clinic as you?

A. Oh, it's a bit blurry.

THE ASSISTANT COMMISSIONER: It's perhaps not the best
shot to ask him about.

THE WITNESS: Thank you.

20

MS WILLIAMS: Please continue.

(Video played)

THE ASSISTANT COMMISSIONER: Q. Does it look like you?
You must know your walk.

A. Oh, that's - okay. I don't deny that I was at that
chiropractor.

30

(Video played)

MS WILLIAMS: Q. Pause there for a moment. Mr Te-Hira,
do you recognise the person in the light grey sweater with
the hood?

A. Yes, I do.

Q. Do you recognise that person as yourself?

A. That's correct.

40

Q. For the transcript, that's 3 minutes and 17 seconds
into the footage. Immediately before this point, were you
able to observe that you were shown in the footage as
holding a black and white striped plastic bag?

A. Yes.

Q. And also some cash in your hand?

A. Yes.

Q. Before that in the footage, did you observe yourself getting into a black Mazda car?

A. Yes.

Q. Before getting into that car, you did not have the black and white striped plastic bag, did you?

A. Yes. I did not have it.

10 Q. Do you agree with me that you did not have it?

A. That's correct.

Q. And you didn't have the cash, either, in your hand, did you?

A. No.

Q. There was somebody sitting in the driver's seat of the black Mazda car when you got in there; is that right?

20 A. Possibly.

Q. Who gave you the black and white striped plastic bag and the cash that you are seen as having only after you get out of the black Mazda car?

A. The person in the car.

Q. And who was the person in the car?

A. One of the family members that I was to meet, or the person that I was to meet.

30 Q. I'm sorry, can you repeat that answer? I didn't quite hear you?

A. The person that I was to meet.

Q. The person that you were to meet was Ms Azzie Zahed; is that correct?

A. Possibly, yes.

Q. Well --

40 A. Yes, possibly, yes.

Q. That was the person with whom you believed you were exchanging text messages arranging this meeting, wasn't it?

A. That's correct.

Q. And did the person introduce themselves to you when you got in the car?

A. No.

Q. But you assumed, based on the contact through text messages, that that person in the car was Ms Zahed; correct?

A. Yes.

Q. The person in the car, who you assumed to be Ms Zahed, gave you the black and white striped plastic bag and the cash; correct?

10 A. Yes.

Q. How much cash?

A. I can't recall.

Q. Can you recall a rough amount - hundreds, thousands?

A. Maybe a hundred, hundreds.

Q. Maybe hundreds, plural. And what was in the black and white plastic bag?

20 A. Shoes.

Q. We'll come back to that. Do you recognise in the hearing room today the person whom you met with inside the black Mazda car that we've seen in this footage?

A. I don't see anyone here.

Q. Do you have a clear recollection of what the person inside the black Mazda car looked like?

30 A. Oh, the person that I - kind of like - I think I met was - she had the scarf on and had a veil on as well sometimes.

Q. So that would make it difficult to recognise her again; is that correct?

A. Sometimes.

Q. If we can continue playing, please.

(Video played)

40

MS WILLIAMS: Q. Just pause there for a moment. Mr Te-Hira, do you agree with me that the person in the light-coloured sweater with the hood again is you, standing next to the black vehicle, at 5 minutes 10 seconds into the footage?

A. Yes.

Q. And that's your vehicle you're standing next to, your black Ford Explorer; is that correct?

A. Yes.

Q. Thank you, please continue.

(Video played)

10 MS WILLIAMS: Q. We can stop it there. Mr Te-Hira, the black and white plastic bag had two pairs of shoes in it, didn't it?

A. I can't recall, but possibly.

Q. I want to suggest to you there were two pairs of shoes, each in a separate shoe box, one being a pair of Asics Gel Nimbus size 9, which was to be taken by you to Omar Zahed; do you agree with that?

A. Maybe.

20 Q. If we can go to page 9 of exhibit 1, please. I want to suggest to you that those are the size 9 pair of shoes that was inside the black and white plastic bag that the driver of the black Mazda gave you?

A. Maybe.

Q. You are not in a position to either agree or disagree; is that right?

A. That's correct.

30 Q. I want to suggest to you that those shoes were intended for delivery to Mr Zahed in prison?

A. Maybe.

Q. You did deliver one pair of shoes from that bag to Mr Zahed in prison, didn't you?

A. Yes.

40 Q. And you disposed of the box for that pair of shoes in the rubbish bin on the street at Summer Hill before you left; correct?

A. I did.

Q. The other pair of shoes in the bag was a size 10 pair of Asics Gel Nimbus shoes, I suggest to you. Do you agree with that?

A. Possibly.

Q. I want to suggest to you that that second pair of shoes was kept by you?

A. Yes.

Q. You remember keeping a pair of shoes from the plastic bag?

A. Yes, I do.

10 Q. That was the arrangement, that you were entitled to keep those shoes, wasn't it?

A. Yes.

Q. They were your size?

A. Yes.

Q. And those shoes were later located in your home when the Commission conducted a search warrant; that's right, isn't it?

20 A. Yes.

Q. With the pair of shoes that were delivered to Mr Zahed, how did you physically take those into the prison for him?

A. Put them in my work bag.

Q. Is your work bag the clear bag that you were describing earlier?

A. That's correct.

30 Q. And how was it that those shoes were not seen by security staff when you entered the prison?

A. Because they were covered, I guess.

Q. And how were they covered?

A. Books on either side of the shoes.

Q. A box on the inside --

A. Books, paperwork, on either side of the shoes.

40 Q. Was there anything contained inside the shoes when you took them into the prison for Mr Zahed?

A. Maybe. I can't remember.

Q. Are you uncertain because there was an occasion where you took shoes into prison that had something inside them?

A. Yes.

Q. And what was inside the shoes on the occasion that you can remember?

A. Contraband.

Q. What kind of contraband, Mr Te-Hira?

A. Whether it be a mobile phone or maybe some steroids.

10 Q. And on this occasion that you can remember, did that involve a mobile phone and steroids inside the shoes, or are you talking about two occasions on which you can remember taking shoes with contraband into the prison?

A. Possibly.

Q. On the occasion or occasions that you can remember doing this, were the shoes containing the contraband for Mr Zahed or for another inmate?

A. For that, I can't remember.

20 Q. Was it the day after you had the meeting at Summer Hill that we've seen the footage of that you took the shoes into the prison for Mr Zahed?

A. I can't remember that.

Q. But fairly shortly after the meeting on 13 June; is that right?

A. It may have been.

30 Q. What did you do with the cash that the driver of the black Mazda gave you?

A. Put it in my wallet.

Q. You kept it for your own personal use; that's right, isn't it?

A. Maybe.

Q. Well, you put it in your wallet?

A. Yes.

40 Q. You spent it as you saw fit from your wallet; correct?

A. Yes.

Q. The cash didn't go to Mr Zahed, did it?

A. No.

Q. The cash was your payment for agreeing to deliver the shoes and anything that may have been contained in them to Mr Zahed in prison; correct?

A. Maybe.

Q. I'm sorry, why do you say, "Maybe"?

A. Because it may have been that. It may not have been.

Q. What other purpose?

A. I may have got some takeaway food and taken it in.

Q. But you can't recall doing that?

10 A. That's correct.

THE ASSISTANT COMMISSIONER: Q. What, hundreds of dollars worth of takeaway food?

A. No, no.

Q. Well, that doesn't --

A. If I needed to - if they said, "Oh, can" - you know - "feel hungry", I would sometimes take in some takeaway food with the money.

20

Q. But you're not suggesting that that's what that money was for, are you?

A. No.

Q. So it was a payment for you? The cash you were given was for you to use for whatever you wanted?

A. Yes. I'm also suggesting that I was taking in some food for them as well, from that money.

30

MS WILLIAMS: Q. After the meeting on 13 June, Ms Zahed contacted you later that evening by phone, didn't she, to check if you were all right; do you remember that?

A. Maybe.

Q. She said she was checking, didn't she, because her friend, who had been with her, thought she had seen a lady on the other side of the street watching you and was concerned that somebody may have been watching your exchange. Do you remember that?

40

A. Maybe.

Q. Because you were certainly conscious, weren't you, of the need to make sure that nobody was aware of your activities?

A. Yes.

Q. And this was an ongoing concern, wasn't it, in your

dealings with Ms Zahed?

A. It's an ongoing - period.

Q. On 23 June this year, you had a car stereo and DVD player fitted in your Ford Explorer car, fitted at a place called Xtreme Car Audio in Blacktown; is that right?

A. Yes.

10 Q. Do you know the owner of that business as a Mr Jay or Jason Arici?

A. Yes.

Q. The reason you went to Xtreme on 23 June was because one of the inmates at MSPC had made an arrangement for you to do that, hadn't he?

A. Yes.

Q. Was that inmate Alfred, or Alfie, Fonua?

20

A. Yes.

Q. Mr Fonua had told you, hadn't he, that the stereo and DVD player was paid for and you just had to ring up and say that you were Alfie's mate?

A. Possibly.

Q. Well, that's what you did, isn't it: you made contact with Mr Arici and said, "I'm Alfred's mate"?

A. Yes.

30 MS WILLIAMS: Can we have page 14 of the SMS bundle.

Commissioner, while that is being brought up, might the SMS bundle be marked for identification as 1? I will be tendering it in due course.

THE ASSISTANT COMMISSIONER: Yes. It will be MFI1.

MFI #1 BUNDLE OF TRANSCRIPTS OF SMS MESSAGES

40 MS WILLIAMS: Thank you, Commissioner.

Q. Mr Te-Hira, do you recognise that as the message by which you first made contact with Mr Arici?

A. Yes.

Q. If we can turn to page 15, please, do you recognise that as Mr Arici's response to you on that occasion?

A. Yes.

Q. I think you agreed with me earlier that the stereo and DVD player had already been paid for; that's correct, isn't it?

A. Yes, possibly.

Q. You didn't have to pay anything yourself on 23 June, did you?

10 A. That's correct, no.

Q. The cost of the stereo and the DVD player was about \$1,550; that's correct, isn't it?

A. About that.

Q. Although you didn't pay, did you receive an invoice from Xtreme Car Audio setting out the work that had been done and the cost?

20 A. I had paid for items from Xtreme audio with my own money to further update my stereo in my car.

Q. But not on 23 June; correct?

A. On that day, I paid for items that were put into my car. There were things that may have been paid for me, that's correct, but I further paid to update the stereo in my car.

Q. You took your car to Xtreme Car Audio on two further occasions after 23 June, didn't you?

30 A. That's correct.

Q. The payments that you're referring to as being made by you were made on those other occasions and not on 23 June, weren't they?

A. There was only two occasions I think I can recall that I went there. On the first occasion, I paid for the update on my stereo in my car. The second time that I went there, I paid for the accessories that needed to be fixed in my car.

40

Q. Could we go to page 6 of exhibit 1, please. Have you seen this document before, Mr Te-Hira, that you can recall?

A. Yes.

Q. That's the record produced by Xtreme Car Audio of the work done on 23 June on your car, the items installed and the total cost of \$1,550; that's correct, isn't it?

A. That's correct.

Q. I want to suggest to you that the next occasion you took your car to Xtreme Car Audio was on 7 July 2012.

A. Somewhere around there.

Q. About two weeks later; does that sound about right?

A. Possibly.

10 Q. Can we go to page 13, please. Mr Te-Hira, have you seen that document at page 13 before?

A. Yes.

Q. Do you recall having those items installed in your car at Xtreme Car Audio on 7 July?

A. Yes.

Q. Who paid for those items?

20 A. I paid for those items as well.

Q. So you paid that cost of \$450?

A. I did.

Q. Then can we go to page 17 of exhibit 1, please. Have you seen that document at page 17 before, Mr Te-Hira?

A. Yes.

Q. Does that represent work done on your car at Xtreme Car Audio on 11 August 2012?

30 A. Yes.

Q. Who paid for that work?

A. I paid for that work as well.

Q. You paid for that sum of \$300 and the earlier sum you've told us about of \$450; correct?

A. That's correct.

40 Q. I want to suggest to you that you did not pay for the first lot of work and items on 23 June of \$1,550; you did not pay for any of that?

A. That's incorrect.

Q. How much do you say you paid on 23 June?

A. I said I paid for the new update stereo in my car.

Q. How much money do you say you paid on 23 June?

A. That sum amount.

Q. \$1,550?

A. Yes.

Q. You told me earlier that the inmate, Mr Fonua, who arranged for your car to be attended to at Xtreme Car Audio had told you that it was paid for.

10 A. That's correct.

Q. Do you now change that answer and say that you made this payment?

A. He said that he had an item there for me and it was paid for, that's correct. I went there and I changed the item and I further updated my - the item that I got put into my car. I had to pay for that. I paid for that. I'm telling you I paid for that.

20 THE ASSISTANT COMMISSIONER: Q. You paid for the updates; is that correct?

A. Thank you. Yes.

Q. But you knew that the stereo system itself had already been paid for, as I understand it?

A. The stereo system that was there was paid for, that's correct.

Q. Yes.

30 A. Now, I paid for the further update of a new stereo system, which then - all of that cost me that.

Q. And you think the \$1,550 represents the update?

A. The \$1,550 is what I paid for as well as the further updates that I needed to the car.

MS WILLIAMS: Q. When you say "the further updates", you're talking about the amounts on 7 July and 11 August; is that correct?

40 A. These receipts.

Q. Was \$1,550 a lot of money for you to spend, on 23 June, on your car?

A. Yes and no.

Q. Do you think you would have remembered the very next day how much you had spent on 23 June?

A. Yes.

Q. Can we play, please, the recording of the telephone conversation on 24 June.

(Recording played)

MS WILLIAMS: Q. We can stop it there. Mr Te-Hira, that was a recording of a telephone conversation that you had with your wife on 24 June, wasn't it?

10 A. Yes.

Q. You told her in that conversation that you didn't know how much it cost because you had paid nothing on 23 June; that's right, isn't it?

A. That's incorrect.

MR McILWAIN: Commissioner, that question actually suggests, the way it's phrased, that my client said - "You told her nothing because you paid nothing" - it suggests that that conversation was conveyed to the wife.

20

MS WILLIAMS: I take my friend's point. I'll withdraw that question and ask another one.

Q. When your wife asked you in that conversation how much it cost, you said, "I don't know"; do you remember that?

A. It says here on this transcript, that's correct.

Q. And the reason you said, "I don't know", was because you didn't know how much it cost, did you?

30

A. That's because I didn't want to tell her.

Q. I'm suggesting to you it's because you didn't know how much it cost, and that was because you had not paid for it?

A. No.

THE ASSISTANT COMMISSIONER: Q. I'm confused. You've already admitted that you knew part of the cost was going to be paid by - had been arranged by Mr Fonua; is that correct?

40

A. Yes.

Q. So how much did you think was being paid through Mr Fonua?

A. \$500.

Q. So that was the contribution that you thought was

being made to it overall --

A. Yes.

Q. -- and you were going to pay the rest yourself?

A. And I paid the rest myself, that's correct.

Q. And that \$500 was for a stereo system, basically, which you upgraded?

A. That's correct.

10

Q. But you knew some of the funds had been provided through Mr Fonua?

A. That's correct.

MR McILWAIN: Sorry, Commissioner, I don't know if this is going to become an exhibit. I would ask for there to be a non-publication order because it contains the voices of two children, or a child, and my client's wife.

20

THE ASSISTANT COMMISSIONER: Yes, I agree. I agree. If it is to be tendered, I will make it a private exhibit.

MS WILLIAMS: Thank you, Commissioner.

Q. Just to be clear, Mr Te-Hira, you say, do you, that Mr Fonua had paid \$500 and you paid an additional \$1,550 on top of that?

30

A. It's possible that Mr Fonua paid an amount. To be exact, I don't know, but I can recall paying for the fittings for the upgrade of my stereo.

Q. And you recall, do you, that the amount that you paid was the \$1,550?

A. I can recall paying for a sum amount for the upgrade of my stereo.

Q. Can you recall where you got the money from to pay the component that you paid for on 23 June?

40

A. I can recall that I paid with cash the sum amount for the upgrade of my stereo.

Q. Was it cash that you can remember going to your bank account and withdrawing or cash that you had that was not in a bank account?

A. That's correct.

Q. The latter is correct, is it - cash that was not in

a bank account?

A. Yes.

Q. Now, it was Mr Fonua who told you that the stereo had been paid for; correct?

A. Yes.

10 Q. Did he tell you that he had paid for it, or was it your understanding that somebody else had paid for it and he was informing you of the fact?

A. I don't know.

Q. You don't know who paid for the stereo?

A. Yes.

Q. But Mr Fonua told you that payment had been made; is that correct?

A. Yes.

20 Q. Why was Mr Fonua arranging payment for your car stereo?

A. Don't know.

Q. What did you have to do for him in return for him making this arrangement?

A. It was - I don't know. I can't remember.

30 Q. Mr Fonua wouldn't have paid or arranged for somebody to pay a substantial amount of money towards a stereo and DVD player for your car without something in return, would he?

A. Once again, I paid for the stereo. He never paid a substantial amount. So --

THE ASSISTANT COMMISSIONER: Q. Well, I think you've conceded he paid up to \$500.

A. Yes.

40 Q. You're just being asked why would he, effectively, or somebody through him, arrange to give you \$500.

A. That may have had something to do with what I may have brought in.

MS WILLIAMS: Q. Did you at that time bring in some steroids?

A. Possibly.

Q. Were steroids brought into MSPC by you in return for this financial contribution towards your DVD player and stereo that was arranged by Mr Fonua?

A. Maybe.

Q. You really don't recall what it was that you did in return for this contribution towards your DVD player and car stereo?

10 A. It's been a process that I wanted to put behind me, and I can't recall.

Q. In any case, you knew, didn't you, that accepting this benefit from Mr Fonua, or whoever arranged the payment, was wrong for you to do as a correctional officer, didn't you?

A. Yes.

Q. And you knew that even if there was nothing that you were required to do immediately in return for that benefit, that expectation would be upon you in due course, didn't you?

20

A. Can you repeat the question again, please?

Q. You knew that either Mr Fonua or the prisoner who arranged the payment would require something in return, didn't you?

A. Yes.

Q. I suggest to you again that what they required in return was the delivery of steroids?

30

A. Possibly.

Q. I want to suggest to you that what was required was in fact steroids to be delivered to Mr Zahed?

A. Maybe.

Q. And that it was Mr Zahed, in fact, who arranged the payment to Xtreme Car Audio?

A. Possibly.

40

Q. On 25 and 26 June this year, you exchanged text messages with Ms Zahed again to arrange a further meeting for her to deliver materials for you to take into prison for Omar Zahed; do you remember that?

A. Maybe.

Q. Again, it may have happened; you have no specific recollection?

A. Yes.

Q. Do you remember having another meeting with Ms Zahed on 27 June this year?

A. Maybe.

Q. Do you remember meeting with Ms Zahed on one occasion after 13 June that you've been shown the footage of?

A. Yes.

10

Q. You do remember --

A. Possibly.

Q. There was possibly a further meeting; is that your evidence?

A. Yes.

Q. I want to suggest to you that there was a further meeting between you and Ms Zahed on 27 June, again at Summer Hill?

20

A. Possibly.

Q. Which part of that are you unsure about, Mr Te-Hira?

A. That it was around that time, so that's what I'm saying to you possibly it was then. Maybe not.

Q. So there's no doubt in your mind that there was a further meeting after 13 June?

A. There may have been a meeting.

30

Q. There may have been or there was?

A. There may have been a meeting.

Q. Is that seriously your evidence? You don't recall whether you met with Ms Zahed on a second occasion?

A. It was possible that I met with Ms Zahed on the 13th. It may have been the 14th. I can't recall. But I have met with Ms Zahed; it was possible.

40

Q. Have you met with Ms Zahed on one or two or more occasions?

A. I can't recall.

Q. Do you or do you not recall a second meeting with Ms Zahed in Summer Hill after the meeting that you were shown the footage of?

A. I have met with Ms Zahed, if it be, after the footage,

so possibly twice.

Q. Can we play the transcript of the telephone conversation recorded on 27 June at 4 minutes past 3 in the afternoon, please.

(Recording played)

10 MS WILLIAMS: Q. Mr Te-Hira, does that allow you to recall that you met Ms Zahed on the evening after that conversation took place?

A. Yes.

Q. And you met her in Summer Hill; correct?

A. Yes.

20 Q. And as you had discussed in that telephone conversation, she followed you for some time in her car, and you ended up meeting in a car park at Summer Hill; correct?

A. That's incorrect. We were there at the car park.

Q. You met in the car park at Summer Hill; is that part correct?

A. That's correct.

30 Q. At that meeting, you understood the person you were meeting was Ms Zahed; correct?

A. Possibly. That I was meeting her, that's correct.

Q. And the person you met is the same person who was in the black Mazda at the meeting on 13 June that we've seen in the footage; correct?

A. Yes.

Q. She handed to you some Athlete's Foot bags containing shoes; correct?

A. Yes.

40 Q. And there were shoes for Omar Zahed, to be delivered to him in prison; correct?

A. Maybe.

Q. Well, are you in some doubt about that part?

A. Oh, whomever it was for.

Q. Do you think it was for an inmate other than Mr Zahed?

A. Oh, well, I take it to be Mr Zahed if it be, so possibly, yes, you're right.

Q. And there were also some shoes that were for you; correct?

A. Yes.

Q. Those being the shoes you'd discussed with her in that telephone conversation about what you'd prefer; correct?

10 A. Yes.

Q. Were there two or three pairs of shoes for you on that occasion?

A. One.

Q. Just one. What else did Ms Zahed give you on this occasion in the car park?

A. I can't recall.

20 Q. Any other items to be delivered to Omar Zahed either inside the shoes or otherwise?

A. Maybe.

Q. USB stick or mobile phone equipment, steroids - can you recall any specifics?

A. No.

Q. Were you given some cash on this occasion?

30 A. Maybe.

Q. So you may have been, but you have no specific recollection?

A. That's correct.

THE ASSISTANT COMMISSIONER: Q. Can I ask you in general terms --

A. Yes.

40 Q. -- when phones or steroids were to be put in the shoes, did you put them in or were they already in when you got the shoes?

A. Most of the time they were inside the shoe.

Q. But you'd look to see what was there?

A. Not most of the time, no. Not all the time, no.

Q. Not all the time?

A. That's correct.

Q. But sometimes you looked?

A. Sometimes, yes.

Q. But you weren't responsible for actually putting the items in the shoes?

A. No.

10 MS WILLIAMS: Q. Now, the shoes that were meant for you, in your size - you kept those; correct?

A. Yes.

Q. And you understood that they were a form of payment to you for taking the other pair of shoes into the prison for Omar; correct?

A. No.

20 Q. Well, why did you think Ms Zahed was giving you a pair of shoes?

A. It was a gift.

Q. Out of the goodness of her heart?

A. Yes.

Q. Well, what benefit or payment did you receive, then, on 27 June for taking the shoes and any other items that you may have been given in to Mr Zahed in prison?

30 A. There was maybe the payment that you suggested that I took the first time.

Q. You're referring to the cash payment on 13 June?

A. That's correct.

Q. You think that may have covered both occasions, do you?

A. Maybe.

40 Q. You think they would have paid you in advance rather than make two separate payments; is that correct?

A. No. Maybe. I'm not quite sure.

Q. Mr Te-Hira, you were very worried on 27 June about your activities being recorded or observed by anybody else, weren't you?

A. I was worried, very worried, yes.

Q. You were taking this pair of shoes and any other items you may have been given in to Mr Zahed at considerable personal risk to yourself, weren't you?

A. Yes.

Q. If you were caught, you could lose your job; correct?

A. Yes.

10 Q. You could be found guilty of a criminal offence; correct?

A. Yes.

Q. Did you know that at the time, that you might be found guilty of a criminal offence?

A. Yes, I could be found.

Q. And you could yourself end up an inmate rather than a correctional officer; correct?

20 A. Possible.

Q. So I'll ask you again: what payment or benefit did you receive in return for taking this risk, when you were given these shoes on 27 June?

A. Shoes and/or money.

Q. So you accept now that the shoes that were given to you for yourself were a benefit in return for taking the shoes in for Mr Zahed; correct?

30 A. Shoes and/or money as a gift. Money as a payment.

Q. When you say "a gift ", you accept, don't you, that it was a gift in return for you taking the shoes in for Mr Zahed; correct?

A. Maybe.

Q. You don't mean just a gift that someone is giving you to be kind, do you?

A. Maybe.

40 Q. Do you seriously suggest that Ms Zahed had any reason to give you a gift just to be kind?

A. It's possible.

Q. There's no reason that you know of, is there?

A. It's possible.

Q. Well, anything's possible, Mr Te-Hira, but you don't

know of any reason, do you, why Ms Zahed would give you something, except in return for you taking items in to prison for her brother?

A. Maybe.

Q. Now, that's a "yes" or "no" answer, that one.

A. Yes.

10 Q. So you agree with me, by that answer "yes", that you don't know of any reason why Ms Zahed would give you something, except in return for you taking items in to Mr Zahed; that's right, isn't it?

A. You've asked me, and I'm telling you it may have been a gift.

Q. By that answer, you're suggesting that Ms Zahed was giving you shoes out of the goodness of her heart and not for the purpose of encouraging or inducing you to traffic items into prison for her brother?

20 A. Yes.

Q. Is that your evidence to the Commissioner?

A. My evidence to you is because she - if it be the person that we're talking about, it was a gift, "Thank you for doing that."

Q. "Thank you for doing that" - those words were said?

A. No.

30 THE ASSISTANT COMMISSIONER: Q. But you took it as a thank you for what you were doing?

A. Yes.

MS WILLIAMS: Q. And the shoes that were given to you on 27 June to be delivered to Omar Zahed - you did deliver them on the following day; is that right?

A. Possibly.

Q. You did deliver them at some time; correct?

40 A. Yes, that's correct.

Q. Again, how did you get the shoes through the security screening point at MSPC when you attended for duty on the day of the delivery?

A. As I answered to you before, they were put in my bag with books either side of my bag and then taken to the area where I was working.

Q. Nobody searched your bag on that occasion when you went through the security point?

A. Can't recall.

Q. Once you got through the security checkpoint, where does your bag go after that? Do you have to put it in a locker or does it travel with you to your --

10 A. It travels with me to my work location.

Q. And what is your work location? Is it a room or a desk in an open area or --

A. Open area.

Q. And how do you get the shoes out of your bag and pass them on to Mr Zahed without being observed by another officer?

20 A. When no-one's there, I just take it out of my bag and give it to him.

Q. So there would be occasions during the course of the day, would there, when you would be in contact with Mr Zahed and nobody else around to see anything?

A. Possibly.

Q. Is that because Mr Zahed is a sweeper, so you have greater contact with him, or could that be the case in relation to any MSPC inmate?

30 A. No, because he was a sweeper.

Q. Do you specifically recall passing the shoes on to him on this particular occasion?

A. Don't specifically recall, but yes.

Q. But there's no doubt in your mind that you did take these shoes into the prison for him; correct?

A. Yes.

40 Q. Do you remember Mr Zahed complaining to you or asking you about why something that was supposed to be in the shoes wasn't there?

A. Possibly.

Q. Can we play, please, the recording of the telephone conversation on 28 June at 15:44.

(Recording played)

MS WILLIAMS: Q. Does that refresh your memory, Mr Te-Hira, that there was, on that occasion after the meeting on 27 June, supposed to be something in the shoes that was not in fact there when you delivered them to Mr Zahed?

A. Yes.

10 Q. And he took that up with you in prison after you gave him the shoes?

A. Yes.

Q. Do you recall whether there was anything at all in the shoes on that occasion?

A. No.

20 Q. Can we put on the screen, please, page 23 of exhibit 1. Mr Te-Hira, I'm going to show you some photographs of shoes, starting with these ones, and ask you if you recognise any of the shoes provided to you on 27 June at the meeting in the car park with Ms Zahed. If you could look at this page, 23, first, do you recognise those as shoes provided to you at that meeting on 27 June?

A. No.

Q. Can we go to page 24, please. Do you recognise those shoes on page 24 as having been given to you at that meeting?

A. No.

30 Q. And page 25, please.

A. Yes.

Q. Those were the shoes given to you by Ms Zahed on 27 June; is that correct?

A. Possibly, yes.

40 Q. And they were the ones given to you for your own use; is that right?

A. Yes.

Q. I want to ask you some questions about another inmate, Prisoner X, also known as Prisoner X. You mentioned in your evidence earlier that you trafficked contraband items into MSPC for Prisoner X, and I want to suggest to you that, for that purpose, you had contact with Prisoner X's sister; do you agree with

that?

A. Yes.

Q. And a friend of Prisoner X known as George Karamoschos; do you agree with that?

A. Maybe.

Q. Did you have contact with a man known to you only as George?

10 A. Possible, yes. Yes.

Q. You had contact with a man known as George, who you understood to be a friend of Prisoner X; is that correct?

A. Yes.

Q. Did you ever know this man's surname?

A. No.

20 Q. Did you ever have contact with Prisoner X's mother, in connection with trafficking contraband into MSPC for Prisoner X?

A. No.

Q. Prisoner X asked you to contact his sister, Prisoner X's sister, in about April this year, didn't he?

A. It's possible.

30 Q. Well, do you recall how it came to be that you started trafficking contraband into MSPC for Prisoner X?

A. No, I don't.

Q. Do you remember the first time you met with anybody to collect goods that you were to take into MSPC for Prisoner X?

A. Can you rephrase the question, please?

40 Q. Can you remember the occasion on which you first met with any person for the purpose of you collecting goods to then take into MSPC for Prisoner X?

A. I can't remember.

Q. I want to suggest to you that you met with Prisoner X's sister, XXXXX, in about April this year at a car wash near South Sydney Juniors club. Do you have any recollection of that?

A. It's possible.

Q. The purpose of that meeting was for Prisoner X's sister to provide you with things that you would then take into prison for Prisoner X?

A. It's possible.

10 Q. The things you were given to take in to Prisoner X on that occasion were a box containing some shoes and some personal items, such as a razor and some tweezers; do you remember that?

A. Maybe.

Q. And you were also given some cash in an envelope on that occasion; do you remember that?

A. It's possible.

20 Q. Can we go to exhibit 1, page 57, please. Mr Te-Hira, this is the start of an examination report into your Motorola phone. Can we go to page 59, please. Do you see there the start of your contacts list? Do you see that, Mr Te-Hira?

A. Yes.

Q. And if we can go forward, please, to page 69, do you see there the contact that's listed as number 117 on the left-hand side, "Prisoner X's sister", and the number underneath, XXXXXXXX?

A. Yes.

30 Q. That's a reference to Prisoner X's sister, isn't it?

A. Maybe.

Q. Well, is that the number that you used to contact Prisoner X's sister for the purpose of arranging contraband deliveries for Prisoner X?

A. Possibly.

40 Q. The next entry, contact number 118 - who is that person?

A. Prisoner X's mother.

Q. Is that just because it says "Prisoner X's mother"?

A. That's correct.

Q. Which XXXX does it refer to?

A. Any XXXXX.

Q. Well, Mr Te-Hira, these are your contacts entered by you in your phone. Now, you've agreed with me that the reference to "Prisoner X's sister" is a reference to Prisoner X's sister. You also said earlier in your evidence that you had no contact with Prisoner X's mother for the purpose of arranging contraband deliveries, and I'm asking you who is contact number 118, "Prisoner X's mother"?

10 A. It says there "XXXX mum".

Q. Which person did you understand you would be contacting if you sent a message or made a call to the telephone number that appears at contact number 118?

A. XXXXX mum.

Q. You thought you would be contacting Prisoner X's mother; is that your evidence?

20 A. My evidence there is right in front of me. It says "XXXXX Mum".

Q. We can all read, Mr Te-Hira, but I'll ask you again: these are your contacts entered by you in your phone and you are under oath. Which person did you think you would be contacting if you sent a message or made a call to that telephone number at contact 118?

A. It says "XXXX Mum".

30 Q. Which person did you think you would be contacting if you sent a message or made a call to the number that appears at contact 119?

A. XXXXX mum.

Q. Why have you described that number in two different ways - "XXXXX Mum" and "XXXXX Mum Frien", presumably friend?

A. No idea.

40 MS WILLIAMS: Commissioner, is that a convenient time?

THE ASSISTANT COMMISSIONER: Yes. We will adjourn at this time until 2 o'clock.

LUNCHEON ADJOURNMENT

UPON RESUMPTION:

MS WILLIAMS: Q. Mr Te-Hira, I was asking you, before the break, about a meeting with Prisoner X's sister in April 2012; do you remember that?

A. Yes.

10 Q. I am going to ask you some questions now about a further meeting that you arranged with Prisoner X's sister and another man known to you as George on 21 June 2012.

A. Okay.

Q. Do you remember meeting Prisoner X's sister and a man at the Camperdown Hotel on 21 June 2012?

A. Possibly.

20 Q. Could MFI1 - that is, the SMS bundle - page 16, be shown on the screen, please. Mr Te-Hira, do you see there a transcript of a text message from you to Prisoner X's sister saying, "Prisoner X has asked me to catchup tonight ..."?

A. I can see that transcript there, yes.

Q. Do you recall sending that message to Prisoner's sister on about 19 June this year?

A. Possibly.

30 Q. Could page 22 of MFI1 be shown now. Just take a moment to read that. Have you been able to read that, Mr Te-Hira?

A. Yes, I have.

Q. Do you recall sending that further message to Prisoner X's sister on 19 June this year?

A. Possibly.

40 Q. Did you have any understanding of who the person referred to in the message as "Prisoner X's friend George" was at that time?

A. No, no.

Q. But Prisoner X had asked you, had he, to meet with his sister, XXXXXX, and a friend of his named George; is that what happened?

A. Yes, possibly.

Q. Could we have page 24 of MFI1 on the screen, please. Mr Te-Hira, do you recognise that as a text message that

you received on 19 June, shortly after you had sent the message to Prisoner X's sister referring to Prisoner X's friend George?

A. Yes.

Q. And at that stage, did you have any understanding about who Prisoner X's mother was?

A. Other than it's sent as a text message, no.

10 Q. This particular message was sent from the telephone number XXXXXX. Do you see that on this document?

A. Yes.

Q. I want to suggest to you that you exchanged numerous messages with that telephone number between this time on 19 June and the evening of 21 June; do you recall those exchanges?

A. Maybe.

20 Q. I want to suggest to you that all of those messages led up to a meeting between you, Prisoner X's sister and a man by the name of George Karamoschos at Camperdown Hotel on the evening of 21 June?

A. Okay, possibly.

Q. Could we play, please, the film of the meeting at the Camperdown Hotel on 21 June.

(Video played)

30 MS WILLIAMS: Q. Just pause there, please. Mr Te-Hira, that's a fuzzy shot, but those individuals who are on the screen now, at 26 seconds into the film, and who were on the screen a moment ago - do you recognise either of those people?

A. There in the photo?

Q. I'm sorry?

A. There in the photo.

40 Q. Yes.

A. Just there, in the photo, yes.

Q. And who are they?

A. Must be a friend of - friends of Prisoner X.

Q. Do you agree with me there is a woman and a man?

A. Yes.

Q. Do you recognise the woman?

A. Not clearly.

Q. Do you recognise them as people who you subsequently met with upstairs in the hotel on this occasion?

A. Possibly.

Q. Can we continue, please.

10

(Video played)

MS WILLIAMS: Q. Just pause there. Do you agree with me, Mr Te-Hira, that the woman shown coming down the stairs at 1 minute and 4 seconds into the film is the same woman who was seen walking into the hotel at the beginning of the film?

A. Yes.

20 Q. Please continue.

(Video played)

MS WILLIAMS: Q. Just pause there, please. Mr Te-Hira, is that man shown at 1 minute and 46 seconds into the film the same man, to your observation, as you saw coming into the hotel at the beginning of the film?

A. Yes.

30 Q. Continue, thanks.

(Video played)

MS WILLIAMS: Q. Pause there, please. Mr Te-Hira, do you recognise yourself at 3 minutes and 9 seconds into the footage, sitting at the table with a meal?

A. Yes.

40 Q. And there is a black plastic bag beside you?

A. Yes.

Q. And do you agree that earlier, the footage showed you coming down the stairs of the hotel carrying that black plastic bag?

A. Yes.

Q. Thank you. Please continue.

(Video played)

MS WILLIAMS: Q. Mr Te-Hira, the black plastic bag that you have just been filmed taking with you in your car, driving away - that was given to you, wasn't it, by the man and the woman that we saw entering the hotel at the beginning of the film?

10 A. Possibly.

Q. And I want to suggest to you that the woman is Prisoner X's sister?

A. Okay.

Q. Do you agree with that?

A. Yes.

Q. And the man is a friend of Prisoner X's known to you as George; do you agree with that?

20 A. Possibly.

Q. What was inside the black plastic bag?

A. I can't recall. I can't remember.

Q. I want to suggest some things to you and see if that helps your memory: two HTC Explorer phones with a charger and two SIM cards for each phone?

A. Okay. Possibly. Possibly, yes.

30 Q. So they were possibly inside the black plastic bag?

A. Possibly, yes.

Q. Any other phones inside the black plastic bag?

A. Yes, possibly. I'm not sure.

Q. Any steroids inside the black plastic bag?

A. I can't remember.

Q. Any other drugs inside the black plastic bag?

40 A. I can't remember.

Q. Anything at all in a bottle?

A. I can't remember that.

Q. Any cash?

A. Yes, possibly cash in there.

Q. Was the cash a payment to you?

A. Yes, possibly.

Q. These people - when they gave you this plastic bag, did they say anything to you about what you were to do with it?

A. No.

10 Q. You understood, though, didn't you, that you were to deliver it to Prisoner X at MSPC; is that correct?

A. Yes.

Q. And what about the cash - what were you to do with that?

A. That was there for me taking it in, as well.

Q. That was a payment to you for taking it in?

A. As well as to buy some food.

20 Q. How much cash was there; can you remember?

A. No, I can't.

Q. Would it be fair to suggest that you kept the majority of the cash and may have used some part of it to buy food to take in to Prisoner X?

A. Maybe.

Q. To compensate you for the risks that you were taking by taking it in?

30 A. Possibly.

Q. Do you have any recollection of how you took the contents of the black plastic bag into MSPC for Prisoner X?

A. I can't remember.

Q. You don't remember any details about how you got it through security?

A. The - it wasn't taken - I can't - yes, I can't remember, no.

40

Q. Do you remember whether you delivered it to Prisoner X directly or you had to get it to him through another inmate?

A. No.

Q. I have asked you about one meeting with Prisoner X's sister in April 2012.

A. Yes.

Q. And I have shown you the footage of this further meeting on 21 June 2012.

A. Yes.

Q. Did you have any meeting with Prisoner X's sister other than those two?

A. No.

10

Q. Whilst Prisoner X's sister and the man that you know as George were upstairs in the Camperdown Hotel with you on 21 June, you and George had a discussion, didn't you?

A. May have been. I can't remember.

Q. You talked about something that he later needed to come and see you about; do you remember that?

A. Yes, maybe.

20

Q. Can we have a look at page 50 of MFI1, which is the SMS bundle, please. Mr Te-Hira, do you see there a transcript of an intercepted SMS message from the number XXXXXXXX to you, "Hi friend, I need to come and see you as per our discussion last night"? Do you see that?

A. Yes.

Q. Do you see that message is sent on 22 June 2012?

A. Yes.

30

Q. Does that help you recall what it was that you discussed with the man you know as George at the Camperdown Hotel on 21 June?

A. No.

Q. Can we go to page 53 of MFI1, please. Just take a moment to read that transcript, please.

A. Yes.

40

Q. Does that further message from that same telephone number help you remember what it was that the man known to you as George wanted to see you about?

A. No.

Q. Do you see there he says in the second sentence --

A. Says there, yes.

Q. -- "I spoke to my mate today". Who is "my mate" that

he is referring to?

A. I don't know.

Q. Did you know then and you have forgotten now, or you never knew?

A. I don't know who the mate is that he's referring to, or that person he's referring to.

10 Q. Do you see there in the next sentence he says that he needs to see you to "take back the extra". What was the "extra"?

A. I can't remember that.

Q. Was it some part of what was delivered to you on 21 June at the Camperdown Hotel?

A. May have been.

Q. And reading this message doesn't help your memory at all as to what it was in that black plastic bag?

20 A. No. Who is "Hi mate"? Who - this is Prisoner X's mum referring to me; is that correct?

Q. Well, it is the telephone number XXXXXXXX.

A. That's fine. I understand that.

Q. I'm suggesting to you that the person using that number, at least on this occasion, is the person, the man, whom you met at the Camperdown Hotel on 21 June?

30 A. No, I can't be sure.

Q. I'm suggesting to you that you put this telephone number in your contact list as "Prisoner X's mother" because the very first contact you had from this number, the person identified themselves as Prisoner X's mother?

A. Possibly.

40 Q. But I'm suggesting that it subsequently transpired that the person using this number to contact you is nobody's mum, but, rather, the man we saw in the footage at the Camperdown Hotel on 21 June.

A. I don't think - that's not correct.

Q. Why do you think that's not correct?

A. That's just - no. That's a no.

MR WATSON: I'm sorry, I can't hear.

THE ASSISTANT COMMISSIONER: "That's a no."

THE WITNESS: That's a no.

THE ASSISTANT COMMISSIONER: Q. The first text from this number referred to your discussion the previous night. You hadn't had a discussion the previous night with Prisoner X's mum, had you?

10 A. I don't think so, Commissioner.

Q. But you had had a discussion with George K, the friend of Prisoner X?

A. If it be by text, that's correct.

Q. But at the hotel?

A. I spoke with him.

Q. Yes.

20 A. If I spoke with him it was to pick up the items, what was there, and then to go. That's as far as the conversation may have gone.

Q. But you must have some idea what this text is all about, or you would have sent back a message saying, "What are you talking about? What extra? I don't know what you're talking about." This is only a few months ago, really.

A. This is in June.

30 Q. Yes. Five months, say.

A. I know what you're saying, Commissioner. I do. To say, did he come and pick something up, it was possible.

Q. That he would come and pick something up?

A. If there was something extra in the bag, he came to pick it up, that's correct, that's possible.

Q. So you think it probably was to pick up something extra from the bag?

40 A. That's correct.

Q. But do you know what?

A. No, I can't remember.

MS WILLIAMS: Q. Can we go to page 57 of MFI1, please. Mr Te-Hira, I suggest to you that this message, sent by you to the number that you have described as "Prisoner's Mum",

was a response to the previous message we saw at page 53, "Hey buddy", and then arranging a time and meeting place. When you sent that text message, "Hey buddy", you knew you weren't sending it to anybody's mum, didn't you?

A. No.

Q. I'm suggesting that you would use those form of words to refer to another man you had been speaking to or communicating with; do you agree with that?

10 A. No.

Q. In any event, you were proposing to meet with this person on the Thursday night. Do you remember meeting on Thursday, 28 June at Sydney University, number 1 oval changing rooms, with the man you knew as Prisoner X's friend?

A. Possibly.

Q. Can we go to page 67 of MFI1, please. Do you see there a message sent by the number you have described as "Prisoner's Mum" to you, confirming the time of the meeting to be held that evening? Do you recall receiving that message on 28 June?

20

A. Possibly.

Q. And do you see there the last sentence of the message says, "Where should I meet you at 8.30" - do you see that?

A. Yes.

Q. The person you later met with that evening was the person who was using this number to send you these messages; is that correct?

30

A. Possibly.

Q. I want to suggest to you that the person you met with at the Sydney Uni changing rooms at the number 1 oval on 28 June was the man that you know as George, who was a friend of Prisoner X's; that's right, isn't it?

A. That's possible.

Q. It wasn't anybody's mum, was it? It wasn't a woman?

40

A. It's possible.

Q. Now, this man that you know as George - he met with you, didn't he, on the evening of 28 June at that location and he gave you some things; is that correct?

A. Which location are we talking about, please?

Q. The changing rooms at the Sydney University number 1 oval grandstand?

A. That's possible.

Q. What things did he give you?

A. I can't recall.

10 Q. Can we go back, please, to page 61 of MFI1. Do you recall receiving that message from the telephone number that you have described as "Prisoner X's Mum" on 27 June?

A. It's possible.

Q. Did the person you met at the Sydney Uni number 1 oval grandstand changing rooms on the evening of 28 June give you some things to replace or swap for the two bottles and other things referred to in this message at page 61?

A. Maybe.

20 Q. What were the two bottles - what was inside them?

A. I can't remember.

Q. Did it work that you had two bottles and some other things, and you had to give them to him and he gave you some replacements; is that right?

A. I can't remember. I don't think he gave me replacements. I can't remember.

30 Q. But you had to give him back the "extra" that was referred to in the earlier message; is that right?

A. I think so.

Q. And you still can't remember what that "extra" was?

A. No.

Q. Were you given an HTC mobile phone on this occasion, on 28 June?

A. Maybe. Possible, yes.

40 Q. A Samsung mobile phone with some SIM cards?

A. That's possible.

Q. Were you given one of the Nokia phones that was later found in your car during the search on 16 August?

A. No.

Q. George didn't give you that phone at the meeting on 28 June?

A. No.

Q. Were you given any cash at this meeting on 28 June?

A. It's possible.

Q. So do I understand your evidence correctly: it's possible that you were given some cash?

A. Yes.

10 Q. And you were given some other things, but you can't remember what they were; is that right?

A. That's correct.

Q. Now, the other things, apart from the cash - what did you do with them?

A. Put it in the car and went home.

Q. After that, did you deliver them to Prisoner X in MSPC?

20 A. It's possible, yes.

Q. And the cash you kept for yourself?

A. Yes.

Q. That was your payment for taking the risk of delivering the other items to Prisoner X, wasn't it?

A. That's correct.

30 Q. To make sure I understand your evidence correctly, you don't remember whether or not you gave anything to George, the man you met with on 28 June?

A. It's possible I did and I can't remember.

Q. Corrective Services carried out a raid for contraband items at MSPC on 3 July this year, didn't they?

A. That's correct.

Q. You were working on that day, weren't you?

A. I was.

40

Q. I would like to show you some photographs of some of the items found during that raid. Can we go, please, to page 153 of exhibit 1, and then to page 154. Mr Te-Hira, were you present when these items were located during the raid, or were you informed about it afterwards?

A. I was informed about it.

Q. Did you see the items in the form in which they appear in these photographs on pages 153 and 154?

A. No.

10 Q. Can we go, please, to pages 150 then 151 and 152. Those pages I'm showing you, Mr Te-Hira, are closer photographs of the phones that were found during the raid. Mr Te-Hira, I want to suggest to you that the two HTC phones shown at pages 151 and 152 are phones that, together with the SIM cards, had been provided to you by Prisoner X's sister and the man you know as George at the 21 June meeting at Camperdown Hotel; do you agree with that?

A. That's possible.

Q. And that you had concealed those phones and trafficked them into MSPC; is that correct?

A. It's possible.

20 Q. The phones disguised in the packaging that you see them in at page 153 - did you put the phones in that packaging in order to bring them into MSPC?

A. No.

THE ASSISTANT COMMISSIONER: Q. How did you bring phones in?

A. Would have been brought in the shoes.

30 Q. In the shoes?

A. Yes.

Q. That's the only way you ever brought phones in?

A. Yes.

Q. Concealed in shoes?

A. In shoes.

40 MS WILLIAMS: Q. Can we go to page 150, please. Mr Te-Hira, was that Samsung phone and the SIM cards provided to you by the man you know as George at the Sydney University oval meeting on 28 June and brought into MSPC by you?

A. Maybe.

Q. Could we go to pages 10 and 11 of exhibit 1, please. That's page 10. Could we see page 11 as well. Mr Te-Hira, do you recognise any of those items on pages 10 and 11 of

exhibit 1 as having been brought into MSPC by you?

A. No.

Q. Do any of those items resemble items given to you at the meeting at Camperdown Hotel on 21 June or at the meeting at Sydney University number 1 oval on 28 June?

A. No.

10 Q. After the raid on 3 July, you sent a message, didn't you, to Ms Zahed telling her to change cards; do you remember doing that?

A. Possibly.

Q. Can we go to page 84 of MFI1, the SMS bundle, please. That's your message there, isn't it, to Ms Zahed, telling her "things are curry", meaning things are hot or difficult, "change cards". Do you remember sending that message now that you have seen it?

20 A. Possibly.

Q. What you intended her to do was to contact you, if she needed to, on a different phone number from that time onwards; is that right?

A. Maybe.

Q. Can you think of any other reason why you would send her a message saying that?

A. No.

30 Q. Can we have page 83 of MFI1, please. You sent a message in the same terms, didn't you, to the man that you know as George; that's correct, isn't it?

A. Yes.

Q. He being the man you had met with on 21 and 28 June?

A. Possibly, yes.

40 Q. Shortly after he received that message, George sent you a message, didn't he, on your telephone number, XXXXXXXX; correct?

A. I can't recall.

Q. To refresh your memory, I suggested to you earlier today that that is the telephone number for the Nokia phone that was found in your car on 16 August - not the one with the black back, but the other one?

A. Possibly.

Q. That's a phone that you acquired relatively recently, compared to the other two phones found in your car, isn't it?

A. That's correct.

Q. Can we refer to it for convenience as your "new phone", so we understand what we're talking about?

A. No.

10

Q. All right. Well, we won't. Can we have page 41 of exhibit 1, please. Mr Te-Hira, this is a phone examination report of the Nokia phone found in your car with the silver back. Can we go to page 42, please. This is a series of incoming messages recorded in the memory of that phone. Do you see, in the message that is numbered 2 down the left-hand side, a message indicating the telephone number that I read to you earlier - XXXXXXX; do you see that?

A. Yes.

20

Q. Do you see in the message number 6, you have an incoming text message, which simply says "G"; do you see that?

A. Yes.

Q. Then immediately below that, another incoming text message from the same person, saying, "Let me know when you plug this one in and how things are going"; do you see that there?

30

A. Yes.

Q. Now, what I'm suggesting to you is that the person who sent you those two messages - number 6 and number 7 - is the George who you met at Camperdown Hotel on 21 June and at Sydney Uni oval on 28 June; do you agree with that?

A. Possible.

Q. And I'm suggesting that the first message, numbered 6, which simply says "G", was sent to you so that he would identify himself, because he was messaging you on a number that he had not used before?

40

A. That's possible.

Q. And I'm suggesting that the next message, "Let me know when you plug this one in", was sent to you because he had supplied you with that silver Nokia phone; do you agree with that?

A. No.

Q. But in any event, he was indicating to you, due to the need to change cards which you had messaged him about, that he would communicate with you on this number; is that right?

A. That's possible.

10 Q. And you did, then, have quite a long conversation later that evening; do you recall that?

A. It's possible.

Q. What was said during that conversation?

A. I can't recall.

Q. Mr Te-Hira, you have two joint bank accounts together with your wife; is that correct?

A. It's possible.

20 Q. Is it fair for me to assume that you don't recall all of the details of your bank accounts as you sit here today?

A. That's correct.

30 Q. The Commission has undertaken a detailed analysis of payments into and out of four bank accounts, which is included in exhibit 1. I won't take you through all of the detail of that, but I am going to put to you some general propositions, and I will invite you, through your lawyer, later in the inquiry - later today or tomorrow - if you have any further evidence you want to give about your bank accounts, you can indicate that and you will be given that opportunity.

What I want to suggest to you is that an analysis of those accounts shows very rare cash withdrawals from the accounts. Do you agree that it was a rare occurrence for you to withdraw cash from your accounts?

A. It's possible.

40 Q. You would withdraw relatively small amounts, of between \$20 and \$100, usually on average about once a fortnight; is that correct?

A. That's possible.

Q. Was that because you had cash available to you that you had received for delivering contraband to inmates in MSPC and you would spend that cash?

A. That's possible.

Q. During 2012, you haven't had any other cash source of income available, apart from occasional payments for refereeing football games; that's right, isn't it?

A. That's correct.

10 Q. We have seen some footage earlier of the search of your car on 16 August at Long Bay. Do you recall that there was a sum of cash found in a bag in the boot of your car during that search?

A. That's correct.

Q. Do you recall that the amount of the cash was \$9,500?

A. That's correct.

Q. How much of that cash was earned by you as a reward for trafficking contraband into MSPC?

20 A. Can't recall.

Q. I want to suggest to you that at least \$6,000 of that amount would be attributable to trafficking contraband into MSPC; do you agree with that?

A. That's possible.

Q. How else would that cash in the back of your car have come into your possession?

A. Through family donations.

30 Q. How much of that cash, realistically, do you think is attributable to family donations?

A. Quite a bit.

Q. Do your family give you a lot of money just to carry around in the boot of your car?

A. They give me money, that's correct. That's not the best place for me to put it, but, yes, they give me money.

40 Q. Why do you put it in the boot of your car as opposed to a bank account or somewhere physically safer than a car?

A. If I have it in a bank account, my wife would spend it. If my wife spends the money, then I don't know where the money's going. If I had the money and my wife saw what I did with the money, she would certainly take it off me. She wouldn't appreciate me giving money to my family.

Q. I'm sorry, she wouldn't appreciate you giving money to

your family?

A. That's correct.

Q. I thought you said this money had been received from your family?

A. That's correct.

Q. So you receive this money from your family without your wife's knowledge; is that your evidence?

10 A. That's correct.

Q. Mr Te-Hira, the analysis of the accounts shows withdrawals by anybody from the accounts. I suggest to you that neither you nor your wife draw cash from those accounts with any frequency or in large amounts.

A. That's possible.

Q. You have no need, do you, to hide the existence of money from your wife?

20 A. Yes, I did.

Q. We have heard the telephone conversation recorded on 24 June where you were talking to your wife about acquiring DVDs and car stereos and the possibility of a big TV for the home. You didn't need to hide cash money from your wife, did you?

A. Yes, I did.

Q. In any event, you don't dispute, do you, that about \$6,000, at least, of the cash found in your car was earned by you for trafficking contraband into MSPC?

30 A. Can you rephrase the question, please?

Q. You don't dispute, do you, that about \$6,000 of the cash found in your car on 16 August was money that you earned for trafficking contraband into MSPC?

A. It's possible.

Q. Well, how much family money had you received that you had stored in your car at that time?

40 A. Between \$1,000 and \$1,500.

Q. The total found in your car was \$9,500?

A. That's correct.

Q. So does that put the figure for trafficking contraband goods at more like \$8,000?

A. I don't recall counting how much money I got from trafficking goods. I don't put a figure on how much I made from trafficking goods. I can recall my family giving me money, as well as myself making money through odd jobs.

Q. What sort of odd jobs?

A. Building.

10 Q. You hadn't done any building work that had earned you any money for the last 18 months to two years, had you?

A. I did some odd jobs, I did.

Q. How much do you say now that you earned from those that would have been in your car on 16 August?

A. I can't recall.

20 Q. The likelihood is, isn't it, that at least \$6,000 and possibly as much as \$8,000 of that cash in your car had been accumulated by you over time trafficking goods into MSPC?

A. That's incorrect.

Q. I'm sorry?

A. No.

Q. Well, I will ask you again: how much of the \$9,500 related to that trafficking?

30 A. I just - I didn't add up how much I got from trafficking. I did not add up how much I got from trafficking. I can honestly say to you that I did not add up how much I got from trafficking.

Q. If you didn't add it up, how can you honestly say to the Commissioner that it wasn't \$6,000 or \$8,000?

A. I can say to the Commissioner that that was family money and also from refereeing and doing odd jobs.

Q. You said that up to \$1,500 of it was family money?

40 A. No, I did not say that.

THE ASSISTANT COMMISSIONER: Q. Well, you did. You said \$1,000 to \$1,500 was family money.

A. No. I said \$1,000 or \$1,500 was what I had done from a job.

Q. That's not actually what you said, but --

A. Okay.

Q. You actually said that was family money.

A. No. Family money I would have had up to - probably more than that.

Q. How much?

A. Close to \$3,000, \$3,500, maybe \$4,000.

Q. So that still leaves about \$4,500 --

10 A. That's correct.

Q. -- that may have been from payments?

A. Then I also had from my refereeing, as well as from touch football.

MS WILLIAMS: Q. Mr Te-Hira, you gave some evidence earlier about the payment that was made to Xtreme Car Audio for your car stereo and DVD player. I want to suggest to you it was Omar Zahed who arranged that payment, wasn't it?

20 A. Thank you. Yes.

Q. Yes, it was?

A. Yes, you are suggesting it to me; I'm saying yes.

Q. I'm sorry, you are agreeing with that, are you?

A. I'm saying it was possible that he may have organised that, yes.

MS WILLIAMS: Commissioner, might I inquire whether you have a bundle of statements and transcripts?

30

THE ASSISTANT COMMISSIONER: Yes.

MS WILLIAMS: A suppression order is in place as to much of the contents of that bundle, but I apply to revoke the suppression order in relation to pages 216 - using the page numbers at the top right-hand corner - to 219.

THE ASSISTANT COMMISSIONER: Yes. In respect of the transcript of compulsory examination pages 216 to 219, I remove the suppression order in relation to those pages.

40

MR OMAR ZAHED: Excuse me, sorry to interrupt, but where is that in the folder? I can't find it?

MS WILLIAMS: I am going to make available to Mr Te-Hira the pages just referred to. It corresponds with pages 40

to 43 of the transcript in question. We will prepare copies and have them distributed to other parties. I am told that those pages can be put up on the screen. It is the statements bundle, commencing at page 216.

10 Q. Mr Te-Hira, this is an extract from the transcript of your examination on 20 August 2012. I direct your attention to - you will see there are line numbers - 10, 20, 30 - down the left-hand side of the page. If you can look just below line 10, you will see there you were asked a question about the source of the \$9,500, and do you see your answer there:

Once again, it comes from - I can agree there would be \$6,000, would be from benefits.

Do you see that?

20 A. Yes.

Q. And do you see the question at line 20:

Q. About \$6,000 would be from?

A. From the inmates ...

A. That's correct.

30 Q. Then around line 30, you gave evidence to the effect that \$3,500 would be from refereeing and from your family giving you money; do you see that?

A. That's correct.

Q. Now, the evidence that you gave on that occasion was correct, wasn't it?

A. Yes.

40 Q. And your evidence today is incorrect, isn't it, about the amount of money in your car that would have been from trafficking for inmates into MSPC?

A. Like I said, I don't know how to explain it. I can assure you that there was probably more of family money there than there was of trafficking.

MS WILLIAMS: Commissioner, I tender pages 216 to 219 of that statements volume.

EXHIBIT #2 PAGES 216 TO 219 OF STATEMENTS VOLUME (PREVIOUS SUPPRESSION ORDER LIFTED)

MS WILLIAMS: I tender MFI1, which is the bundle of SMS transcripts.

EXHIBIT #3 BUNDLE OF TRANSCRIPTS OF SMS MESSAGES, FORMERLY MARKED MFI1

10 MR OMAR ZAHED: Commissioner, sorry to interrupt, not to be rude, but my sister has got to pick up my nephew from school. She can't stay here all day. Can she be excused to come back tomorrow?

MS ASMAHEN ZAHED: No, I can't come tomorrow.

THE ASSISTANT COMMISSIONER: Just a moment. I'm sorry, Ms Williams?

20 MS WILLIAMS: I also tender a CD containing the transcripts of the telephone conversations that were intercepted and the audio recordings, but, as indicated previously, Commissioner, I would seek a direction under section 112 in relation to pages 11 to 13 and the related audio recording of the conversation on 24 June between Mr Te-Hira and his wife, with his children in the background.

30 THE ASSISTANT COMMISSIONER: Yes, the TI product is made exhibit 4. I make a suppression order in respect of pages 11 to 13 of that bundle.

EXHIBIT #4 CD CONTAINING TRANSCRIPTS OF INTERCEPTED TELEPHONE CONVERSATIONS AND AUDIO RECORDINGS (SUBJECT TO SUPPRESSION ORDER)

40 MS WILLIAMS: Thank you, Commissioner. I have no further questions for Mr Te-Hira at this stage. Might he not, however, be completely discharged from his summons, just in case something further arises.

THE ASSISTANT COMMISSIONER: Yes. Does anybody else wish to question Mr Te-Hira?

MR BOURKE: I have a few questions, yes, Commissioner.

<EXAMINATION BY MR BOURKE

MR BOURKE: Q. Mr Te-Hira, I appear for Corrective Services New South Wales; do you understand?

A. Yes.

10 Q. You gave some evidence earlier today and I think you said words to the effect that there were no rules as to bringing contraband into the prison; do you remember saying words to that effect?

A. Possibly.

Q. You don't seriously suggest that there were not rules, do you?

A. I beg your pardon?

Q. You don't seriously suggest that there were no rules about that, do you?

20 A. Can you ask the question again, please?

Q. You understood that there were very clear rules against bringing contraband into the MSPC, didn't you?

A. There's a statement of duty.

Q. You had been working for Corrective Services since 1990; correct?

A. That's correct.

30 Q. You had received training in 1990; correct?

A. Training to which regard?

Q. Training to be a corrective services officer.

A. That's correct.

Q. Part of your training involved the importance of materials not being brought into prisons without authority; correct?

A. That would be a possibility.

40 Q. What do you mean, it is a possibility? You were told that, weren't you?

A. Maybe.

Q. Well, were you or weren't you?

A. I can't remember.

Q. As of 2012, you had been working as a prison officer

for more than 20 years; correct?

A. That's correct.

Q. You do not seriously suggest to this inquiry, do you, that you were not completely clear that you were not permitted to bring contraband into a prison?

A. That's correct.

10 Q. When you say, "That's correct", you mean by that answer that you did understand that it was against the rulings; correct?

A. At that time, that's correct.

Q. At all times during your employment, you understood that, didn't you?

A. That's not correct.

20 Q. You knew that it was a criminal offence, didn't you, to bring unauthorised materials into a prison?

A. Yes.

Q. Including mobile phones?

A. Yes.

Q. You knew it was a criminal offence for an inmate to have possession of a mobile phone, didn't you?

A. Yes.

30 Q. And you were facilitating that, weren't you?

A. Possibly.

Q. And you did that in a way so that your employer did not know about it; correct?

A. Possibly.

Q. You were deceiving your employer about that, weren't you?

A. Possibly.

40 Q. Why do you keep answering "Possibly" to so many questions?

A. What would you want me to answer?

Q. Just answer the truth. You knew that, didn't you?

A. Possibly.

Q. You knew, didn't you - and just limit it to 2012 for

the moment - that there were various policies which had been published by Corrective Services dealing with conduct of correctional officers, didn't you?

A. Yes.

Q. Including a contact with offenders policy?

A. Yes.

10 Q. Including a conflict of interest policy?

A. Yes.

Q. You were aware of these policies, weren't you?

A. Yes.

Q. There is also a policy, "Guide to Conduct and Ethics" - you were aware of that one, weren't you?

A. No.

20 Q. Gifts and benefits policy - you knew about that one?

A. No.

Q. In any event, you understood that there were numerous policies issued by Corrective Services, which regulated your conduct as a corrective services officer, didn't you?

A. Yes.

Q. And you knew that, in engaging in the behaviour that you have told this inquiry about today, you were acting contrary to those rules and policies, didn't you?

30 A. Possibly.

Q. It is not a matter of possibility, is it, sir; it is a matter of certainty? I put it to you again: you knew that in trafficking items into the prison, you were acting contrary to Corrective Services rules?

A. Possibly.

Q. How can it be a matter of possibility, sir? I will put it to you again: you knew you were breaching the rules, didn't you?

40 A. Yes.

Q. You made a conscious decision to breach those rules, didn't you?

A. No.

Q. There were signs up at the gatehouse, weren't there,

at the MSPC, telling visitors of items that were not permitted to be brought into the prison?

A. Maybe.

Q. When you say "Maybe", you just don't know, or what are you saying?

A. I don't take much notice.

10 Q. In any event, you didn't need a sign to tell you, because you knew it was against the rules, didn't you?

A. Yes.

Q. And you knew that receiving money from family or friends of inmates was also against the rules?

A. Possibly.

Q. Well, the answer is "yes", isn't it?

A. Maybe.

20 Q. You knew you were being paid a financial benefit to do a favour; that's correct, isn't it?

A. Yes.

Q. You knew that was against the rules, didn't you?

A. Yes.

Q. You gave some evidence before lunch about receiving an amount of about \$500 from a Mr Fonua; do you remember giving that evidence?

30 A. Can you repeat that question, please?

Q. Before lunch, you gave some evidence about receiving an amount of about \$500 from a Mr Fonua?

A. Yes.

Q. That was a payment for doing a favour, wasn't it?

A. Possibly.

Q. Why do you say "Possibly"?

40 A. It may have been for that; it may not have been for that.

Q. What else could it have been for?

A. I've got no idea, sir.

Q. You knew that it was a payment for doing a favour, didn't you?

A. I can't recall that, sir.

Q. You're not telling the truth, are you?

A. I'm telling the truth, sir.

Q. These are events that only took place a few months ago, aren't they?

A. May have been.

10 Q. And you, as a corrective services officer for 20 years or more, are saying that you are not sure whether this money was being given to you as a pay-off; is that what your evidence is?

A. It's possible.

Q. Accepting shoes from somebody - you knew that was a pay-off, too, didn't you?

A. It's possible.

20 Q. You didn't declare it to your employer, did you?

A. Can you please repeat the question?

Q. You know about a thing called a gifts and benefits policy, don't you?

A. Yes.

Q. And you know that if you receive any benefit, you are supposed to declare it to your employer, aren't you?

A. Okay. I've heard of that, yes.

30

Q. You certainly didn't declare the receipt of cash and shoes to your employer, did you?

A. That's correct.

Q. Because you knew it was wrong, didn't you?

A. Yes.

Q. And you knew it was corrupt, didn't you?

A. Yes.

40

MR BOURKE: Thank you, Commissioner. I have nothing further.

THE ASSISTANT COMMISSIONER: Thank you, Mr Bourke.

If there is nothing further, Mr Te-Hira, it is unlikely you will be called back, but at this stage I won't

excuse you, just in case there is something that needs to be clarified with you later. I will stand you down now, and unless you hear further from us, you will not have to return. Do you understand that?

THE WITNESS: Yes, Commissioner.

THE ASSISTANT COMMISSIONER: Thank you, Mr Te-Hira. You may now leave the witness box.

10

THE WITNESS: Thank you.

<THE WITNESS WITHDREW [3.07pm]

MS WILLIAMS: Commissioner, just before I call the next witness, it has been drawn to my attention that I omitted to tender the surveillance footage. There is a DVD containing all the surveillance footage. Could that be marked as exhibit 5?

20

EXHIBIT #5 SURVEILLANCE FOOTAGE SHOWN AT THE COMMISSION

MS WILLIAMS: I call Asmahen Zahed.

THE ASSISTANT COMMISSIONER: Just take a seat there, Ms Zahed. You are not legally represented?

THE WITNESS: No.

30

THE ASSISTANT COMMISSIONER: Just take a seat. You have been called here to give evidence, and you are required to answer all of the questions asked of you.

THE WITNESS: Yes.

THE ASSISTANT COMMISSIONER: You are entitled to seek a declaration, the effect of which is that nothing you say here can be used against you in any future criminal, civil or disciplinary proceedings.

40

THE WITNESS: Yes.

THE ASSISTANT COMMISSIONER: Do you wish to seek an order in those terms?

THE WITNESS: Yes.

THE ASSISTANT COMMISSIONER: I will just say that the purpose of this type of order is so that you can speak freely without thinking that it is going to be used against you, but it is important that you tell the truth, because it is an offence under our Act to give false or misleading evidence to the Commission. Do you understand that?

THE WITNESS: Yes.

10 THE 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 her during the course of her evidence at this public inquiry are to be regarded as having been given or produced on objection, and there is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

SECTION 38 ORDER TO APPLY

20

THE ASSISTANT COMMISSIONER: Ms Zahed, you are required to take either an oath on the Bible or make an affirmation to tell the truth.

THE WITNESS: Affirmation, thank you.

<ASMAHEN ZAHED, affirmed [3.10pm]

<EXAMINATION BY MS WILLIAMS

30

MS WILLIAMS: Q. Ms Zahed, could you tell the Commission your full name, please?

A. Asmahen Zahed.

Q. And your address, please?

A. 8/27-31 Blaxcell Street, Granville, post code 2142.

Q. You are the sister of Omar Zahed?

A. That's correct.

40

Q. And Omar is currently in prison?

A. That's correct.

Q. During June 2012, he was at the Metropolitan Special Programs Centre at Long Bay; is that correct?

A. That's correct.

Q. You drive a black Mazda car?

A. Yes.

Q. And the registration number is BKL-12W; is that right?

A. BKL-13W.

Q. Does anybody drive that car other than you?

A. No.

10 Q. You have a mobile phone, an iPhone, with the phone number 0420718812; is that correct?

A. No. My number is 0451028812, unless it's my old number, which I don't remember.

Q. How long have you had your current number for?

A. I don't know, maybe three months.

Q. You have visited prison on previous occasions, haven't you?

20 A. No, I'm a barred visitor.

Q. But prior to becoming a barred visitor, you had visited prison?

A. No, I've been a barred visitor since January. Before January, like, last year, I did used to visit. But this year, I was a barred visitor in January.

30 Q. And do you understand from your visits before January this year that there are strict rules against taking in mobile phones, drugs, USBs and any other items into prison?

A. Yes.

Q. Now, you have delivered goods, haven't you, to a prison officer to be taken in to your brother Omar, in prison?

A. Well, I can't say "goods", because I never knew what was in the bag other than shoes.

40 Q. All right, but you have delivered packages, things --

A. Shoes.

Q. You know about shoes?

A. Shoes.

Q. You have delivered shoes to a prison officer to be taken to your brother Omar, in prison; correct?

A. Yes.

Q. And the prison officer whom you delivered those shoes to is Mr Te-Hira, who was in the witness box just now; is that correct?

A. I don't remember his name. I've never been introduced - I have never been introduced to his name.

Q. You have been sitting in the hearing room whilst Mr Te-Hira gave evidence; that's right, isn't it?

10 A. Yes, yes.

Q. Do you recognise him as the person to whom you delivered shoes to be taken into prison for your brother?

A. He doesn't look familiar to me.

Q. The prison officer to whom you delivered shoes to be taken in to your brother was listed in the contacts in your iPhone, was he not, so that you could contact him?

20 A. I don't remember.

Q. Can we have pages 28, 29 and 30 of exhibit 1 on the screen, please. This is a list prepared by the Commission of the contacts listed in your iPhone when they examined it, Ms Zahed. I am going to ask the operator to scroll down to page 30. Do you see there the third line, the third entry from the top of page 30, "Screw2", and then a telephone number?

A. I don't know which one you want me to look at.

30 Q. The third line from the top on page 30.

A. Yes.

Q. Do you see the entry there "Screw2"?

A. Yes.

Q. That's a reference, isn't it, to --

A. An officer.

Q. And an officer to whom --

40 A. I don't know the name.

Q. I'm not asking you about a name.

A. Yes.

Q. That was an officer with whom you made contact for the purpose of delivering shoes to your brother Omar, in prison; correct?

A. Yes.

Q. You have been sitting in the hearing room, I think, whilst footage of surveillance film taken on 13 June was played. Did you see that footage?

A. Yes.

10 Q. Would you like me to play it for you again before I ask you some questions about it, or are you satisfied that you can remember it?

A. No, I'm sure I can remember it.

Q. If you get into difficulty, let me know and we will play it again.

A. Yes.

Q. The black Mazda car in that footage - was that your car?

20 A. Yes.

Q. Were you driving it on that occasion?

A. Yes.

Q. When Mr Te-Hira climbed into the car, you passed him a package containing two pairs of shoes; is that correct?

A. A bag - a Foot Locker bag with two boxes of shoes.

30 Q. Shoes inside each of those boxes had been purchased by you?

A. Yes.

Q. One was a size 9 pair of Asics Gel Nimbus shoes to be taken to Omar in MSPC; correct?

A. Yes.

Q. And one was a size 10, which was for Mr Te-Hira to keep for himself?

A. Yes.

40 Q. He was to keep those shoes as a reward for taking the other pair in to Omar; is that right?

A. Yes.

Q. At the same time as handing him the bag, you handed him some cash; is that right?

A. I don't recall giving him cash.

Q. Does that mean you don't --

A. I don't remember.

Q. Is it possible, but you just don't remember?

A. It could be.

Q. You don't remember giving him any cash, but do you have any idea of the likely amount, if you did give him some?

10 A. If I did, maybe a couple of hundred dollars.

Q. And if you did, then that was a payment for him to keep as a reward for taking the shoes in to Omar?

A. Yes.

Q. Was anything else inside the shoes on this occasion?

A. Never seen what's inside the shoes.

Q. Well, you bought the shoes?

20 A. Yes.

Q. You brought them, from the shop, in the box; correct?

A. Yes.

Q. If anything else was inserted into the shoes before they were given to Mr Te-Hira, you would have known about that and seen it happen?

A. Yes.

30 Q. And is it your evidence that, as far as you know, there was nothing else inside the shoes?

A. That's right.

Q. You knew, when you were doing this, that you were, in effect, paying Mr Te-Hira to do a favour for your brother Omar; correct?

A. Yes.

Q. You knew that that was against the rules for him?

40 A. Yes.

Q. And also that it was against the rules for you; correct?

A. Why me?

Q. You understood that you were paying him to do something that was against his duty as a prison officer;

correct?

A. I never knew paying someone a pair of shoes is a crime.

Q. But you knew that what he was doing was a crime, in taking the shoes into prison to your brother; correct?

A. I'm just the delivery girl.

10 Q. Have you ever been to a place called Xtreme Car Audio in Blacktown?

A. No.

Q. Never heard of it?

A. No.

Q. Have you ever made a large payment of cash to a car business in Blacktown?

A. No.

20 Q. You can't remember making a payment of about --

A. No.

Q. -- \$1,500 on about 23 June this year?

A. No.

Q. Can we have page 87 of exhibit 1, please. Ms Zahed, I want to ask you about the debit entry for \$1,600 that appears on this document on 22 June 2012.

30 A. Yes.

Q. This is a list of transactions for your Commonwealth Bank account, isn't it?

A. Yes.

Q. Do you remember withdrawing an amount of \$1,600 from the Granville branch of the Commonwealth Bank on 22 June?

A. I don't remember.

40 Q. You have no recollection about that transaction at all or what it was for?

A. No, because normally that's my and my kids' payments. I have never - I haven't gone into the bank and said, "There's a deposit going into my account. Can I withdraw this out?" Normally, I just withdraw whatever goes in my account as mine and my kids' money.

Q. So you don't remember making any payment of about that

amount to a car business in Blacktown at about that time?

A. No.

Q. After the meeting with Mr Te-Hira on 13 June, you met with him again, didn't you, on 27 June at Summer Hill, in a car park?

A. I met a person in Summer Hill again, but I don't know if it's that person you're saying.

10 Q. Was it the same person that you met on 13 June?

A. Yes.

Q. At that meeting, you handed this person some Athlete's Foot bags containing two pairs of shoes; is that correct?

A. Yes.

Q. You had bought those issues; correct?

A. Yes.

20

Q. One was for the person you were meeting?

A. Yes.

Q. That was his reward in return for passing the other pair of shoes on to your brother Omar, in prison; is that correct?

A. No, that was just a gift, like a thank you gift.

Q. What were you thanking him for?

30

A. For doing him a favour.

Q. For doing who a favour?

A. Doing me a favour, to come and meet me up.

Q. Why was it a favour for you that he met you?

A. Because he was taking the shoes.

Q. So you handed him two pairs of shoes - one to be sent to your brother Omar, in prison?

40

A. Yes.

Q. And one for him to keep for himself?

A. Yes.

Q. The one that was for this person to keep himself was his "thank you" for getting the other pair into prison for your brother Omar; is that right?

A. Yes.

Q. Did you hand him some cash as part of the "thank you" as well?

A. Not that I recall.

Q. Did you give him any other items to be sent in to Omar on that occasion?

A. No.

10

Q. Was there anything else inside the shoes?

A. No.

Q. Was there supposed to be something inside the shoes?

A. Not that I recall.

Q. Your brother Omar was expecting a USB to be inside the shoes, wasn't he?

A. I was instructed just the shoes.

20

Q. Who gave you the instruction?

A. Who gave me the instructions?

Q. Yes.

A. My brother.

Q. How would he get in touch with you to give you those instructions?

A. Through inmates, and inmates through their family, and then they come and see me.

30

Q. Was your brother Omar, able to contact you from inside prison using a mobile phone?

A. Is that a relevant question?

THE ASSISTANT COMMISSIONER: Yes, it is a relevant question.

THE WITNESS: Maybe.

40

MS WILLIAMS: Q. So far as you are aware, did your brother Omar, have a mobile phone inside prison that he could use to contact people?

A. Maybe.

Q. Did he contact you using a mobile phone from prison?

A. Don't know. Maybe. Could be.

Q. Can we go back to page 30 of exhibit 1, please. Again, Ms Zahed, this is the contact list from your iPhone extracted by the Commission. Do you see the reference about 10 lines from the bottom "O Long Bay"?

A. Yes.

Q. Is that the mobile phone number for your brother Omar, in Long Bay?

10 A. That doesn't specifically mean my brother Omar, in Long Bay. It just means O in Long Bay.

Q. Who is O in Long Bay?

A. I don't remember. It can be an old number in my phone. I've had my iPhone for two years. That number could have been there from two years ago.

Q. Well, you have the number two lines up for the switchboard at Long Bay, haven't you?

20 A. Yes.

Q. So "O in Long Bay" is for a particular person in Long Bay, isn't it?

30 A. Well, it can't really be, because if I have been barred since January, it's been now nine months since I haven't been to a gaol, so if Omar was at Long Bay, Omar was at Long Bay in March, April, whatever it was, so that number has to be an old number. So I don't know what the number is. I have had that phone for two years. It could be maybe an old number that I've had from Long Bay that's called me from a year ago, a year and a half ago. I don't know.

THE COMMISSIONER: Q. But it could be Omar's number in Long Bay?

A. But Omar was in Long Bay this year. It could be any other inmate that would have called me from that gaol.

Q. Did they have a mobile phone?

40 A. Yes, it can't be specifically just my brother.

Q. Well, none of them are supposed to have mobile phones, are they?

A. But any inmate can call you.

Q. Isn't this a mobile phone number, though?

A. Yes, it's a mobile number.

Q. Well, any inmate can't call you from an mobile phone; they're not supposed to --

A. But if any inmate has got a phone inside and he's called me, it doesn't mean it's specifically my brother. It can be anyone. That's what I'm trying to say.

10 Q. I am just giving you an opportunity to respond to the suggestion. Do you know whether or not that is Omar's number?

A. No, I don't know.

MS WILLIAMS: Q. The contact list is chronological rather than alphabetical; do you see that?

A. Beg your pardon?

Q. The contact list is chronological, not alphabetical; do you see that?

20 A. What's "chronological"?

Q. The names are not in alphabetical order, are they?

A. No.

Q. I suggest to you that the entry "O Long Bay" appears towards the end of a three-page list and it has therefore been put in there by you fairly recently?

A. So how come my names are not in alphabetical order? Are you trying to say that I have moved them?

30 Q. Ms Zahed, all I'm suggesting to you is that you entered the details for "O Long Bay" into your iPhone relatively recently. Do you agree with that or not?

A. I don't recall. I really don't.

MS WILLIAMS: Commissioner, I don't have any further questions for Ms Zahed.

40 THE ASSISTANT COMMISSIONER: Thank you. Does anybody wish to question Ms Zahed? If not, thank you for your attendance. You are now excused.

<THE WITNESS WITHDREW

[3.25pm]

MS WILLIAMS: Commissioner, I call Omar Zahed.

THE ASSISTANT COMMISSIONER: Take a seat, Mr Zahed. Mr Zahed, do you want to seek a section 38 declaration?

THE WITNESS: Yes, please.

THE ASSISTANT COMMISSIONER: And you heard the explanation I gave to your sister about this and not providing false information?

THE WITNESS: Yes.

10 THE 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, and there is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

SECTION 38 ORDER TO APPLY

20

THE ASSISTANT COMMISSIONER: Mr Zahed, would you like to take an oath on the Bible or make an affirmation?

THE WITNESS: Affirmation.

<OMAR ZAHED, affirmed [3.25pm]

<EXAMINATION BY MS WILLIAMS

30 MS WILLIAMS: Q. Would you state your full name for the Commission, please, Mr Zahed?

A. My name is Omar Zahed.

Q. I am sorry, the correct pronunciation is "Zahed", is that right?

A. Yes.

Q. You are currently in Silverwater Correctional Centre; is that correct?

40

A. Yes.

Q. Previously, and during June 2012, you were at the Metropolitan Special Programs Centre in Long Bay; is that right?

A. Sometime this year, yes.

Q. June 2012; is that right?

A. I don't recall the dates, but, yes, close enough.

Q. At MSPC, you knew an activities officer by the name of Pene Te-Hira; is that right?

A. Yes.

Q. You knew him through your activities at the centre and also because you were a sweeper at MSPC; is that right?

A. Yes.

10

Q. And as a sweeper, you were able to go to the activities centre every day; is that correct?

A. Yes.

Q. And you had direct contact with Mr Te-Hira with little or no supervision; is that right?

A. Yes.

Q. You and the other sweepers have a dedicated area within the activities centre; is that correct?

20

A. Yes.

Q. And you have a fair degree of freedom of movement around the activities centre; do you agree with that?

A. Yes.

Q. You are not searched before returning to your cells at the end of the day, are you?

A. No.

30

Q. Now, inside MSPC, you are not permitted to have contraband items, such as mobile phones, drugs, steroids, shoes or anything from outside the gaol; that's right, isn't it?

A. Yes.

Q. You arranged, however, for contraband items to be brought in to gaol for you through your sister, Asmahen Zahed; is that correct?

40

A. Yes.

Q. Did you have a conversation about these arrangements with Mr Te-Hira in about early June 2012?

A. I don't recall the exact conversation; yes, we had, like, an agreement, yes.

Q. How was it that you decided that it would be safe to

approach Mr Te-Hira about trafficking items in for you?

A. We got a good - when you work at the sweepers, you get a good connection between the officers. You're with them every single day, you talk, you work with one another, so you build a bit of a good friendship.

Q. You knew, didn't you, that asking him to bring contraband items into gaol for you was asking him to do the wrong thing; correct?

10 A. Yes.

Q. You were asking him to break the rules that he is bound by, weren't you?

A. Yes.

Q. You were also asking him to help you break rules; correct?

A. Yes.

20 Q. And how was it that you came to feel safe that he would not turn you in for asking for help to bring contraband items in?

A. Don't recall. It just happened.

Q. When you had this conversation with Mr Te-Hira, did you give him your sister's phone number?

A. Yes.

30 Q. And you were also in touch with your sister directly, weren't you, about these arrangements?

A. Yes.

Q. And how did you contact her from gaol?

A. I used to use a mobile phone sometimes, and visits, and through other people on visits, too, through family of inmates and that.

Q. A mobile phone that you had in prison or would you borrow somebody else's?

40 A. No, I had my own one, and I used to borrow other ones too.

Q. How had you managed to get that one into prison - the one that you had?

A. Through my shoes?

Q. Through?

A. My shoes, like I told you last time.

Q. On about 14 June or thereabouts, you received from Mr Te-Hira a pair of size 9 Asics Gel Nimbus shoes in blue and black, didn't you?

A. Yes.

10 Q. Those were shoes that you knew had been delivered by your sister to Mr Te-Hira and then brought in for you; correct?

A. Yes.

Q. What was Mr Te-Hira's reward for bringing the shoes in?

A. I gave him a pair of shoes.

Q. Did you give him cash, too?

20 A. I don't recall, Miss. I think so, but I can't be a hundred per cent sure.

Q. You told your sister, did you, that she would need to get him a pair of shoes, as well, as part of his reward?

A. Yes.

Q. You told her, also, didn't you, that she would need to arrange some cash?

A. Yes.

30 Q. How much cash?

A. I don't recall, Miss.

Q. Had you talked to Mr Te-Hira before this about what he would get in return for bringing the shoes in?

A. No.

Q. You hadn't talked to him about what --

40 A. There was no arrangement. Just, "Can you get me a pair of shoes? I'll get you one, you get me one too", that's it. Sometimes, like, if I got money, I'd give him a bit of a bonus. I don't recall, but, if I gave him money or didn't give him money.

Q. You don't recall coming to an agreement with him beforehand about giving him money?

A. There was no agreement, just - we didn't have to sign a contract, "I agree on this. You agree on that."

Q. There was no discussion with you about him getting a particular amount of money; is that your evidence?

A. Can you repeat that again?

Q. You didn't discuss with him paying him money; is that your evidence?

A. No - yes.

10 Q. So that if you arranged for him to be paid money on this occasion, on 14 June or thereabouts, that was just something that you decided to do; is that right?

A. I think on one occasion, I gave him a bit of money - I think I told him my sister to give him, but I can't recall. But that was money - he also used to get us food and stuff, as well. Like, I'm pretty sure I gave him - I think on one occasion, if I remember, she gave him money so he can get food, because I'm not allowed meat and eggs and stuff at the gaol no more, so he used to bring us in meat and - on Fridays, we used to eat together and stuff,
20 protein powder and food, so yes.

Q. How often would Mr Te-Hira bring in food for you, roughly?

A. Twice a week.

Q. And you said "we used to eat together". Do you mean that you and Mr Te-Hira used to eat this food together?

30 A. Sometimes. He never used to give us much, I don't know why, but me and just the sweepers used eat among each other.

Q. You and the other sweepers, together with Mr Te-Hira, used to eat the food that he brought in together; is that right?

A. Sometimes he used to join us, but not most of the times.

Q. Sorry, was your answer then, "Sometimes, but not most of the time"?

40 A. Sometimes, yes. Most of the times he would just sit with us in the yard, but he wouldn't --

Q. How often, roughly, would you and the other sweepers sit down and eat together with Mr Te-Hira?

A. I can't recall a number, Miss.

Q. A couple of times over the --

A. I can't - I've got no idea of a number, because I don't remember. It was more than once or twice.

Q. Did any other officers eat with you on those occasions or only Mr Te-Hira?

A. I'm not sure if the other activities officers ate with us, but John was with us there. I'm not sure if he did or not, I can't recall, but - yes.

10 Q. The "John" you are referring to is John Lazos, is it?

A. Yes.

Q. He was the manager of the activities centre?

A. Oh, I wouldn't know the difference.

Q. Did you arrange for a payment to be made to Xtreme Car Audio for a stereo and DVD player to be installed in Mr Te-Hira's car?

20 A. Yes.

Q. That was around about 23 June; is that right?

A. Yes.

Q. How was this payment made - how did you arrange it?

A. I got a friend to go drop off the money to the place.

Q. Who was the friend?

A. A girl that I know.

30 Q. Was it your sister, Ms Zahed?

A. No. She had nothing to do with it.

Q. Had you had a discussion with Mr Te-Hira about this beforehand?

A. No, just Alfie. I spoke to Alfie about it.

Q. What did Alfie say to you when you spoke to him about it?

40 A. Just wanted money dropped off, that's it. I never knew what was going on. "Just drop off money to my mate's place", dropped it off.

Q. This is Alfie Fonua you are talking about?

A. I think - yes, that's his last name, yes.

Q. So he just said to you, "Drop off money at my mate's place", did he?

A. Yes.

Q. Did he tell you how much money?

A. I think it was about \$500 or \$600 or something.

Q. But whatever the amount was, did he tell you or did you decide?

A. Yes - no, Alfie told me.

10 Q. And did he tell you why?

A. No.

Q. What was Alfie going to do for you in return for you making this payment to his mate's place?

A. Nothing. He's my mate. We're in custody together, Miss. When you're in gaol together, you build a friendship among mates. In gaol, you get as much mates as you need. The more mates you've got, the more safe you are. So I've done him a favour.

20

Q. So you did Alfie a favour by paying \$500 or \$600, you think, to his mate's place?

A. Yes.

Q. And the mate's place was Xtreme Car Audio in Blacktown?

A. That's the place, I think so.

30 Q. Did you receive any special favours or special deliveries from Mr Te-Hira around the time of this payment?

A. No. I received two pairs of shoes, which my sister dropped off. It was - no. Recollect or remember - no.

Q. Did Mr Te-Hira ever deliver any steroids to you in gaol?

A. No.

Q. What about a plunger for injecting steroids?

40 A. No. I got that through my shoes, I told you last time.

Q. You received a second pair of shoes from Mr Te-Hira --

A. Yes.

Q. -- on about 28 June; is that right?

A. I don't know the date, but I received another pair of shoes, yes.

Q. Was there anything in the shoes on this occasion?

A. No.

Q. You were expecting a USB to be in there, weren't you?

A. A wi-fi, not USB.

Q. A wi-fi?

A. Wi-fi.

10

Q. Anything else that was in the shoes on this occasion?

A. No.

Q. And Mr Te-Hira was paid in the form of another pair of shoes for himself?

A. Yes.

Q. Any cash on this occasion?

A. Maybe for a bit of food, if I recall, but I can't remember.

20

MS WILLIAMS: Commissioner, I have no further questions for Mr Zahed.

THE ASSISTANT COMMISSIONER: Q. Mr Zahed, did Mr Te-Hira ever bring a phone in for you?

A. Never.

MR McILWAIN: Commissioner, could I just have one moment to get some instructions? I don't think there will be anything, but if I could have that indulgence? Thank you.

30

THE ASSISTANT COMMISSIONER: Does anybody else wish to ask this witness any questions?

MR BOURKE: I have a couple of brief questions. Would you like me to go now, or should I wait until Mr McIlwaine is finished?

THE ASSISTANT COMMISSIONER: No, that is fine, Mr McIlwaine can go last.

40

<EXAMINATION BY MR BOURKE

MR BOURKE: Q. Mr Zahed, you said that you got into a fairly close relationship with Mr Te-Hira - is that what your evidence was earlier today?

A. Yes.

Q. Would it be fair to say that it became known to you that he was an officer who was prepared to possibly do a favour for you?

A. No.

10 Q. You have said in answer to some questions from counsel assisting, a few minutes ago, about receiving cash - you have agreed that some amounts, some specific amounts of cash were paid - right? I think you mentioned an amount of about \$500 at one stage?

A. Not to Mr Pene, no, that was for Alfie. I gave Alfie money. I paid something on behalf of Alfie.

Q. In relation to Mr Te-Hira, you said that, as I understood your evidence, maybe there was some cash given to him?

20 A. For a bit of food; for the food he used to bring in for us, yes.

Q. Were you suggesting in your answer that some cash in the form of a payment was given to him as well - not just for food?

A. No, not that I recollect, but I know - I'm pretty sure it was - I gave him some money for food, to bring in meat and stuff we used to eat.

30 Q. What sort of quantities of money are we talking about?

A. A couple of hundred bucks.

Q. A couple of hundred dollars?

A. Yes.

Q. For food?

A. Yes. You've got 10 mouths to feed.

Q. Would that food all arrive on one occasion?

40 A. No.

Q. Would that be spread out over a number of different days, would it?

A. He would bring us food, we would eat the food, and then on another occasion bring more food.

Q. But you can't be any more precise than a couple of hundred dollars?

A. Yes.

Q. One occasion or more than one occasion?

A. Sorry, don't recall.

Q. When did this happen?

A. When I got my shoes.

Q. When was that?

10 A. I can't remember - can't recall exactly the same dates, but --

Q. Around the middle of this year?

A. When I was at Long Bay. I was at Long Bay for a period of four months or three months, in between that period.

Q. Was that the middle of this year?

20 A. It was from, what - I think it was somewhere between March to July or to August or some - something like that.

Q. And so you think some amounts of money had been given, at your request, to Mr Te-Hira around about the time that the shoes were provided; is that right?

A. Maybe.

Q. And you said there were two pairs of shoes provided to you?

30 A. Yes.

Q. Why did you need two pairs of shoes? Why did you need two pairs of shoes?

A. The more the merrier; they're comfortable shoes.

Q. More the merrier?

A. Yes, comfortable shoes.

40 Q. So you used them to wear yourself, did you, both pairs?

A. Of course.

Q. And you said a few minutes ago that Mr Te-Hira never gave you or provided to you a mobile phone; is that right?

A. Never.

Q. Did you have the use of a mobile phone?

A. Yes.

Q. Inside the MSPC?

A. Yes.

Q. Do you understand what the word "contraband" means?

A. Yes.

10 Q. Were there any other items of contraband that were provided to you apart from shoes and mobile phone?

A. Like, the only things that Mr Pene provided for me was shoes, nothing else - and sometimes bring us food. Besides that, nothing else he brought into the gaol. He never brought a mobile phone in; never said that.

Q. And you said that the plunger for using the steroids was something that was in some shoes; is that right?

A. Yes.

20 Q. You were using steroids, were you?

A. Yes.

Q. And when you say it was in the shoes, you mean one of the pairs of shoes that Mr Te-Hira provided to you?

A. No, no, no, no, no. I used to bring in my own stuff through visits. I used to get my mates to put things in shoes, then swap the shoes on visits. That's another way I used to bring my phone in and bring my steroids in. Had nothing to do with Mr Te-Hira.

30

MR BOURKE: Thank you, Commissioner. I have nothing further.

MR McILWAIN: I have no questions, Commissioner.

THE ASSISTANT COMMISSIONER: Thank you. That concludes your examination. You are now excused from further attendance.

40 THE WITNESS: Thank you very much.

<THE WITNESS WITHDREW [3.42pm]

MS WILLIAMS: I call Mr Jason Arici.

THE ASSISTANT COMMISSIONER: Take a seat, Mr Arici. You are not legally represented?

THE WITNESS: No.

THE ASSISTANT COMMISSIONER: You don't have a lawyer here? Do you wish to seek an order, the effect of which would be that nothing you say here could be used against you in any criminal, civil or disciplinary proceedings?

10 THE WITNESS: Yes, please.

THE ASSISTANT COMMISSIONER: This order protects all of your evidence, except for offences against the Independent Commission Against Corruption Act. So if it is found that you have breached the Act by providing false or misleading evidence, then your evidence could be used for that purpose. Do you understand that?

THE WITNESS: Yes.

20 THE 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, and there is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

SECTION 38 ORDER TO APPLY

30 THE ASSISTANT COMMISSIONER: Mr Arici, you are required to promise to tell the truth by taking an oath on the Bible or making an affirmation.

THE WITNESS: I will just make an affirmation.

<JASON YASIN ARICI, affirmed [3.43pm]

<EXAMINATION BY MS WILLIAMS

40 MS WILLIAMS: Q. Could you tell the Commission your full name, please?

A. It is Jason Yasin Arici.

Q. You are the proprietor of a business called Xtreme Car Audio at Blacktown; is that right?

A. That's correct.

Q. And the address of that business is 153 Main Street, Blacktown; is that right?

A. Correct.

Q. You are the sole proprietor of the business?

A. Director.

10 Q. And how many staff do you have working for you?

A. There is, all up, four of us.

Q. You have a friend by the name of Alfred Fonua; is that right?

A. Yes, I don't recall his last name but I do know a person of Alfred; that's correct.

Q. You know a person called Alfred who is currently in prison?

20 A. Yes.

Q. And has been since at least June this year?

A. Don't know.

Q. In about mid June this year, you got a call from this friend of yours, Alfred; correct?

A. Yes. Correct.

Q. He was calling about a friend of his bringing their car in to you; is that right?

30 A. That's correct.

Q. What was said during that conversation, as best you can recall?

A. I can't recall the conversation exactly, but it's one of a thousand phone calls that I get yearly, where a friend or a family friend ring up and say, "I'm going to send a friend down, can you look after him, please?" Something along those lines, so I can't exactly recall word by word.

40 Q. Do you remember whether Alfred gave you his friend's name?

A. Oh, no.

Q. Do you remember whether Alfred said anything to you about payment for the job?

A. No.

Q. Whether he said that any part of it would be paid in advance?

A. Not that I know of.

Q. Now, in due course, Alfred's friend contacted you, didn't they?

A. That's correct.

10 Q. And that was via a text message on 15 June. Do you remember that?

A. That's correct - well, yes, I have just seen it earlier on.

Q. And at that stage, you had already booked the car in, hadn't you, or you booked it in as soon as you got the message?

A. Well, the car's been booked in, I don't know exactly when I booked it in, but my sales assistant's booked the vehicle in.

20

Q. Can we have page 343 of exhibit 1, please, on the screen. Could you look, please, Mr Arici, at the line which has the red arrow pointing to it. That's an arrow that has been added by the Commission, not on the original document.

A. Yes, okay.

Q. Is this an entry in your business's bookings diary?

A. That's our diary at work; that's correct.

30

Q. Whose handwriting is on the line which is indicated by the red arrow that begins "Alfred's mate"?

A. That's one of our sales staff.

Q. Not your handwriting?

A. No.

Q. And do you see there it has beside the booking "Paid"?

A. Yes.

40

Q. Does that indicate to you that the job was paid for at the time it was booked in?

A. That could be many, many things. I have explained that to you guys last time, and I will explain it again and again.

Q. That's one possibility, isn't it - that the job was

paid for --

A. That could mean many things. Would you like me to explain to you?

Q. I'm asking you to answer my question, which is: one possibility is that the job was paid for at the time it was booked in, before it was done; correct?

A. If it says - no, not before it was done. Incorrect.

10 Q. Your evidence is it's not possible that that word in the bookings diary means that the job was paid for before it was done?

A. The job was not paid for before it was done.

Q. Could we have page 19 of exhibit 1, please. Do you recognise that as your business's accounting records relating to Mr Te-Hira?

A. That's correct, yes.

20 Q. You subsequently came to know him as Alfred's friend, didn't you, when he actually brought his car in on 23 June?

A. I know him as a customer to my store.

Q. You knew, didn't you, that he was the customer who was Alfred's friend?

A. That's correct.

Q. You see there the first entry in his accounting records is a credit entry of \$1,550?

30 A. Yes, it's not credit. That was the paid figure of the day when he brought his vehicle to us. I don't know what sort of wires you've got crossed here, but there's something crossed.

THE ASSISTANT COMMISSIONER: Q. Well, it says "credit", so maybe your wires are a little bit crossed. It is under a heading "Credit" --

A. No. You guys have got your wires crossed.

40 Q. -- so I don't think it's unreasonable to suggest it's a credit.

A. It ain't a credit. That was paid.

Q. So your records are wrong?

A. No, my records are correct.

Q. Why does it say "Credit"?

10 A. The reason being is the customer prior to this, as far as I'm concerned - I'm not a MYOB specialist, Commissioner, but the customer prior to this payment for this job would have been under an order, which is either a lay-by or a payment, which is, we call, in my language, a yellow page, and a blue page is a receipt. So if she has taken - which is our - my sales staff - payment on a lay-by or - et cetera, and it's on a yellow page, it becomes an order, and that's a yellow page - that's where it sits. And that's as far as I'm concerned.

Q. That doesn't explain anything at all about why this is listed as a credit.

A. Well, she just asked me. She said that \$1,550 - does this - does Pene have credit in my store? And I'm telling her no.

Q. Sorry, who are you talking about now?

20 A. Talking about --

Q. Are you talking about counsel assisting?

A. Counsel asking me the question that I've got credit.

Q. All she said was, "It appears from the fact that this record says \$1,550 was credited on that day - it appears a payment was made?" Now, do you want to say a payment wasn't made on that day?

A. No.

30 Q. So your record that says it is a credit is wrong? "Credit" means payment, doesn't it?

A. Well, either way, I'm just letting you know that that got paid on the day that that car did come to our store.

Q. I thought it came in on the 23rd, didn't it?

A. Sorry?

Q. Did it come in on the 23rd?

40 A. Yes, the first day it was in, the first visit the customer came to my store, was on the 23rd, that's correct.

Q. And \$1,500 was paid that day - \$1,550 or whatever?

A. \$1,550 has been recorded in my books. Sorry for being a little uptight, but it's just a bit disturbing, sitting at the back there, listening to some stuff that's just not true about my store.

MS WILLIAMS: Q. Mr Arici, do you see that the general pattern of entries on this document is that there is a sale, the amount of which is recorded in the debit column, and then it is followed by a payment, the amount of which is recorded in the credit column; do you see that, starting from the second line down?

A. Explain yourself again, darl?

10 THE ASSISTANT COMMISSIONER: Q. Could you refer to counsel assisting by some other term - any term that shows a bit of respect, apart from "darl"?

A. Sorry about that. Sorry, I'm just not used to being - not used to sitting in a box like this.

Q. You can call her "Ms Williams". That's her name.

A. Sorry, Ms Williams.

20 MS WILLIAMS: Q. We will go through it line by line. Do you see the second line of the transactions, which has the ID number 6599; do you see that?

A. Yes, correct.

Q. Do you see that's described under the heading "Memo" as a sale?

A. Yes.

Q. And the amount is recorded in the debit column; do you see that?

30 A. Yes, I didn't - yes, I can see some figures here, that's correct, yes.

Q. The next line down, the same format, only for a lesser amount. Presumably, the GST on that same sale; correct?

A. Yes.

Q. And then the next entry, being the fourth line in the list of entries, is noted as a credit for that total amount of \$450 and is described as a payment; correct?

40 A. I just - I'm not an MYOB specialist. So, Ms Williams, I can't answer your questions. That visit there for \$450 - I'm just going to tell you, in the way I talk, was the gentleman came down for a warranty issue. He wanted some more stuff. My staff have quoted him up --

Q. Mr Arici, I'm going to stop you there because I'm not asking you about the work that was done. All I'm asking you is about the kind of information recorded in this

document.

A. I'm the one that gave you that. We provided this information.

Q. I understand that.

A. So about answering the technical sides of the MYOB ins and outs - I'm not going to be able to give you that information. You tell me what you think.

10 Q. What I'm suggesting to you is that there is no sale record prior to the credit entry for \$1,550, and I'm suggesting that the reason for that is that the payment of \$1,550 was made before the work was done on 23 June?

A. That's incorrect.

MR McILWAIN: Commissioner, could I just raise one matter. This document, under the heading "Memo", doesn't seem to be complete. There seem to be portions missing from it, probably because of the length of those documents.
20 I would be assisted if, at an appropriate time, the full version of that could be provided, if it is in the hands of the Commission.

THE ASSISTANT COMMISSIONER: Of this?

MR McILWAIN: If you look under "Memo", you will see that the words seem to be cut off. For example, the second and third-last entries, "Depos", and it doesn't finish. That's what I am drawing your attention to, Commissioner. It
30 sometimes happens with computers; you extract and you only get a portion of what was actually recorded.

THE WITNESS: That's a photocopy error, by the looks of things.

MS WILLIAMS: Commissioner, I am instructed - and it appears to be a logical explanation - that it is because this is a screen dump from the MYOB system and it is only if one has access to the actual system and interrogates
40 it to pull up the full entry on a particular line --

THE ASSISTANT COMMISSIONER: You could make it scroll along further to show the full entry.

MS WILLIAMS: But I will make inquiries after the adjournment as to whether we have any further information available that can be provided.

THE ASSISTANT COMMISSIONER: Thank you.

MS WILLIAMS: Q. Mr Arici, I'm going to provide you with a document, and I have a copy for the Commissioner also. Have you seen this document before, Mr Arici?

A. Yes.

10 Q. This was some further information provided by your secretary or salesperson, Ms Tutill, to the Commission; correct?

A. That's correct, yes.

Q. It is about these particular entries that I have been asking you questions about on page 19 of exhibit 1; correct?

A. Correct.

20 Q. The explanation provided by Ms Tutill, halfway down the first page, says that the customer had placed an order or deposited on a lay-by, and she had forgotten to switch the page prior to creating the invoice. Do you see that?

A. That's correct.

Q. She then goes on to say, in the next paragraph, that she had amended the invoice number to an invoice page and changed the records to reflect the correct position, in effect; that's the effect of what she is saying there, isn't it?

30 A. Yes, well, we were just trying to get it right, and she reckons that you can just go into the MYOB and click it from a yellow to a blue page, which still doesn't make sense.

Q. Can you turn to the third document in that bundle that you have been provided, please - the third page. That's the new screen shot of the MYOB page that Ms Tutill considers now reflects the position; correct?

A. That's correct.

40

Q. What I suggest to you is that what that records is a sale to Mr Te-Hira on 23 June of a total amount of \$1,550, including GST, that same amount being transferred from a deposit made previously and credited to his account; do you agree with that?

A. No, I don't agree. I don't agree with it.

Q. I'm suggesting to you that's what has happened and the deposit was paid by somebody other than Mr Te-Hira before 23 June?

A. Okay, well, I am not the person that has done this or amended this or has received any payments off Pene. I'm just coming here representing my company. And I'm not an MYOB specialist, as well, so I'm doing my best here. It still, all that there, in my eyes - still at the bottom, the total figure just doesn't make sense, anyway.

10

THE ASSISTANT COMMISSIONER: Q. But it does say that \$1,550 was transferred from a deposit. That seems to indicate that there was some money held on deposit in credit for this account.

A. Commissioner --

Q. I don't understand why you are so annoyed about that proposition. Wouldn't you like somebody to pay some money upfront?

20

A. Commissioner, those things do happen at our store, where parents, friends, mates do come and pay birthday presents upfront, but I'm just trying to explain to you and Ms Williams here that I don't have any recollection or I don't have any - I haven't received any money off anybody in this room.

Q. But you can't say --

A. Prior --

30

Q. -- that a deposit wasn't paid in this matter. That's all we are asking you. Somebody may have come and paid a deposit upfront?

A. There's a possibility of that. You should be talking to my sales staff. You should be summoning my sales staff. But as far as I know, no money was paid prior to the job, and that \$1,550 was paid on the day the car left my store, because if it didn't get paid for, that car would not leave my store. That's the rules I have.

40

MS WILLIAMS: Commissioner, might those three pages be tendered as exhibit 6?

THE ASSISTANT COMMISSIONER: Yes.

EXHIBIT #6 THREE PAGES OF RECORDS FROM XTREME CAR AUDIO

MS WILLIAMS: I have no further questions for Mr Arici.

THE ASSISTANT COMMISSIONER: Does anybody wish to ask this witness any questions? Thank you. That concludes your examination, sir, and you are now excused from further attendance.

THE WITNESS: Thank you, Commissioner.

<THE WITNESS WITHDREW [4pm]

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THE ASSISTANT COMMISSIONER: We will adjourn at this time until 10 o'clock tomorrow morning.

AT 4PM THE COMMISSION WAS ADJOURNED
TO TUESDAY, 9 OCTOBER 2012 AT 10AM

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